



# **Agenda for**

# **24<sup>th</sup> GST Council Meeting**

**16 December 2017**









**File No: 284/24<sup>th</sup> Meeting/GST Council/2017**  
**GST Council Secretariat**

Room No.275, North Block, New Delhi  
Dated: 14 December 2017

**Notice for an urgent meeting of the GST Council (24<sup>th</sup> Meeting) on 16 December 2017 through video conferencing**

The undersigned is directed to refer to the subject cited above and to say that an urgent meeting of the GST Council will be held on 16 December 2017 (Saturday) through Video Conferencing as follows:

- Saturday, 16 December 2017 : 11:00 hours onwards

2. The agenda for the 24<sup>th</sup> GST Council Meeting is as follows:

- i. Confirmation of the Minutes of 23<sup>rd</sup> GST Council Meeting held on 10 November 2017.
- ii. Introduction of a nationwide E-Way Bill System with effect from 01.01.2018.
- iii. Any other agenda item with the permission of the Chairperson.

3. The detailed agenda note are being sent separately.

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

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

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

Copy to:

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



**Agenda Items for the 24<sup>th</sup> Meeting of the GST Council on 16 December 2017**

1. Confirmation of the Minutes of 23<sup>rd</sup> GST Council Meeting held on 10 November 2017.
2. Introduction of a nationwide E-Way Bill System with effect from 01.01.2018.
3. Any other agenda item with the permission of the Chairperson.



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# Discussion on Agenda Items

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## **Agenda Item 1: Confirmation of Minutes of 23<sup>rd</sup> GST Council Meeting held on 10 November 2017**

### **Draft Minutes of 23<sup>rd</sup> GST Council Meeting held on 10 November 2017**

The twenty third Meeting of the GST Council (hereinafter referred to as 'the Council') was held on 10 November, 2017 in Hotel Radisson Blu, Guwahati under the Chairpersonship of the Hon'ble Union Finance Minister, Shri Arun Jaitley (hereinafter referred to as the Chairperson). A list of the Hon'ble Members of the Council who attended the meeting is at **Annexure 1**. A list of officers of the Centre, the States, the GST Council and the Goods and Services Tax Network (GSTN) who attended the meeting is at **Annexure 2**.

2. The following agenda items were listed for discussion in the 23<sup>rd</sup> Meeting of the Council: –

1. Confirmation of the Minutes of 22<sup>nd</sup> GST Council Meeting held on 6 October 2017
2. Analysis of revenue collected in the months of August, September and October 2017 under Goods and Services Tax, including the revenue accruing to Centre and States through settlement of funds
3. Deemed ratification by the GST Council of notifications, circulars and orders issued by the Central Government
4. Decisions of the GST Implementation Committee (GIC) for information of the Council
5. Modification of Rules on Anti-Profitteering
6. Issues recommended by the Fitment Committee for consideration of the GST Council
  - i. Changes in GST/IGST rates on Goods (Annexures I, II, III, IV)
  - ii. Dual levy of IGST on the royalty paid for import of pictures on a tangible media where the rights have been granted for a temporary period (Temporary transfer or permitting the use or enjoyment of any intellectual property right)
  - iii. GST rate on job work in relation to manufacture of handicrafts
  - iv. Amendment in Notification No. 21/2017-CT(R) dated 22.8.2017 regarding Public Distribution System (PDS) and Fair Price Shops (FPS)
  - v. Alignment of the entry at item (vi) of Sl. No.3 of Notification No. 11/2017-CT(R) with the entries at items (ii), (iii), (iv) and (v) of Sl.No.3
  - vi. GST on Tour Operator services, request for allowing input tax credit of services in the same line of business at the existing rate of 5% without input tax credit
  - vii. Clarification regarding warehousing of agricultural produce in GST regime
  - viii. GST rate on permanent transfer of Intellectual Property (IP)
  - ix. Inter-State transfer of aircraft engines, parts and accessories
  - x. Issues related to rate of tax on certain Services
7. Issues recommended by the Law Committee for consideration of the GST Council
  - i. Draft rule to be framed under Section 107 of the CGST Act (Appeals to Appellate Authority)
  - ii. Amendment in Central Goods and Services Tax Rules, 2017 recommended by Law Committee Meeting on 01.11.2017
  - iii. Centralized UIN for Foreign Diplomatic Missions /UN Organizations



- iv. Reversal of Late Fee paid by registered persons who failed to furnish the return in FORM GSTR 3B for August and September 2017 within due date
  - v. Apportionment of IGST between States and Union Territories (UTs) under Section 12(14) of the IGST Act in the case of supply of advertisement services to Central/State Government, statutory body or a local authority
  - vi. To restrict the maximum amount of late fee payable to the extent of output tax liability in a return by exercising powers under Section 128 of the CGST Act, 2017
8. Other issues requiring urgent action
- i. Extension of due dates for furnishing of certain FORMs on the common portal
  - ii. Amendment to Sub-rule (2) of Rule 54 of CGST Rules, 2017
  - iii. Presentation on GST on Real Estate sector
  - iv. Exemption from GST on the Government's share of Profit Petroleum and clarification regarding taxability of Cost Petroleum in the oil and gas sector
  - v. Incentivising Digital Payments in GST regime
9. Recommendations of Group of Ministers (GoM) on Composition and tax structure on restaurants for consideration of the GST Council
10. Minutes of 3<sup>rd</sup> Meeting of Group of Ministers (GoM) on IT Challenges in GST Implementation for information of the Council and discussion on GSTN issues
11. Present status of e-Way Bill System as on 31 October 2017
12. Any other agenda item with the permission of the Chairperson
- i. Exemption from obtaining registration for persons making supply of 'services' through an e-commerce operator and whose aggregate turnover is below the threshold limit
  - ii. Constitution of 'Law Review Committee' and 'Advisory Group of Law Review Committee' for the Information of the Council
  - iii. Simplification of Return filing process
13. Date of the next meeting of the GST Council

3. The Hon'ble Chairperson welcomed the Members of the Council. He thanked the Government of Assam and Dr. Himanta Biswa Sarma, Hon'ble Finance Minister of Assam for excellent arrangements made for the Meeting and the warm hospitality extended to the delegates.

4. Before commencement of discussion on the agenda items, the Hon'ble Minister from Kerala made a suggestion that the Council could start the meeting by first taking up the Agenda item 6 (Issues recommended by the Fitment Committee) in order to have sufficient time to discuss this important subject. The Hon'ble Minister from Punjab stated that the Agenda notes should be sent at least seven days in advance. He further added that the Minutes could be circulated within 10 days of the conclusion of the Meeting and comments could be obtained within next 10 days so that this Agenda item need not be discussed. Dr. Hasmukh Adhia, the Finance and Revenue Secretary to the Government of India and the Secretary to the Council (hereinafter referred to as the Secretary) stated that as per the Conduct of Business Regulations of the Council, the notice for the meeting of the Council has to be sent at least seven days prior to the scheduled date of the Meeting of the Council but detailed Agenda notes have to be sent at least three days prior to the date of the Meeting. He observed that the Agenda notes were sent three days prior to the date of the meeting. He added that it was not always possible to prepare detailed annotated Agenda notes seven days in advance and that he monitored its progress personally. The Hon'ble Minister from Punjab stated that he was referring to the Agenda notes which were received a day before the Meeting or on the date of the Meeting. The Secretary stated that the additional Agenda items were



largely of routine nature. He added that a team of officers in the Council Secretariat led by Shri Shashank Priya, Joint Secretary, GST Council, was doing a very good work of writing detailed Minutes, which took time. He assured that the Minutes would be sent as early as possible and that it need not be sent along with other Agenda notes.

5. The Hon'ble Chief Minister of Puducherry stated that during the last two or three meetings of the Council, certain issues were rushed through as if with certain pre-determined purpose but the issues of larger interest of traders, small and medium level industry, hotel industry and the cumbersome process of filing Returns were not taken up for discussion in detail. He suggested that these issues should be addressed. The Hon'ble Minister from West Bengal agreed to the observations of the Hon'ble Chief Minister of Puducherry and observed that on some issues, the Meeting was rushed through but many other issues, though suggested repeatedly, were not taken up. He suggested to take up important issues first and not the routine ones. He observed that many suggestions had been made with regard to small and medium enterprises (SMEs) but these had not been taken into account. He suggested to first take up important issues. The Hon'ble Chairperson stated that the last thing that the Council could be accused of was of rushing through the Meetings. He recalled that hours had been spent on discussing various issues and every issue was continued to be discussed until consensus was reached. He observed that there was a system of going through the Agenda *seriatim* and this should be continued and the key items would be discussed in detail. The Hon'ble Deputy Chief Minister of Bihar stated that his impression was that since July, 2017, the progress was slow and there was a need to work at a faster pace and take decisions as quickly as possible. The Hon'ble Minister from Assam suggested to discuss the issues Agenda item-wise. The Hon'ble Minister from West Bengal suggested to avoid long presentations and to circulate presentations in advance. After these preliminary discussions, the Hon'ble Chairperson took up discussion on Agenda items.

#### **Discussion on agenda items**

#### **Agenda item 1: Confirmation of the Minutes of the 22<sup>nd</sup> GST Council meeting held on 6 October, 2017**

6. The Secretary invited any comments on the Minutes of the 22<sup>nd</sup> Council Meeting (hereinafter referred to as the Minutes). No Hon'ble Member made any comments on the Minutes and hence the Council approved the Minutes.

7. In view of the above, for **agenda item 1**, the Council decided to adopt the Minutes of the 22<sup>nd</sup> Meeting of the Council without any change.

#### **Agenda item 2: Analysis of revenue collected in the months of August, September and October 2017 under Goods and Services Tax, including the revenue accruing to Centre and States through settlement of funds**

8. The Secretary informed that a presentation was made on this Agenda item during the meeting of the officers of the Central Government and the State Governments held in Guwahati on 9 November, 2017. He stated that there were some important conclusions emerging from the revenue analysis and invited Shri Uday Singh Kumawat, Joint Secretary, Department of Revenue (DOR), to make a presentation.

8.1. The Joint Secretary, DOR, made a presentation (enclosed as **Annexure 3** of the Minutes) and stated that analysis of revenue figures for August, September and October, 2017 had shown some interesting trends. He stated that while the revenue for August, 2017 as presented before the previous Council meeting was Rs. 94,063 crore, for September, 2017, it was Rs. 93,141 crore and for October 2017, it was Rs. 95,131 crore. He stated that the amount of settlement transferred to the States had gone



up from Rs. 7680 crore in August, 2017 to Rs. 13,289 crore in October, 2017. He further stated that the monthly revenue to be protected for States was about Rs. 43,013 crore taking 2015-16 as base year and after projecting a 14% growth rate each year. The overall revenue shortfall of all the States for each month had come down from 28.4% in August, 2017 to 17.6% in October, 2017 and the quantum of revenue shortfall during the same period came down from Rs. 12,208 crore in August, 2017 to Rs. 7,560 crore in October, 2017. He stated that the Cess collected was adequate to cover the revenue shortfall for the month of October, 2017.

8.2. He presented a slide indicating the States with the highest percent shortfall of revenue in October 2017 and suggested that the States could look into the reasons for the shortfall. He stated that the States needed to analyse the data of returns filed by individual taxpayers to examine if the GST revenue had gone down as compared to the tax paid by the taxpayer in the corresponding month of the previous year. He added that it was recognised that this required access to Returns by the States and informed that GSTN was taking steps in this regard. He further added that the analysis indicated that the net consuming States had substantial revenue shortfall and that the revenue settlement constituted a large part of revenue of these States. He stated that the States needed to examine whether all goods entering into their States were being captured in the tax returns. He stated that for this, goods imported by dealers from other States on the basis of data from Form 'C' in pre-GST regime needed to be compared with IGST used for payment of SGST/CGST after introduction of GST to assess if there is any under reporting of goods imported.

8.3. The Hon'ble Minister from Jammu & Kashmir stated that small States like Puducherry, Goa, Jammu & Kashmir, Sikkim and Arunachal Pradesh were not expected to lose revenue and the figures showing loss of revenue for such States were counter-intuitive. The Hon'ble Minister from Kerala stated that mostly the big producer-States also had large consumption base. The Hon'ble Minister from Punjab stated that among the general category States, Punjab had the third largest shortfall (39% of revenue), which was very worrisome. He stated that the States with big metro cities had done well in revenue collection. He suggested that the Chief Economic Advisor (CEA) could do a deeper study after more figures were available. He added that his main worry was that if revenue gain did not occur, then there was a problem after the five-year compensation period was over. He stated that the CEA, through his analysis, could advise whether the problem of revenue shortfall happened because something was amiss with the States or was due to some structural problem with GST. He added that his State had not received compensation of Rs.524 crore. He recalled that taxes on food grains had been subsumed under GST in the larger interest of the country and on this subject, a clarification was given to the Central Government.

8.4. The Hon'ble Minister from Uttarakhand stated that his State had suffered a loss of Rs.294 crore in August, 2017 and Rs.304 crore in September and October, 2017. He observed that the total GST collection in his State was Rs. 3,026 crore during the last three months and his State had suffered a big loss of revenue. He requested that the Centre should provide additional support to his State. He also observed that there was a need to have policy initiatives in place to get industries to work in Uttarakhand as they were moving out. The CEA observed that these were still early days and IGST settlement was work in progress. It was to be seen as to how much amount went to the States and how much went for refund on account of exports. He suggested that data regarding amount of tax collected pre-GST and post-GST needed further analysis but the overall picture of shortfall in GST was not bad. He also advised caution regarding revenue shortfall analysis as IGST had not yet been settled and observed that it might be pre-mature to draw any conclusions at this stage.

8.5. The Hon'ble Deputy Chief Minister of Delhi stated that Rs. 98,000 crore lying in IGST account was not settled and his State's collection was low. He stated that a clarity was needed regarding the fate of Rs. 98,000 crore lying in IGST account. The Joint Secretary, DOR, stated that the present shortfall was not bad across all States. He said that some big States like Maharashtra and Tamil Nadu had done quite well, with a revenue shortfall of only 2.6% and 4.4 % respectively in October 2017 even after taking



into account revenue to be protected at 14% projected growth rate. He stated that other States could follow their example. The Hon'ble Minister from Kerala stated that presently, no data was available to States to do analysis of Form 'C' or return-wise analysis of taxpayers. The Joint Secretary, DOR, stated that the GSTN had been advised to share data with the States. The Hon'ble Minister from West Bengal stated that the Model-2 States were not getting MIS and because of this, no analysis was possible. The Hon'ble Minister from Goa stated that his State had 41% revenue shortfall but the period was too short to do any meaningful analysis. He observed that for Goa, the tourist season was starting from this month and would last till March, 2018 and he expected the revenue situation to improve during this period. He cautioned against too much of pessimism with regard to revenue collection. He supported the observation of the Hon'ble Deputy Chief Minister of Bihar regarding the need to take quick decisions and observed that sentiments of the small persons in the market who were affected by GST needed to be taken into account. He observed that as revenue position was reasonably good, the proposals of tax reduction could be taken up for consideration and these could relate to small traders and small consumers.

8.6. The Joint Secretary, DOR, stated that the shortfall in revenue had gone down from 28% in August 2017 to 17% in October 2017, which was a major improvement. The Hon'ble Minister from Jammu & Kashmir stated that the analysis was flawed and there was a statistical distortion as the base for comparison was very small. He suggested to have a look at trends of States' revenue *vis-à-vis* the percentage of their own revenue. He observed that Maharashtra was a big State and its monthly revenue was matching the yearly revenue amount of Jammu & Kashmir. In view of this, it would be better to look at the percentage improvement of each State's revenue *vis-à-vis* its earlier collection or to take weighted average for comparison. The Joint Secretary, DOR, assured that the broadest parameters were taken up for comparison.

8.7. The Hon'ble Deputy Chief Minister of Manipur stated that the performance of the North-Eastern region was not that good and suggested to go into the reasons why it was not so good. He stated that some States were performing well as compared to the other States and there was a need to understand such variation. He added that if States were able to retain the pre-GST level of tax collection, it would be a very good progress. He stated that it also needed to be examined why similarly placed States were not doing well.

8.8. The Joint Secretary, DOR, pointed out that the settlement figures showed that Uttarakhand was a net exporting State and it had negative settlement figures for the months of August, September and October, 2017. It was also seen that the major exporting States were also large consuming States. The Hon'ble Minister from West Bengal enquired regarding the revenue position of the Central Government. The Joint Secretary, DOR, stated that the revenue collection of the Central Government after settlement was Rs. 20,213 crore in September, 2017 and Rs. 22,818 crore in October, 2017. The Secretary observed that the Centre had also suffered revenue shortfall because it should also get a revenue of approximately Rs. 43,000 crore per month.

8.9. The Joint Secretary, DOR, showed a list of top 10 consuming States and the figures showed that more than 40% of their revenue came from goods imported from other States. He added that Haryana was a net exporting State in August, 2017. The revenue of other States like Maharashtra, Gujarat, Jharkhand, Tamil Nadu, Chhattisgarh and Sikkim were on expected lines. He observed that the actual amount of settlement for manufacturing States like Gujarat and Maharashtra was high but it was not high when seen in terms of their total revenue collection which showed that a large component of goods imported were used for re-exporting manufactured goods to other States.

8.10. The Hon'ble Minister from Punjab sought a response regarding their demand for compensation. The Secretary stated that the earlier certification given by the Government of Punjab was incorrect, and



therefore, the actual amount was not released. The Hon'ble Minister from Punjab stated that a clarification in this regard had been sent 25 days back.

8.11. The Hon'ble Minister from Tamil Nadu stated that though revenue showed buoyancy in his State during August, September and October, 2017, while reconciling the details of collection provided by GSTN with their State Treasury data, it was noticed that the details did not tally as there was delay in reconciliation among banks, RBI and GSTN. He urged that the delay in reconciliation should be avoided. He further stated that as regards the revenue accruing to his State through settlement of funds, at present IGST was being settled every month based on the data from four components of IGST captured in GSTR-3B but data relating to the remaining six components, which could be calculated based on the data in GSTR-1, 2 and 3 were not being considered for settlement as these data were not readily available. He suggested that an indicative settlement for the remaining six components should also be made every month so that the States could get their full share of IGST revenue every month.

9. For **agenda item 2**, the Council took note of the GST revenue analysis for the months of August, September and October, 2017.

**Agenda item 3: Deemed ratification by the GST Council of notifications, circulars and orders issued by the Central Government**

10. Shri Upender Gupta, Commissioner (GST Policy), CBEC, made a presentation on this Agenda item, which is at **Annexure 4** of the Minutes. The presentation showed that the Notifications No.38 to 54 of Central Tax, Notifications No.31 to 40 of Central Tax (Rates), Notifications No.9 to 11 of Integrated Tax, Notifications No.32 to 42 of Integrated Tax (Rate), Notifications No.4 to 17 of UT Tax, Notifications No.31 to 40 of UT Tax (Rate), Notifications No.6 to 7 of Compensation Cess (Rate) were proposed for ratification. Similarly, Circulars No.8, 11, 12 and 13 issued under CGST Act and Order No.01/2017-Central Tax (Removal of Difficulty Order) were placed before the Council for deemed ratification.

10.1. The Hon'ble Deputy Chief Minister of Delhi suggested not to discuss the presentation in detail and that the Council could accept the deemed ratification of the notifications of the Central Government. The Council agreed to this proposal and accepted the deemed ratification of the notifications and circulars as listed in the agenda note which are available on the CBEC website, namely [cbec-gst.gov.in](http://cbec-gst.gov.in) and [www.cbec.gov.in](http://www.cbec.gov.in).

11. For **Agenda item 3**, the Council approved deemed ratification of the notifications, circulars and order mentioned at paragraph 10 above.

**Agenda item 4: Decisions of the GST Implementation Committee (GIC) for information of the Council**

12. The Commissioner (GST Policy), CBEC, informed that the GST Implementation Committee (GIC) had taken decisions on different issues by circulation after the 22<sup>nd</sup> GST Council meeting held on 6 October, 2017. These are listed in the presentation at **Annexure 4** of the Minutes.

12.1. The Hon'ble Minister from Kerala stated that Circular No.10/10/2017-GST dated 18 October, 2017 relating to movement of goods including jewellery from the place of business of the supplier for supply on approval basis (that is, allowing goods to be moved from the place of business of the registered supplier to another place within the same State or to a place outside the State on delivery challan along with the e-Way bill and the invoice to be issued at the time of delivery of goods) was creating problems in respect of movement of jewellery and gold. He observed that very large stocks of jewellery were being moved without any document and they were not getting reflected in returns, leading to large scale evasion



of tax. He stated that his State would send a detailed note on this issue. The Secretary stated that the Law Committee of officers could look into this issue. The Council agreed to this suggestion.

12.2. The Hon'ble Minister from West Bengal stated that the GIC decision to amend rule 86 CGST /SGST Rules to provide for order of utilisation of input tax credit between IGST, CGST and SGST had not been implemented. He stated that without this sequence, the taxpayers could use any sequence for utilising the input tax credit. The Commissioner (GST Policy), CBEC, stated that it was discussed by the Law Committee and the consensus was that a new restriction could not be put into the Rules at this stage and that GSTN had built in a check in the system by suggesting to the taxpayer to utilise his input tax credit in the predefined order of IGST, CGST and SGST. However, the taxpayer had been given the option to change this order of utilisation of input tax credit. He informed that this issue was also a subject matter of legal challenge by way of a Writ Petition before the Hon'ble Delhi High Court. The Hon'ble Minister from West Bengal suggested that sequencing for utilisation of input tax credit should be provided as per the original intent and the same should be mentioned in the Law and the Rules. The Commissioner (GST Policy), CBEC, suggested that this issue could be again discussed in the Law Committee. The Council approved this suggestion.

13. The Council took note of the decisions of the GIC. It further agreed that the Law Committee shall examine: (i) the note to be forwarded by the Government of Kerala with reference to the Circular No.10/10/2017-GST dated 18 October, 2017; (ii) the desirability of providing in the GST Law and the Rules, the order of sequence of utilisation of input tax credit of IGST, CGST and SGST.

#### **Agenda item 5: Modification of Rules on Anti-Profiteering**

14. The Secretary explained that this agenda item related to the proposed modification of Rules on Anti-Profiteering on the basis of suggestions emerging out of inter-Ministerial consultations on the proposal sent to the Union Cabinet for creation of the post of Chairman and four Technical Members of the National Anti-Profiteering Authority (NAA). It was observed that the action for termination of senior officers of the Government on the recommendations of the Council would become a public exercise thereby diluting the importance of this Authority. He added that the decisions of the Council were also being referred to in the judicial fora, and in the event of a legal challenge to the recommendations of the Council, it was possible that the Council could be drawn into avoidable litigation. It was undesirable for a Constitutional body like the Council to be drawn into legal disputes. In view of this, it was proposed that while the Council would have important responsibility of monitoring the performance of the NAA, the power of termination of the services of the Chairman and the Technical Members of the NAA could be exercised by the Chairperson of the Council in his capacity as the Union Finance Minister. He stated that, keeping this in view, certain amendments to Rules 124(4) and 124(5) of the CGST Rules were proposed, which read as follows:

In principal rules, in Rule 124, -

- i. in sub-rule (4), the second proviso shall be substituted, namely: -  
*"Provided further that the Central Government with the approval of the Chairperson of the Council may terminate the appointment of the Chairman at any time."*
- ii. in sub-rule (5), the second proviso shall be substituted, namely: -  
*"Provided further that the Central Government with the approval of the Chairperson of the Council may terminate the appointment of the Technical Member at any time."*



14.1. The Secretary added that this issue was discussed during the meeting of the officers held on 9 November, 2017 in Guwahati and the changes were agreed upon and suggested that the Council could also agree to the same. The Council agreed to the proposed modification of Rules on Anti-Profiteering.

15. For **Agenda item 5**, the Council approved the proposal of amendment to CGST Rules 124(4) and 124(5), as suggested at paragraph 14 above.

**Agenda item 6: Issues recommended by the Fitment Committee for consideration of the GST Council**

**Agenda item 6 (i): Changes in GST/IGST rates on Goods (Annexure I, II, III, IV)**

16. Introducing this Agenda item, Shri Alok Shukla, Joint Secretary (TRU-I), CBEC explained that in the meeting of the Council held on 6 October, 2017, the Council had approved the Approach Paper containing guidelines for reviewing rate of tax on goods currently attracting tax rate of 28%. It was approved that goods which satisfy any of the following criteria, may be considered for review subject to the revenue yardstick, namely:

- i) goods of mass consumption/public interest;
- ii) intermediate goods which are in the nature of B2B supplies;
- iii) goods predominantly manufactured in the unorganised MSME sector; and
- iv) export related items.

16.1. He also added that the Council had approved that goods, which satisfy the following criteria, may not be considered for review, namely:

- i) goods that yield high revenue;
- ii) luxury goods;
- iii) goods having negative externalities;
- iv) sin goods.

16.2. He recalled that Council's approval of the Approach Paper was with a caveat that the Council may deviate from the principles laid down in the Approach Paper, taking into account various considerations and circumstances. He stated that based on these principles, the Fitment Committee had reviewed the list of 28% rated items and proposed that the same may be pruned substantially, and goods under 62 broad classifications, which were listed in Annexure I to the Agenda Notes, only may be retained at 28%. He stated that the Fitment Committee had also recommended changes in rates of certain other goods, as a rationalisation measure, based on the recommendations of a Sub-Group of Fitment Committee, with the broad principle that similar items under the Harmonised System of Nomenclature based classification should attract similar rates. These recommendations are contained in Annexure II to the Agenda Notes. He stated that the Fitment Committee had also recommended changes in GST/IGST rates on certain other goods, as summarised in Annexure III of the Agenda Notes, based on recommendations of the various State Governments or the Central Government. He added that there was one more Annexure IV in the Agenda Notes, which listed out goods on which the Hon'ble Chief Minister of Karnataka had recommended Nil rate of GST on various hand-made products, produced and marketed by producer co-operative societies and their federations. The Hon'ble Chief Minister of Karnataka had *inter alia* stated that this would benefit a large segment of rural population and would give a boost to rural employment and sustainability. Joint Secretary (TRU-I), CBEC informed that goods covered under all these Annexures were discussed during the meeting of the Fitment Committee on 30 and 31 October 2017



and the recommendations in respect of Annexure I, II and III were placed for consideration before the Council. He added that the Fitment Committee could not reach consensus in respect of goods covered under Annexure IV.

#### **Discussion on Annexure I: (Goods proposed to be retained at 28%)**

17. Starting discussion on goods covered under Annexure I of this Agenda Item, the Hon'ble Deputy Chief Minister of Delhi stated that during the last few meetings of the Council, goods were getting incrementally removed from the slab of 28%. He stated that keeping 62 items in 28% slab would again invite a lot of representations. As an example, he pointed out that marble was not a luxury item as it was used in bathroom and kitchen by even poorer sections of the society. He suggested to keep only sin goods in the 28% rate slab and to bring all the other goods to a lower rate slab. The Hon'ble Minister from West Bengal stated that he had written to the Hon'ble Chairperson (without consulting the Hon'ble Deputy Chief Minister of Delhi) that 28% rate slab should only be for sin goods and high luxury items and that rest of the goods should be put into the 18% rate slab. He added that if the original fitment principle was being given up, then it made no sense to keep items like shampoo sachet, which were also used in villages, in the 28% rate slab. The Hon'ble Minister from Punjab supported the views of the Hon'ble Deputy Chief Minister of Delhi and the Hon'ble Minister from West Bengal. He observed that items for use in the construction sector, toiletries, chocolate, chewing gum, road tractors for semi-trailers, parts of motor vehicles, etc. should not be kept in the rate slab of 28%. He pointed out that sewing machine was taxable at the rate of 12% but its crank shaft was in the 28% rate slab and suggested that this should also be brought down to 18%. He stated that the list of goods in 28% rate slab should be minimal so that it did not open up the Government to lobbying and did not also overload the Council agenda for frequent changes in rates. The Hon'ble Minister from Rajasthan observed that marble was neither a luxury item nor a sin good and that a large number of persons were engaged in marble industry. He added that marbles were of different grades and quality. He suggested to keep marble tiles in the rate slab of 18%.

17.1. The Hon'ble Minister from Telangana stated that he had been repeatedly suggesting in the Council to adopt a practical approach towards taxation rather than a mechanical approach of arriving at the rate of tax by adding the incidence of VAT and Central Excise duty. He remarked that he was happy to see that now a more realistic approach was being adopted. He stated that granite and marble were different products and small marble, etc. which cost about Rs.30 per sq. ft. should not be taxed at the rate of 28%. He further suggested that as common people smoked *bidi*, it should not be taxed at the rate of 28%. He stated that practical taxation demanded goods used by common people should be taxed at the rate of 18%. The Hon'ble Minister from Meghalaya supported the suggestions of the Hon'ble Ministers of West Bengal and Punjab. He stated that other than sin goods and goods of high luxury, all others should be taxed at the rate of 18%. He observed that this would also simplify billing by shopkeepers and departmental stores by reducing multiplicity of rates.

17.2. The Hon'ble Minister from Tamil Nadu welcomed the proposal of the Fitment Committee to reduce the rate of goods, presently attracting 28% tax rate, to 18%, except for items contained in Annexure I of the Agenda Note. He expressed his appreciation for proposal to reduce the rate of tax on wet grinder with stone to 12% and on *Idli dosa* batter, *chutney* power and *kadali mittai* (groundnut sweets) to 5%. He also expressed happiness at the proposal to exempt tax on meat and fish other than those put up in unit container and bearing a registered brand name; and to bring down the rate of tax on fishing net, twine and hook to 5%. He urged the Council that the other long pending requests of his State should also be considered favourably which included tax exemption for handloom and power loom products, sago and *vibhuti* and tax reduction for safety matches, pickles, unbranded sugar confectionary, textile machinery parts, pump sets, micro nutrients, phosphoric acid and refund of accumulated input tax credit to fabric manufacturers. He also mentioned that he had circulated a written speech which should be taken on



record. The Hon'ble Minister from Meghalaya stated that the Fitment Committee should do due diligence when suggesting taxation rates. The Secretary stated that the Council had been sensitive to demands for tax reduction and brought down rates of tax on certain goods. However, in the last two meetings, the Council discussed the Approach Paper on principles for fitment post implementation of GST. After the Approach Paper was approved by the Council in its last meeting, the Fitment Committee was asked to re-examine the rates on the basis of the principles contained in the Approach Paper. He stated that the rate of tax was now proposed to be reduced on those goods which were predominantly manufactured in the MSME (Micro, Small and Medium Enterprises) sector or those which were largely used by the middle and the poorer sections of the society. He stated that after this comprehensive review, it was proposed not to change rates of tax for next six months.

