

Confidential



Agenda for 26th GST Council Meeting

10 March 2018



File No: 106/26th GSTC Meeting/GSTC/2018
GST Council Secretariat

Room No.275, North Block, New Delhi

Dated: 28 February, 2018

Notice for the 26th Meeting of the GST Council scheduled on 10 March 2018

The undersigned is directed to refer to the subject cited above and to the earlier meeting notice dated 21 February 2018 and to say that in view of the extensive agenda items for discussion, the 26th Meeting of the GST Council will now be held on 10 March 2018 at Hall No 2-3, Vigyan Bhavan, New Delhi. The schedule of the meeting is as follows:

- Saturday, 10 March 2018 : 11:00 hours onwards

2. In addition, an Officer's Meeting will be held on 9 March 2018 at Hall No 2-3, Vigyan Bhavan, New Delhi as follows:

- Friday, 9 March 2018 : 14:30 hours onwards

3. The agenda items for the 26th Meeting of the GST Council will be communicated in due course of time.

4. 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 26th Meeting of the GST Council on 10 March 2018

1. Confirmation of the Minutes of 25th GST Council Meeting held on 18th January, 2018
2. Deemed ratification by the GST Council of Notifications, Circulars and Orders issued by the Central Government
3. Decisions of the GST Implementation Committee (GIC) for information of the Council
4. Review of Revenue position for the month of January and February, 2018 under GST
5. Accounting for provisional settlement of IGST and devolution of balance IGST at the end of any financial year
6. Amendments to Anti-profiteering Rules
7. Grievance Redressal Mechanism in GST regime in light of recent judgements of Hon'ble High Courts of Allahabad and Mumbai
8. Extension of suspension of reverse charge mechanism under section 9(4) of the CGST Act, 2017, section 5(4) of the IGST Act, 2017 and section 7(4) of the UTGST Act, 2017 and provisions relating to TDS (section 51) and TCS (section 52)
9. Minutes of 6th and 7th Meeting of Group of Ministers (GoM) on IT Challenges in GST Implementation for information of the Council and discussion on GSTN issues
10. Decision of date of reintroduction of e-Way Bill requirement
11. Status of e-Wallet scheme for exports and decision on continuance of payment of IGST through advance authorization, EPCG, etc. / exemption to EOU and SEZ units
12. New System of Return Filing
13. Applicability of Goods and Services Tax on Extra Neutral Alcohol (ENA)
14. Any other agenda item with the permission of the Chairperson
15. Date of the next meeting of the GST Council

TABLE OF CONTENTS

<u>Agenda No.</u>	<u>Agenda Item</u>	<u>Page No.</u>
1	Confirmation of the Minutes of 25 th GST Council Meeting held on 18 th January, 2018	6
2	Deemed ratification by the GST Council of Notifications, Circulars and Orders issued by the Central Government	107
3	Decisions of the GST Implementation Committee (GIC) for information of the Council	108
4	Review of Revenue position for the month of January and February, 2018 under GST	127
5	Accounting for provisional settlement of IGST and devolution of balance IGST at the end of any financial year	132
6	Amendments to Anti-profiteering Rules	138
7	Grievance Redressal Mechanism in GST regime in light of recent judgements of Hon'ble High Courts of Allahabad and Mumbai	140
8	Extension of suspension of reverse charge mechanism under section 9(4) of the CGST Act, 2017, section 5(4) of the IGST Act, 2017 and section 7(4) of the UTGST Act, 2017 and provisions relating to TDS (section 51)/TCS (section 52)	144
9	Minutes of 6 th and 7 th Meeting of Group of Ministers (GoM) on IT Challenges in GST Implementation for information of the Council and discussion on GSTN issues	146
10	Decision of date of reintroduction of e-Way Bill requirement	178
11	Status of e-Wallet scheme for exports and decision on continuance of payment of IGST through advance authorization, EPCG, etc. / exemption to EOU and SEZ units	181
12	New System of Return Filing	183
13	Applicability of Goods and Services Tax on Extra Neutral Alcohol (ENA)	189
14	Any other agenda item with the permission of the Chairperson	-
15	Date of the next meeting of the GST Council	-

Discussion on Agenda Items

Agenda Item 1: Confirmation of Minutes of 25th GST Council Meeting held on 18 January, 2018

Draft Minutes of the 25th GST Council Meeting held on 18 January, 2018

The twenty fifth Meeting of the GST Council (hereinafter referred to as ‘the Council’) was held on 18 January, 2018 in Vigyan Bhawan, New Delhi 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, the Goods and Services Tax Network (GSTN) and Infosys who attended the meeting is at **Annexure 2**.

2. The following agenda items were listed for discussion in the 25th Meeting of the Council: –
 1. Confirmation of the Minutes of 24th GST Council Meeting held on 16 December 2017
 2. Revenue collected in the month of November and December 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. Minutes of 4th and 5th Meeting of Group of Ministers (GoM) on IT Challenges in GST Implementation for information of the Council and discussion on GSTN issues
 6. Recommendations of the ‘Committee on Returns Filing’ on Simplification of Returns under GST
 7. Issues recommended by the Law Committee for consideration of the GST Council
 8. Recommendations of the Committee on Handicrafts
 9. Changes proposed to be made in the CGST Act, 2017, SGST Acts, the IGST Act, 2017 and the GST (Compensation to States) Act, 2017
 10. Issues recommended by the Fitment Committee for the consideration of the GST Council
 - i. Recommendations on Goods
 - ii. Recommendations on Services
 11. Carry forward items from the previous Council Meeting
 - i. Presentation on GST in Real Estate sector
 - ii. Incentivising Digital Payments in GST regime
 12. Transfer of shares of Empowered Committee (EC) in GSTN to the State of Telangana
 13. Any other agenda item with the permission of the Chairperson
 - i. Proposal to declare the sale of goods in Customs bonded warehouse and goods sold as high sea sales as ‘no supply’ under Schedule III of the CGST Act, 2017

- ii. Proposal to reduce penalty under section 122(1)(xiv) of CGST Act, 2017 (e-way bills) in exercise of powers under section 128 of the Act
- iii. Restriction of Transitional Credit in certain cases through the provision for removal of difficulty under Section 172 of CGST Act
- iv. Exclusion of Cesses not specified in the list of eligible duties from Transition

14. Date of the next Meeting of the GST Council

3. The Hon'ble Chairperson welcomed the Hon'ble Members of the Council. He welcomed Shri Jai Ram Thakur, Hon'ble Chief Minister of Himachal Pradesh as the new Member of the Council. He placed on record the Council's appreciation of the contribution of Shri Prakash Chaudhary, the earlier Member of the Council from Himachal Pradesh. After these preliminary comments, the Hon'ble Chairperson took up discussion on the agenda items.

Discussion on agenda items

Agenda item 1: Confirmation of the Minutes of the 24th GST Council meeting held on 16 December, 2017

4. Dr. Hasmukh Adhia, Union Finance Secretary and Secretary, GST Council (hereinafter referred to as 'the Secretary') informed that the Government of Rajasthan had requested for a change in the version ("The Hon'ble Minister from Rajasthan suggested to start inter-State and intra-State e-Way Bill system together from 1 February, 2018 or 1 April, 2018") of the Hon'ble Minister from Rajasthan recorded in paragraph 6.13 of the Minutes with the following: 'The Hon'ble Minister from Rajasthan stated that they were a part of the pilot programme of e-Way Bill implementation starting from 20.12.2017 and that they were ready for inter and intra-State implementation from 1.2.2018 or 1.4.2018, on whatever date the Council decided. He supported the view of the Hon'ble Minister from Haryana as there should not be any distinction between the date of implementation of e-Way Bill for both inter and intra-State transactions.' The Council agreed to change the version of the Hon'ble Minister from Rajasthan recorded in paragraph 6.13 of the Minutes, as proposed above. The Secretary invited any other comments on the Minutes. No other comments were received.

5. In view of the above, for **agenda item 1**, the Council decided to adopt the Minutes of the 24th Meeting of the Council with the following change:

5.1. To replace the version of the Hon'ble Minister from Rajasthan in paragraph 6.13 of the Minutes with the following: 'The Hon'ble Minister from Rajasthan stated that they were a part of the pilot programme of e-Way Bill implementation starting from 20.12.2017 and that they were ready for inter and intra-State implementation from 1.2.2018 or 1.4.2018, on whatever date the Council decided. He supported the view of the Hon'ble Minister from Haryana as there should not be any distinction between the date of implementation of e-Way Bill for both inter and intra-State transactions.'

Agenda item 2: Revenue collected in the month of November and December 2017 under Goods and Services Tax, including the revenue accruing to Centre and States through settlement of funds

6. The Secretary invited Shri Udai Singh Kumawat, Joint Secretary, Department of Revenue (DOR), to make a presentation on this Agenda item.

6.1. The Joint Secretary, DOR, made a presentation (attached as **Annexure 3** of the Minutes). He informed that revenue collection during the month of November, 2017 was Rs. 85,931 crore and during December, 2017, it was Rs. 83,716 crore. He stated that the revenue collection showed a declining trend. He stated that the combined revenue shortfall for States during the month of November, 2017,

after taking into account 14% assured rate of growth and the CGST and SGST settlement, was Rs. 8,989 crore and during December, 2017, it was Rs. 8,894 crore. He stated that as the monthly collection of Cess was around Rs. 7,500 crore, the combined revenue shortfall of the States in excess of this amount was a cause for concern. He added that steps had already been initiated to improve revenue collection by introduction of e-Way Bill system and initiating the proposal for invoice matching. He observed that States with less than 10% revenue shortfall were Mizoram, Arunachal Pradesh, Manipur, Tamil Nadu and Maharashtra. He pointed out that for Tamil Nadu and Maharashtra, revenue shortfall, after taking into account 14% assured growth rate, was very small at 6% and 7% respectively, which was very commendable. He stated that eight States had revenue shortfall between 10% and 20% and these were Telangana, Delhi, Nagaland, Andhra Pradesh, Haryana, Uttar Pradesh, Gujarat and Rajasthan. He stated that the biggest area of concern was with respect to States having shortfall of more than 20% in December, 2017, which included 18 States.

6.2. The Hon'ble Minister from Jammu & Kashmir stated that for smaller States like Jammu & Kashmir, the tax base would be small whereas the tax base of a big State like Maharashtra would be very large, and therefore, even a 7% revenue shortfall in terms of absolute quantum of revenue would be much higher for Maharashtra than 36% revenue shortfall for the State of Jammu & Kashmir. He added that the higher tax revenue collection of Tamil Nadu and Maharashtra need not necessarily be on account of better tax collection effort but it was because they would be getting a substantial share of tax revenue from services, which they were not getting earlier. He added that the results of revenue collection figures were so far counter-intuitive as the consumption States were not getting higher revenue as they were expected to. The Secretary stated that for bigger States, higher revenue could also be explained by higher consumption in addition to additional revenue from Service Tax.

6.3. The Hon'ble Minister from Punjab stated that his State had suffered a huge shortfall of revenue of about 45% in December, 2017 and requested Dr. Arvind Subramanian, Chief Economic Advisor, Ministry of Finance, to conduct a study as to why the tax revenue of Punjab had fallen so steeply which was not expected. The Secretary stated that earlier Punjab was getting revenue on the purchase tax for food grains exported to all other States, whereas now under GST, due to it being a destination-based tax, Punjab was getting revenue only to the extent of consumption by its citizens.

6.4. The Hon'ble Deputy Chief Minister of Bihar stated that an amount of Rs.1,35,000 crore was lying in the IGST account, which had not been settled as yet. He suggested that this amount could be distributed among the States. The Secretary stated that there was a big gap of time between the point of production of goods and the point of sale and that the revenue would accrue to both the Central Government and the State Governments when goods were actually sold in the market. Until then, IGST would remain accumulated and expressed hope that after three months, revenue would pick up with goods being actually sold to buyers. He stated that this would lead to reduction in the accumulated amount of IGST and increase in the IGST settlement amount. He added that some amount from the IGST kitty, such as the input tax credit on exempt goods, would get devolved to the States. However, as per the law, this could be done after the expiry of due date for furnishing the annual return. He suggested that a provisional settlement from IGST account could be done on the basis of the accrued amount and final settlement could be done later on. The Hon'ble Chairperson observed that the settlement amount for CGST and SGST was increasing over the months and expressed the hope that surplus in the IGST account would come down in the coming months. He stated that Punjab's concern would also partly be met by increase in the IGST settlement amount. The Hon'ble Deputy Chief Minister of Delhi suggested that the accumulated amount of Rs.1,35,000 crore should be reflected in the State ledgers. The Secretary explained that IGST amount was a pooled amount and it was not reflected State ledger-wise. A supplier in one State could use the IGST credit though IGST was paid in another State. He stated that only a provisional settlement of some amount could be given which could be based on

the base revenue figure of 2015-16 and States' share in the same. The Hon'ble Deputy Chief Minister of Delhi observed that a large amount was lying idle under IGST. The Secretary clarified that this amount actually constituted part of the Consolidated Fund of India.

6.5. The Hon'ble Minister from Jammu & Kashmir suggested to transfer 50% of the surplus IGST amount to create a Transition Financing Facility, and use this amount for purposes like export refund, compensation to States and for liquidity management issues. The Hon'ble Minister from Kerala suggested that Rs.1 lakh crore could be taken out from the accumulated IGST account and distributed to the States on provisional basis. The Secretary stated that the amount collected under IGST could not be used for any purpose other than settlement of funds between Centre and States. He further suggested that out of Rs.1,35,000 crore lying in IGST account, a sum of Rs. 35,000 crore could be taken out and divided equally between the Centre and the States and from the States' share, it could be distributed as a provisional settlement to different States based on their share of collection of taxes subsequently subsumed under GST during the base year 2015-16. He added that necessary changes in rules could be made for this. The Hon'ble Deputy Chief Minister of Bihar supported this suggestion. The Council agreed to this suggestion.

6.6. The Hon'ble Minister from Kerala stated that the data presented showed that percentage of return filing had gone down and the projection of revenue for December 2017 was based on low return filing. He stated that the other question was regarding other forms of leakage of revenue. He observed that the consumer States were lagging in revenue collection and their settlement from IGST should have been higher. He added that presently, the figures of tax from SGST and IGST settlement were almost the same, whereas due to the destination principle, higher taxes should have accrued to the consumer States through IGST settlement. He added that if the SGST collection is 'x', then IGST settlement should be around '2x' for the consumer States like Kerala. He observed that this showed substantial revenue leakage in the inter-State movement of goods.

6.7. The Secretary stated that the experience showed that initially, due to fear of matching etc., return filing was high but now over a period of time, the taxpayers had started taking it easy. He stated that e-Way Bill system was being introduced to plug revenue leakage. He observed that the return filing system also needed to have a method of invoice-wise matching. He added that difference between GST and VAT period was that in the GST regime, the power of information technology could be harnessed. He stated that it would be preferable to start a system of return filing with invoice matching from 1 April, 2018. He observed that the e-Way Bill system was to be introduced from 1 February, 2018. He stated that from now onwards, all officers of State Governments and the Central Government would need to get into some kind of enforcement action as the figures of revenue collection from composition taxpayers was shockingly low.

6.8. The Hon'ble Chairperson observed that IGST was part of the answer to Punjab's question and another reason for the problem could be due to non-compliance. He observed that the problem of non-compliance would be common to all States. He stated that presently, the tax administrations were working on the basis of trust but analysis of data showed that some anti-evasion steps would also need to be taken. Shri R.K. Tiwari, Additional Chief Secretary (ACS), Uttar Pradesh, stated that his State had one of the largest number of composition dealers (about 3 lakh) and their turnover was also on the lower side. Despite this, the revenue of Uttar Pradesh had been good and one reason for this could be their early implementation of e-Way Bill system from August, 2017 and imposition of heavy penalty for violation of the e-Way bill rules. He stated that this would have helped them in better revenue recovery. He supported undertaking enforcement action.

6.9. The Hon'ble Chief Minister of Puducherry stated that there was a large inflow of tourists in his State but revenue was not growing. He hoped that with the introduction of e-Way Bill system, evasion

of tax would be reduced. He emphasised the need for the States to keep a watch on the traders, especially the big ones. Shri Somesh Kumar, Principal Secretary (Revenue), Telangana, stated that his State had been collecting arrears under the VAT regime to the tune of Rs.100 crore per month and this should get deducted while calculating compensation amount. He suggested that in the information sheet circulated by the Department of Revenue on compensation, a column should be added to indicate the amount of tax recovered from the earlier VAT period in order to get an idea as to how arrears collection was progressing across the States. He also suggested that compensation should be paid every month. Joint Secretary, DOR, pointed out that the provision of bi-monthly compensation was part of the law. The Secretary supported the first suggestion of the Principal Secretary (Revenue), and stated that the compensation figures sent to the States should also have a column indicating the amount of arrears of VAT collected during the relevant months. The Council agreed to this suggestion. The Secretary added that it was important for the State Government officers to also focus their attention on recovery of arrears of revenue.

7. For **agenda item 2**, the Council took note of the GST revenue analysis for the months of November and December, 2017. Furthermore, the Council approved the following:

- i. Out of Rs.1,35,000 crore lying in the IGST account, a sum of Rs. 35,000 crore shall be provisionally settled between the Centre and the States. 50% of this amount shall be allocated to the Central Government and the remaining 50% shall be provisionally distributed between the States based on their share of collection of taxes subsequently subsumed under GST during the base year 2015-16, and necessary changes in rules shall be made for this;
- ii. The figures of compensation sent to the States shall have a column indicating the amount collected by each State by way of recovery of VAT arrears during the relevant months.

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

8. The Secretary stated that the Notifications No. 55 to 75 of 2017 and 01 of 2018 of Central Tax, Notifications No. 41 to 47 of 2017-Central Tax (Rates), Notifications No.12 of 2017 of Integrated Tax, Notifications No. 43 to 50 of 2017 of Integrated Tax (Rate), Notification No.01 of 2018 of UT Tax and Notifications No. 41 to 47 of 2017 of UT Tax (Rate) were placed before the Council for deemed ratification. Similarly, Circulars No. 14 to 26 of 2017 and 27 and 28 of 2018 issued under CGST Act and Orders No. 09 to 11 of 2017 were placed before the Council for deemed ratification. He informed that this was also part of the presentation of Shri Upender Gupta, Commissioner (GST Policy), CBEC, which was circulated to the Members of the Council (attached as **Annexure 4** of the Minutes).

9. The Council agreed to the deemed ratification of the notifications, circulars and orders as listed in the agenda note which are available on the CBEC website, namely www.cbec.gov.in.

10. For **Agenda item 3**, the Council approved deemed ratification of the notifications, circulars and orders mentioned at paragraph 8 above which are available on the CBEC website, www.cbec.gov.in.

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

11. The Secretary stated that the decisions taken by GIC were discussed during the meeting of the officers of the Central Government and the State Governments held on 11 January, 2018. He added that the decisions of GIC were summarised in the presentation of the Commissioner (GST Policy), CBEC, circulated before the Meeting of the Council (attached as **Annexure 4** of the Minutes) and it was placed before the Council for information. The Council took note of the decisions of the GIC.

12. For **Agenda item 4**, the Council took note of the decisions of the GIC.

Agenda item 5: Minutes of 4th and 5th Meeting of Group of Ministers (GoM) on IT Challenges in GST Implementation for information of the Council and discussion on GSTN issues

13. The Secretary invited the Hon'ble Deputy Chief Minister of Bihar, the Convenor of the Group of Ministers (GoM) on IT Challenges in GST Implementation to brief the Council regarding the deliberations of GoM. The Hon'ble Deputy Chief Minister of Bihar stated that the GoM had held a meeting on 17 January, 2018 and the review showed that overall, there was a good progress and that Infosys was performing well. There were much fewer complaints regarding the network and the system. He further stated that NIC made a presentation on e-Way Bill system and they suggested to delay implementation of intra-State e-Way Bill system by another 15 days to a month so that taxpayers/transporters get a chance to first work on the inter-State e-Way bill system and then proceed to intra-State e-Way bill system. During this one month, e-Way Bill system for intra-State movement could be operated on a trial basis. As regards the functioning of GSTN, he stated that glitches and mismatch count were reduced. Further, the reconciliation between count of records (registration, challan and returns) sent as consolidated report daily and the records pulled by CBEC and Model-1 States had improved a lot and less than 1% data reconciliation was left for States of Tamil Nadu, Maharashtra and Kerala for returns. He added that Infosys had placed resident engineers in all 37 locations and they were assisting in resolving issues. He informed that out of 43 prioritised functionalities, 93% had been operationalised. As regards prioritised Forms, he informed that out of 69 such Forms, 47 had been made available. He further added that on 10 January, 2018, more than 12 lakh returns were filed on a single day. In short, the progress was satisfactory and the issues and complaints had reduced, when compared to the situation earlier. He then invited Shri Prakash Kumar, Chief Executive Officer, GST Network (CEO, GSTN) to make a more detailed presentation, giving GST system update.

13.1. The CEO, GSTN, in his presentation (attached as **Annexure 5** of the Minutes) gave an overview of the services made available on GST portal; highlights from GoM Meeting; e-Way Bill status; and statistics on Return Filing. He informed that as regards services made available on GST portal, majority of services, such as Registration, Return, Payment and Transitional Forms had been made available. As regards Refund, some workaround was done as GSTR-2 had been suspended. They were working on making the services fully functional. He stated that as on 16 January, 2018, a total of 5.25 crore returns were filed; 154.47 crore invoices were processed; 35.21 lakh new registrations were approved; 64.11 lakh migrated taxpayers were registered; 17.08 lakh taxpayers opted for composition scheme; and 1.83 crore payment transactions were processed. He also informed that 1.46 crore GSTR-1 returns had been filed till 10 January, 2018 and that the GSTR-1 filing from 1 January to 10 January, 2018 was 48.07 lakh, which was about 33% of the GSTR-1 returns filed. He informed that the taxpayer base as on 18 January, 2018, which was validated and approved, was 99.32 lakh and this showed an increase in the taxpayer base by 53% from the commencement stage and 15% from enrolment stage. He stated that GSTR-3B filing for the month of July, 2017 (till 14 January, 2018) was 92% and some taxpayers were still filing GSTR-3B for July, 2017. He further stated that GSTR-3B filing was 87% for August, 2017; 83.51% for September, 2017; 78.99% for October, 2017 and 72.18% for November, 2017. The periods for which late fee waiver was given, the filing continued even after 6 months. The GSTR-4 filing by composition dealers was 66.74% of the registered taxpayers during the first quarter and 3.26 lakh GSTR-4 returns had been filed for the second quarter. He informed that GSTR-1 filing was 80% for July, 2017, 57% for August, 2017, 62% for September, 2017; 47% for October, 2017 and 40% for November, 2017. He observed that the total percentile was quite low and this needed to go up.

13.2. On e-Way bill system, he stated that the system software had been operational since September, 2017 in Karnataka and they were issuing about 1.2 lakh e-Way bills every day. He informed that 32 States and UTs were working on e-Way bill system after it was opened to all the States/UTs and the trial

period was till the month-end. He informed that all modes of e-Way bill system were in use like web, SMS, mobile app, and Bulk upload through Excel Tool. APIs would be released shortly. He added that training was imparted to the master trainers of all States and one training had been done for CBEC and another would have been done on 18 January, 2018. The master trainers were training officers, taxpayers and transporters of their jurisdiction. He informed that a few States, which did not have e-Way bill system like Rajasthan, had adopted the new system very quickly. He added that Central Helpdesks and State Helpdesks had been made operational and the portal was available for all States. He stated that as on 16 January, 2018, 14 States had started using the e-Way bill system.

13.3. The CEO, GSTN, also gave some analysis of data arising out of GSTR-4 (on composition taxpayers). He informed that 7.45 lakh taxpayer had filed their GSTR-4 return for the quarter ending September, 2017, out of which 6,97,925 taxpayers had made some payment in their return. The total tax paid was Rs.307.01 crore and the total cumulative turnover was Rs.30,430.88 crore for this quarter. He stated that taking these figures into account, per taxpayer turnover came to Rs.4.36 lakh per quarter or Rs.13.44 lakh per annum. The Secretary observed that taxpayers with an annual turnover of Rs.13.44 lakh need not have taken registration and this was indeed mysterious. Shri Tuhin Kanta Pandey, Principal Secretary (Finance), Odisha, stated that this pointed to evasion of tax by composition taxpayers. The CEO, GSTN, stated that they also conducted a deeper analysis by looking at individual returns and found that there were 4,91,024 or 70.4% dealers below annual turnover of Rs.5.00 lakh and their quarterly average turnover was Rs.1.20 lakh, which would translate to Rs.4.80 lakh of annual turnover. The CEO, GSTN, informed that about 9% of 64,059 taxpayers had shown an average quarterly turnover of more than Rs.12 lakh. The Secretary stated that 70% of composition taxpayers were showing very low turnover and they only wanted to take registration and then were paying tax according to their own will. He stated that only about 2 lakh taxpayers appeared to be genuine composition taxpayers whose average quarterly turnover was Rs.11.87 lakh, which would amount to an average annual turnover of Rs.47.48 lakh. He stated that in view of these figures, there appeared no case for increasing the annual turnover threshold for composition dealers to Rs.2 crore in the law. The ACS, Uttar Pradesh, stated that their margin also appeared to be as high as 30% and it appeared that they were under-reporting their turnover. He stated that there was also a case for upward revision of the rate of composition tax.