17.3. The Hon'ble Minister from Goa stated that chocolate had been kept in the 28% rate slab because the combined tax incidence of Central Excise and VAT came to around 29% (Central Excise, 15% and VAT, 14%) and the rate had actually been reduced by 1%. He stated that public perception was important but revenue shortfall also needed to be taken into account and a considered decision needed to be taken. He stated that 28% tax rate was now proposed only for 62 items and this proposal should be accepted rather than limiting the 28% rate slab only for sin goods and luxury goods. He stated that it was important to be also cautious about shortfall in revenue as compensation would not be available after five years. He suggested to wait for another two months to do a full analysis of impact of GST. He further stated that in this meeting, a message could go that the Council cared for the concerns of the people but an overall balanced approach should be maintained.

17.4. The Secretary stated that the categories of goods on which 28% rate of tax was proposed to be continued included those: (i) on which cess was charged such as tobacco and cars; (ii) white goods, like washing machine, dish washers, television, air conditioner which have huge revenue implication and which are mostly produced by large manufacturing units; (iii) on building materials, such as cement, paints, granite and marble tiles, ceramic and vitrified tiles, etc. He further stated that items like cement were mostly produced by large manufacturers and it earlier also attracted a combined tax incidence of 29% and, was therefore, rightly kept in the 28% rate slab. He added that most of the marble units enjoyed Central Excise exemption as their turnover was below Rs.1.5 crore and they operated on 2% CST (Central Sales Tax). For such commodities, revenue implication on account of rate reduction could not be worked out and that the Council could take a decision regarding their tax rate. He further added that paints and varnishes were not made by MSMEs and, therefore, they should continue to be taxed at the rate of 28%. The Hon'ble Minister from Goa stated that items at Sr. No.17 (Beauty or make-up preparations and preparations for the care of skin, including sunscreen, etc.) and Sr. No. 18 (All goods, i.e. preparations for use on the hair such as shampoos; preparations for permanent waving or straightening, etc.) of Annexure I should also be brought in the 18% rate slab. The Hon'ble Minister from Assam suggested that an item-wise discussion should take place and then Council could agree to remove some items from the 28% rate slab. The Hon'ble Minister from Jammu & Kashmir suggested that reasons should be clearly given for reducing the rate of tax from 28% like simplifying compliance or making an item more affordable for common people. He said that the underlying principle for fixing the tax rate of 28% was that the sum total of the two pre-existing taxes of VAT and Central Excise came close to this rate, and now there was a need to discuss on what considerations the rate structure should be modulated, namely, whether to lower the tax rate, or to ease the burden on consumer or to help the dealer. He wondered whether 28% rate of tax should be abolished. He stated that tax rate on a variety of items like waffles containing chocolate could lead to bizarre results. He did not favour an item by item discussion on rate of tax.

17.5. The Hon'ble Minister from Kerala stated that he did not support the proposal to abolish 28% rate slab. He observed that during the VAT regime, 80% of the revenue of the Kerala Government came from



goods attracting VAT at the rate of 14.5%. He stated that if the proposal on the table was accepted, the revenue would come down by about 20%. He expressed doubt whether people would be happy after rate reduction as the prices might not be reduced. He informed that his Government had compared purchase and sale prices of 800 commodities pre and post-GST and out of these, there were about 335 items on which manufacturers had not passed on the benefit of reduced tax to the consumers. He stated that the problem of not passing on the benefit of tax reduction to consumers should be addressed first. He further added that revenue implication of the proposals on tax reduction for goods in Annexure I was in the range of Rs. 16,000 crore. He added that these commodities were largely consumed by middle class and upper middle-class sections of the population and if tax on these was to be brought down to 18%, then, on principles of equity, the rates of tax in other slabs should also be reduced proportionately. He expressed his support for reducing the rate of tax on intermediate goods from 28% to 18%.

17.6. The Hon'ble Chief Minister of Puducherry stated that the approach that goods like cement, which was not manufactured by MSME, should not be put in the lower tax slab was not correct. He suggested that the approach should be to reduce tax on goods of mass consumption and on those goods which people required by way of necessity. He recalled that during the debate on the Constitution amendment relating to GST in the Parliament, it was proposed to cap the GST rate at 18% and observed that 28% rate slab should not be there for all items presently appearing in Annexure I. He stated that item at Sr.No.30 of Annexure I (Air-conditioning machines) would also cover air coolers which was used by poorer people. The Joint Secretary (TRU-I), CBEC clarified that air coolers would not be covered under HS Code 8415. The Hon'ble Chief Minister of Puducherry stated that items like small tiles and paints were used by each section of society for their houses and, therefore, it should be taxed at a lower rate. He agreed that for cement, there were arguments, both for and against tax reduction. He suggested that tax rate of 28% should be limited to only 8 to 10 items and all the other items listed in Annexure I to agenda item 6(i) should be taxed at the rate of 18%.

17.7. The Hon'ble Deputy Chief Minister of Delhi stated that the experience of his Government during the VAT regime was that when tax rate was reduced from 12.5% to 5%, even if the tax collection did not go up for some items, it did not also come down during the two years when the lower rate was applied. He observed that, by and large, lowering tax improved compliance. The Hon'ble Minister from Telangana stated that pre-GST, even if there was a rate of tax on various goods, tax was not paid on many of them. Now the taxpayers were fearful that they would come under the net of GST and income-tax. He observed that air-conditioners, refrigerators, coolers were no longer luxury items as they were used by common people. He further observed that items like bubble gums and chocolates were used by students and lower-class people. He suggested to have a practical approach and to remove these goods from the 28% rate slab. The Hon'ble Minister from Punjab stated that about 160 countries in the world had implemented GST but no country had a rate of 28%. The Hon'ble Chairperson observed that there was a need to balance the tax rate with revenue collection and the guaranteed 14% compensation to the States.

17.8. The Hon'ble Minister from Karnataka stated that they had an experience similar to Delhi when they reduced tax on liquor. When the tax rate on liquor was very high, the State's annual revenue from liquor was between Rs.100 to Rs.200 crore but after reforms in the State Excise Law, in the first year, the revenue had gone up to Rs.600 crore and in the next year, to Rs. 1200 crore. He added that the volumes did not go up phenomenally but compliances increased exponentially. He added that since there was a buffer in the cess account, there was a case to bring the tax rate to 18% on all goods other than sin goods and high luxury goods. He stated that this would also help in curbing lobbying and speculation. He observed that in the marble and granite sector, a taxpayer under VAT declared an annual turnover of Rs.20 crore but also claimed exemption of Rs.1.5 crore under Central Excise. He observed that high rates of Central Excise duty led to such anomaly which encouraged the taxpayer to 'manage' with the tax



administration. He observed that taxing marble and granite at the rate of 28% would encourage evasion but if it was reduced to 18%, more revenue would be realised. He added that a very high degree of profiteering was going on in the marble and granite sector. He observed that if ceramic tiles were to be taxed at the rate of 18%, marble and granite should also be taxed at the rate of 18%. He further added that buses operating on bio-diesel were easily classifiable and definable under HSN and they should attract a lower rate of tax. He stated that while this would not have large revenue implication, it had implication for the future in checking environmental pollution.

17.9. The Hon'ble Minister from Uttar Pradesh stated that if the rate of tax was reduced with consumer in mind, then it was important to check whether prices for consumers were going down for items presently attracting tax at the rate of 18%. He also wondered whether the new tax rate would allow the States to stand on their own legs after the compensation period of 5 years was over.

17.10. The Chief Economic Advisor stated that the principle for fitment earlier was to remain close to the pre-existing tax rate. However, as the Approach Paper had now departed from this original principle and adopted a new set of principles, the items under the 28% rate appeared to be less arbitrary than before. He stated that GST was a consumption tax, hence it was desirable to have a uniform rate of tax with deviation by way a lower rate of tax for some goods used by poorer sections of society and a higher rate of tax for some luxury items. He stated that consideration regarding manufacturing in small scale sector or large scale sector should be subsidiary. He further stated that the list of goods contained in Annexure I was still arbitrary and supported the suggestion to restrict tax rate of 28% only to sin goods and high luxury goods and to tax all other goods at the rate of 18%. He suggested to get estimates of revenue loss if this principle was adopted. He pointed out that manufacturing in India was still weak and bringing the rate of tax from 28% to 18% on white goods would boost manufacturing though it could lead to some revenue loss. He stated that loss of revenue could be made up by increasing the rate of tax on gold to 4% or 5%. He further stated that it was worthwhile to take the risk of reducing the tax rate as this would encourage compliance and buoyancy. He added that if tax rate of 28% was reduced on additional items from the 62 items presently in Annexure I, the optics would be very good as presently, the expectation was that reduction would not cover these 62 items. The Hon'ble Minister from Kerala stated that he could support this proposal if there was a parallel exercise to bring the existing goods in the rate slab of 5% to nil and those in the rate slab of 12% to 5%. The Hon'ble Minister from Karnataka also supported the proposal of the Hon'ble Minister from Kerala and stated that this could act as a macro-economic stimulus.

17.11. The Hon'ble Deputy Chief Minister of Bihar stated that after the approval of the Approach Paper, the Fitment Committee had made its recommendations on the basis of certain principles which should be accepted though it had a revenue implication of about Rs. 16,000 crore. He added that even the European Union had slabs of tax between 19% and 25%. He stated that while rate of tax on items of mass consumption should be reduced, the goods kept in the 28% rate slab should not be frozen and suggestions should still be taken from States for further removing the items kept in the 28% rate slab. He observed that in a State like Bihar, air-conditioner was used by a miniscule number of people. He further added that the proposed rate of tax on cement was the sum total of the earlier VAT and Central Excise rates. He observed that even earlier, only 227 items were in the rate slab of 28% but the general perception created was that 28% rate of tax was applied on a large number of goods. He suggested to accept the recommendations of the Fitment Committee and to consider further suggestions from States for reduction of tax. He added that a big message would go to the public at large if the proposal contained in the agenda note for moving goods from 28% rate slab to 18% rate slab was accepted by the Council.

17.12. The Hon'ble Minister from Jharkhand stated that regular shaving items should not be taxed at the rate of 28%. He also expressed reservation regarding the proposed tax rate of 28% on used tyres. He further suggested to lower the rate of tax on marble. He also agreed with the observation of the Hon'ble



Deputy Chief Minister of Bihar that items which did not have large tax revenue but were creating rate havoc should be looked at afresh. The Hon'ble Minister from Assam supported the suggestion of the Hon'ble Deputy Chief Minister of Bihar. He stated that already a huge reduction was proposed in the list of goods attracting tax at the rate of 28% and it should be regarded as a step in the positive direction. He advised that revenue neutrality also should be kept in mind and that the entire economy should not be jeopardised by sudden rate reduction as the Centre also has to bear the burden of compensation. He suggested to approve the recommendations of the Fitment Committee with some further modifications. For example, items like chewing gum could be brought down from 28% to 18% rate slab. He suggested that this exercise of pruning the list of items in 28% slab could continue in future as per the suggestions received by the Fitment Committee.

17.13. The Hon'ble Chief Minister of Puducherry stated that there was almost a near unanimity that the 28% rate slab should have minimal goods. He reiterated that the scale of manufacturing should not be a criterion for rate reduction; instead the interest of consumer and the need for boosting consumption should be taken as criteria. He also questioned as to why re-used tyres should be taxed at the rate of 28%. He said that use of old tyres should be encouraged and while loss of revenue could be one factor in taking decision regarding the rate of tax, one should also be cautious that industry should not close down due to high tax rate. The Hon'ble Minister from Haryana quoted Donald Rumsfeld to say that 'there are known knowns; there are known unknowns and there are unknown unknowns'. He stated that the Council had considered the present proposal based on analysis which projected revenue loss of about Rs.16,000 crore. This was a big decision and was being taken in the backdrop of assured revenue protection to the States. He stated that when more goods were moved to the 18% rate slab, there would be lot of unknown unknowns. He suggested that decisions should be taken on the basis of the information already shared. He supported the view that there should be lesser number of tax rates but advised that movement in this direction should be gradual and that the Fitment Committee could examine items such as re-used tyres with proper revenue analysis. He stated that the Fitment Committee's proposal could be accepted with the understanding that further rationalisation could be done in future.

17.14. The Hon'ble Minister from Uttar Pradesh stated that his State had 50 *khandsari* sugar units which mostly worked in small scale sector. He suggested to exempt *khandsari* sugar from tax as it was a product of Gur which was exempted and sugar attracted tax rate of 5 %. The Hon'ble Chairperson suggested that the rate of tax on *khandsari* sugar and *gur* should be kept at par and should be exempted. The Council agreed to this proposal.

17.15. The Hon'ble Deputy Chief Minister of Delhi wondered how an assessment was made that the government could afford to lose revenue of Rs. 16,000 crore and why not Rs. 20,000 crore. He suggested to reduce rate of tax on battery operated cars and hybrid cars. The Hon'ble Minister from Punjab recalled that the income-tax collection had gone up after reduction of income tax rate during the 1990s. He stated that the GST revenue would also go up after rate reduction. The Hon'ble Chairperson stated that the list of goods under 28% rate slab needed to be pruned gradually. Summarising the discussion, he stated that originally the 28% rate slab was fixed on the principle of equivalence on the basis of the pre-GST rates of VAT and Central Excise. Once the list of goods to be taxed at the rate of 28% was prepared, it was realised that certain goods should not figure in that list and accordingly about 30 to 40 items were removed from this rate slab during the earlier meetings of the Council. The present issue was that on some goods, even though the tax rate came to 28% on the basis of pre-GST calculation, many units making such goods did not pay Central Excise duty and thus the effective rate of tax was less. He summarised the various viewpoints expressed, namely: (i) to keep only high luxury and sin goods under the 28% rate slab; (ii) to reduce rate of tax only on those goods which were recommended by the Fitment Committee and strike a balance between rate reduction and revenue consideration and prune the list further once revenue collection increased; (iii) tax rate of 28% was a necessary rate. He also recalled that the Hon'ble Minister



from Jammu & Kashmir stated that rate reduction should be done on certain principles instead of on an *ad hoc* basis and for optical reasons. He observed that a balanced view needed to be taken keeping all these viewpoints in mind.

17.16. The Hon'ble Minister from Telangana stated that a practical view needed to be taken as after three months of implementation, a lot of grey market activity was going on. The Hon'ble Chief Minister of Puducherry stated that the approach of the Fitment Committee to keep those goods in the 28% rate slab which were manufactured in large scale industry should be abandoned and one should go for reduction in rate of tax on items for consumption of common man. He pointed out that without consumption, there would be no investment and no industry. The Secretary stated that as recalled earlier, four to five principles had been adopted for reducing the rate of tax on goods from 28% to 18%. He stated that items like electrical switches and wires, pipeline, plastic products, etc. were largely produced by MSMEs and they did not pay Central Excise duty and therefore tax rate on these was being brought down to 18%. The Hon'ble Chief Minister of Puducherry stated that sanitary wares were proposed to be taxed at the rate of 28% whereas these goods were taxed at a much lower rate in other countries, like 10% in Australia, 15% in Canada, 17% in China, 8% in Japan, 10% in South Korea and 7.5% in USA. The Hon'ble Chairperson responded that the rate of tax on sanitary items was proposed to be brought down to 18%. The Hon'ble Chief Minister of Puducherry stated that it needed consideration as to why MSMEs were closing down.

17.17. The CEA stated that the Fitment Committee had followed an approach of pragmatic incrementalism which had served the Council well but given the present state of economy, it was worth the risk to deviate from this approach and limit 28% tax rate only for sin and luxury goods. He stated that this could be a risky step but it would definitely improve the climate of compliance. The Hon'ble Minister from Kerala stated that reduction of rate should also be looked at for handicrafts and hand-made items. The Hon'ble Minister from Assam cautioned that if the Central revenue went down, it would also affect devolution and would cause a loss of revenue of almost Rs. 2,000 crore which the Centre would not compensate. He expressed that this situation could even cause difficulties in disbursing salaries. He, therefore, advised against taking drastic decisions and suggested to adopt a slow, evolutionary approach and to accept the recommendations of the Fitment Committee. He also did not favour reducing tax on cement etc. when there was no demand for its reduction. He cautioned that this would lead to very large-scale loss of revenue. He suggested to prune the list of goods in Annexure I by another 2 to 3 items rather than doing it in a large scale. The Hon'ble Minister from Punjab stated that when slavery was abolished in USA, the pragmatic view was not to do it or when Mahatma Gandhi suggested abolition of untouchability, the pragmatic view was not to do it. The Hon'ble Chairperson stated that the Government of India had a shortfall of revenue of around Rs. 20,000 crore per month and States were also suffering revenue shortfall. He cautioned that if tax rates were reduced abruptly, it could create a vacuum. He stated that there should be an eventual target to keep the tax rate of 28% only for sin and luxury goods.

17.18. The Hon'ble Minister from West Bengal stated that 4 to 5 principles adopted in the Approach Paper should have been discussed in the Council first. The Hon'ble Chairperson stated that the Approach Paper was earlier circulated to the Council and it had enunciated these principles. These were subsequently approved by the Council. The Hon'ble Deputy Chief Minister of Delhi stated that it was too early to conclude that the Central revenue had a deficit of about Rs. 20,000 crore every month. The Hon'ble Chairperson stated that the eventual goal would be to keep luxury goods, sin goods and some high revenue items in the 28% rate slab but presently, suggestion of the Fitment Committee could be accepted as it had taken into account the revenue balance. He stated that after three months, once the revenue settlement figures became clearer, bolder steps could be taken. He further suggested that four categories of goods presently in Annexure I covering about 14 to 16 items such as chocolate and eatables, shaving and beauty products, marble and granite and detergent powder could be taken out from the slab of 28% and put in the slab of 18%, as optically, some of them should not be in the 28% rate slab. He



stated that as the revenue position improved in the next three months, further reduction in the list of goods presently in the 28% rate slab could be looked at. The Hon'ble Minister from Assam supported the proposal and stated that after this pruning, barely 30 to 40 items would remain in the 28% rate slab. The Hon'ble Minister from Karnataka also supported the proposal of the Hon'ble Chairperson.

17.19. The Hon'ble Minister from Punjab requested to address the issue of agricultural items and the Hon'ble Deputy Chief Minister of Delhi requested to address the issue of hybrid cars. The Hon'ble Chairperson stated that tax was earlier reduced on hybrid cars but this had not led to decline in prices and, therefore, one needed to move cautiously on this item. The Hon'ble Minister from Jammu & Kashmir raised a question as to why item at Sr. No.33 of Annexure I had such a specific entry on washing machine. The Secretary explained that the entry was part of the international Harmonised System of Nomenclature which was also used for imported goods. He added that there were detailed Section Notes and Chapter Notes to explain the classification of products and that it was desirable to adopt an international convention of classification rather than to create one's own classification system.

17.20. The Secretary further stated that subject to the Council's approval, some more items could be taken out of the slab of 28%. He stated that items covered at Sr. No.2 to 5 (covering goods like, chewing gum, bubble gum, chocolate and other food products containing cocoa, malt extract; food preparations of flour not containing cocoa; food preparations of goods of 2001 to 2204 not containing cocoa, waffles and wafers coated with chocolate or containing chocolate) could be moved from 28% slab to 18% slab, if the Council so decided. He informed that revenue implication of the said reduction would be around Rs. 1,000 crore. The Hon'ble Minister from Kerala stated that chocolate was a fat food whose consumption should be discouraged. The Secretary stated that another set of items whose tax rate could be reduced from 28% to 18% was covered under Sr.No.16 to 19 (covering items like perfumes and toilet waters, beauty or make-up preparations and preparations for the care of the skin including sunscreen or sun tan preparations; all goods, i.e. preparations for use on the hair such as shampoos, preparations for permanent waving or straightening; hair lacquers; pre-shave, shaving or after-shave preparations, etc.). He stated that loss of revenue on account of bringing these items to 18% would be in the range of Rs.1172 crore. He stated that another category of goods that could be brought down from 28% rate slab to 18% slab was items covered under Sr.No.20 and 21, namely, organic surface-active products and preparations for washing the skin; organic surface-active agents (other than soap), etc. He stated that total revenue implication for this reduction would be around Rs.1100 crore. He stated that another set of items on which tax could be reduced was covered under Sr. Nos.24 and 25, namely, all goods of marble and granite (other than statues, statuettes, pedestals, etc.) and ceramic flags and paving, hearth or wall tiles; ceramic mosaic cubes, etc. for which the total revenue implication would be about Rs. 1,000 crore. He stated that the total revenue implication for reduction on all the above items would be around Rs.4272 crore. He added that rate reduction was not proposed at this stage for other items covered in Sr. Nos. 22 and 23 (new and old tyres), 26, 27, 28, 29 (internal combustion engines and their parts), 34, 35 (transmission shafts, electric accumulators, etc.), 39 (electrical ignition or starting equipment), 40 (electric instantaneous or storage water heaters), 50 (parts and accessories of motor vehicles) and 52 (motorcycles) as the total revenue implication would be more than Rs. 10,000 crore.

17.21. The Hon'ble Minister from Goa supported the proposal and observed that this would be a very good progress and the rate of tax on other goods should not be reduced. The Hon'ble Minister from Jammu & Kashmir suggested that rate of tax on goods covered under Sr. No.42 (monitors and projectors, not incorporating television reception apparatus; reception apparatus for television etc.) should also be taken to 18% slab. The Hon'ble Minister from Karnataka again requested to reduce the rate of tax on bio-diesel buses as revenue implication would not be high. He recalled that earlier the Hon'ble Minister from Maharashtra had also made a similar request. The Hon'ble Chairperson stated that this could be considered by the Fitment Committee. The Hon'ble Minister from Karnataka accepted the proposal and



requested that the Fitment Committee should examine exemption from tax on bio-diesel buses. The Council agreed to this proposal.

17.22. The Hon'ble Chief Minister of Puducherry stated that used tyres should not be taxed at the rate of 28%. The Joint Secretary (TRU-I) stated that retreaded tyres were grouped with tyres and it would be difficult to distinguish the two. The Secretary stated that in a multi-stage taxation system, it was very difficult for a tax officer in the chain of transaction to figure out whether the tyres supplied were new or retreaded. In order to establish this, tests would need to be conducted. The Secretary suggested that the Fitment Committee could discuss the issue of retreaded tyres. The Council agreed to this proposal. The Hon'ble Minister from Telangana stated that *bidi* should also be discussed by the Fitment Committee. The Hon'ble Minister from Rajasthan stated that *kota* stone was a variant of sand stone and should not be taxed at the rate of 18%. The Secretary stated that all stones had been put in the rate slab of 18% and it would be desirable not to make an exception for *kota* stone and bring it to 12% rate slab. He observed that the ideal rate of GST should be 18% and if rates of goods were brought down to 12%, it would be difficult to raise it again to 18%. He observed that mosaic tiles and ceramic tiles were also taxed at the rate of 18%. The Hon'ble Minister from Rajasthan reiterated that it was only a variant of sand stone. The Secretary stated that it was a sophisticated product which deserved to be kept in the 18% rate bracket. The CEA stated that the core of GST rate structure was 18% and 12% and the rates below and above it was departure from the norm. He stated that it would not be desirable to keep the rates freely moving between 12% and 18% or from 12% to 5% and so on.

17.23. The Hon'ble Minister from Telangana reiterated that *bidi* should also be removed from 28% rate slab as it did not have much revenue implication. The Hon'ble Ministers from Assam and Goa opposed this proposal and observed that this was a sin good and it was also carcinogenic.

18. The Hon'ble Chairperson suggested that the proposal of the Secretary for rate reduction (recorded in paragraph 17.20 above) on additional goods covered under Annexure I could be approved by the Council. The Council agreed to this suggestion.

#### **Discussion on Annexure II: Rationalisation of GST rates on goods (based on recommendations of the Sub-Group of Fitment Committee)**

19. The Secretary stated that Annexure II of the Agenda item 6(i) covered proposals in relation to those goods where there were different rates of tax under the same Chapter. He stated that a Sub-Group of the Fitment Committee on Rate Rationalisation had examined the rate of tax Chapter-wise and suggested rationalisation of rates, wherever required. He invited Shri P.K. Mohanty, Consultant (GST), CBEC, to give some examples of classification related rationalisation. The Consultant (GST), CBEC, stated that it was desirable to keep same rate of tax on similar category of goods but there were certain anomalies in this regard which were attempted to be corrected in Annexure II. He gave certain examples in this regard like: (i) dried vegetables and dried meat were exempt from tax but dried fish was taxable at the rate of 5%; (ii) spectacles and glasses for spectacles were chargeable to tax at the rate of 12%, but spectacle frames were chargeable to tax at the rate of 18%; (iii) curry powder was chargeable to tax at the rate of 5% but curry paste was taxed at the rate of 18%; (iv) cocoa paste was chargeable to tax at the rate of 5% whereas cocoa powder was chargeable to tax at the rate of 28%. He stated that it was desirable to have one rate of tax for similar types of goods as this would make assessment easier and reduce classification disputes.

19.1. The Hon'ble Minister from Maharashtra stated that bullock carts were chargeable to tax at the rate of 12% whereas its parts were chargeable at the rate of 18%. He added that mechanical sprayer was taxable at the rate of 18% and suggested to bring it under Heading 8413 and tax it at the rate of 5%. He stated that this was discussed by the Fitment Committee but it did not figure in its recommendations. The



Joint Secretary (TRU-I), CBEC, clarified that there was no agreement in the Fitment Committee on this issue. He explained that while bullock cart was chargeable to tax at the rate of 12%, its spare parts were machine items and they should be taxed at the rate of 18% as their inputs would also be charged to tax at the rate of 18%. The Secretary suggested that the Committee could re-examine both these products. The Council agreed to this suggestion.

19.2. The Hon'ble Minister from Odisha stated that at Sr. No.40 of Annexure II of the Agenda Notes to agenda item 6(i), the rate of tax on fly ash bricks was rightly proposed to be reduced from 12% to 5%. He suggested that fly ash aggregates, which were chip like products and consumed almost 90% of fly ash, should also be covered in this entry and should be charged to tax at the rate of 5%. Shri Tuhin Kanta Pandey, Principal Secretary (Finance), Odisha, suggested that fly ash aggregates should be classified under Chapter Heading 6815. The Secretary suggested that rate of tax on fly ash aggregate with 90% or more fly ash content, falling under Chapter Heading 6815 may be reduced to 5%. The Council agreed to the suggestion.

19.3. The Hon'ble Minister from Rajasthan stated that stone statues of Indian deities like of Lord *Hanuman* was taxable at the rate of 12% and requested that this should be exempted. He stated that there would also be no import of such statues. The Secretary stated that clay idols were already exempted and it would not be desirable to exempt stone statues of deities.

19.4. The Hon'ble Minister from Karnataka expressed his support for the proposals contained in Annexure II. He observed that keeping in view the fact that rate of tax on several value added products in the food sector (like *idli* batter, seasonings, curry powder and curry mixes) had been reduced, rate of tax on pickles should also be brought down from 12% to 5%. He added that pickles were earlier made at home but now these were mostly bought from the market and there was not much input tax credit on pickles. He added that revenue implication of this rate reduction would not be very high. The Hon'ble Minister from Goa stated that all pickles were made in cottage industry, and therefore, tax on the same should be reduced.

19.5. The Hon'ble Minister from Karnataka further stated that when the rate of tax on pasta and macaroni was brought down from 18% to 12%, rate of tax on *upma* mix and *bisibela bhat* mix should also be brought down from 18% to 12%. He stated that this was a major demand of the food processing sector. The Secretary stated that *upma* mix was a ready to eat food after heating whereas pasta required more value addition.

19.6. The Hon'ble Minister from Karnataka stated that many types of pipes of less than ½ inch diameter were exclusively used in micro irrigation works and were called 'laterals'. He suggested that rate of tax on the components specifically used for micro irrigation works should be brought down from 18% to 12% and his State administration would work with the Central Government officials to identify parts for specific use in micro irrigation. The Secretary stated that the Fitment Committee could examine this issue. The Council agreed to this suggestion.

19.7. The Hon'ble Minister from Uttarakhand stated that the rate of tax on Liquefied Petroleum Gas (LPG) supplied by a public sector undertaking and by a non-public sector company should be rationalised as presently, the former attracted a tax rate of 5% and the latter a tax rate of 18% while both were being used for domestic purpose. He suggested that the rate of tax for both supplies should be the same. The Secretary suggested that the issue could be further discussed with the Ministry of Petroleum and Natural Gas and then considered by the Fitment Committee. The Council agreed to this suggestion.

19.8. The Hon'ble Minister from Uttarakhand suggested that the rate of tax on biscuits with maximum retail price of less than Rs.100 should be brought down from 18% to 5%. The Hon'ble Minister from Punjab stated that a holistic view should be taken in the food sector. He suggested to draw a comparative



chart of tax rate on items in the food sector and then take a view on them. He added that presently caviar was taxable at the rate of 12% but water was taxable at the rate of 18% which was not desirable. He suggested that the rate of tax on food items should be determined on the principle of what was healthy to eat and what was not healthy.

19.9. The Hon'ble Minister from Jharkhand suggested that keeping in view the increasing incidence of diabetes in India, tax on diabetic food, which was presently proposed to be reduced from 18% to 12% under Serial No.22 of Annexure II of Agenda Notes, should be exempted from tax. The Hon'ble Chief Minister of Puducherry supported this proposal. The Hon'ble Chairperson stated that too much of rate difference could lead to classification problem and unintended effects such as a diet coke becoming cheaper than normal coke. In view of this, he suggested not to further reduce tax on diabetic food.

19.10. The Hon'ble Chief Minister of Puducherry stated that *idli* and *dosa* batter should not be taxed at the rate of 5% and should be exempted from tax. The Secretary stated that if these were exempted, then no input tax credit would be available to *idli* and *dosa* batter manufacturers while branded rice might be used for making such items. The Hon'ble Chief Minister of Puducherry stated that *idli* and *dosa* batter was largely used by middle and poorer sections of society and enquired regarding the tax implication for exempting these items. The Secretary stated that small suppliers of *idli* and *dosa* batter having an annual turnover of less than Rs.20 lakh would not be taxed in any case and the bigger producers would be able to take input tax credit. He added that if *idli* and *dosa* batter were exempted, their price would increase because, then, no input tax credit could be taken on the branded rice used in making such batter.

20. After further discussion, the Council approved the proposals contained in **Annexure II**.

### **Discussion on Annexure III: Other miscellaneous changes proposed in GST rates on goods**

21. The Secretary stated that the proposals contained in Annexure III of Agenda item 6(i) covered about 17 items, the suggestions for which had come from different stakeholders including from the Central and the State Governments.

21.1. The Hon'ble Minister from Arunachal Pradesh stated that earlier tax on raw bamboo and cane furniture was Nil but these were now being taxed at the rate of 18%. He stated that making of cane furniture was a traditional craft which was passed on from generation to generation and tax on these items should be reduced from 18% to 12%. The Hon'ble Minister from West Bengal strongly supported this proposal. He observed that the poor people in the State of Arunachal Pradesh were engaged in manufacturing cane furniture and in this view, raw bamboo should be exempted from tax and bamboo furniture should be taxed at the rate of 5%. Shri Y. Mhathung Murry, CCT, Nagaland, supported this proposal. He stated that lowering tax rate on this product would help improve the livelihood of people of the region. The Hon'ble Minister from Kerala also strongly supported the proposal and stated that this was very important for the economy of the North-Eastern States. The Hon'ble Minister from Maharashtra also supported the proposal. The Hon'ble Minister from Meghalaya supported the proposal and observed that bamboo was mostly available in the North-Eastern States and livelihood of many people depended on bamboo work. He observed that a Bamboo Mission had been started in the North-East and it could be a substitute for timber and would thus help to curb deforestation. The Hon'ble Minister from Arunachal Pradesh observed that bamboo took only 5 years to grow whereas timber took almost 20 years to grow. The Hon'ble Chief Minister of Puducherry also supported the proposal and observed that cane furniture was a cottage industry and bamboo was also used in construction industry. The Hon'ble Minister from Telangana also supported the proposal and stated that bamboo furniture was mostly made in tribal areas. The Hon'ble Deputy Chief Minister of Manipur also supported the proposal. The Hon'ble Minister from Uttar Pradesh suggested that rate of tax on cane should also be reduced along with that on bamboo. The



Hon'ble Ministers from West Bengal and Assam also supported this proposal. The Hon'ble Chairperson stated that all bamboo products were kept at the rate of 12% except furniture. The Hon'ble Minister from West Bengal stated that furniture should be taxed at the rate of 5%. The Hon'ble Chairperson observed that it was desirable that furniture as a class should be taxed at the same rate or else it would lead to confusion when furniture had a mix of cane and wood. The Hon'ble Minister from West Bengal stated that normally, wood and bamboo or cane furniture was not available in the same lot as the USP (unique selling proposition) of cane or bamboo furniture would be that it was made wholly of bamboo or cane. The Hon'ble Chairperson suggested that furniture wholly made of bamboo or cane or rattan could be taxed at the rate of 12% instead of the current rate of 18%. The Council agreed to this suggestion.

21.2. The Hon'ble Minister from Uttar Pradesh suggested that the rate of tax on paper plates made out of old paper should also be reduced. The Hon'ble Chairperson suggested that this could be considered by the Fitment Committee. The Council agreed to this proposal. The Hon'ble Minister from Jharkhand stated that they had been repeatedly raising the issue of reducing the rate of tax on mica, which was mostly exported but the Fitment Committee was not taking it up for discussion. The Hon'ble Minister from Jammu & Kashmir pointed out that carpet was also not being discussed by the Fitment Committee. The Hon'ble Chairperson stated that both mica and carpet should be discussed in the Fitment Committee. The Council agreed to this suggestion.

21.3. The Hon'ble Deputy Chief Minister of Delhi stated that when the rate of tax on motor parts was high (18%), then there was no justification to bring down the rate of tax on aircraft parts to 5%. The Secretary stated that aircraft parts earlier attracted Nil rate of Customs and Central Excise duty. The present proposal was only to reduce tax on specified parts of aircrafts, namely aircraft engines, aircraft tyres and aircraft seats while other parts would attract the same rate of tax as other spare parts. He stated that if these parts were charged to tax at the rate of 18%, the airline industry would be saddled with an additional cost of about Rs. 4,500 crore as input tax credit on goods was blocked for the airline industry.

21.4. Dr. P.D. Vaghela, CCT, Gujarat, stated that for tamarind kernel powder, phosphoric acid and effluent treatment plant, his State had been demanding reduction in the rate of tax to 5%. The Secretary suggested that the Fitment Committee could examine these products. The Council agreed to this suggestion.

21.5. The Hon'ble Minister from Haryana stated that the rate of tax on parts of agricultural implements was brought down from 18% to 12% and suggested to include springs used in cultivator and tiller in this category and tax them at the rate of 12%. He stated that these were used exclusively as parts of agricultural implements and could be classified under Chapter Heading 8430 which attracted tax at the rate of 12%. The Joint Secretary (TRU-I), CBEC, stated that parts were classifiable along with machinery and they attracted the same rate. He clarified that classification of items could not be shifted under the HSN. The Hon'ble Minister from Haryana reiterated that spring had a very specific use, and it could be included as an agricultural part and taxed at the rate of 12%. The Secretary suggested that the Fitment Committee could look into this issue. The Council agreed to this suggestion.

22. After further discussion, the Council approved the proposals contained in **Annexure III**.

**Annexure IV: List of handmade goods and certain services forwarded by the Hon'ble Chief Minister of Karnataka**

23. The Secretary stated that Annexure IV of Agenda item 6(i) contained a list of handmade goods and certain services which were suggested to be exempted from tax by the Hon'ble Chief Minister of Karnataka. He pointed out that it was very difficult to establish whether goods were handmade or



otherwise, and therefore, no agreement could be reached in the Fitment Committee on this issue. The Hon'ble Minister from Karnataka stated that in India, the capacity of formal sector of the economy to generate jobs was limited and a lot of jobs were created in the informal sector. He added that many families depended on handicrafts and handmade items and exempting these goods would give a tremendous boost to the livelihood support of a large number of people. He observed that even if handmade goods did not have separate HS classification, they should not be denied tax exemption as this would help a large number of families across the country. He added that toys, carpets, etc. were very important handmade goods. He suggested that another alternative could be to bring down the rate of tax in general for some such goods and for some other goods, a separate category of handicraft could be carved out. He strongly urged that this issue should be looked at from the perspective of job creation. The Hon'ble Minister from Kerala supported the suggestion of the Hon'ble Minister from Karnataka. He further stated that earthen pots were exempted from tax but glazed pots were taxable which was an important handicraft item and should have been exempted. He also suggested to exempt from tax goods like handmade tampons, sanitary napkins and diapers.

23.1. The Hon'ble Minister from Jammu & Kashmir stated that tax on handicrafts was connected to the issue of culture and heritage and suggested that a Group could be created to look into the definitional issues connected with handicrafts. He further stated that the handmade carpet industry in his State was in great distress and almost 20 lakh people depended upon this industry. He informed that the season for commissioning of carpet had commenced but not a single carpet has been put on the loom. He stated that most of the handmade carpets were sold in Delhi and the requirement of upfront payment of tax for taking handmade carpets to Delhi was causing a great deal of financial stress to the industry and almost 50% of the industry had shut down. He stated that there was a need to quickly find a mechanism by which tax would not be charged upfront. He warned that if this issue was not addressed quickly, an important part of the national heritage could be lost very soon. He further stated that revenue from handmade carpets was not very high and a decision needed to be taken quickly so that this season was not lost for the carpet weavers. He suggested that one way to address this issue could be to treat movement of carpets from Kashmir to Delhi for sale as a supply for long term exhibition or goods taken on approval basis. The Secretary stated that already a notification had been issued that if goods were taken on approval basis, no IGST was chargeable until the customer placed an order. The Hon'ble Minister from Jammu & Kashmir stated that this proposal did not help as the suppliers of Jammu & Kashmir had a place of business in Delhi, and therefore, movement from Jammu & Kashmir became a taxable supply. The Secretary observed that handmade carpet was a luxury item and thus very expensive, and therefore, customers could afford to pay tax. The Hon'ble Minister from Jammu & Kashmir stated that due to global slump, the handmade carpet industry had lost its market abroad and the problem regarding payment of tax when goods were moved from Srinagar to Delhi must be addressed on priority. He also suggested that the tax rate of 12% on carpets should be relooked.

23.2. The Hon'ble Deputy Chief Minister of Delhi supported the proposal to constitute a Committee to examine the issue of goods related to culture and heritage, livelihood and jobs. The Hon'ble Minister from Assam stated that a big company like Hindustan Lever Ltd. made soap and small industry also made soap. The question was how to fit these two goods into HSN code and suggested that this should be examined in an institutional way. The Hon'ble Chief Minister of Puducherry observed that handloom and handicraft sectors were labour intensive. He stated that the argument that it was not possible to distinguish between handmade and machine-made goods was not a sufficient reason to brush aside the issue of prescribing a lower tax on handmade goods. He observed that a lot of families depended upon such crafts. He suggested that this issue should be examined thoroughly to work out a solution as to how to distinguish between handmade and machine-made goods. He observed that handicrafts made of stone and brass were produced in semi-urban and rural areas and tax on these items was an additional burden and made them



less competitive *vis-à-vis* those produced in the formal sector of the economy. The Hon'ble Minister from Karnataka stated that small handicraft units with annual turnover of less than Rs.20 lakh would not be taxed but these products needed to be aggregated for being sold in the market and these became taxable at the point of aggregation.

23.3. The Hon'ble Chairperson stated that the Hon'ble Ministers from Assam and Karnataka had been raising an issue regarding tax on silk yarn, which created problem for handloom and handicraft industry and suggested that the Fitment Committee could examine this issue. The Council agreed to this proposal. The Hon'ble Chairperson further suggested that a Committee could be constituted under the chairmanship of the Chairman, CBEC, which may consist of representatives of four to five States which had large population depending upon handicraft sector or where handicraft sector was very strong to examine definition of handicraft goods based on its way of manufacture and cultural & heritage linkages and to look into specific issues of handicraft items and suggest possible solutions. He suggested that some States like Jammu & Kashmir, Odisha, Tamil Nadu and some States from North-East could be made members of this Committee. The Council agreed to this suggestion. The Hon'ble Chairperson further stated that regarding the problem relating to handmade carpets, the State of Jammu & Kashmir could suggest a solution which could be taken up for decision in the GIC.

23.4. The Hon'ble Minister from Karnataka welcomed the rationalisation of rate structure on goods and also suggested to have a look at rationalisation of rate of tax in the services sector as the rate of service tax in the services sector had gone up from 15% to 18%. The Secretary suggested that the Fitment Committee could examine this aspect. The Council agreed to this suggestion.

24. In respect of **agenda item 6(i)**, the Council took the following decisions:

(i) To keep the goods listed in Annexure I of the agenda note to agenda item 6 (i) in the 28% rate slab except the goods covered under Sr. No. 2, 3, 4, 5, 16, 17, 18, 19, 20, 21, 24, 25 which shall be taxed at the rate of 18%;

(ii) Approve the rate of tax recommended by the Fitment Committee for goods listed in Annexure II;

(iii) Approve the rate of tax/other proposals recommended by the Fitment Committee for goods listed in Annexure III;

(iv) To exempt '*khandsari* sugar' from tax;

(v) To reduce the rate of tax on fly ash aggregate with 90% or more fly ash content, falling under Chapter Heading 6815, from 18% to 5%.

(vi) To reduce the rate of tax on furniture wholly made of bamboo or cane or rattan from 18% to 12%;

(vii) The Fitment Committee to examine and recommend the rate of tax on bio-diesel, bio-diesel buses; retreaded tyres; parts of bullock carts; mechanical sprayers; pipes exclusively used in micro irrigation works (called '*laterals*'); Liquefied Petroleum Gas (LPG) supplied by public sector undertaking and non-public sector company; paper plates made out of old paper; mica; carpet; tamarind kernel powder; phosphoric acid; effluent treatment plant; springs used in cultivator and tiller and silk yarn;

(viii) To constitute a Committee of Officers with Chairperson, CBEC as convenor to evolve a definition of handicraft goods based on its way of manufacture and cultural & heritage linkages and to look into specific issues of handicraft items and suggest possible solutions. The Committee shall have representation from the Central Government and from the States like Jammu & Kashmir, Odisha, Tamil Nadu and from North-East;



(ix) The Fitment Committee to examine rationalisation of rate of tax in the services sector.

**Agenda item 6(ii): Dual levy of IGST on the royalty paid for import of pictures on a tangible media where the rights have been granted for a temporary period (Temporary transfer or permitting the use or enjoyment of any intellectual property right)**

25. The Secretary informed that this issue was discussed during the officers' meeting held on 9 November, 2017 in Guwahati. He stated that it was essentially a proposal to avoid double levy on royalty payable on copyrights on import of cinematographic films for a temporary period as import of service by virtue of Entry 5(c) of Schedule II of the CGST Act. Under the GST law, IGST would be computed and charged twice on the royalty value payable by the importer, namely 18% (i) under Section 3(7) of the Customs Tariff Act, 1975 and (ii) under Section 5(1) of the IGST Act. He informed that Shri V.K. Garg, Advisor (Finance), Punjab had stated that this was a structural issue and would be relevant in all cases where something was defined as goods under the Customs Act and as service under the GST law, such as for ocean transport, franchisee, etc. and suggested to address it structurally as a single issue by following the global practice. The Secretary suggested that this Agenda item could be postponed and the Fitment Committee could re-examine it.

26. The Council agreed to postpone this agenda item and the Fitment Committee to re-examine the proposal.

**Agenda item 6(iii): GST rate on job work in relation to manufacture of handicrafts**

27. The Secretary stated that under this Agenda item, it was proposed that the rate of tax on services provided by way of job work in relation to manufacture of those handicraft goods in respect of which a casual taxable person has been exempted from obtaining GST registration could be prescribed at 5% with full input tax credit and that the expression 'handicraft goods' may be given the same meaning as given in the Notification No.32/2017-CT dated 15 September, 2017, as amended from time to time. The Secretary further stated that this Agenda item was discussed during the officers' meeting held on 9 November, 2017 in Guwahati and they had agreed to the proposal and suggested that the Council could agree to the proposal. The Council agreed to the proposal.

28. For **Agenda item 6(iii)**, the Council approved the proposal that the rate of tax on job work services in relation to manufacture of handicraft goods shall be reduced from 18% to 5% with full input tax credit and that the expression 'handicraft goods' shall be given the same meaning as given in Notification No.32/2017-CT dated 15 September, 2017 as amended from time to time.

**Agenda item 6(iv): Amendment in Notification No. 21/2017-CT(R) dated 22.8.2017 regarding Public Distribution System (PDS) and Fair Price Shops (FPS)**

29. Introducing this Agenda item, the Secretary stated that this item was essentially for rationalisation and simplification of the earlier Notification No.12/2017-CT(R) dated 28 June, 2017, as amended by Notification No.21/2017-CT(R) dated 22 August, 2017 under which rate of tax on services provided by Fair Price Shops (FPS) to Central Government by way of sale of wheat, rice and coarse grains under Public Distribution System (PDS) against consideration in the form of commission or margin under Entry 11A and services provided by FPS to State Governments or Union Territories by way of sale of kerosene, sugar, edible oil, etc. under PDS against consideration in the form of commission or margin under Entry 11B, was reduced to Nil. He stated that the Ministry of Consumer Affairs, Food and Public Distribution had informed that under the National Food Security Act (NFSA), in addition to rice, wheat and coarse grains, certain other commodities, such as kerosene and sugar, were also distributed under PDS through FPS. Similarly, State Governments/Union Territories also distributed additional commodities through



PDS out of their own resources. Keeping this in view, it was proposed to amend the Notification No.12/2017-CT(R) dated 28 June, 2017 and corresponding IGST, SGST and UTSGT notifications so as to remove entries against Serial No.11A in the Table and to change entry in Column (3) of Serial No.11B to read, 'Services provided by Fair Price Shops to Central Government/State Governments or Union Territories by way of sale of food grains, kerosene, sugar, edible oil, etc. under Public Distribution System against consideration in the form of commission or margin.'

29.1. He informed that this Agenda item was discussed during the officers' meeting held on 9 November, 2017 and they agreed to the same. He suggested that the Council could agree to the proposal. The Council agreed to the proposal.

30. For **Agenda item 6 (iv)**, the Council approved the proposal to amend the Notification No.12/2017-CT(R) dated 28 June, 2017 and corresponding IGST, SGST and UTSGT notifications so as to remove entries against Serial No.11A in the Table and to change entry in Column (3) of Serial No.11B to read, 'Services provided by Fair Price Shops to Central Government/State Governments or Union Territories by way of sale of food grains, kerosene, sugar, edible oil, etc. under Public Distribution System against consideration in the form of commission or margin' subject to vetting by the Union Law Ministry.

**Agenda item 6(v): Alignment of the entry at item (vi) of Sl. No.3 of notification No. 11/2017-CT(R) with the entries at items (ii), (iii), (iv) and (v) of Sl.No.3**

31. Introducing this Agenda item, the Secretary stated that this Agenda item was to align the Item (vi) of Serial No.3 of Notification No.11/2017-CT(R) dated 28 June, 2017 with entry at Items (iii), (iv) and (v) of Serial No.3 to maintain consistency. It was also proposed to replace the words 'services provided' in entry (vi) with 'Composite supply of works contract as defined in Clause 119 of Section 2 of Central Goods and Services Tax Act, 2017'. He informed that this Agenda item was discussed during the officers' meeting held on 9 November, 2017 in Guwahati and they agreed to the proposal. He suggested that the Council could also agree to the proposal. The Council agreed to the proposal.

32. For **Agenda item 6(v)**, the Council agreed to align the Item (vi) of Serial No.3 of Notification No.11/2017-CT(R) dated 28 June, 2017 with entry at Items (iii), (iv) and (v) of Serial No.3 and to replace the words 'services provided' in entry (vi) with the words 'Composite supply of works contract as defined in Clause 119 of Section 2 of Central Goods and Services Tax Act, 2017'.

**Agenda item 6(vi): GST on Tour Operator services, request for allowing input tax credit of services in the same line of business at the existing rate of 5% without ITC**

33. Introducing this Agenda item, the Secretary stated that in view of the Service Tax rates existing during the period 22 January, 2017 and 30 June, 2017 and during the period prior to 22 January, 2017 and the broad principle of carrying forward the same incidence of taxes under GST regime as it existed in pre-GST era, it was proposed that (i) credit of input services in the same line of business may be allowed at the GST rate of 5% (this would correspond to Service Tax rate of 4.5% with CENVAT credit of input services of a tour operator used for providing the tour operator services during the period prior to 22 January 2017); and (ii) option of GST rate of 12% with input tax credit of all input services may be provided (this would correspond to the Service Tax rate of 9% with credit of all input services during the period from 22 January, 2017 to 30 June, 2017). In addition, the tour operators would continue to have the option of paying GST at the rate of 18% with input tax credit for goods and services.

33.1. The Secretary informed that this Agenda item was discussed during the meeting of the officers held on 9 November, 2017 in Guwahati and there were differing viewpoints. For instance, Shri R.K. Tiwari, Additional Chief Secretary, Uttar Pradesh, had suggested to keep only two rates of tax – 5% without input tax credit and 18% with input tax credit. The Advisor (Finance), Punjab had pointed out



that tax on tour operators had been levied since 1998 and the tax was levied only on his part of service. He had further informed that once accommodation came under Service Tax in 2012, the tax at the rate of 5% was erroneous and suggested to levy tax at the rate of 18% with input tax credit. He had also pointed out that earlier there was only abatement on the value of services rendered but the tax rate was always 15%. The Secretary stated that in view of differing viewpoints, it was agreed to defer this Agenda item so that it could be re-examined by the Fitment Committee. He suggested that the Council could agree to this suggestion. The Council agreed to the suggestion.

34. For **Agenda item 6(vi)**, the Council agreed to defer consideration of this agenda item and the Fitment Committee to re-examine the proposal.

**Item No.6(vii): Clarification regarding warehousing of Agricultural produce in GST regime**

35. Introducing this Agenda item, the Secretary stated that there were representations seeking clarification whether loading, unloading, packing or warehousing of tea/jaggery, etc. were exempt from GST. He stated that as per Serial No.24 in Notification No.11/2017-Central Tax(Rate) and Serial No.54 in Notification No.12/2017-Central Tax (Rate) both dated 28 June, 2017, GST rate on loading, unloading, packing, storage or warehousing on agricultural produce was Nil. Similarly, services provided by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce were exempt. He further stated that agricultural produce in the notification was defined to mean “any produce out of cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market”.

35.1. He further explained that tea used for making the beverage, such as black tea, green tea, white tea was a processed product made in tea factories after carrying out several processes, such as drying, rolling, shaping, refining, oxidation, packing etc. on green leaf and that this processing was not usually done by cultivators. He, therefore, pointed out that green tea leaves and not tea was the agricultural produce and was eligible for exemption available for loading, unloading, packing, storage or warehousing of agricultural produce. Similarly, jaggery was not an agricultural produce as processing of sugarcane into jaggery changed its essential characteristics. Pulses were obtained after dehusking or splitting or both. This process of dehusking or splitting was not usually carried out by farmers or at farm level but done by the pulse millers. Therefore, pulses (dehusked or split) were also not agricultural produce. It was, therefore, proposed to clarify by way of a circular that processed products such as processed tea (i.e. black tea, green tea, white tea etc.), processed coffee beans or powder, pulses (dehusked or split), jaggery etc. fall outside the definition of agricultural produce as given in notification No. 11/2017-CT(R) and 12/2017-CT(R) both dated 28 June, 2017 and corresponding notifications issued under IGST and UTGST Acts.

35.2. The Secretary informed that this proposal was also discussed during the meeting of the officers held on 9 November, 2017 in Guwahati wherein Shri Sanjeev Kaushal, Additional Chief Secretary, Haryana, and Dr. C. Chandramouli, Additional Chief Secretary (Commercial Taxes), Tamil Nadu, had suggested that processed spices, processed dry fruits and processed cashew nuts should also fall outside the definition of agricultural produce. He further informed that the Additional Chief Secretary (CT), Tamil Nadu, had suggested to remove the word ‘etc.’ from the proposed clarification, but CCT, Gujarat, had suggested to retain this word so that other similar products could also get covered in this definition. He recommended that the Council could agree to the proposal in the Agenda item and also add dry fruits and spices in the proposed clarification. The Council agreed to the suggestion.



36. For **Agenda item 6(vii)**, the Council approved the proposal to issue a clarificatory circular that processed products such as processed tea (i.e. black tea, green tea, white tea etc.), processed coffee beans or powder, pulses (dehusked or split), jaggery, processed spices, processed dry fruits, processed cashew nuts, etc. shall fall outside the definition of agricultural produce as given in Notifications No. 11/2017-CT(R) and 12/2017-CT(R) both dated 28 June, 2017 and corresponding notifications issued under IGST and UTGST Acts.

**Agenda item 6(viii): GST Rate on permanent transfer of Intellectual Property**

37. The Secretary stated that the Council in its 14<sup>th</sup> Meeting held in Srinagar on 18 May, 2017, had approved the rate of tax at 12% on permanent or temporary transfer of Intellectual Property (IP) right in respect of goods other than Information Technology (IT) software. In order to remove the anomaly with reference to the rate of GST on permanent transfer of IP in respect of goods other than IT software, it was now proposed that 'Permanent transfer of Intellectual Property in respect of goods other than Information Technology software may be placed in the 6% rate list of goods and an entry may be inserted as Serial No. 243 in Schedule II of the notification No. 1/2017-CT(R)' to read as 'Permanent transfer of Intellectual Property in respect of goods other than Information Technology software'. He further stated that the Council in its 18<sup>th</sup> Meeting held in New Delhi on 30 June, 2017 had approved the rate of 18% on permanent or temporary transfer of IP right in respect of IT software. In order to remove the anomaly with reference to the rate of GST on permanent transfer of IP in respect of IT software, it was now proposed that 'Permanent transfer of Intellectual Property in respect of Information Technology software may be placed in the 9% rate list of goods and an entry may be inserted at Sr. No. 454 in Schedule III of the notification No. 1/2017-CT(R)' to read as: "Permanent transfer of Intellectual Property right in respect of Information Technology". He added that as a result of this amendment (i) permanent transfer of Intellectual Property right in respect of goods other than Information Technology software would attract 12% GST; and (ii) permanent transfer of Intellectual Property right in respect of Information Technology software would attract 18% GST. He stated that with this amendment, temporary or permanent transfer of Intellectual Property (other than Information Technology software) would attract tax at the rate of 12% (irrespective of whether transfer of Intellectual Property is a supply of goods or services) and temporary or permanent transfer of Intellectual Property in respect of Information Technology software would attract 18% GST (irrespective of whether permanent transfer of Intellectual Property in respect of supply of Information Technology software is a supply of goods or services). This amendment was proposed as a dispute/litigation avoidance measure. The Secretary stated that this Agenda item was discussed during the officers' meeting held on 9 November, 2017 in Guwahati and agreed upon. He suggested that the Council could also agree to this proposal. The Council agreed to the proposal.

38. For **Agenda item 6(viii)**, the Council approved the following: (i) permanent transfer of Intellectual Property right in respect of goods other than Information Technology software shall be taxed at the rate of 12%; and (ii) permanent transfer of Intellectual Property right in respect of Information Technology software shall be taxed at the rate of 18%.

**Agenda item 6(ix): Inter-State transfer of aircraft engines, parts and accessories**

39. Introducing this Agenda item, the Secretary stated that the domestic civil aviation industry, through the Ministry of Civil Aviation, had raised the issue of levy of GST multiple times on inter-State transfer of aircraft engines, parts and accessories for use by their own airlines as credit of GST paid on them was not allowed to be availed for payment of GST on passenger transportation services in economy class. He explained that tax paid engines, parts and accessories were stored by the airline in one State and when they were sent to another State for use by the same airline in their aeroplanes, IGST was levied on such inter-State supplies in terms of Section 25 of the IGST Act. He stated that in order to remove



any additional burden of tax on inter-State movement of such engines, parts and accessories, it was proposed to clarify as follows:

‘It is hereby clarified that credit of GST paid on aircraft engines, parts and accessories will be available for discharging GST on inter-State supply of such aircraft engines, parts and accessories by way of inter-State stock transfers between distinct persons as specified in section 25 of the CGST Act, notwithstanding that credit of input tax charged on consumption of such goods is not allowed for supply of service of transport of passengers by air in economy class at GST rate of 5%.’

39.1. The Secretary informed that this Agenda item was discussed during the officers’ meeting held on 9 November, 2017 in Guwahati and agreed upon. He suggested that the Council could also agree to this proposal. The Council agreed to the proposal.

40. For **Agenda item 6(ix)**, the Council approved the proposal to clarify that the credit of GST paid on aircraft engines, parts and accessories will be available for discharging GST on inter-State supply of such aircraft engines, parts and accessories by way of inter-State stock transfers between distinct persons as specified in section 25 of the CGST Act, notwithstanding that credit of input tax charged on consumption of such goods is not allowed for supply of service of transport of passengers by air in economy class at the GST rate of 5%.

**Agenda item 6(x): Issues related to rate of tax on certain Services**

41. Introducing this Agenda item, the Secretary stated that it was proposed to exempt from tax, general insurance policies where total premium was paid by the State Government. It was further proposed to exempt from tax general insurance policy where total premium was paid by employees or by students of colleges/private schools.

41.1. The Secretary stated that with regard to the above, it was proposed to clarify that services provided to the Central Government, State Government, Union Territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union Territory are exempt from GST under serial no. 40 of Notification No 12/2017- Central Tax (Rate). Further, service provided by the State Government by way of general insurance (managed by government) to employees of the State Government/ Police Personnel, employees of electricity department or students are exempt vide entry 6 of Notification No. 12/2017-Central Tax (Rate) which exempts Services by Central Government, State Government, Union Territory or local authority to individuals.

41.2. The Secretary stated that another proposal under this Agenda item was that services by way of admission to protected monuments could be exempted from tax by adding services by way of admission to monuments to the list of exempted services at Sr. No. 79, heading 9996 in Notification No.12/2017 Central Tax (Rate) dated 28 July 2017 and to adopt the definition of protected monuments as defined in the Central Act and various State Acts. He stated that the above proposals were discussed during the officers’ meeting held on 9 November, 2017 in Guwahati and agreed upon. He suggested that the Council could approve the above two proposals. The Council approved the proposals.

42. For **Agenda item 6(x)**, the Council approved the following: (i) to clarify that services provided to the Central Government, State Government, Union Territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union Territory are exempt from GST under serial no. 40 of Notification No 12/2017- Central Tax (Rate). Further, service provided by the State Government by way of general insurance (managed by government) to employees of the State Government/ Police Personnel, employees of electricity department or students are exempt vide entry 6 of Notification No. 12/2017-Central Tax (Rate) which exempts Services by Central Government, State



Government, Union Territory or local authority to individuals; (ii) to exempt from tax, services by way of admission to protected monuments and to adopt the definition of protected monuments as defined in the Central Act and the various State Acts.

**Agenda Item 7: Issues recommended by the Law Committee for consideration of the GST Council**

**Agenda Item 7 (i): Draft rule to be framed under section 107 of the CGST Act (Appeals to Appellate Authority)**

43. Introducing this Agenda item, the Secretary stated that this proposal was discussed during the meeting of the officers held on 9 November 2017 in Guwahati along with the other proposals under Agenda item 7. Shri Upender Gupta, Commissioner (GST Policy), CBEC, had made a presentation relating to all the agenda items covered under Agenda Item 7. A copy of the presentation is enclosed as **Annexure 4**.

43.1. The Secretary stated that Section 107 of the CGST/SGST Act provided for prescribing the appellate authority for hearing appeal against an order passed by an adjudicating authority under the Act. He stated that a two-tier appellate structure was envisaged wherein appeals against orders of Additional/Joint Commissioner would lie with the Commissioner (Appeals) and appeals against orders of Deputy/Assistant Commissioner and Superintendents would lie with the Additional Commissioner (Appeals). He said that it was proposed to insert a new Rule 109(A)(1) in the CGST Rules to specify the appellate authority as detailed above. He added in view of the opinion of the Union Law Ministry, it was proposed to insert a separate Rule 109(A)(2) relating to appeals to be filed by the Department. The proposed draft rules are as below: -

**“109A. Appointment of Appellate Authority-**

(1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act may appeal to –

- (a) the Commissioner (Appeals) where such decision or order is passed by the Additional/Joint Commissioner
- (b) the Additional Commissioner (Appeals) where such decision or order is passed by the Deputy/Assistant Commissioner or Superintendent

within three months from the date on which the said decision or order is communicated to such person.

(2) An officer directed under sub-section (2) of section 107 to appeal against any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act may appeal to –

- (a) the Commissioner (Appeals) where such decision or order is passed by the Additional/Joint Commissioner
- (b) the Additional Commissioner (Appeals) where such decision or order is passed by the Deputy/Assistant Commissioner or the Superintendent

within six months from the date of communication of the said decision or order.”



43.2. The Secretary stated that a similar notification would also be issued by the State Governments. He further stated that this Agenda item was discussed during the officers' meeting held on 9 November, 2017 in Guwahati and agreed upon. He suggested that the Council could also agree to this proposal. The Council agreed to the proposal.

44. For **agenda item 7 (i)**, the Council approved: (i) to insert a new Rule 109(A)(1) in the CGST Rules to specify the two-tier appellate authority, namely appeal against orders of Additional/Joint Commissioner shall lie with the Commissioner (Appeals) and appeals against orders of Deputy/Assistant Commissioner and Superintendents shall lie with the Additional Commissioner (Appeals) as per the draft at paragraph 43.1. above; (ii) to insert a separate Rule 109(A)(2) relating to appeals to be filed by the Department as per the draft at paragraph 43.1. above; (iii) Similar notification to be issued by the State Governments.