13.4. The CEO, GSTN, further stated that an analysis of GSTR-3B returns indicated that 80% GSTR-3B filers filed consistent returns in all five months (July to November 2017). A comparison of GSTR-1 and GSTR-3B indicated that about 10.96 lakh filers did not file the GSTR-1 returns and the Tax Administration would need to examine why they did not file returns. He further stated that around 485 of big taxpayers i.e. those with an annual turnover of more than Rs.1.00 crore, had filed only one return and rest of the returns were either Nil or of very low amount. He stated that this number was constantly increasing from July (164) to November (485) and their number showed that they were getting emboldened not to pay tax. He stated that these details would be shared with tax authorities for further follow up. He added that about 4.5 lakh taxpayers did not file GSTR-3B from July to November, 2017 and a list of such taxpayers had been shared with the Central and the State tax administrations. The Hon'ble Deputy Chief Minister of Delhi suggested to give a combined State-wise list of such taxpayers to understand the trend across the States. The CEO, GSTN, stated that a combined list would be made available to the Central and the State tax administrations.

13.5. The Council took note of the presentation of the CEO, GSTN.

13.6. The Chief Economic Advisor (CEA) made a presentation showing key and preliminary GST findings (attached as **Annexure 6** of the Minutes). He stated that the information available for the economy was dazzling and that analysis was done till December, 2017. He stated that as on 31 December, 2017, there were 98 lakh registrants comprising 93 lakh unique corporate entities. He stated

that there were about 34 lakh new filers registered under GST, which represented 50% increase in taxpayers. He further stated that about 17 lakh taxpayers who were below the threshold limit, had registered under GST and about 19 lakh taxpayers, who could have opted for composition scheme had opted as regular taxpayers. He stated that based on the five months' data, the GST base was estimated at Rs.65-70 lakh crore and this gave an implied tax rate of 15.6%, which could be a potential revenue neutral rate in the range of 15%-16%. He stated that the figures also indicated that the States' share in the GST base was same as it was in GSDP, which made a very nice symmetry. He stated that many taxpayers, who did not need to file returns, were actually filing returns because they were small taxpayers, buying from big taxpayers, and selling B2C and hence needed input tax credit. He also pointed out that 53% of non-agricultural workforce was part employed in the GST net and this was more than what was expected. He stated that more details would be appearing in this year's Economic Survey

13.7. For **Agenda item 5**, the Council took note of the presentations made by the CEO, GSTN and the CEA.

Agenda item 6: Recommendations of the 'Committee on Returns Filing' on Simplification of Returns under GST

14. The Secretary invited Dr. A.B. Pandey, Chairman, GSTN, and Chairman of the Committee on Return Filing, to present the recommendations of the Committee before the Council. The Chairman, GSTN, stated that keeping in view the criticism regarding the present procedure of return filing, which involved filing 37 returns in a year, the Committee, after discussing the issue with the officers of the Law Committee, had recommended that instead of three returns in a month, only one return could be filed. On the basis of the uploaded invoices of the seller, input tax credit could be made available. He added that the switch over should not be abrupt; rather, there should be a transition plan to get into invoice-based input tax credit system. He then invited the CEO, GSTN, to make a presentation on the recommendations of the Committee on Return Filing.

14.1. The CEO, GSTN, in his presentation (attached as **Annexure 7** of the Minutes), stated that the stakeholders had reported several challenges with regard to the present system of return filing like filing of three returns in a month, returns being inter-linked and thus in case one return was missed, no further return could be filed. He added that tax rate-wise entries being made in GSTR-1 doubled the work of taxpayers – one while creating GSTR-1 and the other during comparing with GSTR-2A. Linking of credit note and debit note with invoices was a tedious process; linking details as per HSN code increased their work and B2C reporting of large transactions did not serve any purpose and increased compliance. He stated that the Committee's recommendation was to track credit at invoice level supplies as it provided a clear mechanism for counter-parties to reconcile accounts and mismatches and eliminated subjective assessment by tax officials. It also helped in integrating with the e-Way bill system. He stated that 92.53% of taxpayers uploaded invoices in the range of 1-50 and 98.64% uploaded invoices in the range of 1-300. For auto-populated invoices in GSTR-2A returns (B2B) where a taxpayer has to confirm, accept or reject the invoices, 90.62% of the returns had invoices in the range of 1-50 and 99% returns had invoices in the range of 1-300. The Hon'ble Deputy Chief Minister of Delhi observed that data analysis needed to be reinforced with ground level surveys as the business model did not seem to operate in this fashion.

14.2. The CEO, GSTN stated that the Committee recommended that the invoice data should be accepted at Item Level along with an Item Number field and HSN code. This could be implemented in phases – in Phase 1 to take data at invoice level with HSN level data in a separate table and in Phase 2 (after the system stabilises), take information at line item level along with HSN code and remove the HSN table. Regarding the present separate periods of return filing, he informed that the current return

filing was a workflow driven system, requiring cut off dates. He stated that this was equivalent to intersections on the road, which caused co-ordination delays. The Committee's recommendation was that there should be no cut off dates and there should be one-way traffic of data. He stated that the basic principle of return filing would be to establish an incentive-based system aligned with clear responsibility and accountability in which sellers would need to upload invoices as soon as possible, otherwise they would not get payment (tax component from buyers). The buyers would need to accept and lock invoices else they could not take input tax credit, leading to increased working capital requirement. Regular uploading and acceptance (locking) would significantly even out the load on the system, thereby reducing spikes.

14.3. The CEO, GSTN, stated that Committee's recommendation was to file only one return per period and suggested two options to achieve this. **Option I** could be the workflow driven in which provisional credit could be taken on the basis of seller's data plus buyer-declared additional purchase details at invoice level. Under Option I, up to a particular date, say 10th of the month, the buyer could accept the invoices and lock it. Any invoices uploaded beyond that date would go to the next month. The system would draft returns on the 11th of the month. The purchaser could add the missing purchase invoices not uploaded by sellers. He stated that Option I features would be any time uploading of data, offline tools for matching, no interest from the buyer for the initial two-month period as the seller would be paying the interest when he added the missing invoices to his GSTR-1. He stated that where supplier did not accept an uploaded invoice, there should be a separate provision in law to address this. The Committee recommended it to be one monthly return for all. **Option II** could be simultaneous uploading of sale and purchase data with system matching. Under this Option, buyer-declared input tax credit could be availed by filing purchase details at invoice level. This Option also involved any time uploading of invoices and mismatched invoices could be matched on daily basis. Under this option also, the periodicity would be monthly.

14.4. The CEO, GSTN further stated that during the meeting with the Law Committee held on 4 January, 2018, Option I was discussed. One of the suggestions of the officers was to study Option II, which was the model adopted under some VAT administrations. Some officers felt that under Option I, current GSTR-2 and GSTR-3 forms were joined together and GSTR-1 was replaced by invoice upload, which was nothing but old wine in new bottle. He stated that on this basis, the issue was discussed with representatives of four States, namely Karnataka, Andhra Pradesh, Maharashtra and Gujarat. The experience of these four States regarding system matching models and various features were analysed. The filing of returns and annexures were linked in Maharashtra but delinked in Andhra Pradesh, Karnataka and Gujarat. All four States had invoice level filing. Two States, namely, Karnataka and Maharashtra had invoice level matching whereas the other two States, namely, Andhra Pradesh and Gujarat had counter-party system of matching. All four States provided a correction mechanism by way of revision of returns. He stated that the mismatch level in these four States ranged from 12% to 30% and that no State had a system of auto reversal of input tax credit. He also stated that in all States, invoice number mismatch constituted 90% of mismatches. He informed that both the Options were presented before the meeting of the officers of the Central Government and the State Governments held on 11 January, 2018 and the Officers Committee was inclined towards Option II. He also presented the proposed gradual transition plan.

14.5. Shri Nandan Nilekani, Co-founder and Non-Executive Chairman of the Board of Directors of Infosys Ltd., (and former Chairman of UIDAI and Chairman of TAGUP Committee) also made a presentation on the subject of return filing (attached as **Annexure 8** to the Minutes). He stated that he had looked at both the Options and tried to synthesise the two to achieve compliance simplification. He stated that the core principle of any indirect tax model should be that input tax credit would be provided only on "matched" invoices i.e. legitimate invoices where the supplier had admitted tax liability by

uploading the invoices on the portal. This would mean either denial or automatic reversal of credit on unmatched invoices. He stated that this principle was even more important in GST regime because settlement of IGST became a lot more complex and harder to audit where transactions would have to be settled possibly at invoice level. He stated that without matching of invoices, benefit of other related initiatives like e-Way bill system would be diluted. He stated that those models were doomed to fail which increased the burden on the taxpayer to correct mismatches or which relied on tax official's intervention to reduce the mismatches. He added that any solution that permitted, in the first place, higher level of mismatch would also fail as it would not permit automatic reversal.

14.6. Shri Nilekani further stated that the biggest risk of having a mechanism in which the system would do the matching was like taking the monkey on one's back. He added that it was not desirable to entrust the responsibility of invoice matching to the Government. He stated that a high rate of mismatch of 30% to 40% would provide sufficient cover to fraudsters to easily split the fraudulent claims knowing fully well that detection would be hard. He stated that in the GSTR-1, 2A and 1A model, acceptance-based matching on the basis of comparison of supplier's invoices with purchase books was considered to be too much of a burden. He stated that this was not a correct understanding and the basic problem was some design-based issues. He added that it was important to remember that every business - large or small, automated or manual – routinely compared supplier's invoices with the purchase books and that it was a necessary step before releasing payment. He added that most taxpayers had very few invoices and that 93% of the taxpayers have less than 50 sales invoices that needed to be uploaded and 91% of the taxpayers have less than 50 purchase invoices that needed to be accepted. He stated that GSTR-2 created a separate process and matching and return filing were duplicated, which made it difficult for the taxpayers. He suggested that in order to remove the burden of GSTR-2, it was desirable to align this process with the natural cycle of verification and payment. Comparing supplier's invoices with purchase books all over again for tax claim purpose was a burden. He stated that by modelling "invoice upload" and "acceptance" as tax "returns" (GSTR-1 and GSTR-2), the model created a perception that there were three returns per month. The structure of forms was so complex that it required a tax professional's help. The concepts like tax on advance payments, its utilisation to offset liability, separate reporting of different types of invoices made GSTR-1 and GSTR-2 more like a tax return form than a statement. Reporting of invoices at rate-level instead of line-item level created more work for the supplier.

14.7. Shri Nilekani stated that a successful model would be one which aligns with the natural business cycle of verification and payment of supplier invoices. Taking all this into account, he suggested a revised model in which suppliers "upload" sales invoices on the GST system which automatically calculates his tax liability. The invoices should also be made available to the buyer for acceptance. The key difference from GSTR-1 would be that it would simply mean invoice "upload" and not "filing" of tax return. He stated that invoice format and data granularity should match with the actual invoice submitted by supplier for payment, namely, invoice item level right from day one and that it should not be rolled up at tax rate or commodity level. Upload should happen on a continuous basis, which would imply that verification and acceptance coincided with the actual business transaction. Invoices uploaded after the 10th of the month would automatically be included in the next return. He stated that market forces would evolve a model where invoice would be paid for only after upload on the GST system. Buyer should accept supplier's invoices on the GST system, which would automatically determine the input tax credit. He stated that the key contrasts from GSTR-2 and pure system matching model was that it was simply an invoice "acceptance" and not "filing" of return and that acceptance could happen on continuous basis, not waiting for all GSTR-1 to be filed. Invoices, once accepted, would be locked and could not be modified by the supplier, thus bringing finality to the transaction. The system should provide robust tools to facilitate smooth acceptance including for offline matching of supplier invoices

with purchase books, auto-acceptance capabilities and improved support to GSPs/ASPs for tighter integration with accounting packages.

14.8. He proposed to eliminate the concept of “Provisional Credit”. However, buyers could “notify” supplier through the system to upload any missed invoice but could not upload or modify it themselves. In this model, there would be no “mismatch” in the traditional sense and hence there would be no question of any reversal. He stated that reversal of input tax credit due to non-payment of tax by the supplier was widely perceived to be unfair to the buyer and recommended that the criteria for legitimate invoice should be redefined as one where supplier has admitted liability by uploading onto the portal and make provisions to recover dues from the supplier rather than penalising the buyer. The GST system would offer multiple channels for uploading and acceptance of invoices and filing of returns as 91% of taxpayers had fewer than 50 invoices in a month i.e. hardly 2-3 invoices per day; small taxpayers with no automated accounting systems could view and accept pending invoices directly on the portal. Small/medium taxpayers with some level of automation could use excel based offline tool to download, compare and accept pending invoices. Large taxpayers with fully automated accounting systems would do reconciliation and acceptance directly in their systems and upload results directly through APIs. He also proposed a gradual transition to eliminate risk to tax collection and provide sufficient time to stabilise the system and for the taxpayer to adapt to the new model and to enable eco-system to develop tools/application for automated uploading of sale invoices and reconciliation of purchase invoices.

14.9. He explained that the gradual transition would involve, in transition phase ‘A’, to continue with self-declaration of GSTR-3B for payment of taxes and replacement of GSTR-1 with invoice uploading. In transition phase ‘B’, to continue with self-declared GSTR-3B for payment of taxes; to enable invoice acceptance feature, which accepts input tax credit; introduce system generated GSTR-3 as a read only declaration; have a GSTR-3B versus GSTR-3 comparison report. Under this, the input tax credit compared would include missed invoices. At the end stage, GSTR-3B would be discontinued and would be replaced by GSTR-3; to continue with invoice uploading/acceptance features and enable filing of system generated GSTR-3 as a return including payment capability. He emphasised that this system would work well as it was incentive aligned where, if the supplier did not report invoices on time, he would not get paid and the buyer who did not accept invoices in time, would not get input tax credit.

14.10. The Secretary observed that the presentation of Shri Nandan Nilekani suggested matching responsibility to be entrusted to the buyer and the seller which made the job simpler. The other option was to make everyone report his sale and purchase invoices and then computer would generate mismatches. He expressed that it could take months to rectify the mismatches. For mismatched invoices, either the tax administration would need to go after the buyer and the seller or there would be auto-reversal of input tax credit which would be a big pain point for the taxpayers. He observed that in the initial period, one would continue with GSTR-3B; upload sales invoices and have a separate missed invoices table for filling up the details by the buyer and the input tax credit claim in GSTR-3B should be roughly matching with his declaration. However, it should only be informational. The percentage of mismatch should be observed over a period of time and once mismatch was minimal, a system could be brought into force in which input tax credit would not be given until the seller uploaded the invoice(s). He then sought comments of the States on the proposed model.

14.11. The Hon'ble Minister from Kerala raised a question regarding the fate of B2C invoices. The Secretary stated that on the sales side, no invoice level details for B2C supplies were to be given. The Hon'ble Deputy Chief Minister of Delhi observed that the proposed system was good for large taxpayers but there could be practical difficulties for small taxpayers, in whose case, normally, Chartered Accountants filed returns. He added that if the small taxpayers themselves filed returns, then the system could work, but if they entrusted the work to the Chartered Accountants, it could lead to hue and cry.

14.12. Shri V.K. Garg, Advisor (Finance), Punjab, expressed two concerns. The first was that there was no provision to take input tax credit for the tax paid on advance payment and it was not clear how the system would take care of this requirement. The other concern was regarding the missing trader, as there was no mechanism to check whether the supplier, after uploading the invoices, had paid the taxes to the treasury. He added that in a federal GST structure, until the taxes had been paid at the origin State, the money could not reach the destination State. Dr. P.D. Vaghela, CCT, Gujarat, stated that the model proposed by Shri Nandan Nilekani was a harsher one, which was not earlier agreed to by the Law Committee. He stated that under Option I, too much of power was being placed in the hands of the suppliers. Under Option II, input tax credit was being made available provisionally on the basis of invoices uploaded by the buyer and this could be acceptable. He added that the Chartered Accountants handled returns of hundreds of taxpayers acting both as recipients as well as suppliers. He stated that the best model would be where the buyer accepts invoices with a mechanism for provisional credit for missing invoices of the buyer. He stated that in Option II, Departmental intervention would not be needed. The CCT, Gujarat, pointed out that in the model proposed by Shri Nandan Nilekani, once an invoice was uploaded by the supplier and accepted by the buyer, the buyer would get credit automatically. However, the structure on which GST has been designed has two elements: (i) the seller uploads the invoices; (ii) the payment of tax against the invoice should have been made. If the proposed model was accepted, where the buyer would get credit on the basis of invoice uploaded by the seller without ascertaining payment of tax against the invoice, this would create a huge problem and would lead to problems in IGST transfer. He suggested to accept Option I with provisional credit for the buyer. He also stated that payment of tax by the supplier should be insisted upon.

14.13. The Hon'ble Minister from Kerala stated that the basic difference in the model suggested by Shri Nandan Nilekani and the other model was to do away with return filing. The returns would be generated by the computer on the basis of invoices uploaded. He observed that there could be some interim revenue losses in first three months. The Hon'ble Deputy Chief Minister of Bihar stated that in Option I, only sales invoice had to be filed whereas in Option II, both sale and purchase invoices would have to be uploaded by the taxpayer and that this would lead to double work. He added that as per the current system of States, mismatch report was generated by the system and as per the present experience of four States, mismatch was in the range of 25% to 40% and nation-wide mismatches could be very high. He supported the proposal of Shri Nandan Nilekani to upload only sales invoice and that sale and purchase details need not be matched by the system. He stated that some of the concerns like Chartered Accountants filing returns of small traders would need to be addressed.

14.14. The Hon'ble Minister from Jammu & Kashmir stated that the compelling argument in the model presented by Shri Nandan Nilekani was to integrate the tax system with the business process and this was key to the entire model, which would involve uploading of invoices by the supplier and matching them between the buyer and the seller and not the system. The Hon'ble Chairperson stated that the concern of the Hon'ble Deputy Chief Minister of Delhi regarding hue and cry being raised by small traders would also need to be considered. The Hon'ble Minister from Jammu & Kashmir stated that today, there was a genuine compliance complaint, which needed to be redressed through a revised procedure. The Hon'ble Deputy Chief Minister of Delhi stated that the model proposed by Shri Nandan Nilekani appeared to be good. The Hon'ble Deputy Chief Minister of Bihar stated that the burden of tax consultants would increase as they would need to upload both purchase details along with sale details and would also need to resolve mismatches. Shri Nandan Nilekani observed that money would be a big stake for the buyer and the seller. In the proposed model, no return was being filed and only invoices were being uploaded, which was not a big burden. He stated that there should not be undue concern regarding the reaction of the tax professionals.

14.15. The Principal Secretary (Finance), Odisha, stated that the fact that accounts department of the taxpayer would need to check the invoices uploaded before making payment might need a change in the business practice of small taxpayers. He further observed that instead of return filing being once a month process, now it would become a daily process. Shri Nandan Nilekani responded that the choice lay with the seller as to at what interval he would upload the invoices. The Principal Secretary (Finance), Odisha, stated that if availment of input tax credit was delinked from tax payment, it had the risk of increasing the gaming behaviour of taxpayers. He added that it was also important to take into account the issue of tax consultants *vis-à-vis* small taxpayers. The Chairman, GSTN, stated that Maharashtra allowed input tax credit on the basis of declaration of seller's invoice in his return without checking for payment of tax. He observed that returns contained aggregation of information for which services of Chartered Accountants was required. He recalled that earlier for rail travel, one needed to book tickets through agents but now most passengers were able to book train tickets on their own on the IRCTC web portal. He observed that if the tax return process was simplified and it was made available through multiple modes, like mobile app, online tools, offline tools, etc., then taxpayers need not depend upon Chartered Accountants/tax consultants to file returns. He observed that invoices were issued by suppliers and not tax consultants.

14.16. The Hon'ble Minister from Punjab made three points – first, that for any business with turnover above Rs.5-10 crore, all invoices should be generated online; second, that for larger suppliers, uploading of invoices could be on weekly basis; and the third, that if a taxpayer received money in advance, an invoice must be generated mandatorily. Ms. Smaraki Mahapatra, CCT, West Bengal, stated that the model of provisional input tax credit was provided because the practical experience was that large taxpayers were bigger defaulters in uploading invoices and small taxpayers were the major sufferers. She suggested that views of a cross-section of stakeholders should be ascertained regarding the acceptability of the proposed return model.

14.17. The ACS, Uttar Pradesh, stated that the model proposed by Shri Nandan Nilekani had several positive features but the proposal that the supplier should only upload invoices did not always happen in reality. If a large taxpayer sold goods to a small taxpayer and did not upload his invoice for 2-3 months, it could badly hit the business of the small taxpayer. He further stated that purchasers/small taxpayers should be given an option to give additional information to Government on buying so as to get the benefit of input tax credit. He added that where both buyer and seller were colluding and did not pay tax, the return should be linked with e-Way bill system. He also raised an issue that if a registered taxpayer purchased from an unregistered taxpayer without payment of tax under reverse charge mechanism, he was under no compulsion to upload the invoice, and then how information would come regarding purchases from unregistered taxpayers. Therefore, in case of purchases from unregistered dealers also, there should be a provision of uploading the invoice by the buyer. The Secretary observed that the last phase of the return filing would not be implemented right from the beginning. At the initial stage, small taxpayers would take self-declared input tax credit of the entire amount. Simultaneously, the gap in terms of number of missing invoices would need to be narrowed. The provision of denial of input tax credit for missing invoices should be implemented only after the transition period was completed. Once the gap in matching of sale and purchase invoice was reduced, input tax credit would be made available only on the basis of sales invoice and the computer would auto generate the return. He stated that the salient/selling point of the new model would be only filing of GSTR-3B and taking only invoice level details.

14.18. The Hon'ble Deputy Chief Minister of Gujarat raised an issue that if despite mismatch, the seller did not upload the invoice, whether input tax credit would be available to buyer. The Secretary stated that input tax credit would be allowed in such cases in the initial phase, based on GSTR-3B details, even though the mismatch in the uploaded invoices of the seller and the buyer would be known and available

on the system. The Hon'ble Deputy Chief Minister of Gujarat suggested that stakeholders' opinion regarding the two options should be taken before taking a decision on the issue.

14.19. The Hon'ble Minister from Haryana stated that the proposal made by Shri Nandan Nilekani seemed to be simple and acceptable. He expressed that in principle, it could be accepted and a Committee could look into it to resolve the issues and concerns raised. Shri M.S. Srikar, CCT, Karnataka, stated that acceptability of the option should depend upon certain parameters like ease of compliance, agnostic to the size of the dealer, alignment to business process without additional burden, and alignment to tax administration regulations. He stated that based on VAT experience, Karnataka broadly supported Option II. He observed that the proposal of Shri Nandan Nilekani appeared positive but one needed to ascertain whether the eco-system, the consultants and others could cope with the proposed process.

14.20. Shri J.S. Syamala Rao, Chief Commissioner (Commercial Tax), (CCCT) Andhra Pradesh, stated that the purchaser could reach dead-end if the seller did not upload the invoice and, in the model, proposed by Shri Nandan Nilekani, tax officials would need to ascertain who was the culprit. He stated that this was not certain in the suggested model. He further added that while mismatch would be minimal, it would take much more time to implement it than the proposed Option II. He stated that auto-reversal could be done in the first month itself in Option II. He stated that Option II was better as it would have data of both the seller and the buyer and one would come to know as to who was the culprit for the missing invoices. In Option II, there would be no scope for the purchaser to reach a dead-end and matches could increase over a period of time. He observed that both Option I and the Option proposed by Shri Nandan Nilekani carried the risk of the purchaser reaching a dead-end. He added that no tax administration had tried Option I or the new model proposed by Shri Nandan Nilekani whereas Option II had been in use by a few State administrations. He suggested that this Option should be used along with direct auto-reversal. The Secretary observed that no new demand was being made in the model proposed by Shri Nandan Nilekani whereas burden on taxpayer was getting reduced. In this model, self-credit could be taken by the purchaser without disturbing GSTR-3B and the purchaser would only give details of missing invoices instead of furnishing his entire purchase invoices. Through this method, tax information would come and could be used by the tax administration for various purposes including for enforcement. He suggested not to apply auto-reversal in either of the two Options, but there could be greater burden under Option II. He added that in the model proposed by Shri Nandan Nilekani, a taxpayer can be further incentivised by placing a mechanism in the system for auto generation of return in case of 100% match of sales invoice.

14.21. Shri Jagdish Chander Sharma, Principal Secretary (E&T), Himachal Pradesh, stated that smaller traders had manual system and it would need to be integrated with the GST system. He added that collusive activity of the buyer and the seller could be taken care of through the e-Way bill system. The CCT, West Bengal, stated that at the end stage of the proposed model, it was proposed to disallow input tax credit for invoices not uploaded by the supplier whereas there could be genuine business purchases and this could amount to denial of the right of doing business. She suggested that a legal perspective should also be taken before going in for any model. The Secretary observed that it might be difficult to delink payment of tax by supplier from availing input tax credit by the buyer.