**Agenda Item 7 (ii): Amendment in Central Goods and Services Tax Rules, 2017 recommended by Law Committee Meeting on 01.11.2017**

45. The Secretary informed that this Agenda item containing some recommendations of the Law Committee was discussed during the officers' meeting held on 9 November, 2017. The first issue related to enabling manual filing of application for refund and advance ruling in order to enable refund of input tax credit for exporters and to provide opportunity to taxpayers to apply for advance ruling. He further informed that there was a Writ Petition filed in the Hon'ble High Court of Delhi to enable facility of filing manual application for advance ruling. He stated that this was necessitated because the relevant FORM RFD-01 (under Rule 89 of the CGST Rules) and FORM GST ARA-01 (under Rule 104 of the CGST Rules) were still not available on the common portal. In view of this, it was proposed to insert the following Rules at the end of Chapter 10 (Refund) and Chapter 12 (Advance Ruling) of the CGST Rules 2017:

“Notwithstanding anything contained in this chapter, in respect of any process or procedure prescribed herein, any reference to electronic filing of an application, intimation, reply, declaration, statement or electronic issuance of a notice, order or certificate on the common portal shall, in respect of that process or procedure, include manual filing of the said application, intimation, reply, declaration, statement or issuance of the said notice, order or certificate, in such Forms as appended to these rules.”

45.1. A format of GST RFD-01A and RFD-01B was also part of the Agenda Note. He added that a similar notification would be issued by the State Governments. He informed that this was approved when the Agenda item was discussed during the officers' meeting held on 9 November 2017 in Guwahati and suggested that the Council could also approve the same. The Council approved the proposal.

45.2. The Secretary stated that the second proposal under this Agenda item was to add an explanation at the end of Rule 42 and 43 of the CGST Rules 2017 that-

“For the purposes of this rule, it is hereby clarified that the supply of services having place of supply in Nepal or Bhutan against which payment is received in Indian Rupees, in accordance with Reserve Bank of India guidelines, shall be treated as taxable supply”.

He explained that the rationale for adding this explanation was that under the bilateral treaties signed by India with Nepal and Bhutan, exports from India could also be done on payment of Indian rupees whereas Section 2(6) of the IGST Act defines supply of any service as “export of service” subject to the condition that payment for such service was received in convertible foreign exchange. He stated that in this view,



if payment from Nepal and Bhutan for services exported was received in Indian rupees, integrated tax would be leviable in accordance with Section 5(1) of the IGST Act, 2017, being inter-State supplies. Such services, however, were not subject to service tax (under erstwhile Service Tax regime) as place of provision of such services was out of India. He stated that the Council, in its earlier meeting, had already approved to continue with the same practice, namely, not to levy GST if services were supplied to Nepal and Bhutan but payment thereof was received in Indian rupees. He stated that for such supplies, there should be no reversal of input tax credit and to enable this, an explanation as aforesaid was proposed to be added. He stated that similar changes would also be required in SGST Rules. He informed that the officers, during their meeting held on 9 September, 2017, had agreed to this proposal and suggested that the Council could also agree to this proposal. The Council agreed to the proposal.

46. For **Agenda item 7(ii)**, the Council approved the following:

(i) to insert the following Rules at the end of Chapter 10 (Refund) and Chapter 12 (Advance Ruling) of the CGST Rules 2017:

“Notwithstanding anything contained in this chapter, in respect of any process or procedure prescribed herein, any reference to electronic filing of an application, intimation, reply, declaration, statement or electronic issuance of a notice, order or certificate on the common portal shall, in respect of that process or procedure, include manual filing of the said application, intimation, reply, declaration, statement or issuance of the said notice, order or certificate, in such Forms as appended to these rules”;

(ii) the format of GST RFD-01A and RFD-01B as contained in the Agenda Note;

(iii) the State Governments to insert similar rules in Chapter 10 (Refund) and Chapter 12 (Advance Ruling) of the SGST Rules 2017 and the formats of GST RFD-01A and RFD-01B as contained in the Agenda Note;

(iv) to add the following explanation at the end of Rule 42 and 43 of the CGST Rules 2017-

“For the purposes of this rule, it is hereby clarified that the supply of services having place of supply in Nepal or Bhutan against which payment is received in Indian Rupees, in accordance with Reserve Bank of India guidelines, shall be treated as taxable supply”.

**7 (iii): Centralized UIN for Foreign Diplomatic Missions / UN Organizations**

47. Introducing this agenda item, the Secretary stated that proposal was aimed at providing minimal compliance and easy refund to Foreign Diplomatic Missions and UN Organizations having a Unique Identity Number (UIN). He explained that refund of taxes would not be available to foreign diplomatic missions/UN organisations in a State where it was not registered but it had paid CGST and SGST such as for staying in a hotel. He stated that many diplomats/embassy officers travel extensively throughout the country for many projects and their organisation would not be registered in every State to which they travel. In view of this, these organisations have requested to suitably amend GST Act and Rules to allow refund of CGST/SGST paid in a particular State where the Diplomatic Mission/UN Organization was not registered. He further explained that many suppliers to foreign Diplomatic Missions/UN organisations were declining to supply goods and services to them on the understanding that such UIN was not a valid GSTIN, and therefore, could not be recorded in their invoices. He informed that due to such non-compliance of recording of UIN, Foreign Diplomatic Missions /UN organisations would become ineligible for refund as the supplier might not declare such transactions in his FORM GSTR-1. He stated



that in order to facilitate Foreign Diplomatic Missions / UN Organizations, the Law Committee has recommended the following proposals:

- i. A centralized UIN may be issued to every Foreign Diplomatic Mission/UN Organization by Central Government and all compliance for such agencies may be done by the Central Government in co-ordination with MEA;
- ii. Matching of supplies stated by the UIN holder in his **FORM GSTR-11** with **FORM GSTR-1** may be done away with for the time being until filing of **FORM GSTR-1** stabilises, and instead refund may be given to Foreign Diplomatic Missions/UN Organizations against all the invoices containing their UINs which have been declared by them in their **FORM GSTR-11**, subject to verification;
- iii. Refund of CGST/SGST/UTGST / IGST may be given by the Central Government and the refund amount may be settled through the settlement mechanism.

47.1. He informed that these proposals were discussed during the meeting of the officers on 9 November 2017 in Guwahati and agreed upon. He proposed that the Council could give in-principle approval to the proposal and GIC could be authorised to approve the changes in the CGST/SGST/ UTGST Rules, as recommended by the Law Committee. The Council approved the proposal.

48. For **agenda item 7(iii)**, the Council approved the following, in principle:

- (i) A centralized UIN may be issued to every Foreign Diplomatic Mission / UN Organization by Central Government and all compliance for such agencies may be done by the Central Government in co-ordination with Ministry of External Affairs (MEA);
- (ii) Matching of supplies stated by the UIN holder in his **FORM GSTR-11** with **FORM GSTR-1** may be done away with for the time being until filing of **FORM GSTR-1** stabilises, and instead refund may be given to Foreign Diplomatic Missions/UN Organizations against all the invoices containing their UINs which have been declared by them in their **FORM GSTR-11**, subject to verification;
- (iii) Refund of CGST/SGST/UTGST/IGST may be given by the Central Government and the refund amount may be settled through the settlement mechanism;
- (iv) To implement the above in principle decision, GIC to approve the changes in the CGST/SGST/ UTGST Rules, as recommended by the Law Committee.

**Item 7 (iv): Reversal of Late Fee paid by registered persons who failed to furnish the return in FORM GSTR 3B for August and September 2017 within due date**

49. Introducing this Agenda item, the Secretary stated that a large number of taxpayers were unable to file their **FORM GSTR-3B** within due date for July, August, September, 2017 due to system glitches and a waiver of late fee had already been granted for these three months. However, those taxpayers who have already paid late fee, it needed to be re-credited to their electronic cash ledger. If it was re-credited under the head “Fee” of the electronic cash ledger, it would be useless for taxpayers as they would not be able to use this money to offset their future tax liability. In view of this, the Law Committee had recommended that the amount of late fee already paid by the taxpayers and now being reversed should be transferred from the “Fee” minor head to the “Tax” head (separately in CGST and SGST) and credited to the respective ‘tax’ head of the Electronic Cash Ledger of the taxpayer. He informed that this proposal was discussed during the officers’ meeting held on 9 November 2017 and agreed upon. He requested for in-principle approval of the Council and an authorisation for GIC to approve the changes in the CGST, SGST and UTGST Rules as recommended by the Law Committee to implement this proposal and the accounting authorities of the Centre and States could be advised accordingly. The Council approved the proposal.



50. For **Agenda item 7 (iv)**, the Council approved the following, in principle:

(i) the amount of late fee already paid by the taxpayers for July, August, September, 2017 and now being reversed due to waiver of late fee shall be transferred from the 'Fee' minor head to the 'Tax' head (separately in CGST and SGST) and credited to the respective 'Tax' head of the Electronic Cash Ledger of the taxpayer;

(ii) To implement this in-principle approval of the Council, GIC to approve the relevant changes in the CGST, SGST and UTGST Rules as recommended by the Law Committee and the accounting authorities of the Centre and States to be advised accordingly.

**Item 7 (v): Apportionment of IGST between States and Union Territories (UTs) under Section 12(14) of the IGST Act in the case of supply of advertisement services to Central/State Government, statutory body or a local authority**

51. Introducing this Agenda item, the Secretary stated that Commissioner (GST Policy), CBEC had made a presentation during the meeting of officers on 9 November 2017 in Guwahati, delineating the guiding principles for apportionment of IGST between States/UTs for supply of advertisement services to Central Government/State Government and statutory bodies by DAVP (Directorate of Advertising and Visual Publicity). He stated that as per the Law Committee recommendations, the following guiding principles were proposed for distribution of IGST for advertisements supplied through various media:

S No.	Media of Advertisement	Guiding Principle
1	Newspapers	Amount actually paid for placing an advertisement in a particular State – Information through Release order
2	Publications	Same principle as above
3	Printed material	Proposed distribution breakup of the leaflets at the time of placing the Release order so that the state-wise breakup is known at the time of printing
4	Outdoor - Hoardings (other than those on trains of Indian Railways)	Amount actually paid to every State
5	Hoardings on Trains	Length of track in every State
6	Personal media (such as utility bills etc.)	Amount actually paid to every State



7	Advertising on Railway tickets	Ratio of total railway stations in each State
8	Radio	Amount actually paid to Stations in every State
9	Television	BARC figures / viewership, adjusted in the ratio of the population of the States
10	New media (digital cinema, websites, SMS)	Amount actually paid to a cinema hall/screens in a multiplex in a State
11	Websites	Internet penetration figures released by TRAI for the quarter ending with March of a financial year
12	SMS	Amount actually paid to the various telecom circles in a State

51.1. The Hon'ble Deputy Chief Minister of Delhi stated that there would be a problem in distribution of advertisement through FM radio channels as they were located in Noida, Uttar Pradesh, and it would be difficult to determine consumption in Delhi and Gurgaon. He stated that similarly some channels were located in Delhi and their audience were in the radius of 100 kilometre. The Secretary stated that the Committee could not arrive at a better way of distribution of IGST. The Commissioner (GST Policy), CBEC, stated that the amount in such cases would be the amount actually paid to the radio stations by DAVP and this was only meant for Government service. He stated that it could be balanced out for channels located in Delhi and Noida. The Hon'ble Deputy Chief Minister of Delhi stated that if such a principle was adopted, then it was no longer a destination based tax. The Hon'ble Minister from Haryana stated that a more scientific basis for distribution of IGST could be television and radio ratings which was a dynamic data. He stated that it would be difficult to calculate population of different districts where these radio programmes were broadcast. The Commissioner (GST Policy), CBEC, stated that for radio, there was no data regarding survey and such data was only available for television. The Hon'ble Minister from West Bengal stated that more discussion was needed on these proposals. The Hon'ble Deputy Chief Minister of Delhi stated that for advertisement on hoardings on trains, length of track in every State was also not a good measure but as it was not a big revenue, so he could agree with this formulation, but as radio involved big revenue, the method of distribution of IGST for advertisements through radio should be reconsidered. The Secretary suggested that the Council could agree to the guiding principles for apportionment of IGST among States for various media other than radio. The Council agreed to the same.

52. For **Agenda item 7(v)**, the Council approved the guiding principles for distribution of IGST for advertisements supplied through various media by the Directorate of Advertising and Visual Publicity (DAVP) listed in paragraph 51 above except for Radio which needed further consideration.



**Item 7 (vi): To restrict the maximum amount of late fee payable to the extent of output tax liability in a return by exercising powers under Section 128 of the CGST Act, 2017**

53. Introducing this agenda item, the Secretary stated that representations had been received that in some cases, late fee payable for delayed filing of Return exceeded the principal amount of tax and interest by a very large amount and this was deterring the small and medium business from filing Returns. He stated that the Law Committee had recommended that the maximum amount of late fee payable by a taxpayer could be restricted to the amount of tax payable in a return in case such amount was less than 5,000 rupees by exercising the powers conferred under Section 128 of the CGST Act. He further stated that during the officers' meeting held on 9 November, 2017, it was also decided that the late fee for taxpayers who filed Nil returns should be only Rs.20 per day (Rs.10 CGST and Rs.10 SGST). He suggested that the Council could approve these proposals. The Council approved these proposals.

54. For **Agenda item 7(vi)**, Council approved the following:

(i) The maximum amount of late fee payable by a taxpayer shall be restricted to the amount of tax payable in a return in case such amount is less than 5,000 rupees;

(ii) The late fee for taxpayers who filed Nil returns shall be Rs.20 per day (Rs.10 CGST and Rs.10 SGST).

**Agenda Item 8(i): Extension of due dates for furnishing of certain FORMs on the common portal**

55. Introducing this agenda item, the Secretary stated that based on deadlines provided by GSTN in the 3<sup>rd</sup> meeting of the GoM on IT Issues held on 28 October, 2017 and on further discussion with GSTN, the following dates were proposed to be extended: -

S No.	FORM and DETAILS	Due Date (Last extended)	Proposed due date
1.	GST ITC-04 Details of goods/capital goods sent to job worker and received back	30.11.2017	31.12.2017
2.	GSTR-4 Creation & Submission of Quarterly Return by Compounding Taxpayer	15.11.2017	24.12.2017
3.	GSTR-5 Return for non-resident taxable person (for the month of July, 2017 to October, 2017)	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.	11.12.2017
4.	GSTR-5A Details of supplies of online information and database access or retrieval services (for the month of July, 2017 to October, 2017)	20.11.2017	15.12.2017
5.	GSTR-6	15.11.2017	31.12.2017



	Return for ISD (for the month of July, 2017)  Dates for subsequent months to be notified later		
6.	TRAN-1 and Revision of TRAN-1  Declaration of transitional stock/ITC and its revision	30.11.2017	31.12.2017

The Secretary stated that this Agenda item was discussed during the officers' meeting held on 9 November, 2017 and agreed upon. He suggested that the Council could also agree to these proposals. The Council agreed to the same.

56. For **Agenda item 8(i)**, the Council approved the extension of due date for various returns proposed at paragraph 55 above.

**Agenda Item 8 (ii): Amendment to sub-rule (2) of Rule 54 of CGST Rules, 2017**

57. The Secretary stated that in Rule 54(2) of the CGST Rules, it was provided that where the supplier of a taxable service was an insurer or a banking company or a financial institution, he shall issue a consolidated tax invoice. In this regard request was received that since the recipient of supplies wanted to claim the corresponding input tax credit on each individual supply instead of taking credit on the aggregate value in a consolidated manner, it was proposed to amend the Rule by substituting the word 'shall' with the word 'may'. He added that the States could also amend the SGST Rules accordingly. He further stated that this agenda item was discussed in the officers' meeting held on 9 November, 2017 and agreed upon. He suggested that the Council could also approve this proposal. The Council approved the proposal.

58. For **Agenda item 8(ii)**, the Council approved to substitute the word 'shall' with the word 'may' in Rule 54(2) of the CGST and SGST Rules

**Agenda Item 8(iii): Presentation on GST on real estate sector**

59. The Secretary suggested that consideration of this Agenda item could be deferred due to paucity of time. The Council agreed to the suggestion.

60. For **Agenda Item 8(iii)**, the Council agreed to defer its consideration.

**Agenda Item 8 (iv): Exemption from GST on the Government's share of Profit Petroleum and clarification regarding taxability of Cost Petroleum in the oil and gas sector**

61. The Secretary suggested that consideration of this Agenda item could be deferred due to paucity of time. The Council agreed to the suggestion.

62. For **Agenda Item 8(iv)**, the Council agreed to defer its consideration.



### **Agenda Item 8 (v): Incentivising Digital Payments in GST regime**

63. The Secretary suggested that consideration of this Agenda item could be deferred due to paucity of time. The Council agreed to the suggestion.

64. For **Agenda Item 8(v)**, the Council agreed to defer its consideration.

### **Agenda Item 9: Recommendations of Group of Ministers (GoM) on Composition and tax structure on restaurants for consideration of the GST Council**

65. The Secretary Revenue invited Shri Shashank Priya, Joint Secretary, GST Council (in short 'JS, GSTC') to brief the Council on the report and the recommendations of the GoM. The JS, GSTC, made a presentation on the report of the GoM on Composition and tax structure on restaurants, which is attached as **Annexure 5**. He informed that in the 22<sup>nd</sup> Meeting of the Council held on 6 October, 2017, taking note of the concerns of SMEs, the Council had constituted a Group of Ministers (GoM) to examine measures to make the Composition Scheme more attractive and to revisit GST Tax Structure on Restaurants and mandated four terms of reference (ToR). He informed that the GoM met twice on 15.10.2017 and 29.10.2017 and had wide ranging consultations with the office bearers of the Organizations and Associations of MSMEs, namely India SME Forum, Laghu Udyog Bharti, Federation of Indian Micro, Small & Medium Enterprises (FISME), Integration of Association of Micro, Small and Medium Enterprises of India (I am SME of India), The Coimbatore District Small Industries Association (CODISSIA), Federation of Association of Small Industries of India (FASII) and National Restaurants Association of India.

65.1. The JS, GSTC further stated that after taking note of written inputs received from the States on the composition scheme and detailed deliberation with the officers, who were invited in the GoM as Special Invitees, the GoM had made their recommendation on each of the ToR.

65.2. The JS, GSTC, informed that the ToR-1 mandated to examine as to **whether turnover of exempted goods can be excluded from the total turnover threshold for levying tax under the Composition Scheme** and the recommendations of the GoM were as follows:

- i. Annual turnover eligibility for composition scheme under the CGST/SGST law should be increased to Rs.2 crore from the present limit of Rs.1 crore by amending section 10(1) of the CGST Act and SGST Acts and after amendment in the law, the annual turnover threshold for composition to be increased to Rs.1.5 crore.
- ii. The facility of Composition Scheme should not be made available to Associated Enterprises as defined in section 2(12) of the CGST/SGST Acts if the combined aggregate turnover of such Associated Enterprises exceeds the threshold limit prescribed for Composition Scheme.
- iii. Apply a uniform rate of 1% under composition scheme for manufacturers and restaurants instead of the present rates of 2% and 5% respectively.
- iv. Composition rate for traders may be 0.5% if a tax payer chooses to pay tax on his aggregate turnover and the rate may be 1% if he chooses to pay tax only on his turnover of taxable goods.
- v. Composition tax payers be also allowed to make supply upto a limit of Rs 5 lakh for all services except for the Job Work services for which turnover value should be higher. This value could be decided by the GST Council.

65.3. Initiating the discussion on the recommendations of the GoM on ToR-1, the Hon'ble Minister from West Bengal suggested to keep only one aggregate turnover for composition traders as



differentiating the rate of tax on the basis of exclusion or inclusion of non-taxable goods in the total supply would lead to maintenance of separate books of accounts and consequently, the possibility of bringing back Inspector raj. He suggested to keep the composition scheme simple with only one aggregate turnover and avoid the role of inspectors in the whole scheme. The Hon'ble Deputy Chief Minister of Bihar stated that keeping in view the compliance burden and the fear of interference of the Inspector, the GoM had proposed optional scheme for the traders. He further stated that if at all an Inspector wanted to, he could interfere for many reasons, such as conducting verification to ascertain whether turnover was below Rs.2 crore. However, in order to address this fear, GoM had recommended to give option to the traders to pay a lower rate of tax at the rate of 0.5% on the total turnover, if he could not maintain account of exempted and taxable goods and those who could maintain such separate account, could pay tax at the rate of 1% only on taxable turnover. The traders who dealt in larger volume of taxable goods might opt to pay 0.5% on total turnover. The Hon'ble Minister from West Bengal stated that if the proposal was to provide option to the traders, he had no objection to the same.

65.4. The Hon'ble Minister from Goa stated that he was broadly in agreement with the recommendations of the GoM and was confident that the enhancement of annual turnover eligibility to Rs.1.5 crore and allowing inter-State outward supply of goods under Composition scheme would give a fillip to taxpayers in the MSME sector. He stated that there should be clarity on whether composition taxpayers would be allowed to buy from unregistered dealers or from other composition taxpayers. He stated that in case the composition taxpayers were allowed to effect purchase from unregistered dealers, it could create arbitrage vis-à-vis registered taxpayers and it could also discourage more taxpayers from coming into the regular tax net. He, therefore, suggested that there should be a restriction for composition taxpayers to buy from unregistered dealers and if they were allowed to buy from unregistered dealers, the composition taxpayers should be made to pay tax under reverse charge mechanism without the benefit of input tax credit. He further stated that he was not in favour of making available input tax credit to registered persons receiving inward supplies from composition taxpayers and to fix the Composition rate for traders at 0.5% if the taxpayer chose to pay tax only on his turnover of taxable goods. He stated that this would entail maintenance of detailed accounts and to pay tax or file quarterly returns and it would be cumbersome and unwieldy for small taxpayers.

65.5. The Secretary expressed a note of caution regarding the proposal to provide for a lower rate of tax where a composition dealer chose to pay tax on the combined turnover of taxable and exempt goods. He stated that a trader could introduce invoice of one exempt item to get the advantage of the lower rate of tax of 0.5%. For instance, he could be selling mostly televisions and refrigerators but also issue one bill of supply for some exempt item. The Hon'ble Minister from Assam stated that those taxpayers who wanted to avoid interference from inspector, could pay tax at the rate of 0.5% but those who were open to inspection, could choose to pay tax only on their supply of exempted goods and pay tax at the rate of 1%. The Secretary responded that the issue was a little different. The fear was that no one would pay tax at the rate of 1% and all composition dealers would avail the benefit of 0.5% tax by introducing just one low value bill of supply of exempt goods. The Hon'ble Minister from Assam stated that in such a situation, he should be allowed to pay tax at the rate of 0.5%.

65.6. The Hon'ble Minister from Jammu and Kashmir stated that it was advisable to have a uniform rate of tax under Composition scheme to retain its simplicity which was the core of the composition scheme. He added that introducing different rates would complicate the composition scheme and agreed with the view of the Secretary that 0.5% would become the bench mark tax rate. He suggested to raise the limit for composition to Rs 10 crore with a uniform rate of 1%, so as to make the scheme robust. He also stated that concerns of the MSME operating in B2B sector were largely with respect to restriction of availing the input tax credit and making inter-State supplies under Composition scheme, while such



concerns were not much relevant for B2C supplies. Therefore, to make this scheme more attractive for B2B suppliers, he suggested to make separate composition schemes for B2B and B2C suppliers; B2C suppliers under composition scheme could be taxed at the rate of 1% without input tax credit and without inter-State supplies, whereas B2B suppliers could be taxed at the rate of 2% or any other rate, as may be decided, with permission to avail input tax credit and to make inter-State supplies.

65.7. The Secretary sought a clarification from Shri Ritvik Pandey, Finance Secretary, Karnataka (hereinafter referred to as FS, Karnataka) as to whether there could be a composition scheme for B2B suppliers. FS, Karnataka explained the composition scheme by way of an example of a copper wire manufacturer selling the copper wire to a fan manufacturer. He stated that blockage of input tax credit existed at all level, as copper wire manufacturer purchased tax paid copper and did not get input tax credit on his inputs and these taxes were embedded at his level and not passed on to the fan manufacturer in the form of credit. Consequently, the amount of tax paid on copper would be embedded in the price of the fan sold to the consumers, even if input tax credit of 1% tax on copper wire sold by a composition copper wire manufacturer to a fan manufacturer was allowed. He added that Composition scheme had never been the means to allow flow of input tax credit and buyers of goods from composition taxpayer were largely those who did not need input tax credit. Composition scheme was not attractive to those businesses who wanted to be part of the input tax credit chain. It was for the taxpayer in the composition scheme to build the business model in such a way that he took advantage of other leverages available within the composition scheme. He added that it would be difficult to recreate value addition chain within the composition scheme. Therefore, the composition scheme was mostly popular amongst the taxpayers selling goods to non-registered buyers who did not need input tax credit and normal GST registration was the best mechanism to permit seamless flow of input tax credit.

65.8. The Hon'ble Minister from Jammu & Kashmir stated that tax on rented property was important for composition taxpayers operating from rented building. He recalled that the Hon'ble Minister from Chhattisgarh had raised the issue that small and medium enterprises were suffering as big buyers could not avail input tax credit on purchases made from composition taxpayers. The Secretary stated that the small taxpayer would not mind to get registered under GST if the compliance burden came down. He expressed a hope that the Committee on Return Filing would suggest a simpler compliance mechanism which would encourage taxpayers to register themselves. He stated that data showed that for a large majority of taxpayers, the number of invoices being filed every month was not more than 50 which could be handled by taxpayers, if the overall compliance system was simpler. He added that the proposal to allow input tax credit and inter-State supplies to the composition taxpayers would dismantle the distinction between the composition and normal taxpayer. Regarding the suggestion to raise the composition eligibility limit to annual turnover of Rs.10 crore, he stated that this would create serious problem of evasion as the provision of paying tax on reverse charge basis under Section 9(4) of the CGST/SGST Act for purchases made from unregistered dealers had been down away with and a lot of purchases could be shown through unregistered dealers and sold in the market as B2C supplies. The Hon'ble Minister from West Bengal stressed that composition scheme should be simple. It should have simple forms and tax rate should be 1% without input tax credit. He advised not to compromise on the basic structure of GST and stated that taxpayers would make a choice to opt for composition scheme based on their margins. The Hon'ble Deputy Chief Minister of Delhi stated that allowing segregation of taxable and non-taxable goods would make the system complex as they would need to maintain two accounts, whereas core issue in composition was of simplicity. The Secretary explained that this would pose no difficulty as composition taxpayers had to maintain some account for their turnover and when they wished to draw benefit from a scheme, they would need to comply by keeping separate account of exempted goods. The Hon'ble Minister from Assam observed that though the Council was discussing



Inspector raj, but the trader had no issue with them. He stated that all Associations had accepted and expressed no difficulty in dealing with inspectors.

65.9. The Chief Economic Advisor stated that the heart of the issue was that when a composition dealer sold to a buyer, who needed input tax credit, the composition taxpayer was obliged to opt out of composition scheme. Therefore, the need was to simplify the compliance burden. The Hon'ble Minister from Jammu & Kashmir reiterated that keeping in view these issues, there could be one composition scheme for B2C suppliers and another modified composition scheme for B2B suppliers.

65. 10. The Hon'ble Minister from Assam stated that in case optional scheme for traders for taxable and exempted goods was not considered, then supply of exempted goods by a composition taxpayer should be exempted from tax. The Hon'ble Minister from Odisha also suggested to impose tax of 1% on supply of taxable goods by a composition taxpayer. The Hon'ble Deputy Chief Minister of Bihar stated that this would require change in law. The FS, Karnataka, stated that this could be done through an exemption notification instead of amendment in law. The Secretary suggested to impose tax at the rate of 1% only on the taxable turnover of traders and manufacturers under the composition scheme. The Council agreed to this suggestion.

65.11. The Hon'ble Minister from Assam further asked about the recommendation to allow job work services. He mentioned that there was huge demand on this issue when GoM met the MSME. This was in addition to the recommendation to allow supply of services by composition taxpayers up to a certain value, say Rs.5 lakh. as sometimes supply of services was inseparable from supply of goods. He added that such a restriction made many MSMEs ineligible for composition.

65.12. Shri Raghvendra Kumar Singh, CCT, Madhya Pradesh raised an issue that in view of suspension of Section 9(4) of the CGST/SGST Acts, composition taxpayers were allowed to purchase from unregistered dealers, and this would lead to a difficult situation. He explained that in the VAT regime, a Composition dealer was not allowed to purchase from unregistered dealer in order to ensure that all supplies came under the tax net and this aim would be defeated in the GST. The Hon'ble Deputy Chief Minister of Delhi stated that there should be restriction on the composition taxpayer to make purchases from unregistered dealer. The Hon'ble Minister from Assam observed that the issue being raised related to reverse charge mechanism whereas the issue under discussion was to allow supply of services up to a value of Rs.5 lakh and to also allow job work services and sought views on these recommendations. The CCT, Madhya Pradesh, stated that they had no difficulty in allowing supply of services by a composition taxpayer up to a certain value but the difficulty he was expressing was in respect of purchase from unregistered dealers in the absence of reverse charge mechanism. The Hon'ble Deputy Chief Minister of Delhi expressed similar views as they were also not allowing composition dealers to purchase from unregistered dealers.

65.13. The Hon'ble Minister from Punjab sought a clarification that proposal to allow supply of services as well as job work service would attract payment of normal tax or otherwise, as law did not permit such supply of services under Composition scheme. The Secretary observed that the composition rate of 1% could also possibly apply to supply of services by composition taxpayers. The FS, Karnataka explained that this proposal was to cover such composition dealers who undertook supply of services along with goods (such as sale of cooler along with annual maintenance contract), which presently made them ineligible for the composition scheme. He stated that by applying Section 162 of the CGST/SGST Acts (removal of difficulties), supply of exempt services (in the nature of income from interest) was already permitted under the composition scheme. In the same manner, supply of services by composition taxpayers up to a value of Rs.5 lakh could be exempted through a notification. He added that under law,



1% tax could not be charged from composition taxpayers on the value of supply of services. The Secretary suggested that composition taxpayers could be permitted to supply services up to a value of Rs.5 lakh.

65.14. The Hon'ble Minister from Jammu & Kashmir stated that by this proposition, distinction between the goods and services was being reintroduced under GST. The Secretary stated that such distinction already existed in the law which allowed composition for goods but not for services except, restaurant services. The CCT, Gujarat stated that the analogy of allowing services through exemption would apply to the job work services too. The Hon'ble Deputy Chief Minister of Bihar reiterated that all Associations of the MSME had strongly urged to allow higher value limit for job work services. He stated that these Associations had expressed that during the lean period, they undertook job work to use their idle capacity. A decision on this issue was important to allow flexibility to the MSMEs. The Hon'ble Minister from Assam added that this issue was vital for the functioning of the MSMEs. The Hon'ble Minister from West Bengal stated that job work services could be allowed up to a value of Rs.5 lakh. The Secretary stated that this issue was important from the point of view of the MSMEs and the Council, could, in principle, agree to the recommendation of the GoM. The Council agreed to the same. As regards allowing composition scheme to providers of job work services, after discussion, the Council agreed that it could be allowed after change in CGST and SGST law and the value limit for such exempted job work can be decided thereafter.

65.15. In respect of **ToR-2**, the Joint Secretary, GSTC, informed that ToR-2 mandated to examine **whether the Composition Scheme could be extended to taxpayers making inter-State outward supplies of Goods** and then briefed the recommendations, which are as follows:

- i. Inter-State outward supplies of goods be allowed under Composition scheme by amending section 10(2) of the CGST Act and SGST Acts.
- ii. As small States have strong reservations on this issue, this provision may be reviewed once the scheme of compensation to States on account of revenue loss lapses after 5 years.

65.16. Initiating the discussion on the above recommendations, the Hon'ble Deputy Chief Minister of Manipur stated that they had three major concerns in respect of this recommendation of allowing inter-State supplies to composition taxpayers. First was that allowing inter-State supplies to composition taxpayers would have serious impact on their revenue, second was that it would pose serious tax compliance issues and third was that it would impact the consumer. He further added that allowing inter-State supplies was against the spirit of GST and would have cascading effect. He stated that IGST portion from the composition suppliers could be totally lost to the consuming States and compensation was not a sufficient assurance. He stated that the buyer in the composition scheme could hide the purchases from the State, which would hinder the tax compliance and if this was compounded over five years, the economy of the State would be ruined. He added that due to non-compliance, the goods coming to his State under composition could be resold along with GST, leading to rise in prices and this would cause a great deal of ill-will against GST. He stated that there should be special consideration for smaller States and they could be excluded from the scheme of inter-State supplies under the composition scheme. He warned that if this proposal was considered, they might have to bring back check-gates. The Hon'ble Minister from West Bengal supported the reservations expressed by the Hon'ble Deputy Chief Minister of Manipur and stated that this was not a good proposal for the consuming states. Shri Anirudh S. Singh, Special Secretary (Tax and Excise), Arunachal Pradesh, and Ms. Dipa Basnet, Secretary (Commercial Tax), Sikkim supported the view of the Hon'ble Deputy Chief Minister of Manipur. The Hon'ble Minister from Kerala supported the proposal to increase the limit of Composition scheme but warned against



destroying the Composition scheme by allowing inter-State supplies and input tax credit to composition taxpayers.

65.17. Shri V.K. Garg, Advisor (Finance), Government of Punjab stated that VAT was introduced in the world in 1952 and till then everybody was in composition. It was a repetitive levy at different stages like manufacturer paid excise duty, trader paid VAT. He mentioned that in taxation, it is said that if you exempt some body, then you actually tax him; but if you tax him, then you actually exempt him. He stated that in his view restraining the business of SMEs in the name of GST's architecture was not proper and this could kill entrepreneurship. He added that the rationale of this recommendation by GoM was that an SME should not be ineligible because he provided some services or made some inter-State supplies. Earlier the Council had allowed unlimited supplies of exempt services under composition. GoM had their clear vision that undertaking a minuscule supply of service and making inter-State supplies should not bar a taxpayer from composition scheme. He further added that GoM had proposed taxable service upto Rs.5 lakh and his personal understanding was that this limit for supply of taxable service was an additional limit and would attract normal rate of tax so that it would not distort the composition scheme. As far as inter-State supplies were concerned, there were instances when taxpayer in Punjab would supply to Haryana and *vice-versa*. If such supplies were not allowed, there would be illicit trade and would throttle initiative. He expressed that the quantum of damage to the economy, if any, on account of GOM's recommendation, would be very minimal as only 1-2% revenue was paid by the composition taxpayers. He suggested to design the composition scheme in the manner proposed by the Hon'ble Minister from Jammu & Kashmir. The Hon'ble Deputy Chief Minister of Bihar supported these views and stated that more restriction led to malpractice by finding ways to avoid such restrictions. He recalled that the Hon'ble Deputy Chief Minister of Delhi had also raised the issue that traders from Delhi were unable to sell to Gurugram. He stated that he had raised this issue in the earlier meeting too and emphasised that a way must be found to permit outward inter-State supplies to composition taxpayers.

65.18. The Hon'ble Minister from Jammu & Kashmir observed that almost 60% of their revenue came from outside the State. The Hon'ble Chairperson raised a question how to address the concerns of the small consuming States when such a sharp division persisted in the House and in view of the high sensitivity of the North-Eastern States. The Hon'ble Deputy Chief Minister of Delhi stated that the question was more in relation to small scale industries and SMEs but the discussion had veered towards raising the turnover limit under the composition scheme. He added that if such restrictions were not removed, there might not be any gain by just raising the annual value turnover value under composition scheme. He added that the moot question was how to protect the interest of large number of small traders for whom the existing composition scheme was of little help. The Hon'ble Minister from Assam stated that this proposal was for the benefit of border areas and it was an erroneous perception that revenue of States like Manipur would suffer. He added that the amount involved might not be very large and some large composition taxpayers based in Manipur could also make inter-State sales. He observed that with these restrictions, there might hardly be any trader who could take benefit of composition scheme. He further observed that market size of the smaller States was limited and after permitting inter-State supply to composition taxpayers, it could be evaluated as to how much loss of tax revenue occurred. In case, loss of revenue was very large, the benefit of inter-State outward supplies could be withdrawn after one year.

65.19. The Hon'ble Chairperson stated that the most important issue was how to convince the North-Eastern States on this issue. The Hon'ble Minister from Assam reiterated that it was just an apprehension that the revenue of North-Eastern States would suffer if composition taxpayers were allowed inter-State outward supplies. He stated that it was likely that composition taxpayers could register in both States. He added that even Assam was likely to lose revenue on account of purchase from outside the State. The



Hon'ble Minister from Jammu & Kashmir stated that the Hon'ble Minister from Kerala had also opposed this proposal. He added that the fear of loss of tax revenue was not just a perception but was based on hard numbers of the tax coming from outside the State. He added that distortion in tax structure and architecture of GST would hurt the revenue of Jammu & Kashmir and the North-Eastern States. Shri R.K. Tiwari, Additional Chief Secretary, Uttar Pradesh, stated that this proposal would also adversely affect the revenue of his State and it was against the basic concept of GST. The Secretary (Commercial Tax), Sikkim, stated that such a provision, even for one year, could lead to severe loss of livelihood. The Hon'ble Chairperson observed that in view of sharp division on this issue, no consensus could be reached. Shri Tuhin Kanta Pandey, Principal Secretary (Finance), Odisha, stated that one way to help SMEs could be to make IGST return filing simpler. In view of these discussions, the Council decided not to make any recommendation.

65.20. In respect of recommendations on ToR-3 which mandated to examine as to **Whether Input Tax Credit can be made available to registered persons receiving inward supplies from Composition Dealers**, the Council, in view of discussion above as well as divergent views among the members of GoM, did not make any recommendation on **ToR-3**.

65.21. The JS, GSTC further presented and explained the recommendations on the **ToR-4**, which mandated to examine the **Tax Structure of different categories of Restaurants, with a view to their possible rationalization/reduction**, which are as follows:

- i. There should not be any distinction between restaurants based on air conditioning and all standalone restaurants with or without air conditioning and whether or not serving liquor be taxed at the rate of 12% with ITC.
- ii. A restaurant within the premises of a hotel which has tariff for all rooms at Rs 7500/- or less per night be taxed at the rate of 12% with ITC.
- iii. A restaurant within the premises of a hotel which has room tariff of more than Rs. 7,500 per night (even for a single room) be taxed at the rate of 18% with ITC.
- iv. Outdoor catering be taxed @ 12% with ITC.
- v. Notwithstanding the above recommendations, GoM proposed that GST Council needs to take a view in light of TRU's observation that revenue loss could be in the range of Rs. 4,000 crore on account of above proposal.

65.22. Initiating the discussion on the above recommendations, the Hon'ble Minister from West Bengal stated that he was opposed to the distinction of tax rate between air-conditioned and non-air-conditioned restaurants. The Hon'ble Chief Minister of Puducherry stated that though the urban and semi urban areas were having AC restaurants, non-urban area did not have AC restaurants, and therefore, the rate of tax for both the categories of restaurants should not be brought at par. He suggested that the rate of tax for non-AC restaurants should be kept at 5%. He stated that the second issue was that tourism was a major revenue earner for many States and the rate of tax for restaurants in 5-Star hotels could be 18% where room rent per night was Rs. 10,000 or more and rate of tax for restaurants in hotels with room rent below Rs. 10,000 per night should be 12%. The Hon'ble Deputy Chief Minister of Delhi stated that distinction between AC and non-AC restaurant should be removed. He further stated that in Delhi, more open-terrace restaurants were coming up. Though there was no AC in these open-terrace restaurants, they had to pay tax at par with AC restaurants as some part of the restaurant had AC. He further expressed his apprehension that having a rate of tax based on room tariff as suggested in the proposal could pose difficulties as room tariff fluctuated depending upon different seasons. The Hon'ble Minister from Goa suggested to have uniform tax rate of 12% across the board and was of the opinion that rate based on room tariff would create problem, as room tariff was dynamic, depending upon the season and accordingly tax rate would fluctuate. He added that Goa had many five-star hotels and middle class and



above presently went to these restaurants, but tax at the rate of 18% would discourage them to visit such restaurants. He added that Goa had shacks on the beaches and people would go there. The Hon'ble Minister from Jammu & Kashmir also stated that for restaurants, it would be good to have a single tax rate of 12% with input tax credit irrespective of being AC or non-AC. He added that restaurants in hotels should also be charged to tax at the rate of 12% with input tax credit and hotels under composition scheme could be charged to tax at the rate of 5%. He stated that his discussion with the representatives of the restaurants indicated that they all wanted to avail input tax credit and imposing a rate of 5% without input tax credit would make them unhappy.

65.23. The Hon'ble Chairperson stated that the organized chain of restaurants were factoring the input tax credit and transferring its benefits to the consumers, but standalone restaurants had not transferred the benefits of input tax credit to the consumers. The anxiety and keenness shown by these restaurants to permit input tax credit was a method of profiteering by them without benefiting the consumers. He added that sectors like automobile had passed on the benefit of input tax credit but restaurants despite having an advantage of 7-8% input tax credit, had not reduced the prices and this sector had brought bad name to GST. He raised a question as to how to ensure that benefit of input tax credit was passed on by these restaurants to the consumers. The Hon'ble Minister from West Bengal stated that this could be addressed by removing the distinction between AC and non-AC restaurants and fixing a flat tax rate of 5% without input tax credit. The Secretary informed that the estimated revenue loss by reducing the tax rate from 18% to 12% with input tax credit would be about Rs. 4,000 crore and revenue loss by reducing the tax rate to 5% without input tax credit would be about Rs.5,000 crore. He stated that the latter was preferable as this would make consumers happier. The Hon'ble Deputy Chief Minister of Delhi and the Hon'ble Minister from Goa supported this proposal. The Secretary further stated that in view of proposed rate of 5% without input tax credit, there might not be a need for composition scheme for restaurants as the rate of tax would be at par under both the schemes. The Secretary further stated that for restaurants in hotels with room rent of Rs. 7,500 per night, the rate of tax could be 18% with input tax credit as they availed large amounts of input tax credit on rentals, transport, etc. or alternatively, have a flat rate of 5% on all restaurants without input tax credit. The Hon'ble Minister from Punjab supported the latter proposal. The Hon'ble Minister from Assam stated that levying tax at the rate of 5% on restaurants in five-star hotels would raise questions of moral and optics. The Hon'ble Chief Minister of Puducherry also supported a higher rate of tax for restaurants in 5-Star hotels.

65.24. The Hon'ble Chairperson suggested that all standalone restaurants could attract tax at the rate of 5% without input tax credit with the similar treatment to take-away food from restaurants. He suggested that outdoor catering, which was a composite supply involving erecting *pandals*, arranging rooms, etc., the rate of tax could be 18% with input tax credit. The Hon'ble Deputy Chief Minister of Bihar suggested that a different rate of tax should be kept for restaurants in 5-Star hotels. The Hon'ble Minister from Goa also supported this proposal. The Hon'ble Minister from Jammu & Kashmir suggested that the rate of tax for restaurants in 5-Star hotels could be 18% with input tax credit.

65.25. Shri Rajiv Jalota, CCT, Maharashtra, gave a brief overview of tax structure on restaurants in his State. He stated that they had a composition scheme with tax rate of 5% and 8% depending upon the turnover and another scheme with input tax credit where the tax rate was 13.5%. He stated that as per the calculations, more than 90% of restaurants had opted for 8% rate of tax but they did not charge the same to the customers. He stated that these restaurants also paid Service Tax and received input tax credit on rentals etc. He suggested to keep two tax rates for restaurants under composition scheme, namely 5% for smaller restaurants and 8-9% for larger restaurants. The Secretary stated that a change in law would be required for charging tax on restaurants at a rate higher than 5% under the composition scheme. He suggested to prescribe a tax rate of 5% without input tax credit even if it entailed sacrificing an additional



revenue of Rs.1,000 crore. He further raised a question regarding method of taxing the bigger restaurants in hotels - whether to be based on room rent of a hotel or turnover of restaurant. He added that setting a tax rate for restaurants in hotels on the basis of star rating was not desirable as star rating itself was optional.

65.26. The Hon'ble Minister from Goa stated that 5% rate of tax on all standalone restaurants would also apply to big restaurant chains like KFC and McDonald and he suggested that rate of tax could be based on turnover of restaurants. The Hon'ble Chairperson stated that big restaurant chains would pay very little tax as they had large input tax credit. The Hon'ble Deputy Chief Minister of Bihar and the Hon'ble Minister from Jammu & Kashmir suggested to apply 5% rate of tax for all restaurants. The Hon'ble Deputy Chief Minister of Delhi expressed that having 5% tax on all restaurants would improve the tax compliance, as in their State, revenue increased after lowering the tax, which motivated taxpayer for better compliance. The Secretary stated that a lower rate of tax would also encourage tourism and generate employment. The Hon'ble Minister from Assam proposed that tax rate on the restaurant in hotel should be fixed based on the room tariff as it was also a matter of public perception. Having same tax rate for standalone restaurant and restaurant in five-star hotel would send a wrong signal to the public at large. The Hon'ble Minister from Goa reiterated that having tax rate differentiation based on the room tariff would have practical problems due to change of tariff season-wise.

65.27. The Hon'ble Chairperson suggested to adopt declared room tariff of the hotel as the basis for fixing rate of tax for restaurants in the hotel as was the case of Service Tax rate on accommodation service in hotels and proposed 18% rate of tax with input tax credit on a restaurant in a hotel having room tariff of more than Rs.7500. The Secretary stated that composition rate on restaurants could also continue but this would be unattractive as restaurants under composition scheme would not be able to collect tax. The Hon'ble Deputy Chief Minister of Bihar suggested to remove composition scheme for restaurants. Shri Somesh Kumar, Principal Secretary, Telangana, stated that composition scheme for restaurants should be removed as there were several complaints of restaurants under composition scheme charging tax from customers. The Secretary suggested to retain the composition scheme for restaurants as it allowed other benefits like quarterly filing of returns, maintaining simplified records in terms of only turnover details, etc.

65.28. The Hon'ble Chairperson proposed a tax rate of 18% with input tax credit on the outdoor catering. The Hon'ble Chief Minister of Puducherry observed that a tax rate of 18% on outdoor catering was too high. The Hon'ble Chairperson observed that historically, this was the prevailing rate of tax on outdoor catering. The Hon'ble Deputy Chief Minister of Delhi stated that a tax rate of 18% on outdoor catering could lead to tax evasion. He cautioned that having such big difference of tax rate between restaurant and outdoor catering, would lead to the practice of issuing bill from the restaurant for the outdoor catering and that they had similar experience in case of differential tax rate on liquor. The Principal Secretary, Finance, Odisha proposed a tax rate of 5% without input tax credit for the outdoor catering. The Hon'ble Minister from Jharkhand stated that many persons carried on only catering business, and for them, rate of tax should be kept at 5% without input tax credit. He added that many outdoor caterers did only dry catering, that is, provided labour while the food, etc. was bought by the customer. Advisor, Finance, Punjab also supported this suggestion. He stated that several people only did catering business and theoretically, they could claim that they had set up a restaurant to cater to a function at a venue. He suggested that rate of tax for outdoor catering where only food was being provided should be kept at 5%. The Hon'ble Chairperson observed that low rate of tax for one sector would lead to demand for lowering tax for other services sector also. The Hon'ble Minister from Uttar Pradesh proposed to keep a uniform tax rate of 12% without input tax credit as it would be bad optics to charge tax at the rate of 18% on outdoor catering and 5% on restaurant. The Secretary stated that this proposal would not be acceptable to



the trade. The Hon'ble Minister from Assam did not support this proposal and stated that this would lead to increase in prices.

65.29. Keeping in view the discussion as above, the Council agreed to apply tax rate of 5% tax without input tax credit on all standalone restaurants and a rate of tax of 18% with input tax credit on a restaurant in a hotel having room of declared tariff of more than Rs. 7,500 per night. The take-away food from a restaurant shall have similar tax treatment as that for the restaurant. Outdoor catering shall, however, attract tax at the rate of 18% with input tax credit and there would be no change in Composition scheme for restaurant.

65.30. The Hon'ble Deputy Chief Minister of Bihar stated that GoM had made some more recommendations, which were important in general from the trade point of view, and were affecting the MSMEs. In particular, he stressed upon four important recommendations that were mostly raised by all MSME Associations, namely: (i) remove penalty on the late filing of Nil return; (ii) reduce penalty for late filing of return by all taxpayers to Rs.25 per day under CGST/SGST Act; (iii) no payment of tax on the advance received for supply of goods; and (iv) maximum retail price for B2C supplies should be inclusive of GST and break up of GST should be shown in the invoice by back calculation.

65.31. Initiating the discussion, the Secretary stated that the matter relating to payment of penalty for late filing of Nil return was discussed in the officers' meeting held on 9 November 2017 in Guwahati and the consensus among the officers was that Nil return should be a very simple, one step process and penalty ought to be very low for late filing of Nil return. He, however, explained that filing of return by Nil filer was also important, as otherwise the compliance level would go down substantially and for this reason, some penalty must be levied. He stated that the decision in the officers' meeting was to levy late fee of Rs.10 per day (each under CGST and SGST Act) for Nil return filers and Rs.25 per day (each under CGST and SGST Act) for normal tax payers instead of the present Rs.50 per day (each under CGST and SGST Act) subject to a maximum ceiling of Rs.5000 under each Act. This could apply from October 2017. The Hon'ble Deputy Chief Minister of Bihar expressed his agreement to this decision. The Council also agreed to this suggestion.

65.32. In respect of recommendation to dispense with the payment of tax on advance for all tax payers, the Secretary informed that tax on advance payment for supply of goods had already been removed for a taxpayer having annual turnover up to Rs.1.5 crore and this could be extended to all tax payers. He added that the same dispensation might not be appropriate for the services, as they were intangible in nature and prone to be misused. He mentioned that in the case of services, the taxpayer might not issue invoice after having rendered the services against the advances received and further informed that payment of tax on advances in respect of services existed even during Service tax regime. The Hon'ble Minister from Assam stated that this issue had been raised because of blockage of working capital. The Council agreed to dispense with payment of tax on the advance received for supply of goods without any limit of turnover.

65.33. The Hon'ble Deputy Chief Minister of Bihar stated that in respect of pricing in B2C transaction, the maximum retail price should be shown inclusive of GST without mentioning the tax rate and the amount payable. The Secretary stated that it was stipulated in the law to show the tax payable and that this proposal would pose many difficulties as the rate of tax and the amount of tax paid would not be known to the consumer. Further, it would require amendment in the law. The Hon'ble Deputy Chief Minister from Bihar mentioned that in Australia, goods sold for less than A\$1000, was inclusive of all taxes. He added that once the customer saw the rate of tax charged on the bill, he reacted to it adversely. He suggested that the price should be inclusive of GST, and the tax should be paid by back calculation. If it required change of law, the same could be carried out. The Hon'ble Minister from Assam stated that



earlier Central Excise duty was not visible to the customer, but now the same was visible in the form of CGST, which caused resentment amongst the customers. He stated that it would require change of law and it was worth considering. The Secretary suggested that the Law Review Committee could examine this proposal. The Hon'ble Chief Minister from Puducherry stated that he had a different view on this proposal and stated that customer must know the amount of tax being paid by him. There could be several reasons for showing only MRP, but it was a right of the consumer to know the tax paid in the form of CGST and SGST. He also agreed that Law Review Committee should examine this and give its recommendation. The Council agreed to this proposal.

65.34. The Hon'ble Deputy Chief Minister of Delhi mentioned that there were some more recommendations by the GoM. The Secretary informed that many of these recommendations that included simplification of return and invoice matching had already been discussed in the officers' meeting and a Committee on Return Filing would examine them. The Hon'ble Deputy Chief Minister of Bihar mentioned that the issue of simplification of HSN code should also be looked into by the Committee. The Council agreed to this suggestion.

66. **For agenda item 9**, the Council approved the following:

- i. To levy a uniform rate of tax at the rate of 1% under composition scheme for manufacturers and traders. The turnover for traders shall be counted only for supply of taxable goods. No change for composition scheme for restaurant.
- ii. Supply of services by Composition taxpayer up to Rs.5 lakh per annum shall be allowed by exempting the same.
- iii. Annual turnover eligibility for composition scheme shall be increased to Rs.2 crore from the present limit of Rs.1 crore by changing the law. Thereafter, eligibility for composition shall be increased to Rs.1.5 crore per annum.
- iv. To allow composition scheme to providers of job work services by changing the CGST/SGST law and to decide the value limit after the change in law.
- v. The changes recommended by GST Council at (iii) above to be implemented only after the necessary amendment of the CGST Act and SGST Acts.
- vi. All stand-alone restaurants irrespective of being air conditioned or otherwise, shall attract tax at the rate of 5% without input tax credit. Food parcels (or takeaways) from restaurants shall also attract tax at the rate of 5% without input tax credit.
- vii. Restaurants in hotel premises having declared room tariff of less than Rs.7500 per per night to be levied to tax at the rate of 5% without input tax credit.
- viii. Restaurants in hotel premises having declared room tariff of Rs.7500 and above per night (even for a single room) to attract tax at the rate of 18% with full input tax credit.
- ix. Outdoor catering to continue to be taxed at the rate of 18% with full input tax credit.
- x. The amount of late fee payable by a taxpayer whose tax liability for that month was 'NIL' shall be Rs.20 per day (Rs.10 per day each under CGST & SGST Acts) subject to maximum Rs.5000 under each Act from October, 2017.
- xi. The amount of late fee payable by other taxpayers shall be Rs.50 per day (Rs.25 per day each under CGST & SGST Acts) subject to maximum Rs.5000 under each Act from October, 2017.
- xii. The payment of tax on the advances received for supply of goods shall be dispensed with for all taxpayers without any turnover limit.
- xiii. The Law Review Committee to examine the aspect of showing price inclusive of all taxes on the bill/invoice in case of B2C transaction.



xiv. A Return Filing Committee to examine the recommendations on simplification of return, invoice matching and simplification of HSN code.

**Agenda item 10: Minutes of 3rd Meeting of Group of Ministers (GoM) on IT challenges in GST implementation for information of the Council and discussion on GSTN issues**

67. Introducing the Agenda item, the Hon'ble Deputy Chief Minister of Bihar and Convenor of the Group of Ministers (GoM) stated that GoM was not satisfied with the performance of Infosys in the last three meetings so far. The Infosys had breached committed timelines such as they were to provide resident engineers for each State, to be stationed there for one year. The Infosys had provided only 8 or 9 engineers whereas they had to provide engineers to all States by 31.10.2017 and thus breached their commitment. He stated that though some progress had been seen in implementation of changes/forms, it was not optimum. He then invited Shri Prakash Kumar, CEO, GSTN to make a presentation.

67.1. The CEO, GSTN made a brief presentation which is attached as **Annexure 6**. He briefly informed about the services made available so far, including *inter alia*, relating to registration, payment of tax, transitional credit forms, refund mechanisms for exporters, etc. He informed that through the portal, so far, 2.37 crore returns had been filed, one crore payment transactions had occurred, 64 lakh taxpayers had migrated from old system and 30.36 lakh new registrations had been done. He further informed that following major issues had been highlighted by GoM.

- a. Data sharing issues relating to Model 1 and Model 2 States.
- b. APIs release and support.
- c. Timeline Management
- d. Deployment of additional manpower on the project as well as resident engineers in the States.
- e. Improvement in error handling and error message display.
- f. Making user interface more user friendly.

67.2. The CEO, GSTN further informed that in respect of above major issues, out of 47 items identified originally in the first meeting of the GoM, 27 were targeted for completion by October 2017 but only 17 items could be completed and 4 items were in progress. He mentioned delay of 3-5 to 15 days occurred in delivery of facilities. He further informed that Infosys was focusing on further improvements, like improvement of error messages; complete review of error handling, error messaging by an expert agency; provide for preview in every form before freezing the data; make user interface more user friendly.

67.3. He further informed that resident engineers had now been deployed in 16 States. Training of the next batch of engineers would be completed on 13.11.2017 for their deployment in other States by 22/24 November 2017 and in the Andaman & Nicobar Islands by 11 December 2017.

68. For **Agenda item 10**, the Council took note of progress made on IT related issues.

**Agenda Item 11: Present status of e-Way Bill System as on 31 October, 2017**

69. Shri Prakash Kumar, CEO, GSTN made a presentation regarding GST Project System update which is attached as **Annexure 6**. In this presentation, he also gave an update on the present status on e-Way Bill System. He informed that e-Way Bill started on pilot basis in Karnataka on 12 September, 2017 and till October, 2017, the total number of e-Way bills issued was 26,32,637. The total verifications were 105 and total rejections were 218. He stated that total number of taxpayers registered was 102608 and total number of transporters registered was 838. He informed that a second batch of six States was going to implement e-Way Bill on pilot basis and these States were Kerala, Uttarakhand, Gujarat, Rajasthan,



Nagaland and Madhya Pradesh. He stated that a workshop was scheduled on 14 November, 2017 for deployment of e-Way Bill System in these States from 1 December, 2017.

70. For **Agenda item 11**, the Council took note of the information.

**Agenda Item 12: Any other agenda item with the permission of the Chairperson**

**Agenda Item 12 (i): Exemption from obtaining registration for persons making supply of 'services' through an e-commerce operator and whose aggregate turnover is below the threshold limit**

71. Introducing this agenda item, the Secretary explained that while suppliers of taxable services (both intra and inter-State) with annual turnover of less than Rs.20 lakh were exempted from registration under the GST Law, registration had to be obtained compulsorily when such supply was made through e-commerce operator (in terms of Section 24 (ix) of the CGST/SGST Acts), irrespective of the annual value of turnover. He stated that the proposal before the Council was to exempt a supplier of services providing services through e-commerce platform from obtaining registration compulsorily under Section 24 (ix) of the CGST and SGST Acts provided his aggregate annual all-India turnover did not exceed Rs.20 lakh except when he opted for voluntary registration. He further added that the annual turnover limit of Rs.20 lakh would not be applicable for 'Special Category States' other than the State of Jammu & Kashmir and that for other than the State of Jammu & Kashmir, it would be Rs.10 lakh.

71.1. He informed that this proposal was not discussed by the Law Committee but was discussed during the officers' meeting held on 9 November, 2017 in Guwahati and was agreed upon. He suggested that Council could approve the proposal. The Council approved the proposal.

72. For **Agenda Item 12(i)**, the Council approved: (i) to exempt a supplier of services providing services through e-commerce platform from obtaining registration compulsorily under Section 24(ix) of the CGST and SGST Acts provided his aggregate annual all-India turnover did not exceed Rs.20 lakh for normal States and Rs.10 lakhs for Special Category States except the State of Jammu & Kashmir for which the annual turnover limit shall be Rs.20 lakh; (ii) this exemption would not apply for a supplier opting for voluntary registration, though his annual turnover is below Rs.20 lakh in a normal State and in the State of Jammu & Kashmir (a Special Category State) and is below Rs.10 lakh in a Special Category State other than the State of Jammu & Kashmir.

**Agenda Item 12 (ii): Constitution of 'Law Review Committee' and 'Advisory Group of Law Review Committee' for the information of the Council**

73. The Secretary informed that in pursuance of the decision taken during the 22<sup>nd</sup> Meeting of the Council held on 6 October, 2017, a Law Review Committee had been constituted with the approval of the Hon'ble Chairperson to propose changes in the CGST/SGST Acts and the IGST Act taking into account various feedbacks and these proposals shall be brought before the Council. The Committee consisted of the following officials:

**Centre:**

- i. Shri M. Vinod Kumar, Chief Commissioner, GST, Bangalore - **Co-Convenor**
- ii. Shri Yogendra Garg, ADG, DG, GST
- iii. Shri Rajesh Pandey, ADG, DGGST, Pune
- iv. Shri Sanjay Gupta, ADG, ARM
- v. Shri Sachin Jain, Addl. Commissioner, GST Delhi (South)

**States:**

- i. Shri Anurag Goel, CCT, Assam - **Co-Convenor**



- ii. Shri Saswat Mishra, CCT, Odisha
- iii. Shri V.P Singh, CCT, Punjab
- iv. Shri Alok Gupta, CCT, Rajasthan
- v. Shri J. Syamala Rao, CCCT, Andhra Pradesh

73.1. He further informed that to facilitate the work of the Law Review Committee, an Advisory Group of Law Review Committee had been constituted with the approval of the Hon'ble Chairperson to propose changes in the CGST/SGST Acts and the IGST Act to the Law Review Committee. The Committee consisted of the following members:

- i. Shri Gautam Ray, Retd. Chief Commissioner, CBEC and Member, Drawback Committee – **Convener**
- ii. Shri Araghya Sen Gupta, Research Director, Vidhi Centre for Legal Policy;
- iii. Shri Vinod Jain, Chartered Accountant, Vinod Kumar & Associates, New Delhi;
- iv. Shri Om Prakash Mittal, President, Laghu Udyog Bharati, New Delhi;
- v. Shri Ajay Sahay, DG&CEO, Federation of Indian Exports Organization;
- vi. Shri Praveen Khandelwal, National Secretary General, Confederation of All India Traders.

73.2. He stated that the 'Advisory Group of the Law Review Committee' was to give its recommendations by 30 November, 2017 and the 'Law Review Committee' had to submit its final recommendations by 31 December, 2017. These recommendations would be placed before the Council for consideration. The Council took note of the information.