14.22. The Hon'ble Chairperson observed that from the discussions held so far, the way forward appeared to be to continue with GSTR-3B, upload invoices on sales side and bring mismatches to the notice of both the buyer and the seller. The Secretary stated that once mismatch percentage became less, say 10%, one could go to the end stage where there would be no GSTR-3B return; all invoices would be uploaded by the seller and a return would be generated accordingly. There would be a table to explain the mismatch of invoices declared by the supplier and the buyer without any corresponding action of denying input tax credit. After a few months, one could move towards complete invoice

upload-based return generation. The Hon'ble Deputy Chief Minister of Gujarat stated that if a supplier uploaded invoices at a later date, a question could arise as to why it was not uploaded earlier. The Secretary stated that such questions could arise but during the observation phase, no action need to be taken on this. The Hon'ble Chairperson stated that at present, one could continue with GSTR-3B and a date could be given from which uploading of sale invoices would begin, which would be visible to the buyer and could be locked by him.

14.23. The Hon'ble Minister from Kerala stated that he supported Option II and suggested that one should not take a hasty decision. He added that another week's time be taken to decide the issue and then take a decision during a Council's meeting through video conference. The Hon'ble Minister from Andhra Pradesh also suggested to give more time to decide on the options. The Hon'ble Minister from Telangana suggested that the options should be discussed with the stakeholders before coming to a final decision. The Hon'ble Chairperson stated that the issue should be discussed with the stakeholders after the Committee on Return Filing and the Law Committee had further examined the suggestions of Shri Nandan Nilekani and thereafter the issue could be decided by the Council through video conference. The Hon'ble Minister from Jammu & Kashmir stated that the proposal should not be condemned by putting it before the officers' committee for consideration as they had already made up their mind that the proposal of Shri Nandan Nilekani was not workable. He suggested that a small Group of Ministers could examine this proposal. He further stated that intuitively, it seemed to be a good model. The Hon'ble Chairperson stated that the model proposed by Shri Nandan Nilekani could be examined by the Group of Ministers on IT Challenges in GST Implementation, headed by the Hon'ble Deputy Chief Minister of Bihar, in consultation with the members of the Committee on Return Filing and Shri Nandan Nilekani. The issue could then be decided by the Council through video conference. The Council agreed to this proposal.

15. For **agenda item 6**, the Council approved that the model proposed by Shri Nandan Nilekani shall be examined by the Group of Ministers on IT Challenges in GST Implementation, headed by the Hon'ble Deputy Chief Minister of Bihar, in consultation with the members of the Committee on Return Filing and Shri Nandan Nilekani. The issue could then be decided by the Council.

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

16. The Secretary stated that some changes were proposed by the Law Committee in the Rules and Forms. He informed that these were discussed in the meeting of the officers of the Central Government and the State Governments held on 11 January, 2018 and were agreed to. He proposed that these could also be agreed to by the Council. The Commissioner (GST Policy), CBEC, stated that the presentation circulated before the Meeting of the Council (attached as **Annexure 4** of the Minutes) contained the proposed changes. He stated that there was one modification in the proposal in respect of Agenda item 7(i)(v), wherein it was proposed to delete proviso to sub-Rule 5 of Rule 32 and to insert a new sub-Rule 5(A) in Rule 32 to provide for purchase value of goods repossessed from a defaulting borrower. He stated that the Council might not approve this proposed change as it needed further consideration. The Council agreed to the proposal and approved the other proposals under Agenda item 7 proposing changes in certain CGST Rules and Forms.

17. For **Agenda item 7**, the Council approved the proposed changes in CGST Rules and Forms, as contained in Agenda item 7, except for Serial No.5 of Agenda item 7(i)(v) relating to purchase value of goods repossessed from a defaulting borrower.

Agenda item 8: Recommendations of the Committee on Handicrafts

18. The Secretary invited Ms. Vanaja N. Sarna, Chairman, CBEC to introduce this Agenda item. The Chairman, CBEC, stated that the Committee on Handicrafts had finalised its report after numerous

meetings of the Committee and deliberations in the sub-committees. She stated that inputs had been received from various States for including items as handicrafts and after the completion of the report, further suggestions had been received from the States of Odisha and Gujarat. She stated that these would also be considered by the Committee on Handicrafts and that the goods which were agreed to be considered as handicrafts would be referred to the Fitment Committee for recommending rate of tax on them. She then invited Shri G.D. Lohani, OSD, TRU-I, CBEC, to make a brief presentation on the report of the Committee on Handicrafts.

18.1. The OSD, TRU-I in his presentation (attached as **Annexure 9** of the minutes) stated that in respect of TOR (Terms of Reference) 1, relating to definition of handicrafts, the Committee took note of definitions of handicrafts by UNESCO and other national and international bodies and the observations of the Hon'ble Supreme Court on handicrafts and concluded that any definition of handicrafts must have three elements, namely, predominant use of hands; sufficient artistic and traditional elements; and distinct output from machine made goods. He stated that after several iterations, the Committee arrived at the following definition of handicrafts:

“Handicrafts are goods predominantly made by hand even though some tools or machinery may also have been used in the process; such goods are graced with visual appeal in the nature of ornamentation or in-lay work or some similar work of a substantial nature; possess distinctive features, which can be aesthetic, artistic, ethnic or culturally attached and are amply different from mechanically produced goods of similar utility.”

18.2. As regards TOR 2, i.e. identification of HSN Codes for handicrafts, he stated that inputs were received from States as well as the Office of the Development Commissioner (Handicrafts) in the Ministry of Textiles and based on these, 40 HSN Codes were proposed to be included in the list of handicrafts. He stated that the additional suggestions for inclusion in the list of handicrafts received from Odisha and Gujarat would also be deliberated upon by the Committee. He added that few items were added by name in the list on the basis of inputs received from States. He stated that as regards suggestions on handmade goods, the Committee felt that any differential rate for handmade goods without adequate safeguards would be prone to misuse and that one possible way could be to consider particular handmade products produced and marketed exclusively by specified federations/self-help groups on a different pedestal.

18.3. As regards TOR 3 regarding specific issues of handicraft sector, he stated that the Committee had requested inputs from States and from the Union Ministries to identify specific issues. He stated that the examination of these issues indicated that they were mostly related to the drawback, rates of tax, export issues like market access, concessions in GST rates related to exhibitions, etc. and such issues were already being dealt with by other Committees like the Drawback Committee, the Fitment Committee and the Export Committee. The Committee proposed to refer these issues to the respective Committees.

18.4. Initiating discussion on this Agenda item, Shri P. Srivastava, Chief Resident Commissioner, Tripura, stated that their State had suggested to add Tripura silk and cotton sarees and bamboo made gift items in the list of handicrafts and also suggested that the rate of tax on bamboo and cane-based items should be 5%. The OSD (TRU-I), CBEC, clarified that items made of bamboo were already covered in the list and classifiable under Chapters 44, 46 and 96 (recommended rate of tax for Chapter 46 is already 5%). As regards sarees and clothes, he stated that the Committee deliberated on this issue and decided not to treat them as handicrafts. He stated that the Office of the Development Commissioner also did not recommend to treat these goods as handicrafts and as such sarees etc. from none of the States had been taken in the list of handicrafts.

18.5. The Hon'ble Minister from Jammu & Kashmir stated that first, handicrafts should be defined and then rate on handicrafts items could be looked at separately. The Hon'ble Chairperson observed that different States had different kinds of handicrafts and they were mostly out of the tax net till now. He added that this sector generated mass employment and, therefore, rate of tax on handicrafts should not be very high. He further stated that pending fitment decision on these items, the Committee could look into the issues relating to handmade carpets. The Chairman, CBEC suggested that the Council could accept the report of the Handicrafts Committee and then the issue of rates could be taken up by the Fitment Committee separately. The Hon'ble Chairperson suggested that the Council could accept the report and the recommendations of the Committee on Handicrafts and States could give additional items to be considered as handicrafts which would be considered by the Committee on Handicrafts. The Council agreed to this suggestion.

19. For **Agenda item 8**, The Council accepted the report of the Committee on Handicrafts and its following recommendations:

- i. Definition: "Handicrafts are goods predominantly made by hand even though some tools or machinery may also have been used in the process; such goods are graced with visual appeal in the nature of ornamentation or in-lay work or some similar work of a substantial nature; possess distinctive features, which can be aesthetic, artistic, ethnic or culturally attached and are amply different from mechanically produced goods of similar utility;"
- ii. To include 40 HSN Codes in the list of handicrafts as listed in the report of the Committee;
- iii. To refer the issues identified by the Committee on Handicrafts to the respective Committees like the Drawback Committee, the Fitment Committee and the Export Committee;
- iv. The Committee on Handicrafts to consider the recommendations of the States of Odisha, Gujarat and any other State for inclusion of additional items in the list of handicrafts.

Agenda item 9: Changes proposed to be made in the CGST Act, 2017, SGST Acts, the IGST Act, 2017 and the GST (Compensation to States) Act, 2017

20. Introducing this Agenda item, the Secretary stated that a Law Review Committee had been constituted in pursuance of a decision of the GST Council in its 22nd meeting held on 6 October, 2017. This Committee had received suggestions/representations from various trade associations and field formations of the Centre and the State taxes which it examined. It also examined the recommendations of the Advisory Group of the Law Review Committee. Based on these inputs, the Law Review Committee submitted its report containing recommendations for changes in Law on 4 January, 2018. These recommendations and the suggestions of the GST Policy Wing of CBEC were discussed in a joint meeting of the Law Review Committee and the Law Committee held on 10 January, 2018. The combined recommendations of the Law Review Committee and the Law Committee were discussed in the meeting of the officers of the Central and the State Governments on 11 January 2018 and the consolidated recommendations of the officers meeting of 11 January 2018 was placed before the Council for consideration. The Secretary invited Commissioner (GST Policy), CBEC to brief the Council about the important recommendations under this agenda item. The Commissioner (GST Policy), CBEC stated that what was placed before the Council for approval was only the broad proposals contained in the second last column of the Annexure I of Agenda Item 9 (hereinafter referred in this section as Annexure I) and the suggested formulations contained in the last column would undergo substantial modification based on consultation with the Law Committee and the Union Ministry of Law. He stated that one change was envisaged in the proposal contained in Sl. No.11 of Annexure I, namely, to replace the expression "employees without charging a consideration" with the expression "Employees with or without charging a consideration". He further stated that some new proposals were added which were not discussed in the Officers' meeting held on 11 January, 2018. The first one was the proposal at Sl.

No.21 of Annexure I, which related to a proposal to insert an explanation in Section 13 of the CGST Act, 2017 to clarify the term 'supply is identifiable' in case of vouchers in Sections 12 and 13 of the CGST Act, 2017. The second was the proposal at Sl. No. 46 of Annexure I to amend the explanation to the definition of "continuous journey" which does not consider single ticket flights with stopovers as continuous journey.

20.1. The Commissioner (GST Policy), CBEC, highlighted some important changes which are discussed as follows:

i) **S.No.17 of Annexure I**: The Commissioner (GST Policy), CBEC stated that section 9(4) of the CGST Act and section 5(4) of the IGST Act related to payment on reverse charge basis and under these sections, it was proposed to impose tax on reverse charge basis on composition taxpayers on purchase from unregistered suppliers. The Secretary stated that if tax on reverse charge was not imposed on composition taxpayers, a lot of evasion of tax would take place. The Hon'ble Deputy Chief Ministers of Bihar and Delhi agreed to this proposal. The second proposal for these two sections was to have an enabling provision to impose tax under reverse charge on specified classes of taxpayers when they obtained supplies from an unregistered person. A third proposal was to have a provision to provide details of supplies received from unregistered persons in the return on the basis of PAN/Aadhaar. The ACS, Uttar Pradesh suggested that in the Law, an enabling power could be provided to make reverse charge mechanism on all products except those which would be exempted through notification. He stated that otherwise many composition dealers would opt out of registration.

ii) **S.No.23 of Annexure I**: The Commissioner (GST Policy), CBEC informed that the proposal was to amend Section 10 to increase the threshold for eligibility for composition scheme to Rs.2 crore per annum and then fix the threshold through a notification to Rs.1.5 crore per annum. The ACS, Uttar Pradesh stated that in view of the fact that 91% of composition dealers had shown a turnover of less than Rs.5 lakh per quarter, it needed to be considered whether the annual turnover threshold limit for composition scheme should be increased to Rs.1.5 crore or Rs.2 crore per annum in the Law. The Hon'ble Chairperson stated that it was already decided by the Council that the annual turnover threshold for composition would be raised to Rs.1.5 crore and that the same limit should be kept in the Law. The Hon'ble Deputy Chief Minister of Delhi stated that the original discussion was in regard to schemes relating to small scale industries and SMEs but then the discussion went on to composition scheme. The Hon'ble Chairperson stated that the results of relaxation under the composition scheme was not very encouraging, and in this view, it was not desirable to increase the annual turnover threshold for composition to Rs.2 crore and it should be limited to Rs.1.5 crore. The Council agreed to this suggestion.

20.2. The Commissioner (GST Policy), CBEC, stated that another proposal was to permit supply of services by a composition dealer up to 10% of the total turnover or Rs.5 lakh whichever was higher with the condition that the taxes on the services would be little higher. This would include supplies by way of job work. For these services, a composition rate could be notified by the government on the recommendations of the Council but not exceeding a total rate of 18% (9% each for CGST and SGST). In addition, restaurant service was proposed to be defined. It was also proposed that composition scheme should not be extended to persons making inter-state supplies; no input tax credit should be allowed to purchasers buying from composition taxpayers; and manufacturers of aerated water should be kept out of composition scheme through a notification. The ACS, Uttar Pradesh suggested that like aerated water, brick kiln should also be kept out of the composition scheme or there should be a separate composition scheme for brick kiln based on its capacity. The Hon'ble Deputy Chief Minister of Bihar stated that under VAT regime, brick kiln had a separate composition scheme and they had been demanding a similar composition scheme under GST. The Commissioner (GST Policy), CBEC, stated that during the discussions in the Law Committee, it was felt that composition scheme should be linked

to turnover and it should not be activity based, but if so required, this issue could be relooked at a later date. The Council agreed to these suggestions.

iii) **S.No. 27 of Annexure I:** To keep in abeyance the provisions relating to TDS and TCS namely, sections 51 and 52 respectively of the CGST and the SGST Acts for at least six more months or such further period as may be decided by the Council.

iv) **S.No. 41 of Annexure I:** To introduce a new section making an enabling provision to issue exemption notification with retrospective effect for a period of 3 years from the appointed date, if the Council so decides.

v) **S.No.42 of Annexure I:** In case of B2B supply of accommodation services like hotels, etc. the place of supply of service should be the location of the registered person and not where the hotel etc. is located in order to permit availment of input tax credit to the registered person. The Hon'ble Minister from Kerala stated that a hotel service was availed where the place of consumption was, that is, where the hotel was located and it was not a B2B transaction. The Commissioner (GST Policy), CBEC stated that on account of place of supply rules, persons registered, say in Bengaluru or Mumbai, were not organising conferences etc. in Kerala or any other State as they were not getting input tax credit and they were moving these conferences to cheaper destinations in the South-East Asian countries. The Hon'ble Minister from Kerala stated that this issue should be discussed along with the issue of the rate of tax on accommodation services. The Hon'ble Minister from Goa supported the proposal of the Hon'ble Minister from Kerala and stated that it was ironical that when they raised the same issue of business moving out of India because of high rate of tax of 28% on such services, then no heed was being paid and now the same argument was being offered for place of supply related provision. The Hon'ble Minister from Haryana stated that another reason for tour business moving out of the country was that the Indian tour operators were getting VAT refunds from those countries on official business conducted abroad. The Hon'ble Chairperson suggested that both the place of supply provision and the rate of tax on hotels, etc., should be discussed together and a proposal be brought before the Council. The Council agreed to this proposal.

vi) **S.No.47 of Annexure I:** Compensation Cess: The Commissioner, (GST Policy), CBEC stated that it was proposed to insert an enabling provision in the GST Compensation Act to provide for levy of cess at the manufacturing stage on parameters such as production capacity for certain categories of supplies such as pan masala and other evasion prone commodities. The Hon'ble Minister from Punjab suggested that the Constitutional validity of the proposed amendment should be ascertained. The Secretary stated that this issue would be got examined both Constitutionally and through the Law Committee.

20.3. The Hon'ble Chairperson stated that on the basis of the approval of the proposed changes in the Law, the Law Committee would draft the legislative changes and after its vetting by the Union Law Ministry, it would be brought before the Council for approval.

21. For **Agenda Item 9**, the Council agreed to the proposals for changes in the GST Law as presented in Annexure I to Agenda Item 9 with the following modifications / suggestions: -

- i. For Composition Scheme (Sl.No.23 of Annexure I), the eligible annual turnover threshold shall be Rs.1.5 crore per annum instead of Rs.2 crore per annum;
- ii. The place of Supply Rules for B2B supply of accommodation services (Sl.No.42 of Annexure I) to be discussed along with the rate of tax on accommodation services;
- iii. To ascertain the Constitutional validity of the amendment under the Compensation Cess Act.

Agenda item 10: Issues recommended by the Fitment Committee for the consideration of the GST Council

Agenda item 10(i): Recommendations on Goods

21. The Secretary introduced this Agenda item and stated that the recommendations on goods had two Annexures. Annexure I contained a list of 29 items where the Fitment Committee had recommended changes in the GST rates in respect of certain goods or suggested issuance of clarification regarding classification or rate of tax. He added that Annexure II related to goods where the Fitment Committee had not recommended any change in the GST rates. A record of discussion with reference to the specific items of **Annexure I and Annexure II** is as below:

Discussion on Annexure I of Agenda item 10(i):

Serial No.9 of Annexure I: Used motor vehicles (HSN Code 8702)

21.1. The Hon'ble Minister from Punjab stated that this proposal seemed to cause double taxation. The Secretary explained that the proposal was not to impose double taxation but only to impose tax on the margin of the supplier of a motor vehicle and the GST rate recommended by the Fitment Committee was 12% and Nil Compensation Cess on all motor vehicles under HSN Code 8702 (other than medium and large cars and SUVs), and 18% and Nil Compensation Cess on medium and large cars and SUVs, on the margin of the supplier of such motor vehicles. He added that these rates would apply on supply of used motor vehicles by a person who had not availed input tax credit on such motor vehicles. He further added that for a registered entity, value for tax purpose shall be the difference between the sale value and the depreciated value of the motor vehicle.

21.2. After discussion, the Council agreed to the tax proposal of the Fitment Committee in respect of used motor vehicles, contained at Serial No.9 of Annexure I of this Agenda item.

Serial No.10 of Annexure I: Diamonds of all type (Precious stones) (HSN Codes 7102, 7103)

21.3. The Hon'ble Minister from Kerala raised an issue as to why tax on diamonds, other than rough diamonds and including cut and polished diamonds was proposed to be reduced from 3% to 0.25%. He pointed out that tax on exported diamonds was fully refundable and if there was delay in granting refund, it should be addressed through appropriate administrative mechanism. He observed that there was no rationale to reduce tax on diamonds as it was a luxury product. The Secretary stated that the diamond industry had informed that in one city in Gujarat, 8-9 processes were carried out on one diamond, and therefore, it involved 8-9 movements of one diamond. He stated that it would be cumbersome to levy 3% tax for each such movement. He informed that the initial proposal was to have a separate low rate of tax for diamonds for B2B transactions or to have a scheme like that adopted in Belgium to charge no tax for supplies within a Closed User Group. He informed that the Fitment Committee did not agree to have separate rates of tax for diamond supplied to B2B and B2C. He stated that 90% of diamonds were exported and 10% were used in jewellery industry. As jewellery was taxed at the rate of 3%, value addition on diamond would be captured at the level of jewellery, where diamond was supplied as part of jewellery. He stated that it would be better to tax transactions in diamonds *per se* at a lower rate.

21.4. The Council agreed to the suggestion and the proposal in respect of diamonds of all type (precious stones), contained in Serial No.10 of Annexure I.

Serial No.14 of Annexure I: Fertilizer grade Phosphoric Acid (HSN Code 2809)

21.5. The Hon'ble Deputy Chief Minister of Gujarat stated that instead of reducing the tax on fertilizer grade phosphoric acid from 18% to 12%, it should be reduced to 5%. The Secretary stated that the exchequer already stood to lose Rs.800 crore by the proposed tax reduction from 18% to 12%. He added

that reduction of tax rate to 5% would lead to blockage of input tax credit for the domestic manufacturers of fertilizer grade phosphoric acid. The Council agreed to the proposal of the Fitment Committee to reduce tax on fertilizer grade phosphoric acid from 18% to 12%.

Serial No.18 of Annexure I: All goods (HSN Codes 4601, 4602)

21.6. The Principal Secretary (Finance), Odisha, stated that plates made of *sal* and *siali* leaves, and *sabai* grass ropes made of *sabai* grass should be exempt from tax as otherwise livelihood of tribal people would be affected. He added that there was no issue of input tax credit as well. He stated that these were eco-friendly goods and were earlier exempted from tax. The Secretary stated that the exemption limit of Rs.20 lakh would take care of small tribal producers. The Principal Secretary (Finance), Odisha, responded that the materials had become costlier when it was sold by dealers. The Joint Secretary (TRU-I), CBEC, stated that all items of bamboo cane, *rattan*, etc. of the entire Chapter were kept at 5% tax rate and it would be desirable to retain these products also at the rate of 5%.

21.7. The Hon'ble Minister from Odisha reiterated that there should be a carve out for plates made of *sal* and *siali* leaves, and ropes made of *sabai* grass, and that this could be taken up by the Fitment Committee in its next meeting. The Council agreed to this suggestion.

Serial No.21 of Annexure I: Parts and accessories specifically used for manufacture of hearing aids (Any chapter)

21.8. The Joint Secretary (TRU-I), CBEC, stated that the Fitment Committee had given two options for consideration of the Council, namely, either to provide an end-use based exemption for parts and accessories specifically used for manufacture of hearing aids or to impose a nominal 5% GST on hearing aids so that the domestic manufacturers were not at disadvantage *vis-à-vis* imports. The Secretary suggested that the end-use based exemption might be more desirable.

21.9. The Council agreed to exempt parts and accessories specifically used for manufacture of hearing aids through end-use based exemption.

Serial No.22 of Annexure I: (a) Rice Bran for use as aquatic, shrimp feed, prawn feed, poultry feed and cattle feed, (b) Rice bran for other uses (HSN Code 2302)

21.10. Dr. D. Sambasiva Rao, Special Chief Secretary, Andhra Pradesh, stated that rice bran for cattle and poultry feed was not the same as used for extracting oil, and therefore, rice bran being mostly used for cattle feed, should be exempt from tax. The Hon'ble Minister from Telangana supported this view. The Joint Secretary (TRU-I), CBEC, stated that only two States, namely, Tamil Nadu and Telangana had informed that in their States, rice bran was used as cattle feed and that in other States, rice bran was not exempt in the pre-GST period. He informed that oil was extracted from rice bran through solvent extraction plants. The Hon'ble Minister from Telangana observed that both oil and de-oiled rice bran were used as cattle feed, and therefore, both should be exempt from tax. The Hon'ble Deputy Chief Minister of Gujarat stated that cotton oil cake was exempt from tax but this led to reversal of input tax credit, which was causing dissatisfaction amongst traders. He suggested to put 1% tax on cotton oil cake and rice bran. The Joint Secretary (TRU-I), CBEC stated that when tax was charged on reverse charge basis on raw cotton, the traders were paying tax under reverse charge mechanism. However, with reverse charge mechanism provision [Section 9(4) of CGST and SGST Acts] being kept in abeyance, the standalone cotton seed millers were put to disadvantage *vis-à-vis* integrated units (who directly bought raw cotton from farmers). To resolve this issue, supply of raw cotton by an agriculturist to a registered person was put under reverse charge mechanism under Section 9(3) of CGST and SGST Acts. The Hon'ble Deputy Chief Minister of Gujarat stated that due to difficulties faced by ginners industry, they had gone on strike and suggested to impose 1% tax on cotton oil cake and rice bran and to continue

with the reverse charge mechanism. The Secretary stated that it would not be desirable to have a new rate of tax of 1%. He suggested that the ginners could get refund and the process of refund could be expedited.

21.11. The Council agreed to the tax proposal recommended by the Fitment Committee for Serial No.22 of Annexure I, namely, to tax rice bran at the rate of 5% and de-oiled rice bran at Nil rate.

Handmade Carpets

21.12 The Hon'ble Minister from Jammu & Kashmir stated that he was requesting for the fourth time in the Council to reduce the rate of tax on handmade carpets from 12% to 5%. He informed that before carpets were sold, they were supplied to other States and at that stage, carpets were being taxed at the rate of 12%. The Hon'ble Chairperson suggested that this could be discussed by the Fitment Committee. The Council agreed to this suggestion. The Hon'ble Minister from Haryana stated that the State of Jammu & Kashmir deserved a special consideration in respect of the rate of tax on handmade carpets. The Secretary stated that the problem was regarding upfront payment of tax on handmade carpets and suggested that the Committee on Handicrafts could examine this issue and suggest a solution. The Council agreed to this suggestion.

Agenda item 10(i): Discussion on Annexure II

Serial No.6 of Annexure II: Pickle (HS Code: 2106)

22. The ACS, Tamil Nadu, stated that pickles should be exempted from tax. He stated that the Fitment Committee had not reached a consensus for reduction in the rate of tax on pickles from 12% to 5%. The Joint Secretary (TRU-I), CBEC, stated that generally, the GST rate of tax for processed food was 12% with a few exceptions, like unbranded *namkeens*, *chikki*, etc. The Hon'ble Minister from Tamil Nadu stated that pickle manufacturers were in cottage industry, and, therefore, pickles should be taxed at the rate of 5%. The Hon'ble Minister from Kerala stated that these were ready to eat items, and therefore, these should be taxed at the rate of 5%. The ACS, Tamil Nadu, stated that except oil, the other inputs used for manufacturing pickles were taxed at the rate of 5% or 0%, and therefore, pickles should also be taxed at the rate of 5%. However, ready to eat food was taxed at the rate of 12%.

22.1. The Hon'ble Chairperson suggested that once the revenue position improved, the rate of tax on pickles could be revisited.

Serial No.7 of Annexure II: Ready to eat/Ready to cook products, papad (HS Code:21)

22.2. The Hon'ble Minister from Uttarakhand stated that *papad* was exempted from tax earlier but it was not defined. He stated that, as a result, pasta was also being sold as *papad* and suggested that *papad* should be defined.

Serial No.28 of Annexure II: Fishing twine, ropes and fishnets (HSN Code: 5608) and

Serial No.63 of Annexure II: Fishing Line, Lead Weight and Buoys (HSN Codes:5404/ 3916)

22.3. The Hon'ble Minister from Kerala stated that the rate of tax on fishing line and lead weight should be reduced from 12% to 5%. The Hon'ble Minister from Tamil Nadu supported this suggestion. The Hon'ble Minister from Goa also supported the proposal. He stated that fishing line was complementary to fishnet, and therefore, it should also be taxed at the rate of 5% as a final product. The Secretary stated that the Fitment Committee could re-examine this issue in their next meeting as they had earlier considered it as an intermediate product. The Council agreed to this suggestion. He also observed that in order to move to a single rate, it was better not to reduce the rate of tax to 5%. The

Council approved that the Fitment Committee would re-examine the rate of tax on fishing line and lead weight.

Serial No.72 of Annexure II: Biscuits (HS Code:1905)

22.4. The Hon'ble Deputy Chief Minister of Delhi stated that bakery items were taxed at the rate of 12% but in spite of the fact that the tax rate on biscuits was 18%, they were getting billed at 12% tax rate. He suggested to keep the rate of tax on biscuits at 12%. The Joint Secretary (TRU-I), CBEC, stated that biscuits were in organised sector and had a market of about Rs.36,000 crore. Half of this market constituted low priced biscuits and the other half constituted high energy biscuits. He stated that reducing the rate of tax on biscuits from 18% to 12% would lead to substantial loss of revenue.

Serial No.74 of Annexure II: Materials used by disabled persons

22.5. The Hon'ble Minister from Kerala stated that spare parts for cochlear implants were being taxed at the rate of 28% and suggested that this rate should be reduced. The Joint Secretary (TRU-I), CBEC, stated that only batteries for cochlear implants would be taxable at the rate of 28%. Shri Mansur M.I., Assistant Commissioner (Commercial Tax), Kerala, informed that some cables, parts and accessories of cochlear implants needed to be replaced periodically and these were presently taxable at the rate of 28%. The Hon'ble Minister from Kerala suggested that the rate of tax on spare parts of cochlear implants should be re-examined by the Fitment Committee. The Council agreed to this suggestion.

22.6. For Serial No.74 of Annexure II, the Council agreed to the recommendations of the Fitment Committee and also directed it to re-examine the rate of tax on spare parts for cochlear implants.

Serial No.95 of Annexure II: Sanitary napkins (HSN Code: 9619):

22.7. The Hon'ble Minister from Kerala stated that the rate of tax on eco-friendly sanitary napkins should be lowered from the present rate of 12% which were produced by Women Groups and that there should be some distinction between eco- friendly products and those made from Polyesters. The Hon'ble Chairperson stated that a few Women Self Help Groups were making eco-friendly sanitary napkins but they would fall within the turnover threshold of Rs.20 lakh per annum. He observed that other normal taxpayers, which were Indian Companies, would get input tax credit. He added that if the rate of tax on sanitary napkins was reduced to 5%, the domestic industry would suffer severely and imports would increase. The Hon'ble Minister from Kerala stated that a distinction could be made between the Indian products and foreign products of these types. The Hon'ble Deputy Chief Minister of Bihar stated that a lot of media campaign was going on with regard to sanitary napkins. The Hon'ble Chairperson stated that 5% rate of tax on sanitary napkins would be advantageous only to foreign suppliers. The Hon'ble Deputy Chief Minister of Bihar stated that in that case, a self-explanatory and comprehensive advertisement should go out. The Secretary suggested that the Fitment Committee could re-examine the rate of tax on cotton eco-friendly sanitary napkins and could come up with a separate classification for products other than polyester sanitary napkins. The Council agreed to this suggestion.

22.8. The Council agreed to the recommendations of the Fitment Committee contained in Annexure II of Agenda item 10(i).

23. For **Annexure I of Agenda item 10(i)**, the Council approved the proposals of the Fitment Committee, with the following additions/changes:

- i. For Serial No.21, to exempt parts and accessories specifically used for manufacture of hearing aids through end-use based exemption;

- ii. For Serial No.18, the Fitment Committee to re-examine the rate of tax on plates made of sal and siali leaves and ropes made of sabai grass; and
- iii. The Fitment Committee to re-examine the rate of tax on handmade carpets from 12% to 5% and the Committee on Handicrafts to examine the problem of upfront payment of tax on handmade carpets from Kashmir, when sent to various States for eventual sale.

23.1. For Annexure II of Agenda item 10(i), the Council approved the recommendations of the Fitment Committee and also directed it to re-examine the following:

- i. The rate of tax on fishing line and lead weight (Serial No.28 and Serial No.63 of Annexure II);
- ii. The rate of tax on spare parts of cochlear implants (Serial No.74 of Annexure II); and
- iii. The classification and rate of tax on cotton eco-friendly sanitary napkins (Serial No.95 of Annexure II).

Agenda item 10(ii): Recommendations on Services

General discussion relating to Hotels

24. The Hon'ble Minister from Kerala stated that the tax rate on hotels in most countries was low, like 6% in Singapore and China, 7% in Thailand and Malaysia, 10% in France and 15% in Sri Lanka and USA. However, India had a very high rate of tax of 28%. He observed that bulk of the conferences were moving away to South East Asian countries. He suggested that there should be some rationalisation of rate of tax on room rents in hotels to make it competitive *vis-à-vis* other countries. The Hon'ble Minister from Goa supported this proposal and stated that once tourists went elsewhere, they would not come back to India in future. The Hon'ble Chairperson stated that this was a good case for review once the revenue position improved.

24.1. The Hon'ble Ministers from Goa and Kerala stressed that the high rate of tax on hotels was counter-productive and that the Fitment Committee should give a report on the rate of tax on room rents of hotels. The Hon'ble Chairperson observed that in order to keep their room tariff at less than Rs.7,500 per day, hotels had also come up with innovative practices, like charging separately for guest pick up, breakfast, etc.

24.2. With these preliminary discussions, the Council took up discussion on the summary sheet containing the recommendations of the Fitment Committee on Services. A record of discussion is as follows:

Serial No.26 of Summary Sheet: To exempt supply of service by Parliament and State Legislatures by way of transportation service by road of Hon'ble MPs/MLAs/MLCs and sale of souvenirs/publications to visitors and Hon'ble MPs/MLAs/MLCs

24.3. The Hon'ble Minister from Punjab stated that this exemption would not go down well with the public and suggested not to accept this proposal. He observed that the Hon'ble MPs/MLAs/MLCs should be able to pay taxes for transportation services. Shri Amitabh Kumar, Joint Secretary (TRU-II), CBEC, stated that there should not be compliance and registration burden on the Parliament Secretariat as it required fulfilment of various procedures. The Hon'ble Chairperson observed that the law regarding registration was approved by the Parliament itself and it need not seek exemption from the same. He further observed that the pick-up charges by road for MPs was very small and they could afford to pay tax on the same.

24.4. The Council agreed to remove Serial No.26 of Summary Sheet of Agenda item 10(ii) from the proposed list of exemptions.

Serial No.54 of Summary Sheet: To exempt Government's share of profit petroleum from GST and to clarify that cost petroleum is not taxable *per se*

24.5. The Hon'ble Minister from Haryana stated that similar exemption should be available for his State Government for supplies by Pollution Control Board and HSIDC (Haryana State Industrial Development Corporation). The Joint Secretary (TRU-II), CBEC, explained that the part of profit petroleum given to the Central Government by the contractor was not allowed to be recovered as cost of production under the production sharing contract and thus it may not be subject to tax. The Hon'ble Minister from Haryana stated that five States, which collected licence fee on liquor for human consumption needed to be exempted from tax as was suggested during the earlier meetings of the Council but till now, no notification had been issued to this effect. The Secretary stated that it was agreed during the earlier meeting that in future, there would be change in the revenue model under which more tax would be charged. He stated that for past cases, some way needed to be found out, may be in the form of exemption. The Hon'ble Minister from Haryana stated that on this issue, several representations had been sent but no solution had been found as yet. The Secretary stated that this issue would be discussed separately to find a solution.

25. For **Agenda item 10(ii)**, except Serial No.26, the Council approved the other recommendations of the Fitment Committee, contained in the Summary Sheet of this Agenda item.

Agenda item 11: Carry forward items from the previous Council Meeting

Agenda item 11(i): Presentation on GST in Real Estate sector

26. The Secretary suggested that discussion on this Agenda item could be deferred due to paucity of time. The Hon'ble Minister from Punjab stated that bringing petroleum products under GST should also be discussed in the next Meeting of the Council along with the real estate sector. The Hon'ble Deputy Chief Minister of Bihar requested for a presentation on electricity in the next meeting. The Hon'ble Chairperson stated that in the next Meeting of the Council, issues relating to real estate, electricity and petroleum products could be discussed. The Council agreed to this suggestion.

27. For **Agenda item 11(i)**, the Council approved to defer its consideration and further agreed to take up discussion on real estate, petroleum products and electricity in the next meeting of the Council.

Agenda item 11(ii): Incentivising Digital Payments in GST regime

28. Consideration of this Agenda item was deferred due to paucity of time.

Agenda item 12: Transfer of shares of Empowered Committee (EC) in GSTN to the State of Telangana

29. The Secretary stated that previously, the Empowered Committee had been nominating Directors on the Board of Directors of GSTN from Group B (State Governments). He stated that during the 14th Meeting of the Council held on 18 and 19 May, 2017, it was decided to nominate the Additional Secretary, GST Council Secretariat as an *ex-officio* Director on the Board in place of the erstwhile Member Secretary of the Empowered Committee and to amend Articles of Association of GSTN to the effect that all references to the Empowered Committee of State Finance Ministers may, post amendment, refer to GST Council. He stated that as a result of these decisions of the Council, 80,000 shares (0.8% of the total) of Rs.10 each of the Empowered Committee needed to be assigned/transferred to the other stakeholders. He suggested that the share of the Empowered Committee could be assigned to the State of Telangana, which was carved out (after bifurcation of Andhra Pradesh) in the year 2014, and therefore, it did not presently have any equity shares in GSTN. The Council agreed to this proposal.

30. For **Agenda item 12**, the Council approved to transfer 80,000 shares of Rs.10 each of the Empowered Committee of the State Finance Ministers to the State of Telangana.

Agenda item 13: Any other agenda item with the permission of the Chairperson

Agenda item 13(i): Proposal to declare the sale of goods in Customs bonded warehouse and goods sold as high sea sales as ‘no supply’ under Schedule III of the CGST Act, 2017

31. Introducing this Agenda item, the Secretary stated that this agenda item was to alleviate the difficulty of double taxation. He explained that sales within a Customs bonded warehouse attracted IGST and when goods were cleared from the Customs bonded warehouse, they were again charged to IGST. In order to alleviate this problem of double taxation, it was proposed to amend the valuation provisions of the imported goods for the purposes of payment of integrated tax by amending the Customs Tariff Act. The amendment would result in integrated tax being levied on the enhanced sale value or the last sale value in case of multiple sales or value determined under Section 3(8) of the Customs Tariff Act, whichever was higher. Concomitantly, it was proposed to exempt/declare the sale of warehoused goods within the Customs bonded warehouse as ‘no supply’ under Schedule III of the CGST Act, 2017 in order to ensure that no integrated tax was payable in case goods were sold by the importer while these were kept in the Customs bonded warehouse. It was also proposed to declare high sea sale of goods as ‘no supply’ under Schedule III of the CGST Act. The Council agreed to the proposal.

32. For **Agenda item 13(i)**, the Council approved the following:

- i. Sale of goods within the Customs bonded warehouse shall be declared as ‘no supply’ under Schedule III of the CGST Act, 2017;
- ii. High sea sale of goods shall be declared as ‘no supply’ under Schedule III of the CGST Act, 2017.

Agenda item 13(ii): Proposal to reduce penalty under Section 122(1)(xiv) of CGST Act, 2017 (e-Way Bill) in exercise of powers under Section 128 of the Act.

33. Introducing this Agenda item, the Commissioner (GST Policy), CBEC, explained that under Section 122(1)(xiv) of the CGST Act, 2017, if a taxable person transported any taxable goods without the cover of documents, as specified in this behalf, he shall be liable to pay a penalty of Rs. 10,000 or an amount equivalent to the tax evaded, whichever was higher. He stated that similar provisions existed in the SGST Acts, 2017 and the UTGST Act, 2017 and hence an offence in all such cases would lead to a minimum penalty of Rs. 20,000. He stated that as e-Way bill system was going to be implemented for the first time under the GST regime, it would take time for the stakeholders to become aware of the various provisions of the e-Way bill Rules, and therefore, in order to ensure smooth implementation of e-Way bill system, the proposal on the table was that by exercising power conferred under Section 128 of these Acts, minimum penalty of Rs.10,000 for violation of Section 122(1)(xiv) of the CGST Act, 2017 may be reduced to Rs.500 for the first six months. The Secretary stated that a similar reduction could be done under the relevant provisions of the SGST and UTGST Acts, 2017. He further stated that this would give a reasonable time to the administration and other stakeholders to get accustomed to the system and would also prevent harassment to trade and industry.

33.1. Initiating discussion on this Agenda item, the Hon'ble Minister from Kerala stated that imposing penalty for not carrying e-Way bill was a deterrent measure and a penalty of Rs.500 would not be a sufficient deterrent. Shri V.P. Singh, CCT, Punjab, stated that in their experience, invoice was often destroyed after the goods reached the destination, and therefore, in case penalty was very small, there would be a perverse incentive to pay a penalty of Rs. 1,000 and carry on the evasion activities. The Secretary stated that this proposal was only for the initial period and that there was a risk that too high a penalty might cause obstruction to smooth transportation of goods.

33.2. Shri Jagdish Chander Sharma, Principal Secretary (E&T), Himachal Pradesh, stated that in his State, e-Way bill system was already in place and e-Way bill declarations were being filed and penalty for not carrying e-Way bills was 50% of the value of goods. The Hon'ble Minister from Kerala stated that in his State, penalty for not carrying e-Way bills was twice the amount of tax involved. The CCT, Punjab, stated that instead of reducing the penalty amount, some other mechanism could be considered like not imposing penalty on first two instances of not carrying e-Way bill and to impose full penalty for the third default and onwards. The CCCT, Andhra Pradesh, stated that in his State, penalty for not carrying e-Way bill was 200% of the total tax involved and they had so far collected approximately a sum of Rs.15 crore as penalty. He stated that the violators were mostly dealers from other States. He expressed that penalty should not be as low as Rs.500.

33.3. The ACS, Uttar Pradesh, stated that in his State, penalty for not carrying e-Way bill was 40% of the tax evaded amount and traders were paying this amount. He added that checks were only to the extent of 3%-4% and suggested that penalty for not carrying e-Way bill should be 30%-40% of the value of goods. The Hon'ble Minister from Punjab stated that in order to prevent transporters from going on strike, e-Way bill system should be gradually launched and the time limit for travel up to 100 km by a truck should be two days instead of one day. The Secretary stated that the time prescribed for travel up to 100 km was quite reasonable and it should not be changed at this stage. The Principal Secretary (Finance), Odisha, stated that in his State, under the VAT system, penalty for not carrying e-Way bill for inter-State movement of goods was five times the tax involved and it would not be advisable to reduce the penalty amount. The Hon'ble Deputy Chief Minister of Gujarat supported the proposal to reduce the penalty amount during the initial period. The Hon'ble Minister from Uttarakhand stated that e-Way bill system needed certain improvements. For example, in case of River Bedded Material (RBM), the value transported in trucks was mostly below Rs. 50,000 and they would go without e-Way Bill. He suggested that if the RBM was more than 5 tonnes, then provision should be made to make e-Way Bill mandatory. With regard to bricks, he suggested that if more than 1000 numbers of bricks were being carried, e-Way Bill should be made mandatory. He further stated that there should be a provision to block generation of e-Way bills once any material started moving, as presently, there was a possibility that any material moving without e-Way bill, when likely to be caught, could generate an e-Way by sending SMS. He added that a penalty of Rs. 20,000 was reasonable as a deterrence against evasion.

33.4. The Hon'ble Deputy Chief Minister of Delhi suggested that for inter-State movement of goods, penalty for not carrying e-Way bill should be 100% of the tax amount and for intra-State movement, discretion for imposing penalty should be left to the State concerned. The Secretary stated that from 1 February, 2018, e-Way bill system would compulsorily be introduced for inter-State movement of goods and 15 States had opted to introduce the e-Way bill system for intra-State movement of goods and that for other States, the last date was 1 June, 2018. The Hon'ble Deputy Chief Minister of Delhi stated that it would not be practical for them to put check posts for intra-State movement of goods. The Secretary stated there already existed a clause for relaxing the requirement of e-Way bill for intra-State movement of goods through a Committee of officers of State and Central Government.

33.5. The Hon'ble Minister from Kerala again raised a question regarding the issue of penalty for violation for e-Way bill rules. The Secretary stated that the general suggestion was either to keep the penalty same or keep it somewhere around Rs.3000–Rs.4000. The Hon'ble Minister from Kerala stated that there was no justification to reduce penalty. He added that various States had experience in implementation of e-Way bill system and suggested that penalty should not be reduced. The Hon'ble Minister from Jammu & Kashmir supported this suggestion. Shri Khalid A. Anwar, Senior Joint Commissioner, West Bengal, stated that penalty for carrying goods without documents is up to Rs. 10,000. Assuming that the tax amount itself came to say Rs.1000– Rs.2000, in such case, the penalty amount would become very high. Therefore, it should be kept at an average level, preferably in the range

of Rs. 3,000. The Hon'ble Deputy Chief Minister of Gujarat stated that penalty amount should be linked to the tax evasion amount. He stated that a few taxpayers might commit genuine mistakes and that every taxpayer should not be regarded as an evader. The Hon'ble Deputy Chief Minister of Bihar stated that penalty amount should not be more than Rs. 5,000-Rs. 6,000 and suggested that penalty amount should be in the range of Rs. 2,500 and Rs. 3,000 each under CGST and SGST Acts. He also suggested to appoint nodal officers in every State to look into issues relating to implementation of e-Way bill system. He also suggested to establish a Central Help Desk and other institutional mechanism for trouble shooting. He further suggested to provide MIS to States so that they could track the issues relating to e-Way bill system. He further suggested that the e-Way bill system should be integrated with the data base of the Ministry of Road Transport and Highways (MoRTH) so that details of vehicles could be pulled out from the database of MoRTH. He suggested that there should be some guidelines by way of standard operating system or a mechanism should be evolved to tackle difficulties that might arise during initial implementation of the e-Way bill system. He also suggested to delay implementation of intra-State e-Way bill system by one month. He suggested that the month of February, 2018 should be treated as trial run for e-Way bill system for intra-State movement of goods and it should formally be implemented from March 1, 2018 for the States opting to introduce intra-State e-Way bill system.

33.6. The Hon'ble Chairperson observed that one way forward could be to keep the amount of penalty as Rs. 1,000 or the amount of tax evaded, whichever was higher, and power should also be given to waive off penalty. The CCCT, Andhra Pradesh, stated that Section 129 had precedence over other Sections and power to waive off penalty under Section 128 should also have a reference to Section 129 of the CGST Act, 2017. The CCT, Punjab, stated that Section 129 of the CGST Act was attracted only where evasion of tax was involved. The Secretary suggested that for intra-State movement of goods, an understanding could be reached not to impose any penalty during the first month of implementation of the e-Way bill system and this could be treated as a trial period. The Hon'ble Minister from Jammu & Kashmir stated that the validity period of e-Way bill for remote areas, like Ladakh, should be more as vehicles could be stranded for 5-6 days due to natural causes. He stated that there should be an enabling provision to increase the validity period of e-Way bill in such remote areas. The Commissioner (GST Policy), CBEC, stated that such a provision already existed under the second proviso of rule 138(10) of the CGST Rules, 2017.

33.7. The Hon'ble Minister from Kerala strongly raised the question as to why gold should be exempted from e-Way bill system. He stated that law and order was a State subject and they could take care of public security. He informed that 10 cases of tax evasion involving seizure of 100 kg of gold had taken place in his State in last 3 months. He also stated that organised trade transported gold through specialised precious cargo transporters and cargo was presently being declared by such transporters. He added that with the present declaration, not a single case of law and order issue had come to light and that law and order issue should not be mingled with taxation aspect. He observed that tax on gold had already been reduced and coupled with this loophole, a lot of gold could be transported without payment of tax. The Secretary stated that there was a possibility of a large quantity of gold being carried in one's bag and in such cases, there was a possibility of no transport carrier detail being given in the e-Way Bill. The Hon'ble Minister from Telangana stated that the whole purpose of this discussion was to reduce the human interface. Evasion could be checked through use of technology. He observed that costly items were transported on duplicate invoices carried for some other goods and the value of the goods on the invoice was suppressed. Therefore, one needed to impose fine to check evasion.

33.8. The Hon'ble Minister from Kerala stated that if gold was not being brought in a vehicle, then Part B of e-Way bill need not be filled up, otherwise there should be no special dispensation for gold. The Secretary stated that this issue could be referred to the Law Committee for examination. The Council agreed to this suggestion. The ACS, Tamil Nadu, stated that there should be some standard

operating procedure for situations like when a vehicle not carrying e-Way bill was stopped; in what form penalty for not carrying e-Way bill would be taken or show cause notice issued. Therefore, such FORMS needed to be prescribed. He stated that they had given suggestions for improvement in implementation of e-Way bill system and these should be examined separately and immediately.

33.9. The Secretary reiterated that for the first month of implementation, no penalty should be imposed relating to e-Way bill for intra-State movement of goods. The ACS, Uttar Pradesh suggested to implement e-Way Bill system for intra and inter State movement of goods from 1 March, 2018. The Secretary stated that the date for introduction of intra-State e-Way bill system could be 1 February, 2018 but the penalty could be waived off during the first month. The Hon'ble Minister from Haryana stated that a lot of stock of goods had piled up and there was a risk of tax evasion. He stated that there could be pressure for deferment of e-Way Bill but he suggested that intra-State and inter-State e-Way bill systems should be started simultaneously if NIC was ready for the same. He stated that initially, one could take a lenient view with regard to implementation of e-Way bill system. The Secretary stated that this was a reasonable suggestion and that the 15 States, which were starting implementation of intra-State e-Way bill system for movement of goods from 1 February, 2018 (along with inter-State movement of goods) would need to go slow with regard to imposition of penalty. The Hon'ble Deputy Chief Minister of Bihar stated that guidelines should be worked out to avoid any clash between the Central and the State Governments in the enforcement of the e-Way bill system and for better coordination. The Secretary stated that in the Officer's meeting, it had been conveyed that for any enforcement action in regard to e-Way bill, the two administrations should work out joint action plan and that there should be no excessive use of authority.

34. For **Agenda item 13(ii)**, the Council did not approve the proposal to reduce penalty under Section 122(1)(xiv) of CGST Act, 2017. However, the Council approved to defer imposition of penalty on informal basis for failure to take e-Way bill for movement of goods during the month of February, 2018. The Council further agreed that the desirability of introducing e-Way bill system for movement of goods shall be examined by the Law Committee.

Agenda item 13(iii): Restriction of Transitional Credit in certain cases through the provisions for removal of difficulty under Section 172 of CGST Act

35. Introducing this Agenda item, the Commissioner (GST Policy), CBEC stated that it was proposed to issue an order under Section 172 of the CGST Act, 2017, in consultation with the Union Law Ministry, to remove difficulty and to give effect to the following actions:

- i. Ensure that the taxpayers do not avail of credit in cases under dispute (disputed credit) under the transition provisions;
- ii. Ensure that the taxpayers do not avail of any credit which has been blocked under sub-section (5) of section 17 of the CGST Act, 2017;
- iii. To take appropriate administrative steps as may be necessary to ensure that input tax credits which are not eligible for transition in terms of these orders or any other situation involving large revenue are not utilized for payment of tax.

35.1. The Secretary stated that if States so wanted, necessary orders could also be issued by the Central Government, making them applicable under the SGST Act, 2017. The Council agreed to the proposal.

36. For **Agenda item 13(iii)**, the Council approved to issue a removal of difficulty order under Section 172 of the CGST Act, 2017 for giving effect to the actions, as stated in paragraph 35 above and to apply similar orders under the SGST Acts, 2017, if the States so desired.