74. For **Agenda Item 12 (ii)**, the Council took note of the information regarding the constitution of the 'Law Review Committee' and the 'Advisory Group of the Law Review Committee'.

#### **Agenda Item 12 (iii): Simplification of Return filing process**

75. Introducing this agenda item, the Secretary stated that this Agenda item relating to GST Return filing was discussed during the officer's meeting held on 9 November 2017 in Guwahati and a presentation was also made on this agenda item by Shri Upender Gupta, Commissioner (GST Policy), CBEC. Based on the suggestions made during the officers' meeting, the presentation was revised and the revised presentation is attached as **Annexure 7**. He stated that it was agreed during the 22<sup>nd</sup> Meeting of the Council held on 6 October 2017, that taxpayers with an annual turnover below Rs.1.5 crore shall file quarterly Return and pay tax quarterly and **FORM GSTR 3-B** was to continue till the month of December, 2017 for all taxpayers (by 20<sup>th</sup> of the next month). He informed that a lot of difficulty was being faced in matching auto-populated figures of **FORM GSTR-1** into **FORM GSTR-2A**. He further added that filing of **FORMS GSTR-1 to 3** was very badly delayed and its July cycle was to be completed only by December 31, 2017. In view of this, a revised scheme was proposed. He invited Commissioner (GST Policy), CBEC, to give the details.

75.1. The Commissioner (GST Policy), CBEC, stated that it was proposed that **FORM GSTR-3B** should be filed by all taxpayers till March 2018 (by 20<sup>th</sup> of the next month). He further proposed that for taxpayers with annual turnover of up to Rs.1.5 crore in the preceding financial year or the current financial year, quarterly **GSTR-1** return for the months of July to September, 2017 should be filed by 31 December, 2017 and that for the quarter October to December 2017, **GSTR-1** should be filed by 15 February, 2018 and for the quarter January to March 2018, it should be filed by 30 April, 2018. He stated that for taxpayers with annual turnover above Rs.1.5 crore in the preceding financial year or the current financial year, **GSTR-1** was proposed to be filed for the months July to October, 2017 by 31 December, 2017; for November 2017, to be filed by 10 January, 2018; for December 2017, to be filed by 10 February, 2018; for January 2018 to be filed by 10 March, 2018; for February 2018, to be filed by 10 April, 2018 and for March 2018, to be filed by 10 May, 2018. He stated that the timelines for filing of **GSTR-2** and **GSTR-**



3 till March 2018 for taxpayers with annual turnover below and above Rs.1.5 crore could be decided subsequently. **GSTR-1** would be delinked from **GSTR-2A**. He stated that rolling **GSTR-2A** would be available for taxpayers for view. The Secretary stated that this arrangement till March 2018 would ensure that if a taxpayer arbitrarily claimed very high input tax credit in **GSTR-3B**, it could be checked through the **GSTR-1** filing, and such mismatch could be verified during audit. He added that a Committee on Return Filing was proposed to be formed under the convenorship of Chairman, GSTN, to look into issues and requirements of filing various types of returns in GST regime in the current financial year and suggest modifications in returns, if any, including related changes in laws, rules and formats applicable from the next financial year. He stated that the members of this Committee were proposed to be Chief Commissioner of Commercial Tax (CCCT), Andhra Pradesh; Commissioners of Commercial Taxes (CCTs) of Gujarat, Punjab and Karnataka; Commissioner (GST Policy), CBEC; Commissioner (Central Excise), CBEC; Joint Secretary, Department of Revenue; CEO, GSTN and other members as may be co-opted.

75.2. Hon'ble Deputy Chief Minister of Delhi stated that no invoice matching would be possible on the basis of **GSTR-2A**. He observed that when invoice matching was postponed beyond 31 March, 2018, it would be desirable that all taxpayers, irrespective of their turnover, should be made to file returns quarterly. He stated that the present arrangement based on categorisation of taxpayers with annual turnover below Rs.1.5 crore was causing problems. The Secretary stated that matching could be an annual exercise for this year and matching modalities for the next year could be decided at a later date. The Hon'ble Deputy Chief Minister of Delhi stated that the basic concept of GST should not be compromised only on account of certain problems relating to GSTN.

75.3. The Hon'ble Minister from West Bengal stated that the general perception was that a very large degree of compliance was needed in GST and the cost of compliance was very high. Also, compliance was complicated for small taxpayers who were large in number. They were getting disaffected with GST and their voice mattered in democracy. He suggested to simplify the returns for the small taxpayers so that GST became more acceptable to them. He also supported the proposal of quarterly return filing by all taxpayers. The Hon'ble Deputy Chief Minister of Bihar stated that he agreed with the Hon'ble Minister from West Bengal that forms needed to be simplified. He stated that 40% of returns were Nil returns and they should only have a two-step filing process. He stated that not only officers, but stakeholders should also be involved while discussing the simplification of forms.

75.4. The Hon'ble Deputy Chief Minister of Bihar further stated that HSN code was used in Central Excise which related to a very small number of taxpayers but now the number of taxpayers in the GST regime was almost one crore and a large number of them did not understand the HSN code. He suggested that HSN code should be made compulsory only for taxpayers with annual turnover of more than Rs.10 crore. He further suggested that **GSTR-1, 2, 3** could be filed quarterly for taxpayers with annual turnover up to Rs.5 crore and they should file **GSTR-3B** monthly. He stated that instead of making every taxpayer to fill up every column in the return, the return filing should be in interactive mode and should ask questions like whether making zero rated supply, whether making Nil rated supply, etc and the relevant columns should show up and be filled up only if the answer to these questions were in the affirmative. The Hon'ble Minister from West Bengal stated that even a small taxpayer had to indicate each supply made to his buyers instead of giving an aggregate value which was the practice earlier. He suggested to dispense with the requirement of uploading each invoice involving B2B sale.

75.5. The Hon'ble Chief Minister of Puducherry stated that small traders were finding it very difficult to file **GSTR-1, 2 and 3**. He observed that connectivity with the common portal was also taking a lot of time and the small traders needed to employ a person to file their returns. He stressed the need to address this problem. The Hon'ble Minister from Karnataka stated that the proposal of the Hon'ble Deputy Chief Minister of Bihar to extend the facility of quarterly returns for taxpayers with annual turnover up to Rs.5



crore could be considered only after getting an assurance from GSTN that they could implement this change. The Hon'ble Minister from Uttar Pradesh also supported the proposal to extend the facility of quarterly return filing for taxpayers with annual turnover up to Rs.5 crore.

75.6. The Hon'ble Minister from Jammu & Kashmir stated that a lot of relaxation in law had been given during the present and the last meeting of the Council. He stated that if Composition scheme was made more attractive, more relaxation in GST Law would not be needed. He added that **GSTR-3B** was only an aggregate of transaction and no uploading of invoices was required. He stated that if the system of invoice matching was not retained, it was a fundamental departure from the GST architecture. He added that GST was also an ethical issue which aimed to replace cash economy with a more formal economy. The Secretary stated that composition scheme was mainly for B2C suppliers. Taxpayers making B2B supplies needed input tax credit and they would need to get registered as normal taxpayer, and therefore, a simplified return solution was required for regular taxpayers too. The Commissioner (GST Policy), CBEC, stated that as per the data, the number of taxpayers between turnover of Rs.1.5 crore per annum and Rs.5 crore per annum was not very significant. He pointed out that taxpayers with annual turnover below Rs.1.5 crore contributed 5.5% of revenue and filed 80% of returns and taxpayers with annual turnover above Rs.5 crore contributed 11% of revenue and filed 85% of the returns whereas taxpayers with annual turnover above Rs.100 crore contributed 70% of revenue but filed only 6% of the returns. The CEO, GSTN, stated that as per data available by way of auto-populated **GSTR-2A from GSTR-1**, for 90% taxpayers, number of B2B invoices were less than 50. The Secretary stated that taxpayers with annual turnover above Rs.1.5 crore would have large number of invoices to file in **GSTR-1**, and therefore, it was desirable that they file **GSTR-1** on monthly basis, and this would also avoid last minute rush. He added that the periodicity of return for the next year could be recommended by the Committee on Return Filing. He stated that the taxpayers with turnover above Rs.1.5 crore would get about 40 days to complete their filing of **GSTR-1** in the months of November, December 2017 and January to March 2018. He also suggested that there should be no automatic input tax credit reversal on account of any mismatch between **GSTR-1** and **GSTR-2** till March 2018. The Council agreed to this suggestion. He observed that the Committee on Return Filing should consult all stakeholders including the Advisory Group of Law Review Committee and large taxpayers.

75.7. The Hon'ble Deputy Chief Minister of Bihar suggested that the annual turnover limit for taxpayers filing quarterly Returns should be increased from Rs.1.5 crore to Rs.5 crore as this would benefit a larger number of taxpayers. The Secretary stated that this year, it would pose no problem as revenue was coming monthly but this increased turnover limit would create an expectation next year for similar facility for taxpayers up to annual turnover of Rs.5 crore. He said that such a facility would lead to loss of tax revenue from an additional 4% taxpayers, leading to 11% less revenue collection in a month and this could create problem for compensation. The Hon'ble Ministers from Assam and Goa supported the proposal to give the facility of quarterly return filing for taxpayers up to annual turnover of Rs.5 crore. The Hon'ble Minister from Goa stated that the issue could be revisited next year and there could also be more buoyancy in tax collection next year. The Secretary reiterated that upon switching to the regular cycle of returns, there would be an expectation from an additional 4% taxpayers to remain in the quarterly return filing cycle and advised against building such an expectation. The Hon'ble Minister from Jammu & Kashmir stated that since the number of taxpayers did not change dramatically by increasing the annual turnover limit for quarterly return filing from Rs.1.5 crore to Rs.5 crore, there was no justification for changing the annual turnover limit. The Hon'ble Deputy Chief Minister of Delhi stated that the problem was because there were some regular filers of returns and some were quarterly filers. The Hon'ble Chairperson stated that the software as well as the taxpayers were getting prepared for monthly filing of Returns and it would not be desirable to increase the expectations of taxpayers with annual turnover between Rs.1.5 crore and Rs.5 crore. After further discussion, the Council agreed that quarterly return



would be filed by taxpayers with annual turnover up to Rs.1.5 crore. The Council also approved the proposals contained in paragraph 75.1 above.

76. For **Agenda Item 12 (iii)**, the Council approved the following:

- (i) **GSTR-3B** to be filed by all taxpayers till the month of March 2018 by 20<sup>th</sup> of the next month;
- (ii) For taxpayers with annual turnover of up to Rs.1.5 crore in the preceding financial year or the current financial year, **GSTR-1** return to be filed on quarterly basis as per the following periodicity:
  - a. For the quarter July to September, 2017 - by 31 December, 2017;
  - b. For the quarter October to December, 2017- by 15 February, 2018;
  - c. For the quarter January to March, 2018- by 30 April 2018;
- (iii) For taxpayers with annual turnover above Rs.1.5 crore in the preceding financial year or the current financial year, **GSTR-1** return to be filed as per the following periodicity:
  - a. For the months July to October, 2017- by 31 December, 2017;
  - b. For November 2017 - by 10 January, 2018;
  - c. For December 2017 - by 10 February, 2018;
  - d. For January 2018 - by 10 March, 2018;
  - e. For February 2018 - by 10 April, 2018;
  - f. For March 2018 - by 10 May, 2018;
- iv) To decide subsequently the filing of **GSTR-2** and **GSTR-3** till March 2018 for all taxpayers;
- v) **GSTR-2A** delinked from **GSTR-1** till March 2018 and no automatic input tax credit reversal on account of any mismatch between **GSTR-1** and **GSTR-2** till March 2018;
- vi) Rolling **GSTR-2A** to be available to taxpayers for view till March 2018;
- vi) To constitute a Committee on Return Filing under the convenorship of Chairman, GSTN to look into issues and requirements of filing various types of returns in GST regime in the current financial year and suggest modifications in returns, if any, including related changes in laws, rules and formats applicable from the next financial year and the Committee shall consist of Chief Commissioner of Commercial Tax (CCCT), Andhra Pradesh; Commissioners of Commercial Taxes (CCTs) of Gujarat, Punjab and Karnataka; Commissioner (GST Policy), CBEC; Commissioner (Central Excise), CBEC; Joint Secretary, Department of Revenue; CEO, GSTN and other members as may be co-opted.

#### **Other Issues:**

77. The Hon'ble Minister from Tamil Nadu circulated a written speech during the meeting of the Council in which his view points on different Agenda items were communicated. The same are recorded suitably as part of record of discussion in the relevant Agenda items.

78. The Government of Arunachal Pradesh circulated a written proposal regarding reduction of tax on bamboo and cane products and furniture. In the paper, it was stated that India has the second largest reserves of bamboo in the world and leveraging this could spur employment and income generation especially in North-East India, which has over 66% of India's bamboo reserves. He stated that in Arunachal Pradesh, bamboo had diverse application like in houses, bridges, smoking pipes, trays, knives, baskets, ornaments, etc. The design, style and pattern varied from one tribe to the other but the skill to transform the simple bamboo into visually appealing masterpieces was the same. Around 70% to 80% of bamboo in the State was wasted owing to lack of a dedicated market and the GST rate of 18% on



bamboo and cane had only added fuel to the fire. He further stated that while bamboo and cane products were taxed at the rate of 18%, wooden furniture was taxed at the rate of 12%. In a world where climate change and sustainability were one of the global issues, bamboo, a high yielding natural resource, makes a good substitute to wood in mitigating pressure on natural forests. Bamboo is a family of grass and matures in as little as 3 to 5 years whereas hardwood trees take about 20 years or more to reach maturity. He suggested that bamboo should be leveraged for alleviation of rural poverty, empowerment of women and environmental rejuvenation. He added that bamboo was a passport to not only mainstreaming the North-East India but also for fostering a new integrated socio-economic order.

**Agenda Item 13: Date of the next meeting of the GST Council**

79. The Hon'ble Chairperson stated that the next meeting of the Council would be held in January 2018 in Delhi and the date for the same would be communicated in due course.

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



## Annexure 1

### List of Hon'ble Ministers who attended the 23<sup>rd</sup> GST Council Meeting on 10 November 2017

<u>Sl No</u>	<u>State/Centre</u>	<u>Name of the Minister</u>	<u>Charge</u>
1	Govt. of India	Shri Arun Jaitley	Finance Minister
2	Govt. of India	Shri S.P. Shukla	Minister of State (Finance)
3	Arunachal Pradesh	Shri Chowna Mein	Deputy Chief Minister
4	Assam	Dr Himanta Biswa Sarma	Finance Minister
5	Bihar	Shri Sushil Kumar Modi	Deputy Chief Minister & Minister of Finance & Comm. Taxes Deptt
6	Chhattisgarh	Shri Amar Agrawal	Minister - Dept. of Commercial Taxes
7	Delhi	Shri Manish Sisodia	Deputy Chief Minister & Finance Minister
8	Goa	Shri Mauvin Godinho	Minister - Panchayat
9	Haryana	Captain Abhimanyu	Minister - Excise and Taxation
10	Jammu & Kashmir	Dr. Haseeb Drabu	Finance Minister
11	Jharkhand	Shri C P Singh	Finance Minister
12	Karnataka	Shri Krishna Byre Gowda	Minister - Agriculture
13	Kerala	Dr. Thomas Issac	Finance Minister
14	Madhya Pradesh	Shri Jayant Malaiya	Finance Minister
15	Maharashtra	Shri Sudhir Mungantiwar	Finance Minister
16	Manipur	Shri Y. Joy Kumar Singh	Deputy Chief Minister
17	Meghalaya	Shri Zenith M Sangma	Taxation - Minister
18	Odisha	Shri Shashi Bhusan Behera	Minister - Finance & Excise
19	Puducherry	Shri V. Narayanasamy	Chief Minister
20	Punjab	Shri Manpreet Singh Badal	Finance Minister
21	Rajasthan	Shri Rajpal Singh Shekhawat	Minister - Industries
22	Tamil Nadu	Shri D. Jayakumar	Minister for Fisheries & Personnel and Administrative Reforms
23	Telangana	Shri Etela Rajender	Finance Minister



24	Uttar Pradesh	Shri Rajesh Agrawal	Finance Minister
25	Uttarakhand	Shri Prakash Pant	Finance Minister
26	West Bengal	Dr. Amit Mitra	Finance Minister

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## Annexure 2

### List of Officials who attended the 23<sup>rd</sup> GST Council Meeting on 10 November 2017

<b><u>Sl No</u></b>	<b><u>State/Centre</u></b>	<b><u>Name of the Officer</u></b>	<b><u>Charge</u></b>
1	Govt. of India	Dr. Hasmukh Adhia	Revenue Secretary
2	Govt. of India	Dr. Arvind Subramanian	Chief Economic Adviser
3	Govt. of India	Ms. Vanaja Sarna	Chairman, CBEC
4	Govt. of India	Shri Mahender Singh	Member (GST), CBEC
5	Govt. of India	Shri John Joseph	Member (Budget), CBEC
6	Govt. of India	Shri P.K. Mohanty	Advisor (GST), CBEC
7	Govt. of India	Shri P.K. Jain	DG, DG-GST, CBEC
8	Govt. of India	Shri Sandeep M. Bhatnagar	DG, DG-Safeguards, CBEC
9	Govt. of India	Shri M. Vinod Kumar	Principal Chief Commissioner, CBEC
10	Govt. of India	Shri Alok Shukla	Joint Secretary (TRU), DoR
11	Govt. of India	Shri Upender Gupta	Commissioner (GST), CBEC
12	Govt. of India	Shri Udai Singh Kumawat	Joint Secretary, Dept of Revenue
13	Govt. of India	Shri Amitabh Kumar	Joint Secretary (TRU), DoR
14	Govt. of India	Shri Manish Kumar Sinha	Commissioner (C.Ex), CBEC
15	Govt. of India	Smt. Hemambika R. Priya	Commissioner (Co-ordination), CBEC
16	Govt. of India	Shri G.D. Lohani	Commissioner, CBEC
17	Govt. of India	Shri Viney Kumar Paul	Commissioner, CGST, Guwahati
18	Govt. of India	Shri Ravindra R. Bangar	Commissioner, CGST, Dibrugarh
19	Govt. of India	Shri D.S.Malik	DG, Press, Ministry of Finance
20	Govt. of India	Ms. Sheyphali B. Sharan	ADG, Press, Ministry of Finance
21	Govt. of India	Shri S.K. Rai	Director (UT), MHA
22	Govt. of India	Shri Reyaz Ahmed	Director, TRU, DoR
23	Govt. of India	Shri N Gandhi Kumar	OSD, DoR
24	Govt. of India	Ms. Aarti Saxena	Deputy Secretary, DoR



<b><u>Sl No</u></b>	<b><u>State/Centre</u></b>	<b><u>Name of the Officer</u></b>	<b><u>Charge</u></b>
25	Govt. of India	Shri Parmod Kumar	OSD, TRU-II, DoR
26	Govt. of India	Shri Pramod Kumar	Deputy Secretary, TRU-II, DoR
27	Govt. of India	Shri Ravneet Singh Khurana	Joint Commr., GST Policy Wing
28	Govt. of India	Shri Geelani Basha KSM	Technical Officer, TRU-I, DoR
29	Govt. of India	Shri Mahipal Singh	Technical Officer, TRU-II, DoR
30	Govt. of India	Shri Susanta Mishra	Technical Officer, TRU-II, DoR
31	Govt. of India	Shri Sumit Bhatia	Asst. Commr., GST Policy Wing
32	Govt. of India	Shri Kumar Asim Anand	Asst. Commr., GST Policy Wing
33	Govt. of India	Shri Paras Sankhla	OSD to FM
34	Govt. of India	Shri Mahesh Tiwari	PS to MoS
35	GST Council	Shri Shashank Priya	Joint Secretary
36	GST Council	Shri Dheeraj Rastogi	Joint Secretary
37	GST Council	Shri G.S. Sinha	Joint Commissioner
38	GST Council	Shri Rahul Raja	Assistant Commissioner
39	GST Council	Shri Mahesh Kumar	Assistant Commissioner
40	GST Council	Shri Rakesh Agarwal	Assistant Commissioner
41	GST Council	Shri Sandeep Bhutani	Superintendent
42	GST Council	Shri Manoj Kumar	Superintendent
43	GSTN	Shri A B Pandey	Chairman
44	GSTN	Shri Prakash Kumar	CEO
45	GSTN	Shri Jagmal Singh	VP (Services)
46	GSTN	Shri Nitin Mishra	EVP
47	Andhra Pradesh	Dr. D Sambasiva Rao	Special Chief Secretary (Revenue)
48	Andhra Pradesh	Shri J.Syamala Rao	Chief Commissioner (CT)
49	Andhra Pradesh	Shri T.Ramesh Babu	Additional Commissioner (CT)
50	Arunachal Pradesh	Shri Anirudh S Singh	Special Secretary (Tax & Excise)



<b><u>Sl No</u></b>	<b><u>State/Centre</u></b>	<b><u>Name of the Officer</u></b>	<b><u>Charge</u></b>
51	Arunachal Pradesh	Shri Tapas Dutta	Nodal Officer (GST)
52	Assam	Shri V.B. Pyarelal	Additional Chief Secretary
53	Assam	Dr Ravi Kota	Principal Secretary (Finance)
54	Assam	Shri Anurag Goel	Commissioner (CT), Assam
55	Bihar	Shri Arun Kumar Mishra	Additional Secretary (CT)
56	Bihar	Shri Sanjay Kumar Mawandia	Additional Commissioner (CT)
57	Chandigarh	Shri Parimal Rai	Adviser to Administrator
58	Chandigarh	Shri Sanjeev Madaan	ETO
59	Chandigarh	Shri Ramesh Kr. Choudhry	AETO
60	Chhattisgarh	Shri Amitabh Jain	Principal Secretary (Finance)
61	Chhattisgarh	Ms. Sangeetha P	Commissioner (CT)
62	Dadra & Nagar Haveli	Shri Gaurav Singh Rahawat	Commissioner, GST
63	Daman & Diu	MS Charmi Parekh	DC, GST
64	Delhi	Shri S N Sahai	Additional Chief Secretary (Finance)
65	Delhi	Shri H. Rajesh Prasad	Commissioner (State Tax)
66	Delhi	Shri Anand Kumar Tiwari	Additional Commissioner (GST)
67	Goa	Shri Dipak M.Bandekar	Commissioner, Commercial Taxes
68	Goa	Shri Rajan Satardekar	Addl. Commissioner (CT)
69	Gujarat	Dr. P.D. Vaghela	Commissioner, Commercial Taxes
70	Gujarat	Shri Sanjeev Kumar	Secretary (Economic Affairs)
71	Haryana	Shri Sanjeev Kaushal	Additional Chief Secretary
72	Haryana	Ms. Ashima Brar	Commissioner (Excise & Taxation)
73	Haryana	Shri Rajeev Chaudhary	Dy. ETC
74	Himachal Pradesh	Shri R. Selvam	Excise & Taxation Commissioner
75	Himachal Pradesh	Shri Sanjay Bhardwaj	Additional ETC



<b><u>Sl No</u></b>	<b><u>State/Centre</u></b>	<b><u>Name of the Officer</u></b>	<b><u>Charge</u></b>
76	Himachal Pradesh	Shri Rakesh Sharma	Joint Commissioner
77	Jammu & Kashmir	Shri Navin Choudhary	Principal Secretary (Finance)
78	Jammu & Kashmir	Shri P I Khateeb	Commissioner - Commercial Taxes
79	Jammu & Kashmir	Shri P.K.Bhat	Additional Commissioner (CT)
80	Jammu & Kashmir	Mrs Anoo Malhotra	Additional Commissioner (CT)
81	Jharkhand	Shri. K.K. Khandelwal	Principal Secretary
82	Jharkhand	Shri Brajesh Kumar	State Taxation Officer
83	Karnataka	Shri Ritvik Pandey	Secretary (Budget & Resources)
84	Karnataka	Shri M.S. Srikar	Commissioner (CT)
85	Kerala	Dr. Rajan Khobragade	Commissioner (CT)
86	Madhya Pradesh	Shri Raghvendra Kumar Singh	Commissioner (CT)
87	Madhya Pradesh	Shri Sudip Gupta	Joint Commissioner (CT)
88	Maharashtra	Shri Rajiv Jalota	Commissioner (GST)
89	Maharashtra	Shri Dhananjay Akhade	Joint Commissioner (GST)
90	Manipur	Shri. Vivek Kumar Dewangan	Principal Secy (Finance)
91	Manipur	Shri Hrisheekesh Modak	Commissioner (CT)
92	Meghalaya	Shri L. Khongsit	Deputy Commissioner of Taxes
93	Meghalaya	G.G. Marbaniang	Asstt. Commissioner of Taxes
94	Mizoram	Shri Vanlal Chhuanga	Secretary, Taxation
95	Mizoram	Shri Kailiana Ralte	Addl. Commissioner of State Tax
96	Mizoram	Shri R Zosiamliana	Joint Commissioner of State Tax
97	Nagaland	Shri Y.Mhathung Murry	Commissioner of Taxes
98	Nagaland	Shri Wochamo Odyuo	Additional Commissioner



<b><u>Sl No</u></b>	<b><u>State/Centre</u></b>	<b><u>Name of the Officer</u></b>	<b><u>Charge</u></b>
99	Odisha	Shri Tuhin Kanta Pandey	Principal Secretary (Finance)
100	Odisha	Shri Saswat Mishra	Commissioner (CT)
101	Odisha	Shri Sahadev Sahoo	Joint Commissioner (CT)
102	Puducherry	Dr. V. Candavelou	Secretary (Finance & CT)
103	Puducherry	Shri G. Srinivas	Commissioner (CT)
104	Punjab	Shri M P Singh	ACS (Taxation)
105	Punjab	Shri V K Garg	Advisor (Finance)
106	Punjab	Shri Vivek Pratap Singh	Excise and Taxation Commissioner
107	Punjab	Shri Pawan Garg	DETC
108	Rajasthan	Shri Praveen Gupta	Secretary (Finance)
109	Rajasthan	Shri Alok Gupta	Commissioner (CT)
110	Sikkim	Ms Dipa Basnet	Secretary (Commercial Taxes)
111	Sikkim	Shri Manoj Rai	Joint Commissioner (CT)
112	Tamil Nadu	Dr C Chandra Mouli	ACS (Commercial Taxes)
113	Tamil Nadu	Shri K. Gnanasekaran	Addl.Comm, Commercial Taxes
114	Telangana	Shri Somesh Kumar	Principal Secretary
115	Telangana	Shri V Anil Kumar	Commissioner (CT)
116	Telangana	Shri Laxminarayan Jannu	Additional Commissioner (CT)
117	Tripura	Shri N.Darlong	Special Secretary, Finance
118	Tripura	Shri Ashin Barman	Superintendent
119	Uttar Pradesh	Shri R.K. Tiwari	Additional Chief Secretary
120	Uttar Pradesh	Shri Mukesh Kumar Meshram	Commissioner (Commercial Tax)
121	Uttar Pradesh	Shri Vivek Kumar	Additional Commissioner (GST)
122	Uttar Pradesh	Shri Mukti Nath Verma	Joint Secretary
123	Uttarakhand	Mrs. Sowjanya	Commissioner (CT)
124	Uttarakhand	Shri Piyush Kumar	Additional Commissioner (CT)



<b><u>Sl No</u></b>	<b><u>State/Centre</u></b>	<b><u>Name of the Officer</u></b>	<b><u>Charge</u></b>
125	West Bengal	Shri H K Dwivedi	Principal Secretary (Finance)
126	West Bengal	Smt. Smaraki Mahapatra	Commissioner (CT)
127	West Bengal	Shri Khalid A Anwar	Senior Joint Commissioner

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### Annexure 3

Analysis of revenue collected in the month of August, September and October 2017 under GST

## Analysis of revenue collected in the month of August, September and October 2017 under GST

### 23<sup>rd</sup> GST Council Meeting

1

### GST Revenues – September, 2017

	September receipts (Rs. crore)	Funds transferred due to settlement (Rs. crore)	Net revenue after settlement (Rs. crore)
CGST	15132	5081	20213
SGST	21980	10852	32832
IGST	48181	-15933	32248
Cess	7848		7848
<b>Total</b>			<b>93141</b>

2

### GST Revenues – October, 2017

	October receipts (Rs. crore)	Funds transferred due to settlement (Rs. crore)	Net revenue after settlement (Rs. crore)
CGST	14963	7855	22818
SGST	22345	13289	35634
IGST	49810	-21144	28666
Cess	8013		8013
<b>Total</b>			<b>95131</b>

3



## Revenue Trends

	August 2017	October 2017
<b>Average Revenue Shortfall for all States</b>	28.4%	17.6%
<b>Average Revenue Shortfall for all States (in Rupee terms)</b>	Rs. 12,208 cr	Rs. 7,560 cr

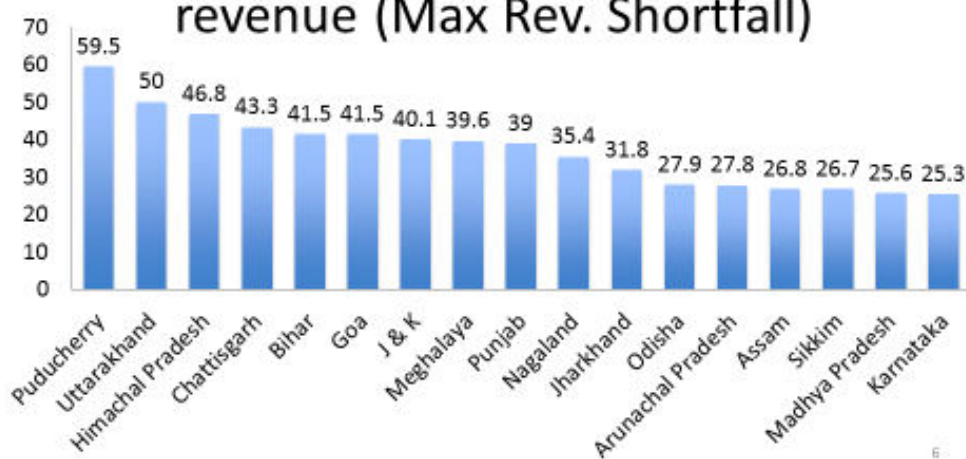
4

## States with Maximum Revenue Shortfall

Sl. No.	Name of the State	Percentage shortfall in October 2017 revenue
1	Puducherry	59.5
2	Uttarakhand	50
3	Himachal Pradesh	46.8
4	Chattisgarh	43.3
5	Bihar	41.5
6	Goa	41.5
7	J & K	40.1
8	Meghalaya	39.6
9	Punjab	39
10	Nagaland	35.4
11	Jharkhand	31.8
12	Odisha	27.9
13	Arunachal Pradesh	27.8
14	Assam	26.8
15	Sikkim	26.7
16	Madhya Pradesh	25.6
17	Karnataka	25.3