Agenda item 13(iv): Exclusion of Cesses not specified in the list of eligible duties from transition

37. Introducing this Agenda item, the Secretary stated that it had come to light that a large amount of credit of various types of Cess, such as Education Cess, Secondary and Higher Education Cess, Krishi Kalyan Cess had been claimed as transitional credit, which was not allowed under the CGST law. Similarly, Cess collected as Additional Duty of Customs under Section 3(1) of the Customs Tariff Act, 1975, such as Clean Environment Cess, was also being claimed as transitional credit as the law did not specifically exclude them from the list of eligible duties. He stated that to remove any ambiguity and to prevent credit of Cess to be transitioned under Section 140 of the CGST Act, 2017, it was proposed that credit of Cesses could be specifically excluded from the list of 'eligible duties' under Explanations 1 and 2 of Section 140 of the CGST Act, 2017. He stated that accordingly, it was proposed to amend the following provisions of Section 140 of the CGST Act, 2017:

- i. Sub-section (1) of Section 140 to provide that only credit of eligible duties can be transitioned;
- ii. Explanations 1 and 2 of Section 140 to include reference to sub-section (1) of Section 140;
- iii. Insert an Explanation 3 to Section 140 of CGST Act, 2017 to clarify that the expression "eligible duties and taxes" does not include any Cess which has not been specified in Explanation 1 or Explanation 2 above and any Cess which is collected as Additional Duty of Customs under sub-section (1) of Section 3 of the Customs Tariff Act, 1975;
- iv. The above changes to apply retrospectively with effect from the appointed day i.e. 01.07.2017.

37.1. The Council agreed to the above proposals.

38. For **Agenda item 13(iv)**, the Council approved the proposals contained in paragraph 37 above.

Other Issues

39. The Hon'ble Minister of Tamil Nadu circulated a written speech during the Council Meeting. In the written speech, the Hon'ble Minister welcomed the recommendations of the Committee on Return Filing, which recommended to bring down the compliance workload. He expressed a note of caution that generation of monthly report of the taxpayer for a mismatch between input tax credit claimed and input tax credit mismatched in return and the follow up action by the jurisdictional tax officers would create a level of human interface. He suggested that while simplification of return filing was welcome, the process of input tax credit matching and auto reversal should be put in place at the earliest. He expressed happiness that their request to classify certain goods as handicraft items were agreed to by the Committee on Handicrafts. He stated that the rates of handicraft items should be fixed in a manner so as to encourage this sector. He added that based on representations received from stakeholders, Tamil Nadu had submitted a list of 60 goods and services for consideration of the Council. He was happy to note that the Fitment Committee recommended to the Council further changes in the GST rates of 29 goods and services and these included items like fertilizer grade phosphoric acid; *vibhuti*; de-oiled rice bran; drip irrigation; packaged drinking water in 20-litre bottle; sugar boiled confectionaries; micro-nutrients; admission to theme parks, water parks, joy rides, merry-go-rounds, go carting and ballet; allowing input tax credit on input services in the same line of business of tour operators; job work of leather goods and footwear; exemption from tax on services relating to conduct of examination and entrance examination by educational institutions; and reduction of tax on common effluent treatment plant services, etc. He suggested that the Council should also consider their other long pending requests, such as grant of exemption for handloom and power loom products; sago; safety matches; pickles; butter; ghee; sanitary napkins; agricultural implements; textile machinery parts and pump sets. He also suggested reduction in the rate of tax on aluminium utensils from 12% to 5%, on aluminium raw material such as aluminium circles and sheets from 18% to 12% and on aluminium scrap from 18% to 12%. He noted that aluminium utensils were used by lower and middle-class houses and aluminium utensils were mostly recycled.

39.1. The Hon'ble Minister from Kerala circulated a written speech during the meeting of the Council wherein he highlighted certain issues of concern. He suggested that the IGST amount should be distributed provisionally among States on the basis of the proportion of the IGST fund already transferred till now. He expressed reservation regarding Centre's request to reduce the rate of tax on diesel and instead suggested that the Centre should bring down the recent duty hike subsequent to reduction in crude price in proportion to the price increase. He expressed concern regarding slow pace of notification of procedures and methodology and guidelines on determining what constitutes anti-profiteering by the National Anti-Profiteering Authority. He suggested that the Council should take measures to discuss issues relating to passing on the benefit of duty reduction to consumers. He expressed reservation regarding the suggestion to bring stamp duty under GST. He suggested to take a considered decision regarding reverse charge mechanism as without it, cash transactions could increase and could result in tax evasion in respect of goods having fast moving inventory, such as agricultural produce, old gold, etc. He did not support the proposal to define the place of supply for accommodation services to be the place of registration in case of registered recipients.

Agenda item 14: Date of the next Meeting of the GST Council

40. The Hon'ble Chairperson stated that, in all likelihood, the next meeting of the Council shall take place through video conference during which the procedure for return filing and amendment to CGST Act, 2017 and SGST Act, 2017 could be taken up. He stated that the date for the next meeting would be informed in due course.

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

Annexure 1

List of Hon'ble Ministers who attended the 25th GST Council Meeting on 18 January, 2018

Sl. No	State/Centre	Name of Hon'ble Minister	Charge
1	Govt of India	Shri Arun Jaitley	Finance Minister
2	Govt of India	Shri S.P. Shukla	Minister of State (Finance)
3	Andhra Pradesh	Shri Yanamala Ramakrishnudu	Minister of Finance, Planning, CT and Legislative Affairs
4	Arunachal Pradesh	Shri Chowna Mein	Deputy Chief Minister
5	Bihar	Shri Sushil Kumar Modi	Deputy Chief Minister
6	Chhattisgarh	Shri Amar Agrawal	Minister of Commercial taxes
7	Delhi	Shri Manish Sisodia	Deputy Chief Minister
8	Goa	Shri Mauvin Godinho	Minister for Panchayat
9	Gujarat	Shri Nitinbhai Patel	Deputy Chief Minister
10	Haryana	Capt. Abhimanyu	Excise & Taxation Minister
11	Himachal Pradesh	Shri Jai Ram Thakur	Chief Minister
12	Jammu & Kashmir	Shri Haseeb. A. Drabu	Finance Minister
13	Jharkhand	Shri C.P. Singh	Minister - Department of Urban Development, Housing and Transport
14	Kerala	Dr. T. M. Thomas Isaac	Minister for Finance
15	Madhya Pradesh	Shri Jayant Malaiya	Minister of Finance &CT
16	Maharashtra	Shri Sudhir Mungatiwar	Finance Minister
17	Manipur	Shri Yumnam Joykumar	Deputy Chief Minister
18	Mizoram	Shri Lalsawta	Finance Minister
19	Odisha	Shri Shashi Bhusan Behera	Finance Minister
20	Puducherry	Shri V. Narayanaswamy	Chief Minister
21	Punjab	Shri Manpreet Singh Badal	Finance Minister
22	Rajasthan	Shri Rao Rajendra Singh	Deputy Speaker

23	Tamil Nadu	Shri D. Jayakumar	Minister for Fisheries and Personnel & Administrative Reforms
24	Telangana	Shri Etela Rajender	Finance Minister
25	Uttar Pradesh	Shri Rajesh Aggrawal	Finance Minister
26	Uttarakhand	Shri Prakash Pant	Finance Minister

Annexure 2

List of Officials who attended the 25th GST Council Meeting on 18 January, 2018

Sl No	State/Centre	Name of the Officer	Charge
1	Govt. of India	Dr. Hasmukh Adhia	Finance Secretary
2	Govt. of India	Dr. Arvind Subramanian	Chief Economic Adviser
3	Govt. of India	Ms Vanaja N. Sarna	Chairman, CBEC
4	Govt. of India	Shri Mahender Singh	Member (GST), CBEC
5	Govt. of India	Dr. John Joseph	Member (Budget), CBEC
6	GST Council	Shri Arun Goyal	Special Secretary
7	Govt. of India	Shri P.K. Mohanty	Advisor (GST), CBEC
8	Govt. of India	Shri Vinay Chhabra	Pr DG, DG-GST, CBEC
9	Govt. of India	Shri M. Vinod Kumar	Pr. Chief Commissioner, CBEC
10	Govt. of India	Shri P.K. Jain	DG, DG-Audit
11	Govt. of India	Shri Sandeep M. Bhatnagar	DG, DG-Safeguards, CBEC
12	Govt. of India	Shri Alok Shukla	Joint Secretary (TRU I), DoR
13	Govt. of India	Shri Amitabh Kumar	Joint Secretary (TRU II), DoR
14	Govt. of India	Shri Upender Gupta	Commissioner (GST), CBEC
15	Govt. of India	Shri Udai Singh Kumawat	Joint Secretary, DoR
16	Govt. of India	Shri Manish Kumar Sinha	Commissioner (Ce.Ex), CBEC
17	Govt. of India	Shri G.D. Lohani	OSD, TRU I
18	Govt. of India	Shri Yogendra Garg	ADG, GST, CBEC
19	Govt. of India	Shri S.K. Rehman	ADG, GST, CBEC
20	Govt. of India	Shri Sanjay Gupta	ADG, ARM, CBEC
21	Govt. of India	Shri Sachin Jain	Addl. Commissioner, Delhi South, CBEC
22	Govt. of India	Shri D.S. Malik	DG (M&C)
23	Govt. of India	Ms Sheyphali B. Saran	ADG (M&C)
24	Govt. of India	Shri S.K. Rai	Director (UT), MHA
25	Govt. of India	Shri Nagendra Goel	Advisor to CBEC
26	Govt. of India	Shri Parmod Kumar	OSD, TRU-II, DoR

27	Govt. of India	Shri Pramod Kumar	Deputy Secretary, TRU-II, DoR
28	Govt. of India	Shri N Gandhi Kumar	Deputy Secretary, DoR
29	Govt. of India	Shri Ravneet Singh Khurana	Joint Comm., GST Policy Wing
30	Govt. of India	Ms Himani Bhayana	Joint Comm., GST Policy Wing
31	Govt. of India	Shri Mahipal Singh	Technical Officer, TRU-I, DoR
32	Govt. of India	Shri Devranjan Mishra	Technical Officer, TRU-I, DoR
33	Govt. of India	Shri Susanta Mishra	Technical Officer, TRU-II, DoR
34	Govt. of India	Ms Nisha Gupta	Asst. Comm., GST Policy Wing
35	Govt. of India	Shri Siddharth Jain	Asst. Comm., GST Policy Wing
36	Govt. of India	Shri Vikash Kumar	Asst. Comm., GST Policy Wing
37	Govt. of India	Ms Gayatri PG	Asst. Comm., GST Policy Wing
38	Govt. of India	Shri Satvik Dev	Asst. Comm., GST Policy Wing
39	Govt. of India	Shri Paras Sankhla	OSD to Union Finance Minister
40	Govt. of India	Shri Mahesh Tiwari	PS to MoS
41	Govt. of India	Shri Nikhil Varma	OSD to MoS (Finance)
42	Govt. of India	Shri Debashis Chakraborty	OSD to Finance Secretary
43	Govt. of India	Shri J S Kandhari	OSD to Chairman, CBEC
44	Govt. of India	Ms Sucheta Sreejesh	OSD to Chairman, CBEC
45	GST Council	Shri Shashank Priya	Joint Secretary
46	GST Council	Shri Dheeraj Rastogi	Joint Secretary
47	GST Council	Shri Rajesh Kumar Agarwal	Addl. Commissioner
48	GST Council	Shri G.S. Sinha	Joint Commissioner
49	GST Council	Shri Jagmohan	Joint Commissioner
50	GST Council	Shri Rahul Raja	Under Secretary
51	GST Council	Shri Mahesh Kumar	Under Secretary
52	GST Council	Shri Rakesh Agarwal	Under Secretary
53	GST Council	Shri Sandeep Bhutani	Superintendent
54	GST Council	Shri Shekhar P. Khansili	Superintendent
55	GST Council	Shri Vipul Sharma	Superintendent

56	GST Council	Shri Sunil Kumar	Inspector
57	GST Council	Shri Amit Soni	Inspector
58	GST Council	Shri Anis Alam	Inspector
59	GST Council	Shri Dipendra Kumar Singh	Inspector
60	Infosys	Shri Nandan Nilekani	Board Member
61	Infosys	Shri Venkat Narayan S	AVP
62	GSTN	Dr. A B Pandey	Chairman
63	GSTN	Shri Prakash Kumar	CEO
64	GSTN	Shri Nitin Mishra	EVP (Technology)
65	GSTN	Ms Kajal Singh	EVP (Services)
66	GSTN	Shri Jagmal Singh	VP (Services)
67	Govt of India, CBEC, (Zones)	Shri Kishori Lal	Commissioner, Chandigarh
68	Govt of India, CBEC, (Zones)	Shri Ashish Chandan	Commissioner, Nagpur
69	Govt of India, CBEC, (Zones)	Shri Pradeep Kumar Goel	Commissioner, Meerut
70	Govt of India, CBEC, (Zones)	Shri Neerav Kumar Mallick	Commissioner, Bhopal
71	Govt of India, CBEC, (Zones)	Shri Pramod Kumar	Commissioner, Delhi
72	Govt of India, CBEC, (Zones)	Shri Javed Akhtar Khan	Commissioner, Ahmedabad
73	Govt of India, CBEC, (Zones)	Shri G. V. Krishna Rao	Pr. Commissioner, Bengaluru
74	Govt of India, CBEC, (Zones)	Shri R.C. Sankhla	Commissioner, Lucknow
75	Govt of India, CBEC, (Zones)	Shri Mandalika Srinivas	Commissioner, Hyderabad
76	Govt of India, CBEC, (Zones)	Shri W.L. Hangshing	Chief Commissioner, Shillong
77	Govt of India, CBEC, (Zones)	Shri S. Kannan	Commissioner, Chennai

78	Govt of India, CBEC, (Zones)	Shri Vijay Mohan Jain	Commissioner, Rohtak
79	Govt of India, CBEC, (Zones)	Shri Virender Choudhary	Commissioner, Vadodara
80	Govt of India, CBEC, (Zones)	Shri B.K. Mallick	Commissioner, Kolkata
81	Govt of India, CBEC, (Zones)	Shri C.K. Jain	Commissioner, Jaipur
82	Govt of India, CBEC, (Zones)	Shri Milind Gawai	Commissioner, Pune
83	Govt of India, CBEC, (Zones)	Shri B. Hareram	Pr. Commissioner, Vishakhapatnam
84	Govt of India, CBEC, (Zones)	Shri Sanjay Mahendru	Commissioner, Mumbai
85	Govt of India, CBEC, (Zones)	Shri Deep Shekhar	Commissioner, Bhubaneswar
86	Govt of India, CBEC, (Zones)	Dr. V. Santhosh Kumar	Commissioner, Thiruvananthapuram
87	Andhra Pradesh	Dr D. Sambasiva Rao	Special Chief Secretary, Revenue
88	Andhra Pradesh	Shri J. Syamala Rao	Chief Commissioner, CT
89	Andhra Pradesh	Shri T. Ramesh Babu	Additional Commissioner, CT
90	Arunachal Pradesh	Shri Anirudh S Singh	Commissioner (Tax & Excise)
91	Assam	Dr. Ravi Kota	Principal Secretary (Finance)
92	Assam	Shri Rakesh Agarwala	Jt. Commissioner, CT
93	Bihar	Smt. Sujata Chaturvedi	Principal Secretary, Finance and CT
94	Bihar	Dr. Pratima S.K. Verma	Commissioner, CT
95	Bihar	Shri Arun Kumar Mishra	Additional Secretary, CTD
96	Bihar	Shri Ajitabh Mishra	Deputy Commissioner, CTD
97	Chandigarh	Shri Parimal Rai	Advisor to Administrator
98	Chandigarh	Shri Sanjeev Madaan	ETO
99	Chhattisgarh	Shri Amitabh Jain	Principal Secretary finance & CT

100	Chhattisgarh	Smt. Sangeetha P	Commissioner, CT
101	Chhattisgarh	Shri Shankar Agrawal	Addl. Commissioner, CT
102	Daman & Diu and Dadra & Nagar Haveli	Shri Sajjan Singh Yadav	Advisor to Administrator
103	Delhi	Shri H. Rajesh Prasad	Commissioner, State Tax
104	Delhi	Shri Anand Kumar Tiwari	Addl. Commissioner, GST
105	Delhi	Shri M. T. Kom	Addl. Commissioner
106	Goa	Shri Dipak Bandekar	Commissioner, CT
107	Gujarat	Dr. P.D. Vaghela	Commissioner of State Taxes
108	Gujarat	Shri. Sanjeev Kumar	Secretary (Economic Affairs) Finance Department
109	Gujarat	Shri V.K. Advani	OSD (GST)
110	Haryana	Shri Sanjeev Kaushal	Addl. Chief Secretary
111	Haryana	Smt. Ashima Brar	E&T Commissioner
112	Haryana	Shri Vijay Kumar Singh	Addl. E&T Commissioner
113	Haryana	Shri Rajeev Chaudhary	Jt. Excise & Taxation Commissioner
114	Himachal Pradesh	Shri Jagdish Chander Sharma	Principal Secretary (E&T)
115	Himachal Pradesh	Shri R. Selvam	Commissioner of State Tax and Excise
116	Himachal Pradesh	Shri Sanjay Bhardwaj	Additional Commissioner Grade-1
117	Himachal Pradesh	Shri Rakesh Sharma	Joint Commissioner
118	Jammu & Kashmir	Shri P. I. Khateeb	Commissioner, CT
119	Jammu & Kashmir	Shri P.K. Bhat	Additional Commissioner, CT (Tax Planning)
120	Jharkhand	Shri K.K.Khandewal	Principal Secretary-Cum-Commissioner, CT
121	Jharkhand	Shri Ajay Kumar Sinha	Addl. Commissioner of State Taxes
122	Jharkhand	Shri Brajesh Kumar	State Tax officer

123	Karnataka	Shri Srikar M.S.	Commissioner, CT
124	Kerala	Dr. Rajan Khobragade	Commissioner, State GST Dept.
125	Kerala	Shri Mansur MI	Asst. Commissioner
126	Madhya Pradesh	Shri Raghwendra Kumar Singh	Commissioner, CT
127	Madhya Pradesh	Shri Sudip Gupta	Dy. Commissioner, CT
128	Maharashtra	Shri Rajiv Jalota	State Tax Commissioner
129	Maharashtra	Shri Dhananjay Akhade	Jt. Commissioner, State Tax
130	Maharashtra	Shri Sudhir Rathod	OSD to Finance Minister
131	Manipur	Shri Hrisheekesh Modak	Commissioner, CT
132	Mizoram	Shri Vanlalchhuanga	Secretary, State Tax
133	Odisha	Shri Tuhin Kanta Pandey	Principal Secretary Finance
134	Odisha	Shri Saswat Mishra	Commissioner, CT
135	Odisha	Shri Sahadev Sahoo	Jt. Commissioner, CT
136	Puducherry	Shri Dr. V. Candavelou	Secretary to Govt. (Finance)
137	Puducherry	Shri G. Srinivas	Commissioner (ST)
138	Punjab	Shri M. P Singh	Addl. Chief Secretary-cum-Financial Commissioner (Taxation)
139	Punjab	Shri V.K Garg	Advisor (Finance)
140	Punjab	Shri Vivek Pratap Singh	Excise & Taxation Commissioner
141	Punjab	Shri Pawan Garg	Dy. Excise & Taxation Commissioner
142	Rajasthan	Shri D.B. Gupta	Addl. Chief Secretary
143	Rajasthan	Shri Praveen Gupta	Secretary Finance (Revenue)
144	Rajasthan	Shri Alok Gupta	Commissioner, CT
145	Rajasthan	Shri Ketan Sharma	Jt. Commissioner (GST)
146	Sikkim	Shri V.B. Pathak	Principal Secretary, Finance
147	Sikkim	Smt. Dipa Basnet	Secretary, CT
148	Sikkim	Shri Manoj Rai	Jt. Commissioner, CT

149	Tamil Nadu	Dr. C. Chandramouli	Addl. Chief Secretary CT & Registration Dept.
150	Tamil Nadu	Shri C. Palani	Jt. Commissioner, CT
151	Telangana	Shri Somesh Kumar	Principal Secretary (Revenue)
152	Telangana	Shri Anil Kumar	Commissioner (CT)
153	Telangana	Shri Laxminarayana jannu	Add. Commissioner (CT)
154	Tripura	Shri P Srivastava	Chief Resident Commissioner
155	Uttar Pradesh	Shri Rajendra Kumar Tiwari	Addl. Chief Secretary
156	Uttar Pradesh	Ms Kamini Chauhan Ratan	Commissioner, CT
157	Uttar Pradesh	Shri Vivek Kumar	Addl. Commissioner, CT
158	Uttar Pradesh	Shri M.N. Verma	Joint Secretary
159	Uttarakhand	Smt. Sowjanya	Commissioner, State Tax
160	Uttarakhand	Shri Piyush Kumar	Additional Commissioner of State Tax
161	West Bengal	Smt. Smaraki Mahapatra	Commissioner, CT
162	West Bengal	Shri Khalid A Anwar	Senior Joint Commissioner

Annexure 3

AGENDA NO. 2 – REVENUE COLLECTED
IN NOV AND DEC 2017 UNDER GST
INCLUDING SETTLEMENT OF FUNDS

25th GST Council Meeting
18th January, 2018
Vigyan Bhavan

1

**GST REVENUE FOR MONTH OF
NOVEMBER, 2017**

(Figures in Rs. Crore)

	November receipts	Funds transferred due to settlement	Net revenue after settlement
CGST	13692	10145	23837
SGST	20295	13882	34177
IGST	44784	-24027	20757
Cess	7160		7160
Total			85931

Revenue shortfall of States: **Rs. 8989 crores**

2

GST REVENUE FOR MONTH OF DECEMBER, 2017

(Figures in Rs. Crore)

	December receipts	Funds transferred due to settlement	Net revenue after settlement
CGST	13986	10348	24334
SGST	19767	14488	34255
IGST	42114	-24836	17278
Cess	7848		7848
Total			83716

Revenue shortfall of States : **Rs. 8894 crores**

3

State	Revenue shortfall upto 10% in Dec'17
Mizoram	-18%
Arunachal Pradesh	-1%
Manipur	1%
Tamil Nadu	6%
Maharashtra	7%

4

State	Revenue shortfall between 10-20% in Dec'17
Telangana	13%
Delhi	14%
Nagaland	15%
Andhra Pradesh	17%
Haryana	18%
Uttar Pradesh	18%
Gujarat	19%
Rajasthan	19%

State	Revenue shortfall more than 20% in Dec'17
Puducherry	51%
Himachal Pradesh	49%
Punjab	45%
Uttarakhand	44%
Meghalaya	40%
Bihar	39%
Odisha	39%
Chhattisgarh	37%
J & K	36%
Karnataka	31%
Jharkhand	29%
Tripura	28%
Assam	25%
Goa	24%
Madhya Pradesh	24%
Kerala	23%
West Bengal	22%
Sikkim	21%

STATES WITH MAXIMUM REVENUE SHORTFALL

Sl. No.	Name of the State	Percentage shortfall in October 2017 revenue	Percentage shortfall in December 2017 revenue
1.	Puducherry	59.5	51.5
2.	Uttarakhand	50.0	43.8
3.	Himachal Pradesh	46.8	48.8
4.	Chhattisgarh	43.3	37.2
5.	Bihar	41.5	39.3
6.	Goa	41.5	24.0
7.	J & K	40.1	35.9
8.	Meghalaya	39.6	39.9
9.	Punjab	39.0	45.3
10.	Nagaland	35.4	14.7
11.	Jharkhand	31.8	28.7
12.	Odisha	27.9	39.2
13.	Arunachal Pradesh	27.8	-0.9
14.	Assam	26.8	25.4
15.	Sikkim	26.7	21.1
16.	Madhya Pradesh	25.6	23.6
17.	Karnataka	25.3	30.8

7

STATES WITH LEAST SHORTFALL IN REVENUE

Sl. No.	Name of the State	Percentage shortfall in October 2017 revenue	Percentage shortfall in December 2017 revenue
1.	Delhi	-0.2	14.3
2.	Maharashtra	2.6	6.7
3.	Andhra Pradesh	4.4	16.8
4.	Tamil Nadu	4.4	5.5
5.	Telangana	6.5	13.4
6.	Kerala	14.4	22.7
7.	Haryana	16.5	18.1
8.	Gujarat	16.6	18.6
9.	Uttar Pradesh	17.2	18.1

8

STATES SHOWING MAXIMUM IMPROVEMENT UPTO DECEMBER 2017

Sl. No.	Name of the State	Percentage shortfall in revenue in August 2017	Percentage shortfall in revenue in December 2017	Percentage reduction in shortfall in December 2017 vis-à-vis- August 2017
1.	Mizoram	47.7	-17.6	65.3
2.	Manipur	46.6	0.8	45.8
3.	Arunachal Pradesh	42.6	-0.9	43.5
4.	Nagaland	50.5	14.7	35.8
5.	Tripura	59.4	28.5	30.9
6.	J & K	63.9	35.9	28.0

9

STATES SHOWING MAXIMUM IMPROVEMENT UPTO DECEMBER 2017- CONTD...

Sl. No.	Name of the State	Percentage shortfall in revenue in August 2017	Percentage shortfall in revenue in December 2017	Percentage reduction in shortfall in December 2017 vis-à-vis- August 2017
7.	Haryana	40.3	18.1	22.2
8.	Madhya Pradesh	43.4	23.6	19.8
9.	Rajasthan	34.8	18.9	16.0
10.	Goa	39.9	24.0	15.9
11.	Telangana	27.8	13.4	14.4
12.	Assam	39.5	25.4	14.1

10

Annexure 4



Agenda



- Deemed Ratification of Notifications / Circulars etc.
- Decisions taken by GIC
- Issues for approval of GST Council

2

- Ratification of following notifications, circulars & orders issued after 23rd GST Council meeting :

Act/Rules	Type	Notification / Circular / Order Nos.
CGST Act	Central Tax	55 to 75 of 2017 01 of 2018
	Central Tax (Rate)	41 to 47 of 2017
IGST Act	Integrated Tax	12 of 2017
	Integrated Tax (Rate)	43 to 50 of 2017
UTGST Act	Union territory Tax	01 of 2018
	Union territory Tax (Rate)	41 to 47 of 2017
Circulars	CGST Act	14 to 26 of 2017 27 & 28 of 2018
Orders	CGST Act	09 to 11 of 2017

Decisions of GIC post 9.11.2017 (1/6)

- **Decision by Circulation (08.12.2017)**
 - Extension of the time limit for filing of **FORM GST ITC-01** upto 31.12.2017
 - ✓ **Notification No. 67/2017 – CT dated 21.12.2017 issued**
 - Clarification on issues regarding treatment of supply by an artist in various States and supply of art works from galleries
 - ✓ **Circular No. 22/22/2017-GST dated 21.12.2017 issued**
 - Manual filing of applications for Advance Ruling and appeals before Appellate Authority for Advance Ruling
 - ✓ **Circular No. 25/25/2017-GST dated 21.12.2017 issued**
 - Maintenance of books of accounts relating to additional place of business by a principal or an auctioneer for the purpose of auction of tea, coffee, rubber etc.
 - ✓ **Circular No. 23/23/2017-GST dated 21.12.2017 issued**

4

Decisions of GIC post 9.11.2017 (2/6)



- **Decision by Circulation (12.12.2017)**
 - Extension of time limit for filing of **FORM GSTR-5** & **FORM GSTR-5A** for the months of July, 2017 to December 2017 upto 31.01.2018
 - Extension of time limit for filing of **FORM GST CMP-03** upto 31.01.2018
 - ✓ Notification No. 68/2017 – CT dated 21.12.2017
 - ✓ Notification No. 69/2017 – CT dated 21.12.2017
 - ✓ Order No. 11/2017-GST dated 21.12.2017 issued

5

Decisions of GIC post 9.11.2017 (3/6)



- **Decision by Circulation (13.12.2017)**
 - To insert columns 10 to 15 in Table 6 of **FORM GSTR-1**
 - To provide for both supplier & recipient of supplies declared as deemed exports supplies to claim refund
 - To insert Statement 6A in **FORM GST RFD-01** & **FORM GST RFD-01A** to capture details of invoices of outward supplies in case of deemed export supplies
 - To amend declaration required to be submitted under rule 89(2)(g) in **FORM GST RFD-01** & **FORM GST RFD-01A** to include the declaration of supplier also in case of deemed export supplies
 - To insert Statement 1A in both these forms to capture details of invoices of inward & outward supplies in case of inverted duty structure refund
 - ✓ Notification No. 70/2017 – CT dated 21.12.2017 issued

6

Decisions of GIC post 9.11.2017 (4/6)



- **Decision by Circulation (13.12.2017- contd.)**
 - Circular on manual filing & processing of refund claims on account of inverted duty structure, deemed exports & excess balance in electronic cash ledger
 - ✓ **Circular No. 24/24/2017-GST dated 21.12.2017 issued**
- **Decision by Circulation (26.12.2017)**
 - To provide for Centralized UIN for Foreign Diplomatic Missions / UN organizations
 - ✓ **Notification No. 75/2017 – CT dated 29.12.2017 issued**
 - Amendment of **FORM GST REG-10** for registration of OIDAR service providers
 - Amendment of rule 89(4) to provide separate treatment of ITC availed in respect of inward supplies (obtained at concessional rate) for merchant exports, domestic supplies & common inputs

7

Decisions of GIC post 9.11.2017 (5/6)



- **Decision by Circulation (26.12.2017- contd.)**
 - Insertion of rule 96(9) to limit refund of IGST to persons availing the benefit of notification No. 40/2017-CT (Rate) & notification No. 41/2017-IT (Rate) both dated 23.10.2017 & notification No. 48/2017-CT dated 18.10.2017
 - to the amount of IGST on such exports paid through the utilization of balance available in the electronic cash ledger
 - to mandate that such person shall not be eligible to claim refund of IGST
 - To insert a proviso to rule 19(1) to provide for amendment to any particular of the application for registration w.e.f. a date earlier than the date of application only with approval of Commissioner
 - To delete Table 5 of **FORM DRC-07**
 - ✓ **Notification No. 75/2017 – CT dated 29.12.2017 issued**

8

- **Decision by Circulation (26.12.2017- contd.)**
 - Extension of time limit for filing of **FORM GSTR-1** (Quarterly return for July - September, 2017) & **FORM GSTR-1** (Monthly return for the months of July, 2017 to December, 2017) to 10.01.2018
 - ✓ Notification No. 71/2017 – CT dated 29.12.2017 issued
 - ✓ Notification No. 72/2017 – CT dated 29.12.2017 issued
 - Reduction of late fee in case of delayed filing of **FORM GSTR-4** to bring it on par with late fee payable in case of delayed filing of the return in **FORM GSTR-3B**
 - ✓ Notification No. 74/2017 – CT dated 29.12.2017 issued
 - Circular on return filing
 - ✓ Circular No. 26/26/2017-GST dated 29.12.2017 issued

9

Agenda Note No. 7(i) - Amendments in the CGST Rules (1/5)

S. No.	Proposed Change	Rationale / Reason
1	FORM GST ITC-03: Proposal to increase the time period for filing the statement from <i>90 days</i> to <i>180 days</i>	Functionality not available on the common portal
2	Composition scheme rates under Rule 7	To align with notification No. 1/2018-CT(R) dated 01.01.2018
3	Omit proviso to Rule 20	Allowing application for cancellation of voluntary registration within 1 year of date of registration
4	FORM GST REG-29: Proposal to extend date till 31.03.2018	Large number of taxpayers yet to avail the facility

10

Agenda Note No. 7(i) - Amendments in the CGST Rules (2/5)

S. No.	Proposed Change	Rationale/ Reason
4	Proviso to sub rule (5) of Rule 32 to be converted to a separate sub-rule	It was observed that situation being dealt with is quite different from the main sub-rule (5) & also that the said proviso was silent about the method of valuation for value of goods repossessed from a defaulting borrower who is a registered person
5	Insertion of sub-rule (1A) in Rule 54 for issuance of special invoice by a normal registered person to an ISD	No mechanism for an ISD to receive and pay tax on services under reverse charge & no mechanism for the normally registered entity to transfer credit, in respect of such common services received under reverse charge, to the ISD

11

Agenda Note No. 7(i) - Amendments in the CGST Rules (3/5)

S. No.	Proposed Change	Rationale/ Reason
6	Insertion of rule 55A	To prescribe document required to be carried by the person-in-charge of the conveyance, where e-way bill is not required to be carried
7	To replace sub-rules (4A) and (4B) of rule 89 <u>w.e.f. 23.10.2017</u>	To correct typographical errors & bring in reference to Customs notification No. 78 & 79/2017-Customs (NT) both dated 13.10.2017
8	To amend rule 96 <u>w.e.f. 23.10.2017</u> to provide for refund of integrated tax on export of services in FORM GST RFD-01 in accordance with rule 89	To prescribe the following: <ul style="list-style-type: none"> - To insert the words "goods" in rule 96(1), 96(2) & 96(3) - To insert rule 96(3A) - To bring in reference to Customs notification No. 78 & 79/2017-Customs (NT) both dated 13.10.2017

12

Agenda Note No. 7(i) - Amendments in the CGST Rules (4/5)

S. No.	Proposed Change	Rationale/ Reason
9	Amendments to the e-way bill rules viz., Rules 138, 138A and 138B and FORM GST EWB-01, FORM GST EWB-02, FORM GST EWB-02 & GST INV-01	<p>To prescribe the following:</p> <ul style="list-style-type: none"> - consignment value of goods for the purpose of e-way bills will be inclusive of tax - for transport of goods by railways, air or vessel, the registered person shall generate the e-way bill and furnish information in Part B of the FORM GST EWB-01 - for change in conveyance in course of transportation, the transporter to update the details of the conveyance in the e-way bill - making the e-commerce operator liable for furnishing information - Making a reference to notification No. 2/2017-Central tax (Rate) dated 28.06.2017 instead of the complete list of exempted goods - improvements in the FORM

13

Agenda Note No. 7(i) - Amendments in the CGST Rules (5/5)

S. No.	Proposed Change	Rationale/ Reason
10	Inclusion of Statements 2, 3 and 4 in FORM GST RFD-01A	To capture the details of documents required for processing refund claims on account of export of services on payment of integrated tax, export without payment of tax and supplies made to SEZ unit or SEZ Developer (on payment of tax)

14

Agenda Note No. 7(ii) – Reduction in late fees (1/2)



S. No.	Proposed Change	Rationale/ Reason
1	<p>FORM GSTR-5 and GSTR-5A: late fee proposed to be reduced to</p> <ul style="list-style-type: none"> - Rs. 50/- per day (Rs. 25/- per day under CGST Act & Rs. 25/- per day under the respective SGST Act) - Rs. 20/- per day (Rs. 10/- per day under CGST Act & Rs. 10/- per day under the respective SGST Act) in case the amount of central tax payable is nil 	Bringing the late fee on par with late fee for FORM GSTR-3B & GSTR-4

15

Agenda Note No. 7(ii) – Reduction in late fees (2/2)



S. No.	Proposed Change	Rationale/ Reason
2	<p>FORM GSTR-1: late fee proposed to be reduced to</p> <ul style="list-style-type: none"> - Rs. 50/- per day (Rs. 25/- per day under CGST Act & Rs. 25/- per day under the respective SGST Act) - Rs. 20/-per day (Rs. 10/- per day under the CGST Act & Rs. 10/- per day under the respective SGST Act) in case there is no outward supply in a month/quarter 	Bringing the late fee on par with late fee for FORM GSTR-3B & GSTR-4
3	<p>FORM GSTR-6: late fee proposed to be reduced to Rs. 50/- per day (Rs. 25/- per day under CGST Act & Rs. 25/- per day under the respective SGST Act)</p>	

16

Agenda Note No. 7(iii) – Extension of filing date



S. No.	Proposed Change	Rationale/ Reason
1	Extending the due date for filing return in FORM GSTR-6 by an Input Service Distributor for the months of July, 2017 to February, 2018 till 31.03.2018	Non availability of offline utility on the common portal

17

Agenda Note No. 7(iv) – Notification of e-way bill portal



S. No.	Proposed Change	Rationale/ Reason
1	Notification of www.ewaybillgst.gov.in as the Common Goods and Services Tax Electronic Portal for generating the electronic way bill	Coming into force of e-way bills w.e.f. 01.02.2018 for inter-State supply, etc.

18

Agenda Note No. 7(v) – Cross empowerment



S. No.	Proposed Change	Rationale/ Reason
1	Amendment of notification No. 39/2017-CT & notification No. 11/2017-IT both dated 13.10.2017	Cross-empowerment of State tax officers for processing and grant of refund for export of services on payment of IGST in terms of newly inserted Rule 96(3A)

19

Table Agenda Note No. 13(ii) – Reduction in penalty for non carrying of e-way bill



S. No.	Proposed Change	Rationale/ Reason
1	Issuance of notification mandating reduction in penalty from Rs. 10,000/- to Rs. 500/- for not carrying e-way bill along with conveyance as per section 122(1) of the CGST Act, for an initial period of six months	To give time to get accustomed to the new system & prevent harassment to the trade & industry

20

Table Agenda Note No. 13(iii) – Disallowance of disputed credit upon transition



S. No.	Proposed Change	Rationale/ Reason
1	Issuance of Order under Section 172 to clarify that in certain cases, credit of taxes & duties paid under the existing laws shall not be allowed to be claimed as transitional credit	To remove difficulty & ensure that the taxpayers do not avail of credit : a) in case of disputed credit under transition provisions b) which has been blocked under section 17(5) of Act c) to take appropriate administrative steps such as blocking the credit

21



The cover slide features a photograph of a server rack with glowing yellow and blue lights on the left. On the right, the GST logo is in the top right corner. The main title is 'GST System Update For 25th GST Council Meeting' in bold black text. Below the title, the date 'Date : 18th Jan 2018' is displayed. At the bottom, there is a decorative bar with colored segments (blue, purple, green, green, orange, orange) and a small number '1' in the bottom right corner.

Agenda



- 1.Services made available on GST Portal
- 2.Highlights from GoM Meeting
- 3.E-Way Bill Status
- 4.Statistics on Return Filing



2

Services Made Available on the Portal & Stats



3

Services made available on GST Portal

Registrations	Returns
New Registration for Normal Taxpayer	GSTR-1 + Offline Utility
ISD Registration	GSTR-2A viewing by Buyer
Enrolment for GSTP	GSTR-3B
Opt for Composition scheme	GSTR-2
Casual dealer registration	GSTR-1A
Amendment of Registration – for non-core fields	Offline Utility for GSTR-2
Revocation of rejected application	Offline Tool for GSTR-3B
Processing of Registration of Migrated dealers	Offline tool for ITC-04
TDS Registration	Edit of GSTR-3B
Opt out from composition scheme	Offline Tool for GSTR-4
Cancellation of Registration of migrated taxpayers	GSTR 6, (for Input Service Distributor (ISD)
Intimation of details of stock (CMP-03)	GSTR-5A for OIDAR (Online Data Access or Retrieval Services)
Non-Resident Taxable Person Registration	ITC 02: Declaration for transfer of ITC in case of Sales merger etc.
Engage/ disengage GST Practitioner, GSTP Dashboard, and Locate GSTP	GSTR 5: Return for Non Resident Taxpayer
Application of cancellation of new taxpayer	GSTR 11: Return for UN bodies.
	ITC 01: Facility for declaration for claim of ITC.



4

Services made available on GST Portal



Payments	Transitional Forms
Online Payments through Internet Banking and NEFT/RTGS	Tran Form 1 - Transitional ITC / Stock Statement
Offline Payments- Over the Counter (Authorised Bank) for amount upto Rs 10,000/-	Tran Form 3 - Credit distribution
Creation and maintenance of Electronic Cash Ledger	Edit of Tran Form -1
Form GST PMT-07 - Grievance for payment	TRAN Form 2- Credit on goods held in stock on the appointed day
	TRAN 2 Offline Tool

Refund
Table 6A of GSTR 1 (facility to file their export data) for Refund
RFD-01- Refund of ITC of the inputs/input services attributed to export of goods
RFD-01- Refund of Excess Balance in Electronic Cash Ledger (Released on 29th Nov 2017)
<ol style="list-style-type: none"> Exports of services with payment of Tax (Alternate Flow 02) ITC accumulated due to inverted tax structure [under clause (ii) of first provision to section 54(3)] (AF 05) On account of supplies made to SEZ unit/ SEZ Developer (with payment of tax) (AF 06) On account of supplies made to SEZ unit/ SEZ developer (without payment of tax) (AF 07) Recipient of deemed exports (AF 08) Pre-login tracking of refund status with ARN

5

GST System – Overall Stats



Functionalities	Counts
Number of Returns Filed till date	5,25,63,087
Number of Invoices Processed	154,47,74,967
New Registration Approved	35,21,334
Number of Migrated Taxpayers (net of cancelled)	64,11,471
Taxpayers Opted for Composition	17,08,076
Number of Payments Transactions	1,83,39,184

• GSTR-1 Filing till Jan 10, 2018 (from Sep,2017)	:	1,46,49,297
• GSTR-1 Filing till Dec 31, 2017	:	98,42,049
• GSTR-1 Filing from Jan 1 to Jan 10, 2018	:	48,07,248 (33% in last 10 days)
• GSTR-3B Filing % for last 3 days for consecutive 5 months	:	~69%

• Estimated Taxpayer Base at the commencement of the project	:	65 Lac
• Estimated Taxpayer Base during Enrolment stage(Apr'17)	:	86.87 Lac
• Taxpayers base as on Jan'18 (validated and approved Taxpayers)	:	99.32 Lac
• Increase in Taxpayer Base % (from Commencement stage)	:	53%
• Increase in Taxpayer Base % (from Enrolment stage)	:	15%

6

GST System – Filing Compliance Stats

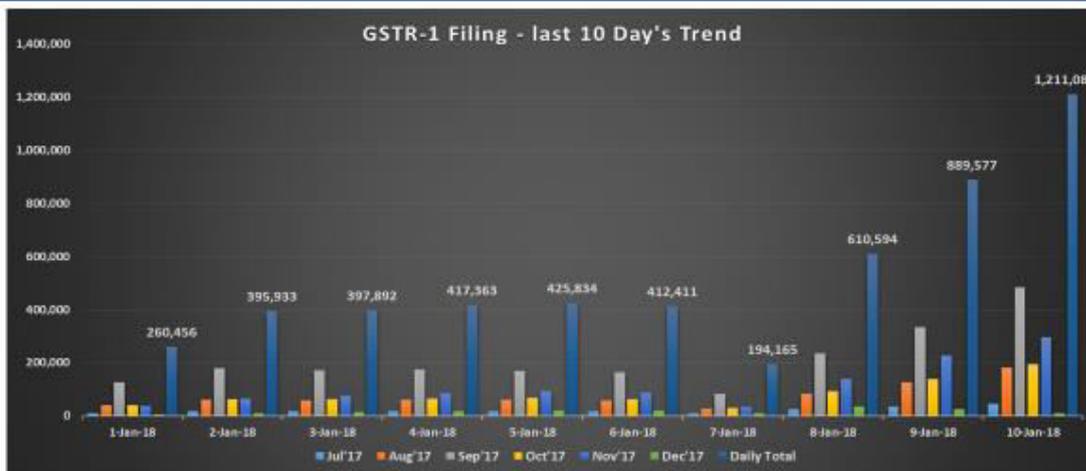


Returns Filing	Eligible	Opted for Quarterly	Eligible	Filed till Last day of Filing	Filed till Jan14 2018	% Completion till Jan14 2018
Returns : GSTR-3B (Monthly Summary Return) (Jul)	66,86,012	-	66,86,012	38,34,877	61,52,666	92.02%
Returns : GSTR-3B (Monthly Summary Return) (Aug)	74,21,661	-	74,21,661	27,25,183	64,60,283	87.05%
Returns : GSTR-3B (Monthly Summary Return) (Sep)	78,84,955	-	78,84,955	39,34,256	65,84,977	83.51%
Returns : GSTR-3B (Monthly Summary Return) (Oct)	77,79,225	-	77,79,225	43,68,711	61,44,925	78.99%
Returns : GSTR-3B (Monthly Summary Return) (Nov)	80,62,358	-	80,62,358	49,13,065	58,70,114	72.81%
Returns : GSTR4 (September Quarterly Return)	11,48,165	-	11,48,165	-	7,66,292	66.74%
Returns : GSTR-1 (Outward Supplies) (July)	66,86,012	-	66,86,012	53,30,468	53,58,972	80.15%
Returns : GSTR-1 (Outward Supplies) (August)	74,21,661	42,21,881	31,99,780	17,69,344	18,46,355	57.70%
Returns : GSTR-1 (Outward Supplies) (September)	78,84,955	-	78,84,955	47,21,559	49,31,818	62.55%
Returns : GSTR-1 (Outward Supplies) (October)	77,79,225	42,21,881	35,57,344	15,60,471	16,81,691	47.27%
Returns : GSTR-1 (Outward Supplies) (November)	80,62,358	42,21,881	38,40,477	13,96,053	15,37,715	40.04%



7

GST System – GSTR-1 Filing Trend for last 10 days



- 7th Jan was a Sunday
- 8th Jan – there was an issue with delay in summary generation, addressed on the same day
- Total Filing till 14th Jan: 1,153,56,551



8



- Trend is increasing from Sep onwards
- 20th of next month is the last day of Filing previous month's return; Jul had an extended last day



9

6th GoM Meeting Highlights



10

Updates on Issues raised in GoM



Issues	Updates from 6 th GoM Meeting (Held on 17 th Jan '2018)
Data Reconciliation Issues	No issues in Registration, Payments Some gaps (<2%) in Returns data, being reconciled
API Release and Support	API calendar is being refreshed every fortnightly
Deployment of Resident Engineers	Complete, REs have been deployed in CBEC/States/UTs
Relevant & accurate Error Messages on Portal after review by an expert	Completed for most of the cases
Make user interface & experience more intuitive & friendly	Work in progress
Updates on MIS to Model-2 States	1. 5 Reports are available on Tax officials' dashboard, Rest of data is being shared over email. 2. Views to Tax-officers of Model 2 States : a) Full view of GSTR-3B/GSTR-1/TRAN-01 b) Full view of ITC Ledger c) Full view of Cash ledger d) Full view of Liability register e) Full view of Registration Forms
Making available all 69 prioritized forms on the GST portal in a time bound manner	Details covered in next slide

11

Updates on GOM Prioritized Functionalities



Details	Count
Initial Prioritized Functionalities (as per first GoM Meeting)	47
New Functionalities identified in 28 th Oct meeting	8
Functionalities removed in view of decision of GST Council	12
Prioritized Functionalities being tracked	43
Functionalities due on/before 17 th Jan 2018	42
Functionalities Made operational on GST Portal	39
Operational Percentage	92.85%
Functionalities Made operational with a delay of 3 - 5 days	2
Functionalities Made operational with a delay of more than 5 days	23

12

Making available 69 Prioritized Forms on GST Portal



Functional Module	Total Forms	Current Status
Composition Forms	4	All 4 forms are Operational
Registration	21	<ol style="list-style-type: none"> 15 forms are Operational 2 forms are Operational with workaround (Registration of OIDAR and UN Bodies) 4 forms are in progress, these are <ol style="list-style-type: none"> Application for extension of registration period by casual / non-resident taxable person. Show Cause Notice for cancellation of provisional registration Order for cancellation of provisional registration Form for Field Visit Report
ITC	3	<ol style="list-style-type: none"> 2 forms are Operational 1 form (ITC-03) is in Testing
GSTP	5	All 5 forms are Operational
Returns	10	<ol style="list-style-type: none"> 8 forms are Operational 2 forms (GSTR-3, GSTR-7 and GSTR8) are on hold
Registers and Ledgers	7	<ol style="list-style-type: none"> 7 forms are Operational 1 form (GST PMT-03) is in development



13

Making available 69 Prioritized Forms on GST Portal



Functional Module	Total Forms	Current Status
Appeal	3	3 Form is various phases of design and development
Advance Ruling	1	Form is Operational
Transitional Forms	3	All 3 Forms are Operational
Refund	11	<ol style="list-style-type: none"> All 11 Forms are different phases of design and development Following workarounds for RFD-01 are operational: <ol style="list-style-type: none"> With IGST Excess Bal in cash ledger ITC accumulated for exporters Inverted Duty SEZ Unit/ Developer: With/ without payment of Tax Deemed exports Following will be made operational this month: <ol style="list-style-type: none"> Assessment/Appeal/any other order On account of tax paid on advance/refund voucher RFD-1B RFD-10 Furnishing of bond or Letter of Undertaking for export of goods or services



14

E-Way Bill



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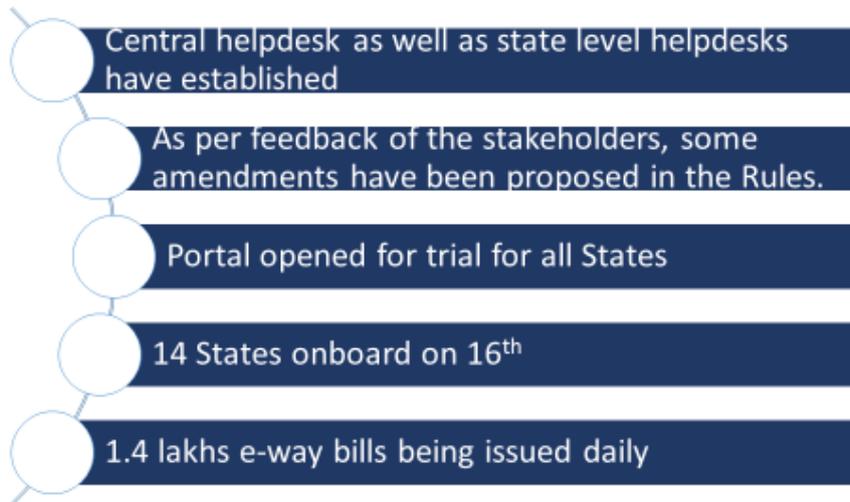
e-Way Bill System Implementation Status



- E-way bill software is operational since Sep 2017
- All modes of generation of EWB are in place and in use – WEB, SMS, Mobile App, API, Bulk
- Training has been imparted to the master trainers of all states
- One training for master trainers of CBEC has been done and other one will be done on 18th
- The states have conducted the workshop for stakeholders



16



17



E-Way Bill Format

PART A

- GSTIN of Recipient - GSTIN or URP
- Place of Delivery - PIN Code of Place
- Invoice/Challan No - Number
- Invoice/Challan Date - Date
- Value of Goods -
- HSN Code - At least 2 digit of HSN Code
- Reason for Transport - Supply/Exp/Imp/Job Work/...
- Transporter Doc. No - Document No provided by trans.