5

## Percentage shortfall in October 2017 revenue (Max Rev. Shortfall)



6

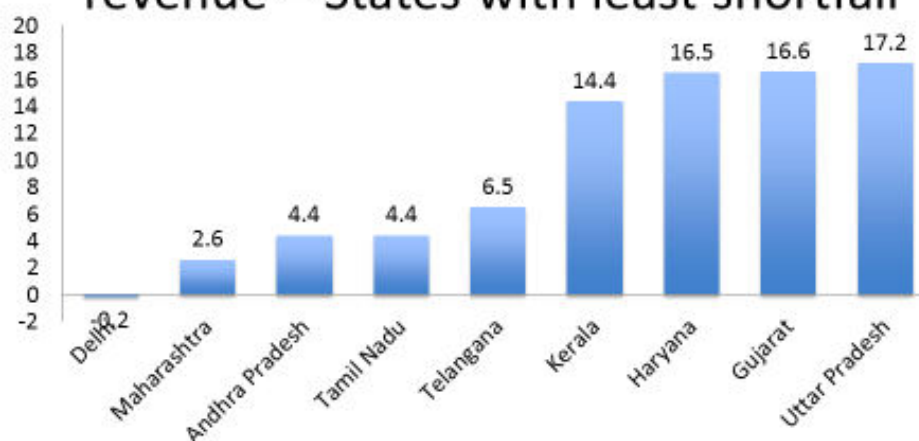


## States with least shortfall in October 2017 revenue

Sl. No.	Name of the State	Percentage shortfall in October 2017 revenue
1	Delhi	-0.2
2	Maharashtra	2.6
3	Andhra Pradesh	4.4
4	Tamil Nadu	4.4
5	Telangana	6.5
6	Kerala	14.4
7	Haryana	16.5
8	Gujarat	16.6
9	Uttar Pradesh	17.2

7

## Percentage shortfall in October 2017 revenue – States with least shortfall



8

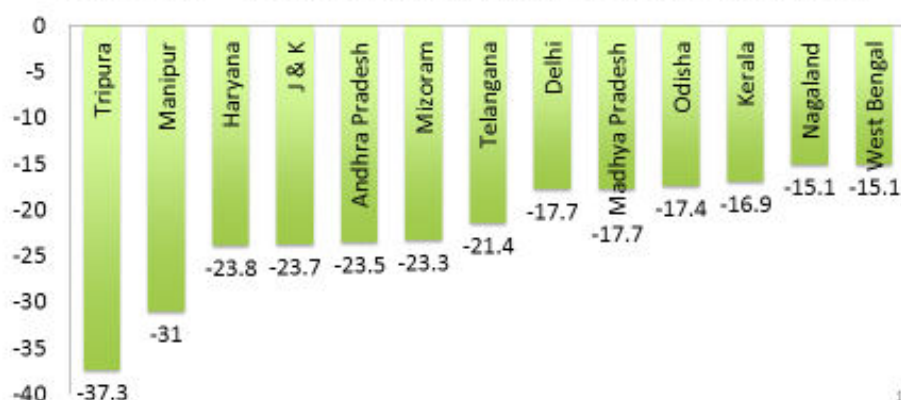


## States showing maximum improvement in 3 months

Sl. No.	Name of the State	Percentage reduction in shortfall in October 2017 revenue as compared to August 2017 revenue
1	Tripura	-37.3
2	Manipur	-31
3	Haryana	-23.8
4	J & K	-23.7
5	Andhra Pradesh	-23.5
6	Mizoram	-23.3
7	Telangana	-21.4

Sl. No.	Name of the State	Percentage reduction in shortfall in October 2017 revenue as compared to August 2017 revenue
8	Delhi	-17.7
9	Madhya Pradesh	-17.7
10	Odisha	-17.4
11	Kerala	-16.9
12	Nagaland	-15.1
13	West Bengal	-15.1

Percentage reduction in shortfall in October 2017 revenue as compared to August 2017 revenue – States showing max improvement

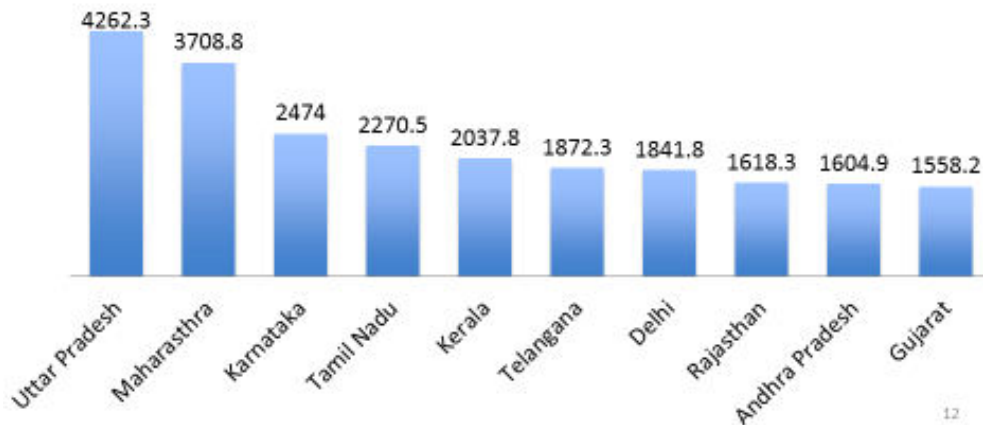


## States receiving maximum settlement funds

Sl. No.	Name of the State	Funds received through settlement in 3 months of August, September and October 2017 (in crore Rs.)
1	Uttar Pradesh	4262.3
2	Maharashtra	3708.8
3	Karnataka	2474
4	Tamil Nadu	2270.5
5	Kerala	2037.8
6	Telangana	1872.3
7	Delhi	1841.8
8	Rajasthan	1618.3
9	Andhra Pradesh	1604.9
10	Gujarat	1558.2



## Funds received through settlement in 3 months of August, September and October 2017 (in crore Rs.)



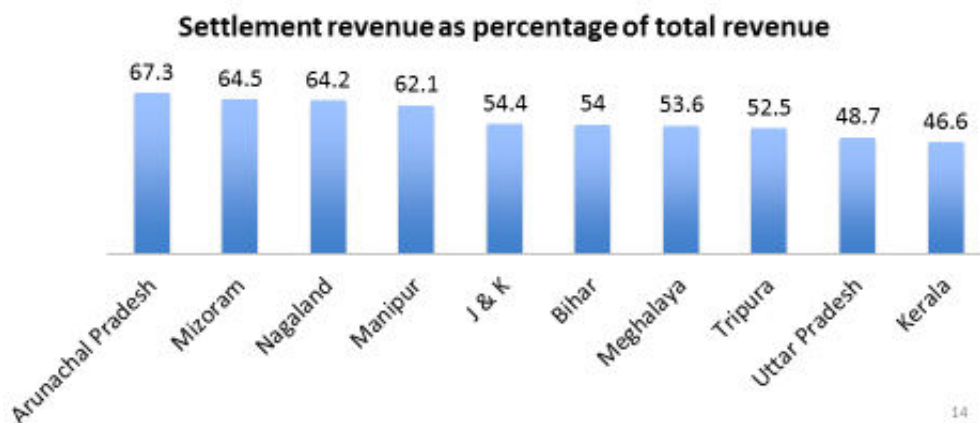
12

## Top 10 Consuming States

Sl. No.	Name of the State	Settlement revenue as percentage of total revenue
1	Arunachal Pradesh	67.3
2	Mizoram	64.5
3	Nagaland	64.2
4	Manipur	62.1
5	J & K	54.4
6	Bihar	54
7	Meghalaya	53.6
8	Tripura	52.5
9	Uttar Pradesh	48.7
10	Kerala	46.6

13

## Top 10 Consuming States



14

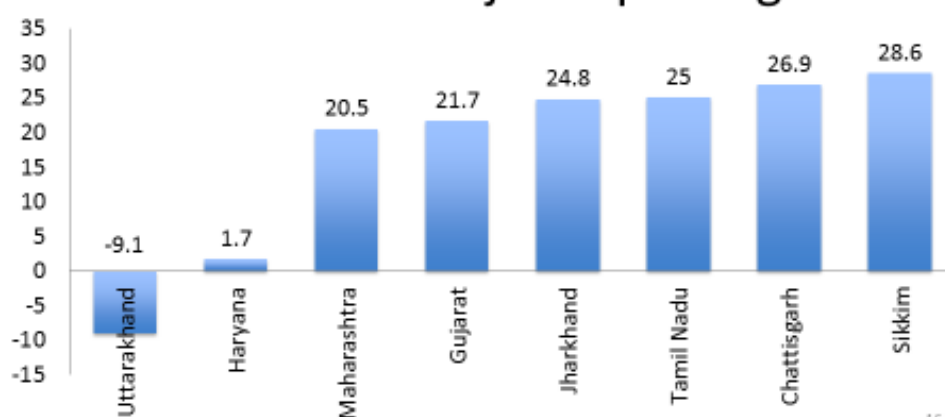


## Major Exporting States

Sl. No.	Name of the State	Settlement revenue as percentage of total revenue
1	Uttarakhand	-9.1
2	Haryana	1.7
3	Maharashtra	20.5
4	Gujarat	21.7
5	Jharkhand	24.8
6	Tamil Nadu	25
7	Chattisgarh	26.9
8	Sikkim	28.6

15

## Settlement revenue as percentage of total revenue – Major Exporting States



16

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## Annexure 4

### Presentation for the 23<sup>rd</sup> Meeting of GST Council by Commissioner (GST Policy), CBEC



#### Ag 3 : Ratification of Notifications, Circulars and Orders



- Deemed ratification of the following notifications, circulars and orders issued after the 22<sup>nd</sup> GST Council meeting :

Act/Rules	Type	Notification Nos.
CGST Act/CGST Rules	Central Tax	38 to 54
	Central Tax (Rate)	31 to 40
IGST Act	Integrated Tax	9 to 11
	Integrated Tax (Rate)	32 to 42
UTGST Act	Union territory Tax	4 to 17
	Union territory Tax (Rate)	31 to 40
GST (Compensation to States) Act	Compensation Cess (Rate)	6 to 7
Circulars	Under the CGST Act	8, 11, 12, 13
Orders	Removal of Difficulty Order, to remove difficulties in implementing provisions of composition scheme.	Order-01/2017-Central Tax



- **Decision by Circulation**

- Field for Compensation Cess was missing and added in FORM GSTR-1, FORM GSTR-1A, FORM GST RFD-01
- Minor Amendments in and FORM GST CMP-02
  - ✓ Notification No. 45/2017 – CT dated 18<sup>th</sup> October 2017 issued
- Clarification on issues wherein the goods have been moved from place of business of supplier for supply before the goods are selected by buyers (e.g. in case of jewellers)
  - ✓ Circular No. 10/10/2017-GST dated 18<sup>th</sup> October 2017 issued
- To empower the Commissioner to provide for extension of time for export of goods under LUT in Rule 96A (1) (a)
  - ✓ Notification No. 47/2017 – CT dated 18<sup>th</sup> October 2017 issued

3

- **Decision by Circulation (contd.)**

- Waiver of late fee payable for delayed filing of the return in FORM GSTR-3B for the month of August and September, 2017 and also allow for re-credit of late fee already paid to cash ledger
  - ✓ Notification No. 50/2017 – CT dated 24<sup>th</sup> October 2017 issued

4



- **Decision by Circulation (contd.)**
  - Rule 24 (4) amended for filing of application in FORM GST REG-29 so as to replace 31<sup>st</sup> October, 2017 with 31<sup>st</sup> December, 2017 – Due to non-availability of said form
  - Amendment to rule 45(3): To provide for extension of time limit for furnishing delivery challans by job workers as specified under rule 45(3) - Due to non-availability of FORM ITC-04
  - Return Cycle of GSTR-1,2 and 3 incomplete but refunds needs to be processed. Therefore, information relating to exports as specified in Table 6A of the FORM GSTR-1 to be taken separately – Needs Amendment in Rule 96 and 96A
- ✓ **Notification No. 51/2017 – CT dated 28<sup>th</sup> October 2017 issued**

5

- **Extension of due dates for filing/submitting certain GST FORMS**
- On the request of the GSTN due to delayed availability or unavailability of certain FORMS on the common portal and on the recommendation of the Law Committee, due dates for following forms were extended
  - **FORM GST CMP-03 (Last date to 30.11.2017)**
  - **FORM GST REG-26 (Last date to 31.12.2017)**
  - **FORM GST ITC-01 (Last date to 30.11.2017)**
  - **FORM GST ITC-04 (Last date to 30.11.2017)**
  - **FORM GST TRAN-1 (Last date to 30.11.2017)**
- ✓ **Order No. 05/2017-GST, Order No. 06/2017, Notification No. 51/2017 – CT, Notification No. 52/2017 – CT, Notification No. 53/2017 – CT, Order No. 07/2017 and Order No. 08/2017 all dated 28<sup>th</sup> October 2017 issued**

6



- **Decision by Circulation (contd.)**
  - Extension of due dates for filing of **FORM GSTR-2** and **FORM GSTR-3** for the month of July, 2017, till 30<sup>th</sup> November 2017 and 11<sup>th</sup> December 2017
    - ✓ Notification No. 54/2017 – CT dated 30<sup>th</sup> October 2017 issued

7

- **Decision by Circulation (contd.)**
  - Approval for issuance of circulars regarding
    - Procedure for procurement of supplies from registered supplier by EOU/EHTP/STP/BTP units under deemed export benefits under section 147 of the CGST Act, 2017
      - ✓ Circular No. 14/2017 dated 06.11.2017 issued
    - Due date for generation of FORM GSTR-2A and FORM GSTR-1A in accordance with the extension of due date of filing FORM GSTR-1 and FORM GSTR-2 respectively.
      - ✓ Circular No. 15/2017 dated 06.11.2017 issued
    - Manual filing and processing of refund claims in respect of zero rated supplies
      - ✓ Circular yet to be issued

8



## Ag 7(i) : Draft Rule under Section 107



- Section 107 provides for prescribing the appellate authorities for hearing appeal against an order passed by an adjudicating authority under the Act
- Two-tier appellate structure has been envisaged:
  - Appeals against orders of Additional/Joint Commissioner would lie with the Commissioner (Appeals);
  - Appeals against orders of Deputy/Assistant Commissioner and Superintendents would lie with the Additional Commissioner (Appeals)
    - ✓ Proposal to insert Rule 109 A (1) in the CGST Rules
- Separate Rule in respect of appeals to be filed by the Department
  - ✓ Proposal to insert Rule 109 A (2) in the CGST Rules

9

## Ag 7(ii) : Amendment in CGST Rules (1/2)



- No provision for manual filing of advance ruling application and manual filing of export refunds
- Writ petition has been filed in Delhi HC to enable facility of filing manual application for Advance Ruling
- Urgent need to enable refund for exporters
  - ✓ Proposal to insert Rule Chapter X (Refund) and Chapter XII (Advance Ruling) to enable manual filing of applications
  - ✓ Proposal to insert Forms GST RFD-01A and GST RFD-01B

10



## Ag 7(ii) : Amendment in CGST Rules (2/2)



- Decided in the 21<sup>st</sup> Meeting not to levy GST if services are supplied to Nepal and Bhutan even if payment is received in Indian rupees but ITC would continue to be allowed
- Accordingly Notification No. 42/2017 – Integrated Tax (Rate) dated 27.10.2017 has been issued to provide such exemption.
  - ✓ Proposal to insert an explanation at the end of rule 42 and 43 to enable non-reversal of ITC in such cases in line with existing practice

11

## Ag 7(iii) : Centralized UIN for Diplomatic Missions / UN Organizations



- Foreign Diplomatic Missions / UN Organizations to be allotted a Unique Identity Number (UIN) – Minimal Compliance and Easy Refunds
- Refund of taxes where place of supply and supplier of service are in the same State but the Embassy etc. is not registered will not be available. For eg. Hotel Services
- Refund available after reconciliation of GSTR – 11 with FORM GSTR-1 of the supplier. Therefore, refund to Diplomatic Mission / UN organization dependent on compliance by vendors
- To further facilitate such agencies :
  - ✓ Centralized UIN for such agencies in coordination with MEA
  - ✓ No reconciliation between FORM GSTR-1 and FORM GSTR-11
  - ✓ All refunds to be processed through Central Government and funds settled through settlement procedure

12



### Ag 7(iv) : Re-credit of late fee for late filing of FORM GSTR-3B for the month of July, August & September 2017

- Notification No. 28/2017-CT dated 1<sup>st</sup> September 2017 & Notification No. 50/2017-CT dated 24<sup>th</sup> October, 2017 issued to exempt late fee for late filing of FORM GSTR-3B for the month of July, August and September
- For those taxpayers, who had already paid late fee, such late fee needs to re-credited to their Electronic Cash Ledger
- Fee will be remitted back to “Fee” head of the electronic cash ledger but cannot be used by the taxpayer to offset tax liability
- To facilitate taxpayers
  - ✓ Recommended that such fee may be re-credited under the tax head of the Electronic Cash ledger
  - ✓ Accounting Authorities of Centre and States to be advised accordingly

13

### Ag 7(v) : Apportionment of IGST between States / UTs for supply of advertisement services (1/3)

- Problem of apportionment of tax in cases where advertisement services are provided to Central Government, a State Government and a statutory body
- IGST to be charged for inter-State supply of advertisement services when such services are supplied to more than one State, Centre or UT
- Guiding principles are delineated in association with DAVP :

S No.	Media of Advertisement	Guiding Principle
1	Newspapers	Amount actually paid for placing an advertisement in a particular State – Information through Release order
2	Publications	Same principle as above

14



**Ag 7(v) : Apportionment of IGST between States / UTs  
for supply of advertisement services (2/3)**



S No.	Media of Advertisement	Guiding Principle
3	Printed material	Proposed distribution breakup of the leaflets at the time of placing the Release order so that the state-wise breakup is known at the time of printing
4	Outdoor - Hoardings (other than those on trains of Indian Railways)	Amount actually paid to every State
5	Hoardings on Trains	Length of track in every State
6	Personal media (such as utility bills etc.)	Amount actually paid to every State
7	Advertising on Railway tickets	Ratio of total railway stations in each State
8	Radio	Amount actually paid to Stations in every State

15

**Ag 7(v) : Apportionment of IGST between States / UTs  
for supply of advertisement services (3/3)**



S No.	Media of Advertisement	Guiding Principle
9	Television	BARC figures / viewership, adjusted in the ratio of the population of the States
10	New media (digital cinema, websites, SMS)	Amount actually paid to a cinema hall/screens in a multiplex in a state
11	Websites	Internet penetration figures released by TRAI for the quarter ending with March of a financial year
12	SMS	Amount actually paid the various telecom circles in a state

✓ Proposal for notification of such Rules under section 12(14) of the IGST Act, 2017

16



## Ag 7(vi) : Restrict the maximum amount of Late fee



- Late fee of two hundred rupees per day is payable by the taxpayer for delayed filing of the return including the return in FORM GSTR-3B, subject to a maximum amount of ten thousand rupees
- Late fee was waived off for all registered persons who failed to furnish the return in FORM GSTR-3B for the month of July, August and September 2017
- In certain cases, the late fee payable for delayed filing of the return is exceeding the principal amount of tax and interest payable in the return by a huge amount
  - ✓ Proposed to restrict the maximum amount of late fee payable by a taxpayer to the amount of tax payable in a return in case the said amount is less than Rs. 5000/- by exercising the powers conferred by section 128 of the CGST Act.
  - ✓ Decision in Officers Meeting: The late fee for nil filers may be Rs 20/- per day (Rs. 10/- CGST and Rs. 10/- SGST)

17

## Ag 8(i) : Extension of due dates for certain forms



- Based on the deadlines provided by GSTN in the 3rd meeting of the GoM on IT issues held on 28.10.2017 and on further discussion with GSTN, the following dates are proposed to be extended :

S No.	FORM and DETAILS	Due Date (Last extended)	Proposed due date
1.	GST ITC-04 Details of goods/capital goods sent to job worker and received back	30.11.2017	31.12.2017
2.	GSTR-4 Creation & Submission of Quarterly Return by Compounding Taxpayer	15.11.2017	15.12.2017 (24.12.2017)
3.	GSTR-5 Return for non-resident taxable person	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.	11.12.2017
4.	GSTR-5A Details of supplies of online information and database access or retrieval services	20.11.2017	15.12.2017
5.	GSTR-6 Return for ISD	15.11.2017	31.12.2017
6.	TRAN-1 and Revision of TRAN-1 Declaration of transitional stock/ITC and its revision	30.11.2017	31.12.2017

18



- Sub-rule (2) of rule 54 of CGST Rules, 2017 reads as follows –

*“Where the supplier of taxable service is an insurer or a banking company or a financial institution, including a non-banking financial company, the said supplier **shall** issue a consolidated tax invoice*

- Request is being made to **keep this as a option** since the recipient of supplies wish to claim the corresponding input tax credit on each individual supply instead of taking credit on the aggregate value in a consolidated manner.
- Proposal to amend the said sub-rule (2) of rule 54 to read as follows:

*“Where the supplier of taxable service is an insurer or a banking company or a financial institution, including a non-banking financial company, the said supplier **may** issue a consolidated tax invoice*

19

**Table Agenda : Exemption to Registration for service providers providing service through E-Commerce Operator**

- Supplier of taxable services (both intra and inter-State) with turnover less than Rs. 20 lacs have been **exempted from registration** under the Act
- **Compulsory registration** still needs to be obtained in terms of section 24(ix) of the Act when such supply is made through an e-commerce operator
- Therefore, persons with turnover less than Rs. 20 lacs exempted in normal course but compulsorily registered if supplies made through an E-Commerce operator
- Proposal to exempt suppliers of services providing service through an e-commerce platform from obtaining compulsory registration under section 24(ix) of the Act provided their aggregate all India turnover does not exceed twenty lakh rupees except where he opts for voluntary registration – Under Section 23 (2) of the CGST Act

20

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**Annexure 5**

**Report of the Group of Ministers on Composition Scheme and Restaurant sector**

**Report  
of  
the Group of Ministers  
on  
Composition Scheme and  
Restaurant sector**

23<sup>rd</sup> Meeting of GST Council  
at Guwahati on 10<sup>th</sup> November 2017

1



## Background

- Council in 22nd Meeting decided to constitute a Group of Ministers (GoM) to:
  - examine measures to make the Composition Scheme more attractive for MSME; and
  - revisit GST Tax Structure on Restaurants

2

## Terms of Reference

1. Whether turnover of exempted goods can be excluded from the total turnover threshold for levying tax under the Composition Scheme;
2. Can Composition Scheme be extended to Taxpayers making inter-state outward supplies of Goods;
3. Whether Input Tax Credit can be made available to registered persons receiving inward supplies from Composition Dealers;
4. Tax Structure of different categories of Restaurants, with a view to their possible rationalisation/reduction.

3



## Constitution of the Group of Minister (GoM)

S. No.	Name, designation & organisation	
1.	Dr. Himanta Biswa Sarma, Hon'ble Finance Minister, Govt. of Assam	Convenor
2.	Shri Sushil Kumar Modi, Hon'ble Deputy Chief Minister, Govt. of Bihar	Member
3.	Dr. Haseeb Drabu, Hon'ble Finance Minister, Govt. of Jammu & Kashmir	Member
4.	Shri Manpreet Singh Badal, Hon'ble Finance Minister, Govt of Punjab	Member
5.	Shri Amar Agrawal, Hon'ble Minister of Commercial Taxes, Govt. of Chhattisgarh	Member

Shri Arun Goyal , Additional Secretary, GST Council assisted GoM in its work.

4

## Special Invitee

Sl. No	Name and Designation	Organisation/State
1	Shri Upender Gupta	Commissioner (GST), CBEC
2	Shri Amitabh Kumar	Joint Secretary (TRU), Dept of Revenue
3	Shri P K Mohanty	Advisor (GST), CBEC
4	Dr. P.D. Vaghela	Commissioner, Commercial Taxes, Gujarat
5	Shri Ritvik Pandey	Commissioner (Commercial Taxes), Karnataka
6	Shri Khalid A Anwar	Senior Joint Commissioner, Commercial Taxes, West Bengal
7	Shri Shashank Priya	Joint Secretary, GST Council
8	Shri Dheeraj Rastogi	Joint Secretary, GST Council

5



## Stakeholder Consultations

1. India SME Forum
2. Laghu Udyog Bharti
3. Federation of Indian Micro, Small & Medium Enterprises (FISME)
4. Integration of Association of Micro, Small and Medium Enterprises of India (I am SME of India)
5. The Coimbatore District Small Industries Association (CODISSIA)
6. Federation of Association of Small Industries of India (FASII)
7. National Restaurant Association of India

6

## Discussion and Deliberation by GoM

- ✓ Two meetings on 15<sup>th</sup> and 29<sup>th</sup> October 2017 at Delhi
- ✓ Sought comments and practice followed in the States on Composition Scheme
- ✓ Discussed views of State/Central Govt on TOR
- ✓ Reviewed tax structure on restaurant in pre-GST regime in all States
- ✓ Reviewed Composition scheme on restaurants

7



## ToR-1: Exclusion of Exempted turnover of goods (Pros and cons)

### ❖ For the Proposal

- ❖ Exempted goods are also taxed (20-30% of the turnover is of exempt items)
- ❖ Composition taxpayer pays more tax than normal taxpayer
- ❖ Make Composition scheme more viable by allowing:
  - # supply of services upto a certain value
  - # supply of Job work service up to a certain limit in order to use idle capacity

### ❖ Against the proposal

- ❖ Changes require amendment in the Act
- ❖ Composition is turnover based tax
- ❖ Room for disputes and litigation on exempted/non-exempted turnover
- ❖ Increase the compliance burden- need separate records
- ❖ Expose small traders to audit

8

## ToR-1: Recommendation by GoM

- Annual turnover eligibility be increased to Rs 2 crore from Rs 1 crore (Require amendment in Acts)
- Threshold turnover be increased to Rs 1.5 crore
- Associated Enterprises should be allowed benefit of Composition only till their combined aggregate turnover is below the threshold limit
- Uniform rate of 1% for manufacturers and restaurants.
- Optional scheme for traders:
  - ❖ Tax @ 0.5%- on aggregate turnover
  - ❖ Tax @ 1%- on turnover of taxable goods.
- Allow supply of Services under composition upto a limit of Rs 5 lakh
- Allow supply of Job Work services for more than Rs 5 lakh (value limit to be decided by the GST Council)

9



## ToR-2: Inter-State supplies in Composition (Pros and cons)

### ❖ For the Proposal

- ❖ Frequent movement of goods and services in the border areas of neighbouring States
- ❖ Minor value of inter-State supplies should not make person ineligible for composition
- ❖ To consider inter-locked States as one region (e.g National Capital Region).
- ❖ Scheme is against the principle of “One Tax. One Nation”.

### ❖ Against the Proposal

- ❖ Against the basic principles of GST-Require amendment in Acts
- ❖ Composition tax remains with origin State
- ❖ Revenue loss to small States as their supplies to other States is very limited
- ❖ Software complications
- ❖ Blurs the difference between normal and composition taxpayer
- ❖ May require changes in Return to capture inter-State supplies and tax settlement

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## ToR-2: Recommendation by GoM

- Allow inter-State outward supplies of goods (Require amendment of section 10(2) of the CGST/SGST Acts)
- Review this provision after 5 years (Small States have strong reservations)

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## ToR-3: ITC to recipient of Composition Taxpayer (Pros and cons)

### ❖ For the Proposal

- ❖ Composition scheme should be liberal as pre-GST, manufacturer was exempt upto annual turnover of Rs 1.5 crore
- ❖ B2B – Reluctance to purchase from composition dealer as no ITC to recipient
- ❖ Cluster of ancillary units around a big manufacturing unit catering to the requirement of a big manufacturer
- ❖ Affects big manufacturers creating logistic issues and disrupting supply chain

### ❖ Against the Proposal

- ❖ Return will be complicated
- ❖ Taxpayers to upload their invoices and to follow matching procedure
- ❖ Composition supplier not allowed to collect tax from recipient
- ❖ When tax not paid by recipient, no ITC can be allowed
- ❖ ITC @ 1% /2% is not substantial to affect costing
- ❖ Major changes required in Law
- ❖ Major changes in GSTN architecture

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## ToR-3: Recommendation by GoM

- Differing views among members of the GoM
- Referred to the GST Council.

13



## ToR-4: Tax Structure on Restaurant (Pros and cons)

### ❖ Considerations for the Proposal

- ❖ Pre-GST: -All non-AC restaurants were exempt from service tax
  - AC Restaurants charged Service tax @ 6% (60% abatement)
  - VAT charged in the range of 5-15% by States
  - ITC was allowed on all goods and services (except for food items – chapter 1 to 22)
- ❖ In GST, tax on non-AC restaurant is already at 12% with ITC and it will not be fair to change it to 12% without ITC
- ❖ Simplify tax structure and reduce multiplicity of rates
- ❖ Difficult to enforce different rates of tax for the same restaurant based on AC and non-AC portion

### ❖ Reservations

- ❖ Large amount of ITC is taken on beverages which is at 28%.
- ❖ TRU's assessment: Revenue loss of about Rs.4000 crore on account of pruning of rate from 18% to 12%.

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## ToR-4: Recommendation by GoM

- No distinction in tax rate based on AC or Non-AC restaurants
- Tax rate @12% with ITC:
  - on all standalone restaurants with or without AC and whether or not serving liquor
  - on restaurant in hotel premises having room tariff less than Rs 7500/- per night
- Tax rate @18% with ITC, on restaurant in hotel premises having room tariff more than Rs 7500/- per night (even for single room)
- Tax rate @ 12% with ITC, on Outdoor catering
- Tax rate @1% recommended under Composition Scheme as part of ToR-1

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## General Recommendations

- B2C supplies should be inclusive of GST (GST break up be shown in the invoice by back calculation)
- Late fee be reduced to Rs 25/- per day each for CGST and SGST with a cap of Rs 5,000/-.
- No penalty for “Nil” return i.e. where no transaction (either of purchase or sale)
- Quarterly return for all taxpayers with monthly payment of tax.
- Simplification of all Returns.
- Simplification of classification of goods under HSN code.
- Simplification of the modalities of invoice matching in the return.
- Tax on advance payments be dispensed with for all taxpayers for goods.
- Last date for filing GSTR-2 be extended beyond 31 October 2017
- Late fee for GSTR-1, 2 and 3 should be waived.