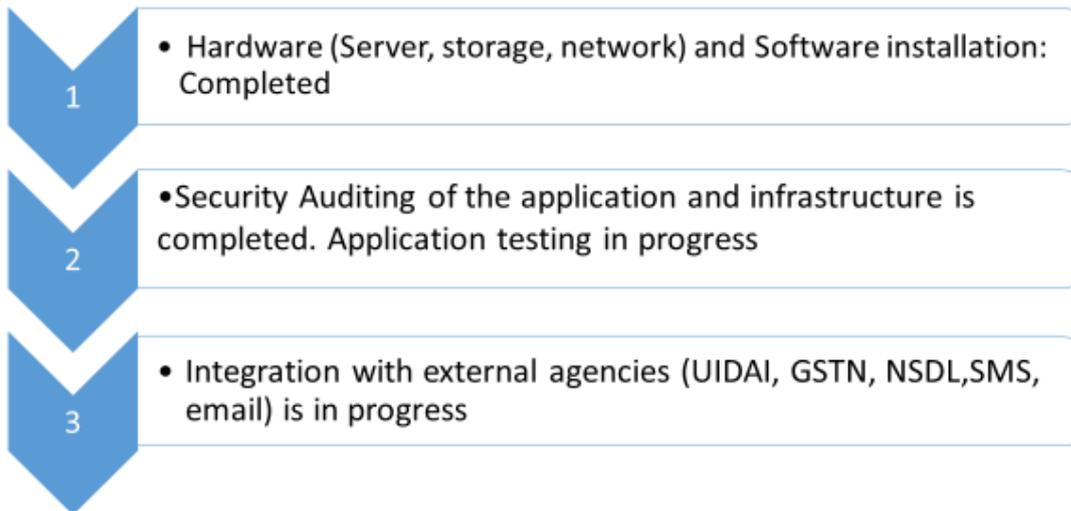
PART B

- Vehicle Number - Vehicle Number



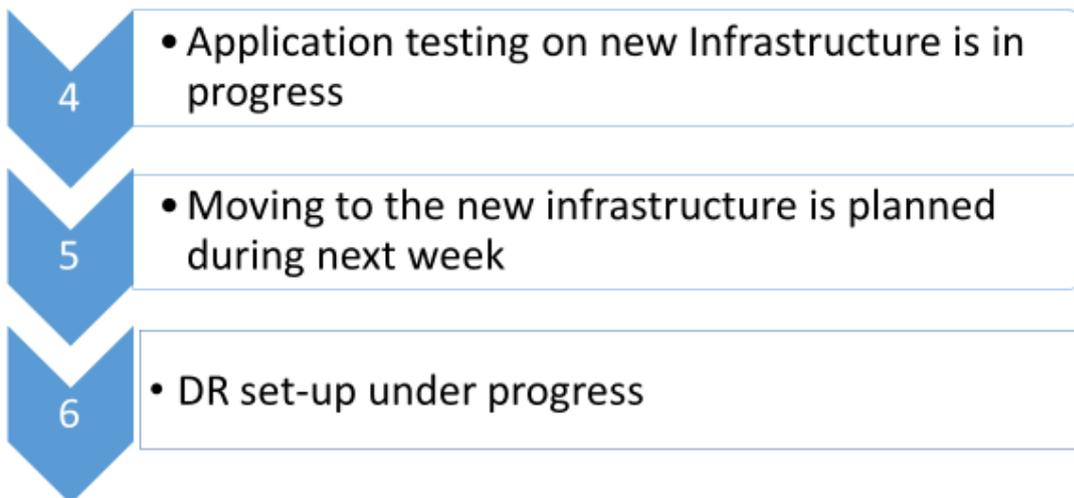
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ICT Deployment Status



19

ICT Deployment Status



20

Preliminary Analysis of Return Data



21

GSTR-4

2
2

6,97,925 Taxpayers who have filed GSTR-4 for the quarter ending Sep'17.

	(Rs. In Crore)				
	CGST	SGST	IGST	CESS	TOTAL
CREDIT/DEPOSIT	166.54	167.30	0.88	0.07	334.79
DEBIT/UTILIZED	153.38	153.38	0.24	0.01	307.01
BALANCE	13.17	13.92	0.65	0.06	27.79

Cumulative turnover of all these taxpayers is Rs 30430.88 Crores per quarter

Per Taxpayer turnover comes to 4.36 lakhs per quarter or 13.44 lakhs per annum.

Some Statistics: GSTR-4

2
3

6,97,925 Taxpayers who have filed GSTR-4 for the quarter ending Sep'17.

Cumulative turnover of all these taxpayers is Rs 30430.88 Crores per quarter

Average tax rate comes to 1.009% (tax rates are 1%; 2% and 5%)

This shows that most of them are charging 1% and 2% & 5% is being charged by very few. (5% is for restaurants. 2% is for manufacturers)

Quarterly Figures				
Turn Over	Number of Tax Payer	Turn Over (Rs in Cr)	Average Quarterly Turnover (in lakhs)	Average Annual Turnover
>5L	2,06,901 (29.6%)	24,562.46	11.87	47.48
Below Rs 5 Lakhs	4,91,024 (70.4%)	5868.42	1.20	4.8
Those above Rs 12 Lakhs	64,059 (9.2%)	13,062.45	20.39	81.56

80% of 3B filers filed seemingly consistent returns in all the 5 months

2
4

- Finding consistent transactions based on turnover will be misleading because of seasonality and other factors
- Implied tax rate is considered to be good measure (will address seasonality problem automatically)
- CV of tax liability to turnover ratio is used to measure the consistent returns
- With CV 0-5, 70% returns are consistent and 80% with CV<=10

Comparison of GSTR-1 and GSTR-3B for July

- Total GST-R3B Filed for July -- 6132123
- Total GST-R1 Filed for July -- 5306650
- Common Filers found -- 3307930 (Found both in GSTR1 summary and GSTR3b Supplies, which are populated from H Base)

GST3B – Item considered : 3.1.(a) – Outward Taxable supplies (other than zero rated, nil, exempted)

GST-R1 – Item considered : B2B (Table 4), B2CL (Table 5), B2Cs (Table 7).
(Rs. In Crore)

RETURN	TOTAL TAXABLE	CGST	SGST	IGST	CESS	TOT_LIAB
GSTR-3B	4577890.04	58569.70	60164.89	72692.99	10544.06	201971.65
GSTR-1	1260602.64	57388.99	57399.68	71534.10	10144.53	196467.30
DIFFERENCE	3317287.40	1180.71	2765.21	1158.89	399.54	5504.35

If we count from Return filing status the common taxpayers are 52,82,979. However, from GSTR1 Summary and GSTR3B supplies it comes to 3307930, which may be due to NIL filers.

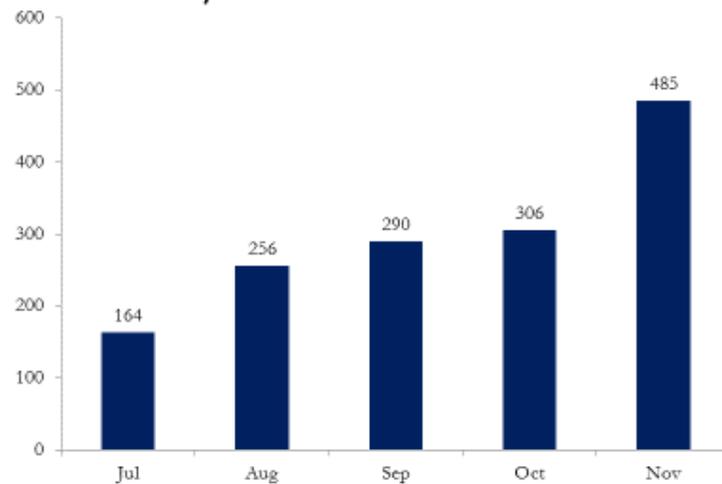
Missing Registered Tax-Filers : Purchased from Registered GST Dealer but Purchaser Never File Return

Based on GSTR2A and GSTR1

Particulars	Filers
Purchased from Registered Dealer but didn't file GSTR1 (A)	17,67,400
Don't have Purchase Record but Filed GSTR1 (B)	11,77,551

Out of 17.67 lakh purchaser of goods /services, who didn't file return 6.53 filers are under Composition Scheme. Out of 10.96 lakh filers around 4 lakh filers filed at least one 3B returns. Still the 7 lakh filers are missing.
But why the remaining 10.96 lakh filer didn't file returns?

Big Guys, with turnover greater than 1 crore and implied tax rate greater than 2%, are trying to be out of Tax Net: Number is constantly increase



Others

2
8

- Non-Filers for last 5 months of GSTR-3B (migrated category):4,44,438
- List shared with state and central tax authorities
- Data after comparison of GSTR-1 and GSTR-3B & GSTR-2A and GSTR-3B will be provided to States



Thank You!!!



Annexure 6

Page 75 of 191

Key (and Preliminary) GST Findings

25th GST Council Meeting
Arvind Subramanian
Chief Economic Adviser

1

A large increase in the number of taxpayers

- As of December 31, 2017, there were 9.8 million unique registrants, comprising 9.3 million unique corporate entities
- About 3.4 million new filers registered under GST. After adjusting for overlap under old systems, this represents a 50 percent increase in taxpayers
- About 1.7 million dealers who are below threshold have nevertheless registered
- About 1.9 million (53 percent) who could have opted for composition instead registered as regular filers

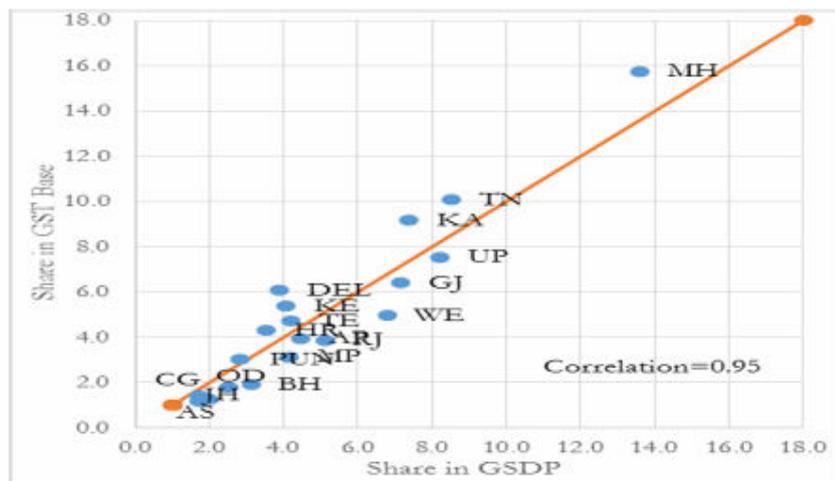
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Estimated GST Base Close to Base calculated by RNR Committee

- Based on first five months data, GST base is estimated to be 65-70 lakh crore
- This gives an implied tax rate of 15.6 percent $[0.85 \times 12 / 65]$.

3

Beautiful Symmetry: States' Share in Base is their Share in Total GSDP



4

Turnover Distribution by Transaction Type and Size:

Small are Equally in B2B and B2C.

Big are more in B2B and account for nearly all Exports

	Transaction Type					Share of Filers
	B2B	B2C	Exports	Nil ¹	Total	
Below-Threshold	0.2%	0.2%	0.0%	0.0%	0.4%	32.2%
Composition	1.2%	1.1%	0.0%	0.1%	2.4%	36.0%
SME	3.8%	2.3%	0.1%	0.5%	6.8%	22.0%
Medium	15.5%	4.3%	1.5%	2.8%	24.1%	9.2%
Large	36.5%	4.9%	7.7%	17.1%	66.2%	0.6%
Total	57.3%	12.8%	9.4%	20.5%	100.0%	100%

Who Deals with Whom: Small Buy from Large In Addition to Selling to Large

		Purchaser Turnover Category					
		Threshold	Composition	SME	Medium	Large	Total
Supplier Turnover Category	Threshold	0.0%	0.1%	0.1%	0.1%	0.1%	0.3%
	Composition	0.2%	0.4%	0.5%	0.6%	0.4%	2.2%
	SME	0.5%	1.0%	1.6%	2.2%	1.3%	6.7%
	Medium	1.0%	2.0%	4.8%	10.9%	8.3%	27.0%
	Large	0.7%	1.1%	4.1%	17.3%	40.6%	63.8%
	Total	2.5%	4.6%	11.1%	31.1%	50.7%	100.0%

6

Formal non-farm payroll (employment) is substantially greater than currently believed

- Formality can be defined under the multiple criteria
- Based on social security provision (EPFO/ESIC), formal sector payroll is about 7.5 million or 31 percent of the non-agricultural work force;
- Based on being part of GST, formal sector payroll is 12.7 million or 53 percent of non-agricultural workforce

7

A large increase in the number of GST taxpayers

- Major share of new filers' turnover is in the B2C and Exports categories (Table below)

New Filers Turnover Distribution under Different Categories of Transaction

	B2B	B2C	Exports	Nil	Total
Share of turnover under different categories	34.0%	16.8%	29.8%	19.4%	100.0%

Note: NIL category includes supplies that are outside the scope of the GST such as petroleum, health, education, and electricity.

8

Simplification of Return Filing Report

18-Jan-2018

Contents

- Mandate of Committee
- Challenges faced by taxpayers and other Stakeholders
- Issues deliberated by Committee
 - Mechanism of credit (ITC) tracking
 - What data of Invoice to be taken in return
 - Auto drafted return based on sales data OR simultaneous upload of sales and purchase data
 - Number of returns to be filed in a return period
 - Reversal of credit and its handling
 - Roadmap for rollout
 - Transition Plan

Mandate of Committee

- Based on decision taken in the 23rd GST Council Meeting held on 10 November 2017 at Guwahati,
- The "Committee on Returns Filing" was entrusted to
 - look into the issues and the requirements of filing returns by taxpayers in the GST regime.
 - to analyse the issues and requirements of the various types of returns being/to be filed by the tax payers under GST regime.
 - to suggest modifications/simplifications required in the Returns, if any, including related changes in Laws, Rules, Format etc.
- Agenda Note contains broad recommendations of the Committee

Current Challenges reported by Stakeholders

- Three returns in a month leading to 37 returns in a year
- Returns are interlinked and thus missing one means no further return can be filed
- Instead of line items, tax rate-wise entry made in GSTR-1 leads to double work, one while creation of GSTR-1 and the other while matching with GSTR-2A (both times line item has to be collapsed to tax rate).
- Linking of CN/DN (Credit Note/Debit Note) with invoices is a tedious process and not in conformity with industry practice.
- Reporting details as per HSN code increases work. HSN should be taken in the line item of invoice itself.
- Once invoice number is being reported in GSTR-1, table 13 containing document details leads to double work.
- B2C Large reporting does not serve any purpose and increases compliance

Simplification in Process



Issue1: Mechanism of Credit Tracking

Aside remittance of tax, **Credit Tracking** is the second most important goal of the compliance process. It essentially ensures that Receivers do not claim undue or excess credit than what they are entitled to.



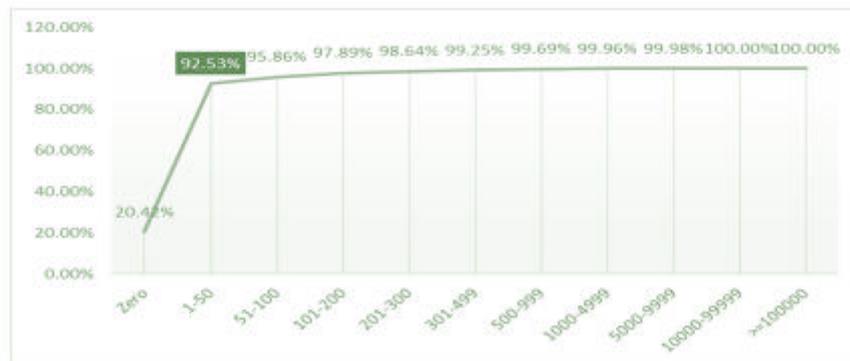
- ? What should be the **granularity** of tracking?
- ? What should be the **mechanism** of tracking?
- ? How should **mismatches** be handled? Who is at fault?

At what granularity should credit be tracked?

None	Counter-Party	Invoice
<i>Self-declared gross amount in GSTR-3B</i>	<i>Purchase and Supply statement at counter-party level</i>	<i>Invoice level supply / purchase statements</i>
<ul style="list-style-type: none"> ✗ Potential for undue credit claims (both intentional & unintentional) ✗ No systemic mechanism to track credit ✗ Rely on assessment and interface with tax officials 	<ul style="list-style-type: none"> ✗ Introduces "fuzziness" in matching due to goods-in-transit and other scenarios ✗ Rely on assessment by tax officials for reversal ✗ IGST Committee rejected this option 	<ul style="list-style-type: none"> ✓ Provides clear mechanism for counter parties to reconcile accounts and mismatches ✓ Eliminates subjectivity of assessment by tax officials ✓ Integration with e-Waybill and good tracking ✓ Enables future innovative applications like credit/loan against certified invoices etc.

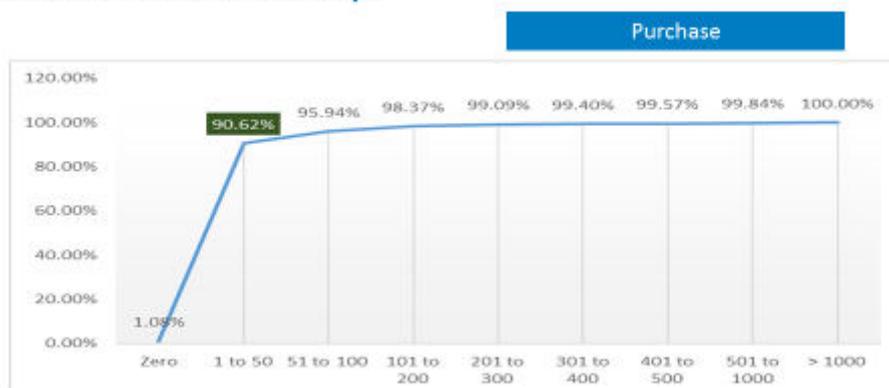
Recommendation: Tracking of ITC at Invoice Level

Data from GSTR1/2A shows that 91% of tax payer have fewer than 50 invoices to accept



- 93% of the tax payers have less than 50 sales invoices that need to be uploaded

Data from GSTR1/2A shows that 91% of tax payer have fewer than 50 invoices to accept



- 91% of the tax payers have less than 50 purchase invoices that need to be accepted



Issue2: Granularity of Invoice data

| 10

- Currently GSTR-1 expects taxpayer to upload invoice data summarized at a rate-level.
 - While rate-level summary reduces the “volume” of data submitted, it does not make it more *convenient* to tax payer. On the contrary, it introduces more “work” for taxpayers
 - The artificial rollup at rate-level complicates matching and acceptance to both GSP/ASPs and small tax payers

Recommendation

Invoice data be should accepted at Item Level along with an Item Number field and HSN code. Implementation in phases.

- Phase-1 only at invoice value with HSN level data in a separate table
- Phase-2 (after system stabilizes): At line item level with HSN code there thus removing the HSN table



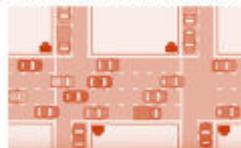
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Issue3: Should there be separate periods for filing returns?

- Current Return filing (GSTR-1, GSTR-2, GSTR-1A, GSTR-6) is a workflow driven system.
- Multiple entities cannot simultaneously add/modify the same invoice data. It requires some kind of cut-off,
 - Each “cut-off” translates to a filing of return – GSTR-1, GSTR-2, GSTR-1A, GSTR-6
 - It is a system equivalent of an intersection on the road which causes coordination delays. An intersection free highway model on the other hand allows more people to accomplish more work



An intersection causes coordination delays.



More the intersection, more the need for coordination



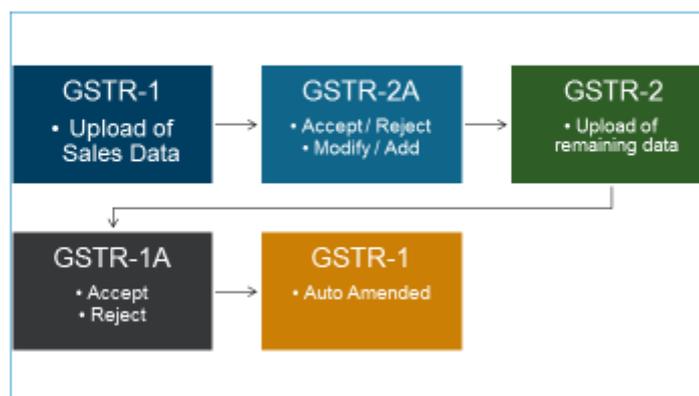
An intersection-free highway allows free flow of traffic

Recommendation: Not cut-Off. One way traffic



| 12

Workflow Driven Return



Benefits of one-way flow of Invoices

- Simplification of Process
- Establishes an incentive-aligned clear responsibility and accountability
 - Sellers need to upload invoices as soon as possible otherwise they will not get payment (tax component) from buyers.
 - Buyers need to accept and lock invoices else they cannot claim ITC. Otherwise will lead to increased working capital as more tax will need to be paid through cash
- Regular Upload / Acceptance (locking) significantly evens out the load on the system, thereby reducing spikes

Issue4: Number of Returns to be Filed

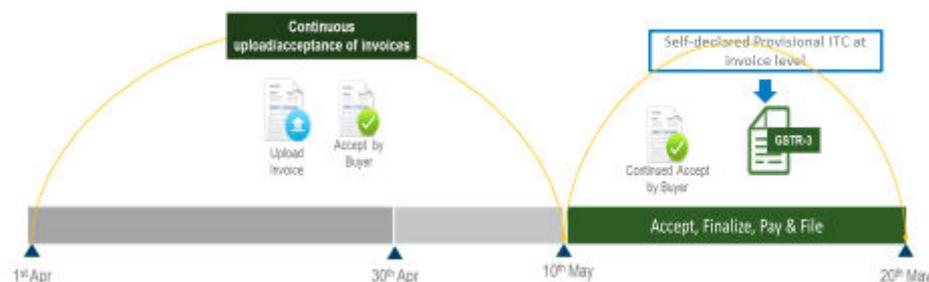
Recommendation

- One return per period

Two options to achieve this

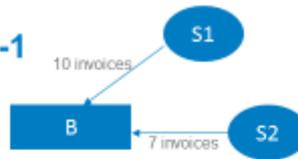
- Workflow driven
 - Provisional Credit on the basis of Seller's Data + Buyer-declared additional Purchase details at Invoice level (**Option-1**)
- Simultaneous Upload of Sales/Purchase data (**System matching**)
 - Buyer-declared ITC by way of filing of Purchase details at Invoice level (**Option-2**)

Option 1



- Regular invoice upload/acceptance with counter parties – No cut-offs
- Provisional ITC on basis of self-declaration at invoice level
 - Supplier needs to upload the missed invoice before specified period (1 or 2 months)
 - If supplier defaults, provisional ITC will be reversed – but without interest

Illustration of Option-1



| 16

Return of April

- Everyone uploads B2B sales invoices by 10th May (S1 uploaded 8 invoices and S2 uploaded 4 invoices)
- System drafts return (B2B part) based on B2B sales data on 11th
- Taxpayer B can add missing purchase invoices (2 from S1 and 3 from S2) and files return after adding B2C, exports etc.
- For Return of May, S1 adds 1 out of 2 invoices added by B, on 9th June. B gets credit of this invoice in May return in addition to his ITC of May.
- In June return, S2 adds 2 out of 3 invoices added by B. B gets the ITC for 2 invoices in addition of ITC of June.
- In July return filed in August, liability of 5 invoices added by B in his April return is added to his liability without interest. (He had already got ITC of 3 invoices. Thus actual reversal is of 2 invoices which were not added by the sellers.
- Simple to track, reversal is cleaner.