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## Term of GoM.....to continue

- This report of GoM may be treated as an interim report of GoM
- GoM to continue to examine these issues further

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## Annexure 6

### GST System Project Update





- **Three meetings held**
- **First meeting 47 items identified for close monitoring**
- **9 more items identified in the 3<sup>rd</sup> meeting**



2

## GST System: Services Made Available



Registrations	Payments	Returns	Transitional Forms
Application for New Registration for Normal Taxpayer	Online Payments through <b>Internet Banking and NEFT/ RTGS</b>	Creation and saving of Outward Supplies Return in Form <b>GSTR-1</b>	<b>Tran Form 1</b> - Transitional ITC / Stock Statement
Application for New Registration (ISD)	Offline Payments- <b>Over the Counter</b>	Viewing of Invoices uploaded by Supplier in <b>GSTR-2A by Buyer</b>	<b>Tran Form 3</b> - Credit distribution
Application of Enrolment for GSTP	Creation and maintenance of <b>Electronic Cash Ledger</b>	Offline Utility for <b>GSTR-1</b> for upload of Invoices	<b>Tran Form 1</b> – Revised
Application to opt for Composition scheme	Form <b>GST PMT-07</b> - Grievance for payment	Creation, saving and filing of Return form <b>GSTR-3B</b>	
Application for Registration of casual dealer		Filing of Return Forms <b>GSTR-1</b> and <b>GSTR-2</b>	
Application for Amendment of Registration – for Core & non-core fields		Details of outward supplies of goods or services – <b>GSTR-1A</b>	
Revocation of rejected application		Offline Utility for <b>GSTR-2</b>	
Processing of Registration of Migrated dealers	<b>Refund</b>	Offline Tool for <b>GSTR-3B</b>	
Application for New Registration for TDS	Table 6A of GSTR 1 (facility to file their export data)	Offline tool for <b>ITC-04</b>	
Opt out from composition scheme	RFD-01 workaround to handle Refund of ITC of the inputs/input services attributed to export of goods	Offline Tool for GSTR-4	
<b>GST REG-29</b> - Cancellation of Registration of migrated taxpayers			
<b>Form GST CMP-03</b> - Intimation of details of stock and <b>CMP-03</b> (stock details for Composition taxpayers)			



3



## Data on Registration and Return



S.No	Details	Till Date
1	Total No. of new applications received for registration	34,62,976
2	No. of applications approved	<b>30,26,721</b>
3	No. of applications rejected	3,48,070
4	No. of applications which are still in process	88,185
5	No. of taxpayers who have opted for composition scheme (including new taxpayers)	<b>15,62,250</b>
6	No. of transited (migrated) taxpayers	71,87,148
7	Of which, how many are yet to be fully migrated	7,61,259
8	No. of GSTR 1 returns filed for the month of July	47,07,281
9	No. of GSTR 2 returns filed for the month of July	24,52,253
10	No. of 3 (B) returns filed for the month of July	57,33,149
11	No. of 3 (B) returns filed for the month of August	55,16,402
12	No. of 3 (B) returns filed for the month of September	49,74,811
13	No. of 3 (B) returns filed for the month of October	3,22,865
14	No. of GSTR4 returns filed for the September quarter	5,218
	Total Returns filed	<b>2,37,11,979</b>



4

## Major Issues raised



- **Data Sharing Issue**
- **API Release and Support**
- **Timeline Management**
- **Need to Deploy more trained Manpower for various applications**
- **Deployment of Resident Engineers**
- **Error Messaging improvement and more user friendly Interfaces**



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## Overall Status of Prioritized Functionalities



Details	Count
Total Prioritized Functionalities	48
Duplicate	1
Functionalities due on/before 28 <sup>th</sup> Oct 2017	27
Functionalities Made operational on GST Portal	17 (4 more made operational)
Operational Percentage	62.9%
Functionalities Made operational with a delay of 3 - 5 days	2
Functionalities Made operational with a delay of more than 5 days	6
Functionalities on track	10



6

## Further Improvement



1. Improvement of error messages
2. Complete review of error handling, error messaging by an expert agency
3. Provide preview before freezing the data in every form
4. Make user interface more user friendly



7



## E-way Bill: Pilot Status

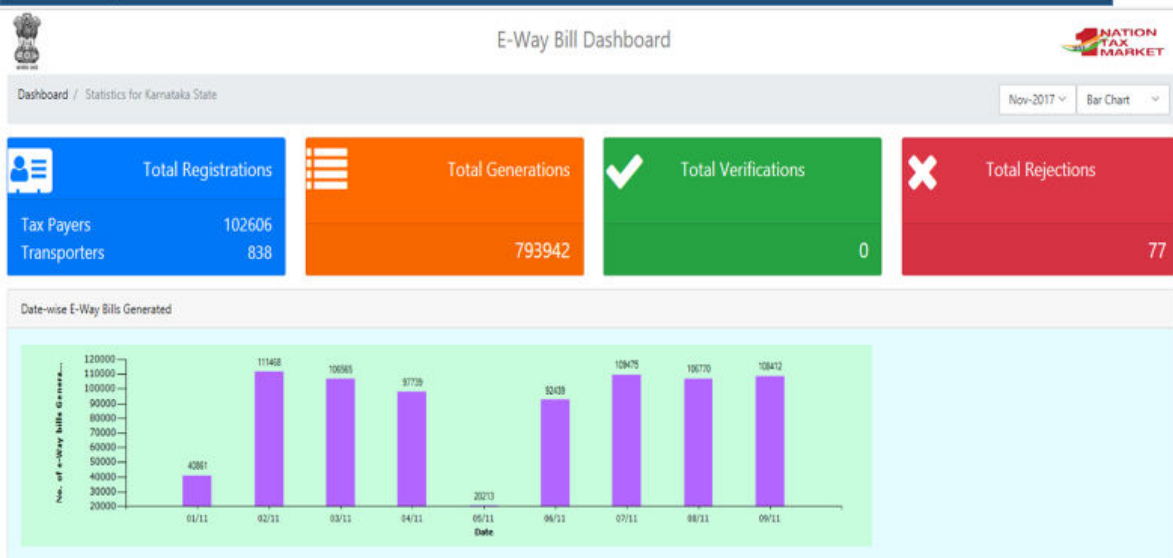


1. Started on 12<sup>th</sup> Sept in Karnataka on pilot basis
2. Total e-way bills issued in October: 2632637
3. Total verifications: 105
4. Total Rejections: 218
5. Tax Payers registered: 102608
6. Total Transporters registered: 838
7. Second batch of 6 States are going to implement it on pilot basis
  - a) Kerala,
  - b) Uttarakhand,
  - c) Gujarat,
  - d) Rajasthan,
  - e) Nagaland and
  - f) Madhya Pradesh
- a) Workshop scheduled on Monday 14<sup>th</sup> with deployment planned from 1st Dec.



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## E-way Bill Dashboard



9



## Status of Permanent Resident Engineers (as on 10<sup>th</sup> Nov)



#	CBEC / State / UT
1	CBEC
2	Delhi
3	Chandigarh
4	Haryana
5	Punjab
6	Tamil Nadu
7	Telangana
8	Assam
9	Dadra & Nagar Haveli
11	Karnataka
12	Madhya Pradesh
13	Manipur
14	Rajasthan
15	Tripura
16	West Bengal

#	State/UT	ETA for Permanent RE
1	Chhattisgarh	9-Nov-17
2	Jharkhand	9-Nov-17
3	Andhra Pradesh	13-Nov-17
4	Bihar	13-Nov-17
5	Goa	13-Nov-17
6	Gujarat	13-Nov-17
7	Himachal Pradesh	13-Nov-17
8	Jammu and Kashmir	13-Nov-17
9	Kerala	13-Nov-17
10	Maharashtra	13-Nov-17
11	Meghalaya	13-Nov-17
12	Mizoram	13-Nov-17
13	Nagaland	13-Nov-17
14	Odisha	13-Nov-17
15	Sikkim	13-Nov-17
16	Uttar Pradesh	13-Nov-17
17	Uttarakhand	13-Nov-17
18	Arunachal Pradesh	22-Nov-17
19	Puducherry	24-Nov-17
20	Daman & Diu	30-Nov-17
21	Lakshadweep	30-Nov-17
22	Andaman and Nicobar Islands	11-Dec-17

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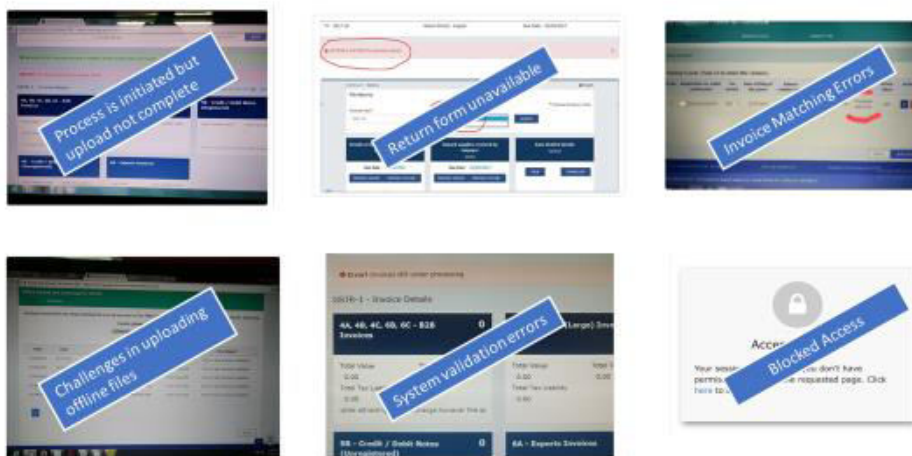
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**GST Return Filing (Experience & Suggestions)**







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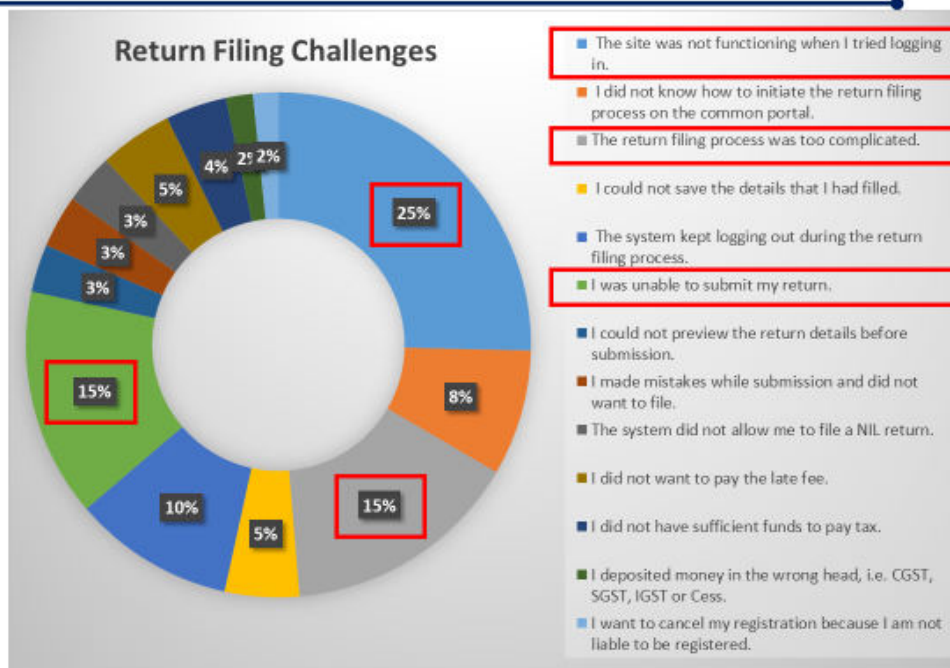
## Key Challenges Reported : Haryana Taxpayer Survey

- **System Failure and Website downtime** : The system is inaccessible at times and does not let the taxpayer log in to file returns. Session gets timed out frequently.
- **Mismatch errors** : Mismatch errors such as PAN mismatch etc. cause lot of stress for taxpayers.
- **Data transmitted but not uploaded** : Data was uploaded through offline utility or GSP but not updated in portal.
- Problems in E-Signing / Verification / Use of DSC etc.
- **File validation errors** : JSON file creation.
- **No Amendment option** : There is no option to amend the return once submitted or filed.
- **Online / Offline return filing** : Certain returns which needs more number of entries – not available offline.

.....and many more

3





4

## Root Cause Analysis

- **Real – Time Matching:** System had no real time matching before, which throws errors, hence de-incentivising the tax-payer
- **Tedious Return Forms :** The return forms are extremely complex and tedious, this coupled with a poor user interface makes it extremely difficult for taxpayers to file their returns.
- **User Interface / Product Management :** Taxpayer is confused what to submit and what to file, where liabilities will freeze, where payment can be refunded. A simple process flow with adequate training needs to be put in place.
- **High number of interventions :** 3 returns across 20 days, makes it impossible for the taxpayer to keep revisiting the system.
- **Human Errors / Rounding – off Errors :** With more than 13 Cr. invoices uploaded, human errors / clerical errors are bound to creep in.

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## GST Snapshot (Registrations & Returns)



Sl. No.	Details	As on 31.07.17	As on 07.11.17
1	No. of transited (migrated) taxpayers	71,28,581	71,96,446
2	Of which, how many are yet to be migrated	27,35,378	7,66,888
3	No. of completely migrated taxpayers (1-2)	43,93,203	64,29,558
4	Total No. of new applications received for registration (5+6+7)	13,51,336	34,30,356
5	No. of applications approved	10,56,973	29,78,841
6	No. of applications rejected	23,375	3,43,170
7	No. of applications which are still in process	2,70,988	1,08,345
8	<b>Total No. of taxpayers; new + migrated (3 + 5)</b>	<b>54,50,176</b>	<b>94,08,399</b>
9	No. of taxpayers who have opted for composition scheme	5,22,438	15,57,660
10	No. of 3 (B) returns filed for July, 2017	N/A	57,16,319
11	No of 3(B) returns filed for August, 2017	N/A	54,82,869
12	No of 3(B) returns filed for September, 2017	N/A	49,13,681
13	No of 3(B) returns filed for October, 2017	N/A	1,71,657
14	No. of GSTR 1 returns filed for July, 2017	N/A	47,03,216
15	No. of GSTR 2 returns filed for July, 2017	N/A	23,70,883

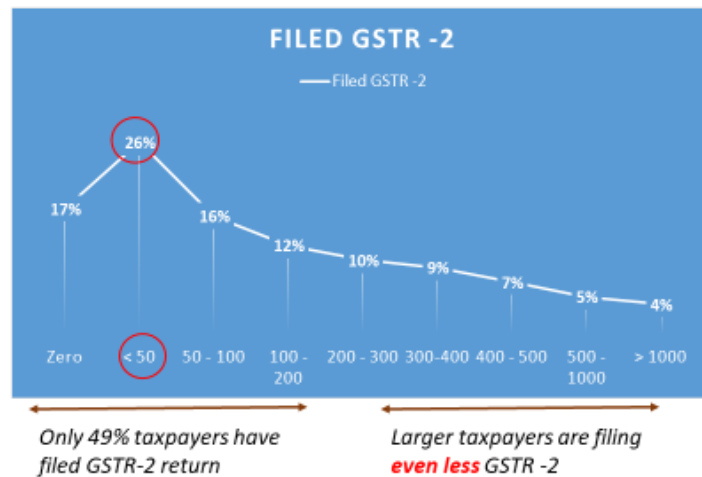
## GSTR-2 Statistics



INV_RANGE	Auto Drafted from GSTR1		Submitted GSTR2		Pending %	Accepted %
	NUM_TAXPAYERS	NUM_INVOICES	NUM_TAXPAYERS	NUM_INVOICES (including ones kept pending)	Tax Payers who are yet to accept the invoices uploaded and file GSTR-2	Taxpayers who have filed GSTR-2
Zero	50,490	-	42,026	-	83%	17%
1 to 50	41,83,835	4,12,83,704	10,76,245	93,68,834	74%	26%
51 to 100	2,48,305	1,73,37,498	39,364	27,10,300	84%	16%
101 to 200	1,13,785	1,56,96,997	13,664	18,51,528	88%	12%
201 to 300	33,435	81,17,910	3,224	7,79,200	90%	10%
301 to 400	14,630	50,38,522	1,254	4,30,141	91%	9%
401 to 500	7,747	34,56,247	577	2,56,498	93%	7%
501 to 1000	12,596	85,65,821	594	3,98,595	95%	5%
> 1000	7,609	3,16,91,138	315	9,19,792	96%	4%
<b>Total</b>	<b>46,72,432</b>	<b>13,11,87,837</b>	<b>11,77,263 (A)</b>	<b>1,67,14,888</b>		
<b>Nil GSTR-2 Returns</b>			<b>11,09,556 (B)</b>			
<b>Total GSTR-2</b>			<b>22,86,819 (A+B)</b>			



## Statistical Representation of GSTR-2



- **11.09 Lac GSTR-2 filed which do not have any inward invoice details – Nil Filers**
- **Key Challenge is to reconcile purchase data comprising of 1000s of invoices**

**Need to look at the entire return filing process for GSTR – 1,2 and 3**

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## Analysis of return filing data

Data from GSTR - 3B			
Month	Number of Total Filers (GSTR 3B)	Number of Nil Filers (GSTR 3B)	% of Nil Filers out of total returns (GSTR 3B)
July	57,04,428	24,20,389	42.43%
August	54,54,544	17,71,636	32.48%
September	48,61,126	14,16,532	29.14%
October	76,906	23,318	30.32%

Data from GSTR - 3B and GSTR 1						
Estimated yearly Turnover based on July month return declaration	Total Revenue for July (Rs. In Crore)	% of revenue as a % of total revenue	Cumulative Revenue Data (%)	Number of Returns Filed by these taxpayers	% of Returns filed ( out of total)	Cumulative Returns (%)
< 1.5 Cr	3874.59	5.58%	5.58%	3116601	54.64%	80.12%
< 2 Cr	766.98	1.10%	6.68%	22899	0.40%	80.71%
< 2.5 Cr	629.11	0.91%	7.59%	56865	1.00%	82.17%
< 5 Cr	2150.82	3.10%	10.69%	93499	1.64%	84.57%
< 25 Cr	6349.33	9.14%	19.83%	240692	4.22%	90.76%
< 100 Cr	7501.30	10.80%	30.63%	137964	2.42%	94.31%
ABOVE 100 Cr	48168.28	69.37%	69.37%	221423	3.88%	5.69%
<b>TOTAL</b>	<b>69440.40</b>	<b>100%</b>	<b>100%</b>	<b>3889943</b>	<b>68.20%*</b>	

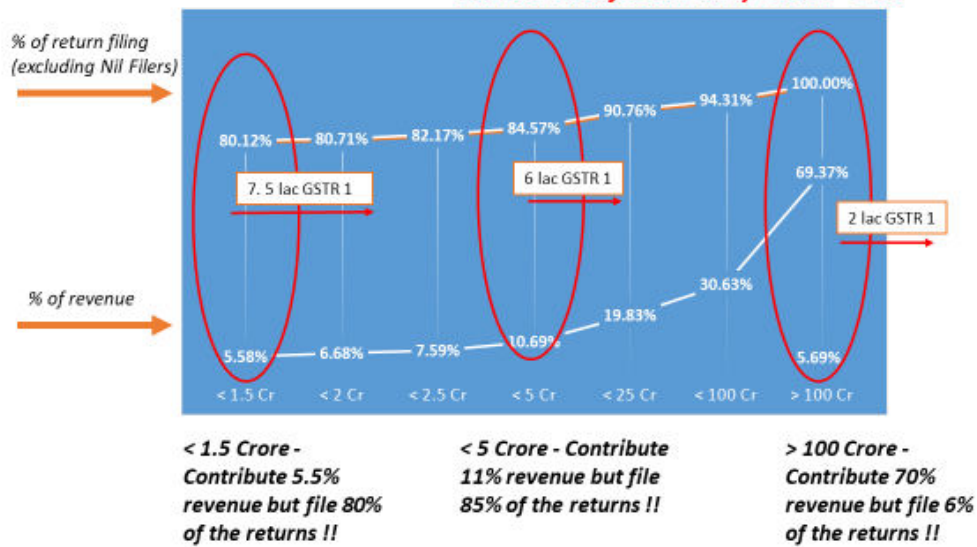
\* Excludes Nil Filers

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## What is the right turnover limit ?

### Who should file monthly GSTR – 1 ??



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## Proposed arrangement till March 2018..

	Oct	Nov	Dec	Jan	Feb	Mar	April 2018
Everyone <b>GSTR 3B</b>		20	20	20	20	20	20
Turnover < 5 Cr <b>GSTR 1</b>				For the whole year →			10
Turnover > 5 Cr <b>GSTR 1</b>			10*	10	10	10	10
Everyone <b>GSTR 2</b>							15
Composition <b>GSTR 4</b>				18			18
Total Returns →		57 lacs	63 lacs	78 lacs	63 lacs	63 lacs	1.85 Cr
Total Returns (Excl. Nil returns) →		39 lacs	45 lacs	60 lacs	45 lacs	45 lacs	1.32 Cr

- ✓ GSTR -3 done away with till March 2018...
- ✓ Rolling 2A will be available for taxpayers
- ✓ Relook at GSTR 1,2,3 – Forms and Frequency for FY 2018-19 onwards

\* All GSTR-1 from Aug - Nov

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## Proposed Timelines for GSTR 3B & GSTR 1

- **GSTR 3B** proposed for every taxpayer – to be filed by 20<sup>th</sup> of the succeeding month
- **GSTR -1** - Two categories of taxpayers proposed:

✓ **Quarterly filing** - Turnover upto Rs. 1.5 crore

Period	Proposed Dates
Jul – Sept	31 <sup>st</sup> Dec 2017
Oct – Dec	15 <sup>th</sup> Feb 2018
Jan – Mar	30 <sup>th</sup> Apr 2018

✓ **Monthly filing**- Turnover above Rs. 1.5 crore

Period	Proposed Dates
Jul – Oct	31 <sup>st</sup> Dec 2017
Nov	10 <sup>th</sup> Jan 2018
Dec	10 <sup>th</sup> Feb 2018
Jan	10 <sup>th</sup> Mar 2018
Feb	10 <sup>th</sup> Apr 2018
Mar	10 <sup>th</sup> May 2018

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## Proposed Timelines for GSTR 2 & GSTR 3

- Detailed proposal to be worked out by a Committee of Officers headed by Chairperson (GSTN) & comprising of CCTs of Andhra Pradesh, Gujarat, Punjab & Karnataka; Commissioner (GST), CBEC; Commissioner (Central Excise), CBEC; Joint Secretary (Revenue), GOI and CEO (GSTN)
- Final notification to be issued with the approval of the Chairman of the GST Council

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## **Agenda Item 2: Introduction of a nationwide E-Way Bill System with effect from 01.01.2018**

The decision of the GST Council in its 22nd meeting was that the e-way bill system under GST shall be rolled out nation-wide with effect from 1st April, 2018 and a staggered roll out would be done from 1st January, 2018. As per rule 138 of the CGST Rules, 2017, the Central Government is empowered to notify the documents that the person in charge of a conveyance carrying any consignment of goods shall carry while the goods are in movement or in transit storage. It had also been decided by the Council that the Central Government shall not notify any documents till March, 2018 so as to facilitate taxpayers during the transition phase to GST.

2. The issue was further discussed in 23rd meeting of GST Council held on 09.11.17 at Guwahati, and it was decided that the E-way bill rules notified by the State governments for inter-State supply under rule 138 of respective SGST Rules, 2017 would be deemed to be notified by the Central Government under Rule 138 of CGST rules, 2017. However, this decision could not be implemented in view of the objections raised by the Union Law Ministry.

3. As a consequence of the above, a lot of hardship is being faced by trade in absence of any definitive legal provisions governing inter-state movement of goods across the country. Some States have prescribed their own set of E-way bill rules under the SGST Act. Some of these State E-way bill rules also govern inter-state movement of all goods originating from or terminating in these states. This has made compliance very difficult for businesses transporting goods across multiple states.

### **4. Current Status of e-way Bill Project**

4.1 The e-way bill project is being executed by NIC for which an advance of Rs 40 Crores was given to NIC in August 2017 for procurement of HW/SW and engaging manpower. NIC has designed and developed the E-way Bill System as per New Rules and it has been rolled out successfully in Karnataka from 12<sup>th</sup> Sep 2017 where more than 1.1 Lakhs of E-way bills are being generated every day now. NIC and CTD-Karnataka had number of interactions with Tax payers and Transporters in streamlining the system. More than 106000 Tax Payers are registered and 850+ Transporters are enrolled on the system and using the same to generate e-way bills in Karnataka. All modes of generation of EWB are in place – WEB, SMS, App, API. ICT infrastructure has been procured by NIC for all India roll out. The hardware is installed at NDC, New Delhi and installation will be started soon at NDC, Pune.

4.2 NIC has conducted One Day Trainers Workshop in Bangalore on 14<sup>th</sup> November for 40 Officers of 5 States – Kerala, MP, Nagaland, Rajasthan and Uttarakhand. These States are planning to deploy the solution from mid-December. Regular VC sessions are being held by the development team with these states to facilitate them to test and introduce the application to users. They have conducted the training and awareness programmes for their stakeholders. Process of on-boarding these states is in progress. Another round of training was conducted on 7<sup>th</sup> of Dec for officers of Gujarat, Jharkhand and Meghalaya and Puducherry. They are practicing and conducting the training and awareness programmes for their stake holders. These States are planning to deploy the solution from 1<sup>st</sup> of January 2018.

4.3 On 14<sup>th</sup> and 15<sup>th</sup> Dec, training of master trainers of remaining states has been organized. These master trainers in turn will go and train the officers/staff of their states as well as transporters. As per experience of ten states where such training has been conducted, it takes around 4 weeks to train the stakeholders and start the process. They are also given one-week time to practice on the new system.

5. The matter was discussed in the detailed review meeting on revenue collection/trend in GST regime held in Vigyan Bhawan, New Delhi on 9th December, 2017. All the Centre and the State officers present in the meeting agreed that the absence of a nation-wide E-way bill system is causing significant leakages



in the flow of tax revenue to the Centre or the State Governments. In view of the importance of having a robust E-way bill system in ensuring buoyancy of revenue collections and to facilitate seamless movement of goods across the country, the following was agreed to in the said meeting:

- i. Introduction of a nation-wide E-way bill system with effect from 01.01.2018.
  - ii. Notification of rule 138 to rule 138D of the CGST Rules, 2017 with effect from 01.01.2018. By virtue of Section 20 of the IGST Act, this will also make the said rules applicable under the IGST Act, 2017. This will make the said E-way bill rules, and the documents prescribed therewith, applicable for all intra-state and inter-state movement of goods throughout the country.
  - iii. However, in view of the reservations expressed by some states regarding their preparedness to implement such a system by 01.01.2018 for intra-state supplies, it was decided that such states, by exercising the powers under rule 138A (5), a state may allow all intra-state movement of goods to be accompanied by a tax-invoice, bill of supply or deliver challan, as the case may be, instead of an E-way bill. The Principal Chief Commissioner of Central Tax in charge of the state may issue conjoint notification to this effect with the Commissioner of Commercial Taxes of that state.
  - iv. Further, some states also expressed reservations regarding the threshold of Rs. 50,000 prescribed under rule 138 of the CGST Rules. It was decided that this limit which had already been agreed upon and may be continued for the time being.
6. The Hon'ble GST Council may grant its approval for the proposals at para 5 above.

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### **Agenda Item 3: Any other agenda item with the permission of the Chairperson**

#### **Agenda Item 3(i): Refund of provisionally accepted Input Tax Credit**

In order to alleviate the problem of capital blockage faced by trade and industry due to the non-availability of the refund module on the common portal, the GST Council in the 22<sup>nd</sup> Meeting recommended that the applications / documents / forms pertaining to refund claims on account of zero-rated supplies shall be filed and processed manually till further orders.

2. Further, on the recommendations of the GST Council, the due dates for filing of details in **FORM GSTR-2** and the return in **FORM GSTR-3** have been postponed till further orders while the return filing frequency of the details in **FORM GSTR-1** is monthly for registered persons having aggregate turnover above Rs. 1.5 crores and quarterly for those having aggregate turnover upto Rs. 1.5 crores.

3. The report of the Committee on Exports set up by the GST Council dealt with the issue of delays in grant of refunds of IGST and input tax credit on goods and services used in exports. This was discussed in the 22<sup>nd</sup> meeting of the GST Council held on 6<sup>th</sup> October, 2017. Due to various reasons like non-availability of **FORM GSTR-1** for the month of August, 2017 and subsequent months till the cycle of filing **FORM GSTR-1**, **FORM GSTR-2**, **FORM GSTR-3** is completed for previous months and lack of readiness of refund module in GSTN, it was decided to process refunds manually till such time the system related issues were resolved.

4. Thus, in view of the above relaxations of the due dates for filing the details in **FORM GSTR-1** and **FORM GSTR-2** and the return in **FORM GSTR-3** together with manual processing of refunds, it was decided to grant refunds on the basis of details furnished in the return in **FORM GSTR-3B** which captures the details of tax liability and tax payment by the registered persons on a monthly basis. Accordingly, the Law Committee proposed issuance of a Circular which was issued by the GST Policy Wing, CBEC (Circular No. 17/17/2017-GST dated 15/12/2017 refers).

5. Whereas, section 54(6) of the CGST Act, 2017 reads as follows:

*(6) Notwithstanding anything contained in sub-section (5), the proper officer may, in the case of any claim for refund on account of zero-rated supply of goods or services or both made by registered persons, other than such category of registered persons as may be notified by the Government on the recommendations of the Council, refund on a provisional basis, ninety per cent. of the total amount so claimed, **excluding the amount of input tax credit provisionally accepted**, in such manner and subject to such conditions, limitations and safeguards as may be prescribed and thereafter make an order under sub-section (5) for final settlement of the refund claim after due verification of documents furnished by the applicant.*

6. Doubts have been raised about granting refunds of provisional credit as it appears to be not in line with the provisions of section 54(6) of the CGST Act which states that refund on provisional basis should exclude the amount of input tax credit which has been provisionally accepted.

7. In this regard, it is sought to clarify that in light of the fact that the return in **FORM GSTR-3B** is being filed by the registered persons which also entails tax payment and since the due dates for filing the details in **FORM GSTR-2** and the return in **FORM GSTR-3** have been postponed till further orders, the registered person should be allowed refund of accumulated input tax credit in case of zero-rated supplies and inverted duty structure as well as IGST paid on export of goods and services or both though the matching of input tax credit has not taken place. This can be done in terms of provisions contained in section 148 of the CGST Act, 2017. It may be submitted that as per section



42 of the CGST Act, in case it is found that excess credit has been claimed by the recipient and the same is not corrected within the stipulated time, the said amount shall be added to the output tax liability of the recipient in his return along with interest. Further, as per sections 73 and 74 of the CGST Act, erroneous refund or wrongly availed or utilized input tax credit is liable to be recovered along with interest and penalty.

8. The GST Council is requested to approve the proposal, in exercise of the provisions contained in section 148 of the CGST Act, 2017, to clarify that registered persons would be allowed refund of accumulated input tax credit in case of zero-rated supplies and inverted duty structure as well as IGST paid on export of goods and services or both though the matching of input tax credit has not taken place.

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