Illustration of Option-1

| 17

Return Filed in May		Return filed in June	Return filed in July	Added invoices reversed in Return filed in August	Total impact
Auto-drafted	Added by B	Added by S1	Added by S2		
8 out of 10	2 out of 10	1		-2	8+ 2+1-2= 9
4 out of 7	3 out of 10		2	-3	4 +3+2-3= 6

Option-1 Details

| 18

- Anytime upload of Invoice allowed (those uploaded after 10th go to next month return)
- Offline Tool with facility to enter sale data and ability to download auto-drafted data for comparison with purchase register.
- Offline utility will also upload missing invoices identified by the taxpayer along with other details like B2C sales, exports etc.
- System will then generate return and show liability
- With payment return will be filed
- All missing invoices get added back to liability of taxpayer after correction period gets over.
- No interest on the same.
- Those found gaming the system will be dealt with under law.
- Monthly Return for all. (Same periodicity)

Option 2 (Simultaneous upload of Sale and Purchase invoices)

- Taxpayers independently upload supply and purchase invoices which is matched by the system
- Different cut-off dates for different size of taxpayers
- Matching is done after last cut-off date (say 20th of next month) strictly based on criteria given in the law (no fuzzy logic matching)
- Mismatch report is shown to taxpayers and they are given time to resolve the mismatches
- Whatever is not reconciled is reversed after the period of reversal is over
- No interest is levied on the reversed amount
- Those found gaming the system (taking ITC which is getting reversed continuously) will be handled separately by tax officers

Option-2 Details

- One Return with sales (outward supply) and purchase (inward supply) annexures
- Anytime upload of Invoice allowed
- Offline Tool with facility to enter sale and purchase data. Based on annexures, Tool will generate Return part which can be filed separately, if required. Once data is fed in the offline tool, the relevant boxes in the return (in the offline tool itself) shall get populated. (There shall be option to feed B2C invoices also so that the tool can summarise B2C supplies also for the return).
- System will do matching on 20th of following month and generate mismatch report based on exact matches and show "Probable Match" for guidance of taxpayers.
- Continuous correction will be allowed and Matching S/W will be run everyday at night.

Option-2 Details

- Matching on GSTIN (seller); GSTN(Buyer), Invoice No; Invoice Date and Tax Amount
- Probable matches will be shown in case one parameter does not match and others match.
- Only one opportunity to file amendment of mismatched invoices. Taxpayer can save it many time after making corrections. Correction opportunity shall be available round the month.
- Interest on corrections (other than invoice number based mismatch) on monthly basis, as under done under Income Tax as keeping track of it at invoice level will be difficult
- Periodicity for filing of the return shall be monthly for all.

Experience from States which have implemented Invoice level data for Return with sale and purchase data

- Gujarat
 - Mismatch is generated on need basis (refund or assessment etc.)
 - Mismatch is not shown to taxpayers
 - Basically eye-ball matching to be done by Tax Officer to derive intelligence out of it.
 - No auto-reversal
- Andhra Pradesh
 - Take data at invoice level but use Counterparty (ledger) level data for mismatches
 - Taxpayer given three months to clear mismatches else claim is rejected.
 - No auto-reversal (Reversal thru notice)

Experience from States which have implemented Invoice level data for Return

- Maharashtra
 - Started with Counterparty (ledger) level data
 - Switched over to invoice level matching last year
 - Mismatch is generated and shown to taxpayer [data from both buyer and seller is shown for pair of buyer-seller sorted on date reported
 - No auto-reversal
 - ITC is given in case of invalid return and tax department goes after sellers
- Karnataka
 - Invoice level matching
 - Mismatch is shown to taxpayers and they are given time to resolve it
 - Matching S/W is run on close of return filing (after last date of filing) to generate mismatch which is shown to taxpayers. After that matching S/W is run everyday at night to clear all cases where corrections have been made.
 - Initially Karnataka Govt gave 9 months to taxpayers to make corrections
 - No auto-reversal

Comparison of the System Matching models

	Karnataka	Andhra Pradesh	Gujarat	Maharashtra
Filing of Return and Annexures	Delinked	Delinked	Delinked	Linked
Level of Filing	Invoice	Invoice	Invoice	Invoice
Matching Level	Invoice	Counter-party	Counter-party	Invoice
Correction Mechanism	Revised Return	Revised Return	Revised Return	Revised Return
Other Key Concepts	Matched Acceptable Unmatched	Taxpayer has 2 months to clear mismatch	No Mismatch report to taxpayer (Assessment only)	Counter-party data shown sorted on date
Mismatch Level	12%. (without Probable Mismatch. With that 40%)	30%	25 to 30% (Ballpark figure)	Around 30%

- In all states, Invoice number mismatch constitutes 90% of mismatches
- 10% is on other factors
- **No auto reversal**

Comparison of Option-1 and 2

Workflow Driven (Option-1)	System Matching (Option-2)
Matching of auto drafted purchase is done by taxpayers with their purchase register	Matching is done by system but mismatched items are reconciled by the taxpayers by matching the data with Purchase register.
Number of returns to be filed: one but upload of outward supplies by 10 th of next month has to be authenticated.	Number of returns to be filed: one
Workflow is involved	No workflow is involved
Auto drafted purchase data is to be compared with purchase register	Taxpayer has to match only data under mismatch category and probable match. However, mismatch on both sale as well as purchase data will be there. With high % of mismatch seen in states, the total volume of data to be reconciled will be same as that under Option-1

Comparison of Option-1 and 2

Workflow Driven (Option-1)	System Matching (Option-2)
Eliminates artificial mismatches introduced by system.	Artificial mismatch is generated.
Buyer is dependent of the supplier for upload of his purchase data which is sales data of counterparty.	Buyer is not dependent on supplier to upload, However, he is dependent on supplier for correction.
Mismatch percentage is estimated to be lower but there is no empirical evidence as such a model does not exist.	Mismatch after many years in States is at 12% without Probable Match which if added takes the figure to 40%. This kind of mismatch will lead to huge workload on tax officers as they will be required to issue notices. Mismatch generation will at certain identified dates and can't be on the fly
Option-1 which is akin to current GSTR-1/2/3 and hence may be more appealing to large taxpayers having large number of invoices	Option-2 may be more appealing to small and medium size taxpayers.

Comparison of Option-1 and 2

- **Both options involve matching by taxpayers.** In Option-1 it is pre-filing and in case of Option-2 it is post filing of Return.
- Optically Option-2 looks better as only one return has to be filed by each taxpayer.
- Data entry load becomes double in case of Option-2 compared to Option-1 (both sale and purchase has to be uploaded and corrections for both has to be done).
- No State has done reversal based on mismatch based on Option-2. There will be tendency to postpone it for longer period and then enforcing reversal will become difficult.
- Option-2 may be more appealing to small and medium size taxpayers. On the other hand Option-1 may be more appealing to large taxpayers having large number of invoices

Discussion with Law Committee

- Option-1 was discussed with Law Committee on 4th Jan.
- Their suggestion was to study Option-2, which has been the model adopted by States under VAT. Some felt that under Option-1, current GSTR-2 and 3 were joined together and GSTR-1 was replaced by invoice upload (old wine in new bottle).
- Representatives of 4 States (Karnataka, AP, Maharashtra and Gujarat) were invited for discussion.

Discussion with Officers Committee

- Both Options were presented before the Committee on 11th Jan
- Officers' Committee was inclined towards Option-2

Rollout and Transition Plan

Rollout Recommendations

- Provide sufficient time to GSTN to develop the new Return form, Offline Tool, APIs etc. Provide sufficient time to enable eco-system to develop tools/applications for automated upload of sales and purchase invoices and rectification of mismatched invoices.
- Ensure tax collection is not impacted (reduced or delayed) because of the cut-over.
- Run chosen option without any auto reversal for 8 to 9 months so that trade/industry learn the system specially on how to correct entries to eliminate mismatches to adapt to the new model – understand counter-party behavior & data quality and implement corrective measures as required

Rollout Recommendations

- Tax officers to use data on mismatch for admin purposes in early stages when auto reversal is not there.
- Stabilize the system including enhancements based on user experience/industry feedback
- Invoice level data first. After system stabilizes, line item level data can be thought of.
- TDS/TCS may be postponed for one more year to give time to new system to stabilise.
- First TDS may be implemented and after that system gets stabilized, TCS should be implemented.

Proposed Gradual Transition Plan



Till new system becomes operational

- Reports on following will be generated to check reporting in GSTR-3B
 - Non-filer report
 - Outward supplies as per invoice upload (like that of GSTR-1 today) Vs GSTR3B outward liability
 - Inward supplies based on outward supplies of Counterparties (like current GSTR-2A) and ITC claimed under GSTR-3B

Channel Strategy

- Continue with the three channel model of Web, API and Offline
- Enhance support for Offline channel
 - All forms / invoice upload functions to be available through Excel based offline tools
 - Eliminate Web-based the Offline Utility. Use excel macros for validations and creation of JSON files for upload into the portal
 - Open Source Offline channel: Publish JSON file formats to enable 3rd parties to develop and distribute own tools
- Redesign Web Channel for ease of use
 - Wizard based interface which shows or hides sections of the forms based on the user profile
 - Continue with channel restrictions on number of invoices (<500). But enable invoice search & edit option of specific invoice irrespective of total number of invoices

Compliance Simplification

18-Jan-2018

| 2

We have come a long way and agreed on number of items

- Need for comprehensive credit validation and Invoice level matching – rather than at counter-party level
- Common filing frequency for all tax payers (monthly)
- Delinking of Credit/Debit Notes with invoices in alignment with the trade practices
- Delayed introduction of TDS and TCS – suspended till stability is reached
- Simplification of Input Service Credit Distribution through credit-transfer instead of a Return

All that is left is to **synthesize the model for Credit Matching** combining best features of all available options.

| 3

Let us do this by establishing a core Principle...

- Core principle of any indirect taxation model has to be...

***Input Tax Credit will be provided only on
“matched” invoices***

- By “matched” we mean legitimate invoices where the supplier has admitted tax liability by uploading the invoice on the portal
- This means either deny or automatically reverse credit on unmatched invoices

This principle is even more important in GST Regime

- Settlement of Integrated GST in case of inter-state transactions becomes a lot more **complex and harder to audit**
 - Transactions have to be settled and reversed and resettled on a continuous basis – perhaps at an invoice level
- **Benefits** of other related initiatives like **eWayBill will be diluted**. Fraudsters will hide under the cover of mismatch to circumvent provisions of EWB

Failure Criteria : There are some models that are doomed to fail

1. Any solution that **increases the burden on the taxpayer** to correct mismatches is guaranteed to fail
 - There will be severe resistance from the taxpayers to bear the additional burden
2. Any solution that **relies on tax official's intervention** to reduce the mismatch is also doomed to fail
 - Especially in the GST regime where there will division of administrative authority b/w Center & State
 - Introduces subjectivity of assessments & audits and potentially perceived as tools of harassment
3. Any solution that **permits higher levels of mismatch** in the first place will also fail
 - High levels of mismatch means there can be no automatic reversal. Paves way for failure causes 1 & 2 i.e. greater burden of correction and Tax official intervention

Let us examine the past models ...

VAT Model System Matching	GSTR 1 → 2A → 2 → 1A Model
<ul style="list-style-type: none"> • Taxpayer independently upload supply and purchase invoices which is matched by the system • Taxpayer corrects the mismatches by either correcting the supply statement or purchase statement 	<ul style="list-style-type: none"> • Supplier files GSTR-1 which is made available in GSTR-2A. • Buyer files GSTR-2 by accepting invoices. • Corrections and Additions are made available to supplier in GSTR-1A

Comparison of the System Matching models

	Karnataka	Andhra Pradesh	Gujarat	Maharashtra
Filing method	Delinked	Delinked	Delinked	Linked
Level of Filing	Invoice	Invoice	Invoice	Invoice
Matching Level	Invoice	Counter-party	Counter-party	Counter-party
Correction Mechanism	Revised Return	Revised Return	No Correction	Revised Return
Other Key Concepts	Matched Acceptable Unmatched		No Mismatch report to taxpayer (Assessment only)	

- Different states have already tried the System Matching model in their VAT systems
- Mismatch was used to notify the taxpayer and the officials – but not started automatic reversal of input credit
- As a result the mismatch levels have remained in the range of 30-40%

What is the data telling us?

- While not all 30-40% are fraudulent – the high value **provides sufficient cover to fraudsters** to easily slip the fraudulent claims knowing fully well detection is going to be hard. (Needles in a hay-stack)
- System Matching Model has the risk of getting stuck in an unbreakable **degenerative cycle**:
 - The high level of initial mismatch will make automatic reversal of credits an unacceptable option
 - Without the threat of automatic reversal or liability, there is **little or no incentive** for taxpayers to correct the mismatches which will only increase the mismatch

Evidently, the VAT model of System matching without any auto-reversal and reliance on Tax Official intervention has not yet been successful to establish the core principle.

Now let us take a look at the GSTR – 1-2A-2-1A model

- The model “attempted” to solve the system matching problems by introducing an acceptance workflow for invoice matching. As a principle – a step in the right direction.
- While GSTR-1 was reasonably successful, GSTR-2A and & 2 did not work as planned
 - While 27 Lakh Taxpayers (58% of eligible) filed GSTR2, majority were NIL return filers
 - From a invoice count perspective only 1.5 crore invoices went through the acceptance cycle as opposed to a 13.16 crore invoices (i.e. only 11%)
- *It has been presumed that comparing Supplier provided invoice with Purchase books was too much a burden. But is it?*

Comparing Supplier provided Invoice with own purchase books

- Let's not forget...

Every business large or small, automated or manual routinely compares Supplier invoice with the purchase books!

- It is a necessary step **before releasing payment**. No business says – comparing is hard – so let me pay whatever supplier claims!

Data from GSTR1/2A shows that 91% of tax payer have fewer than 50 invoices to accept



- 93% of the tax payers have less than 50 sales invoices that need to be uploaded

- 91% of the tax payers have less than 50 purchase invoices that need to be accepted

But then why was GSTR2 perceived as a burden?

- Comparing Supplier invoice with Purchase books **all over again for tax credit claim purposes** is a burden
- Comparing Supplier invoice that is **not at the same granularity** as their books is a burden
- Comparing & correcting Supplier invoice **2 months after the transaction** is a burden
- Comparing all Supplier invoices **in a span of 5 days** that too by a professional is a burden

In summary, GSTR-2 model was burdensome because...

- By modeling “Invoice Upload” and “Acceptance” as Tax “Returns” (GSTR-1 & GSTR-2), the model created a perception that there are 3 returns per month.
 - People perceived them as a tax function creating a dependence on a tax professional when upload & acceptance is patently a business reporting function
- Structure of forms was also too complex which required a tax professionals help
 - Concepts like Tax on Advance, its utilization to offset liability, separate reporting of different type of invoices made GSTR-1 & 2 look more like a return form than a statement
- Reporting of invoices at rate-level instead of line-item level created more work to the supplier
 - It also made matching and acceptance unacceptably tedious

What then is a Successful Model

- A successful model is one which achieves the agreed goal without the failure characteristics of increased tax payer burden or intervention of tax official.
- In other words one which...

...aligns with the natural business cycle of verification & payment of supplier invoices

Highlights of the proposed solution – Invoice Upload

- Suppliers “upload” sales invoices on the GST System which automatically calculates his/her liability. Invoice is also made available to Buyer for acceptance
- Key Contrasts from GSTR-1
 - It is simply an Invoice “Upload” - not “filing” of return
 - Invoice format and data granularity to exactly match the actual invoice submitted by supplier for payment viz. **Invoice Item Level** right from day one – not rolled up at tax rate or commodity levels
 - Upload happens on a **continuous basis**. It means the verification and acceptance coincides with the actual business transaction. Invoices uploaded after the 10th is automatically included in next return
 - Market forces will evolve a model where invoice is paid only after upload on GST System

Highlights of the proposed solution – Invoice Acceptance

- Buyer “accepts” supplier invoices on the GST System which automatically determines the input tax credit (ITC)
- Key Contrasts from GSTR-2 and pure System Matching Model
 - It is simply an Invoice “**acceptance**” - **not “filing”** of return. **Acceptance** can happen on **continuous basis** – not waiting for all the GSTR-1 to be filed.
 - In the case of pure System matching model the correction and acceptance will be at least **20-50 days after the transaction**
 - Invoice once accepted is “locked” cannot be modified by the supplier. Brings finality to the transaction
 - System to **provide robust tools** to facilitate smooth acceptance – including offline matching of supplier invoices with purchase books, auto-acceptance capabilities and improved support to GSP/ASPs for tighter integration with accounting packages.

Highlights of the proposed solution – Handling Missed Invoices

- We propose to eliminate concept of “Provisional Credit” – However Buyers can “notify” supplier through the system to upload any missed invoice – but cannot upload or modify it themselves
- Key Contrasts from GSTR-2
 - Buyer is simply declaring the invoices missed by his/her supplier
 - System will notify the supplier – reminding them to upload the same
 - When supplier uploads such invoice, System will match and remove it from the missed invoice list
 - Missed invoice statistics will be retained and **used to compute performance scores** of the tax payers

Highlights of the proposed solution – Handling non-Payment

- In the proposed model, there will be no “Mismatch” in the traditional sense – hence no question of reversal. But there is still the possibility of non-payment of taxes by the supplier
- The current law penalizes the buyer by denying or reversing credit – but this is widely perceived as unfair to buyer. We understand courts have also ruled against it
- It is therefore recommended that the new law...
 - Re-Define the criteria of a legitimate invoice as one where Supplier has admitted liability by uploading into the portal
 - Makes provisions to **recover dues from the Supplier** rather than penalizing buyer

Highlights of the proposed solution – Channels of reporting

- GST System will offer multiple channels for upload and acceptance of invoices and filing of returns
 - As seen in the invoice distribution, majority 91% of tax payers have fewer than 50 invoices in a month – that is hardly 2-3 invoices per day. Small taxpayers with no automated accounting systems can view and accept pending invoices **directly on the portal**
 - Small-Medium Taxpayers with some level of automation can use **Excel based offline tool** to download, compare and accept pending invoices
 - Large tax payers with fully automated accounting will do the reconciliation and acceptance directly in their accounting system and upload results directly **through APIs**

Proposed Solution



- Continuous invoice upload/acceptance with counter parties – No cut-offs
- Remove concept of provisional ITC
 - No uploading of missed invoice or modify supplier invoice.
 - Consequently, no mismatch or ITC reversals

We further propose a Gradual Transition so that it ...

- Eliminate risk of adoption issues impacting tax collection
- Provide sufficient time to stabilize the system including enhancements to improvements to user experience based on industry feedback
- Provide sufficient time to taxpayers to adapt to the new model – understand counter-party behavior & data quality and implement corrective measures as required
- Provide sufficient time to enable eco-system to develop tools/applications for automated upload of sales invoice and reconciliation of purchase invoice

Gradual Transition to the New Model



Key Benefits of the proposed model

- **Simplicity:** Dramatically simplifies the process and reduces burden
 - As established earlier, every business routinely compares supplier invoices with their purchase books before release of payment. This model simply integrates with this natural business process
 - Compliance is as simple as “reporting” their business transaction regularly and making payment against a system generated return
 - In contrast, a pure System matching model with 30-40% mismatch actually increases the burden – comparing & correcting stale transactions is lot harder than doing it as part of business cycle

Key Benefits of the proposed model

- **Incentive Aligned :** Natural alignment of incentives to both supplier and buyer
 - Supplier has to report invoices on-time – otherwise will not get paid or end-up paying interest
 - Buyer has to accept invoices on-time – otherwise will not get his/her input credit

Key Benefits of the proposed model

- **High Data Quality:** Cleaner data with low level of initial “mismatch”
 - As the model **integrates with the natural business process** between supplier and buyer, one can expect significant improvement in data quality
 - Experience from VAT shows that majority mismatch is due to difference in Invoice No. and Date. This happens due to dual version of same data flowing from both parties. Having a **single version of data** will reduce initial mismatch levels to a great extent
 - Since **incentives are aligned** to business interest, there will be greater focus to upload correct data

In conclusion...

- We must agree on the core principle of...

Input Tax Credit will be provided only on “matched” invoices

- Any model that increases tax payer burden, or relies on tax officer intervention is likely to fail.
- A successful model is one which aligns with the natural business process and not make Tax return preparation a separate function
- The proposed model will result in lower compliance burden to the tax payer, higher revenue collection and reduced administrative burden to the officials

Annexure 9



Terms of reference of the Committee



- To evolve a definition of handicraft goods based on its way of manufacture and cultural and heritage linkages
- To identify the goods under different HSN Codes which shall be considered as handicrafts
- To identify specific issues of handicraft items and suggest possible solutions.

2



TOR 1 -Definition of handicrafts

- ❖ Given the wide diversity of handicraft goods, the definition should be sufficiently elucidative, while avoiding over or under inclusion
- ❖ The definitions used by UNESCO and other national as well as international bodies were analyzed
- ❖ The committee utilized Observations of Hon'ble Supreme Court on handicraft
- ❖ Committee felt that three elements must be included
 - ✓ Predominant use of hands,
 - ✓ sufficient artistic and traditional elements, and
 - ✓ distinct output from machine made goods.

3

TOR 1 -Definition of handicrafts



After several iterations, the committee arrived at the following definition:

“Handicrafts are goods predominantly made by hand even though some tools or machinery may also have been used in the process; such goods are graced with visual appeal in the nature of ornamentation or in-lay work or some similar work of a substantial nature; possess distinctive features, which can be aesthetic, artistic, ethnic or culturally attached and are amply different from mechanically produced goods of similar utility”

4

TOR 2- Identification of HSN for handicrafts



- ❖ A definition however carefully drafted, may not be able to precisely denote all handicraft items.
- ❖ Therefore, the definition must be qualified by a list of items.
- ❖ A starting list was obtained from the Directorate of Handicrafts.
- ❖ This list was circulated to States inviting suggestions.
- ❖ The list of handicraft was thus prepared of 40 HSN Codes by
 - ✓ Inclusions of suggestions in existing classifications
 - ✓ Addition of specific named handicrafts
- ❖ The Committee also felt that differential treatment for handicrafts (rates etc) could be restricted to specified distribution channel.

5

S. No	Heading	Item	Existing Rate
1	3406	Handcrafted candles	12
2	420222/29/3110/90 /420232/39	Handbags including pouches and purses; jewellery box	12/18
3	44140000	Wooden frames for painting, photographs, mirrors etc	18
4	4416, 44219990	Carved wood products, art ware/decorative articles of wood (including inlay work, casks, barrel, vats)	12
5	4420	Statuettes & other ornaments of wood, wood marquetry & inlaid, jewellery box, wood lathe and lacquer work [including lathe and lacquer work, ambadi sisal craft]	12
6	45039090/450490	Art ware of cork [including articles of sholapith]	18
7	4601 and 4602	Mats, matting and screens of vegetable material, basketwork, wickerwork and other articles of vegetable materials or other plaiting material, articles of loofah (including of bamboo, rattan, canes and other natural fibres, dry flowers (naturally dried), articles thereof, ringal, raambaan article, shola items, Kouna/chumthang (water reeds) crafts, articles of Water hyacinth, koral mat]	5/12

6

S. No	Heading	Item	Existing Rate
8	4823	Articles made of paper mache	5
9	5607, 5609	Coir articles	5
10	57	Handmade carpets and other handmade textile floor coverings (including namda/gabba)	12
11	58043000	Handmade lace	12
12	5805	Hand-woven tapestries	12
13	580810	Hand-made braids and ornamental trimming in the piece	12
14	5810	Embroidery in the piece, in strips/in motifs	5
15	6117, 6214	Handmade/hand embroidered shawls	5/12
16	64032040	Kolhapuri chappals and similar footwear [ladhaki shoes]	5/18
17	6404 19 90	Footwear with uppers of jute textile material	5/18
18	6802	Carved stone products (e.g., statues, statuettes, figures of animals, writing sets, ashtray, candle stand)	12
19	68159990	Stone art ware, stone inlay work	18

S. No	Heading	Item	Existing Rate
20	69120010/20, 69120040	Tableware and kitchenware of clay and terracotta, other clay articles	12/0
21	69139000	Statuettes & other ornamental ceramic articles (incl blue potteries)	12
22	70099200	Ornamental framed mirrors	18
23	701810	Bangles, beads and small ware	0/5
24	70189010	Glass statues	18
25	70200090	Glass art ware [incl. pots, jars, votive, cask, cake cover, tulip bottle, vase]	12/18
26	71131110	Silver filigree work	3
27	7117	Handmade imitation jewellery (including natural seeds, beads jewelry, cardamom garland)	3
28	7326 90 99	Art ware of iron	18
29	741999	Art ware of brass, copper/copper alloys, electro plated nickel/silver	18
30	7616 99 90	Aluminium art ware	18
31	8306	Bells, gongs and like, non-electric, of base metal; statuettes, and other ornaments, of base metal; photograph, picture or similar frames, of base metal; mirrors of base metal; (including Bidriware,	12

S. No	Heading	Item	Existing Rate
32	92	Dhol, damau, ransingha, jhanj, taal [handmade musical instruments]	0
33	940150, 940380	Furniture of bamboo, rattan and cane	12
34	940510	Handcrafted lamps (including panchloga lamp)	12/18
35	9503	Dolls or other toys made of wood or metal or textile material [incl wooden toys of sawantwadi, Channapatna toys, Thanjavur doll]	12
36	9601	Worked articles of ivory, bone, tortoise shell, horn, antlers, coral, mother of pearl, seashell other animal carving material	12
37	9602	Worked vegetable or mineral carving, articles thereof, articles of wax, of stearin, of natural gums or natural resins or of modelling pastes etc, (including articles of lac, shellac)	18
38	9701	Hand paintings drawings and pastels (incl Mysore painting, Rajasthan painting, Tanjore painting, Palm leaf painting etc)	12
39	9703	Original sculptures and statuary, in metal, stone or any other material	12
40	Others (Misc)	Gamocha; Pasoli; Ganjifa card, (heading 9504)	9

Handmade goods- Committee's observation

- ❖ Certain handmade goods do not fall in the category of handicrafts
- ❖ Most of the items that are suggested for concession by Karnataka attract either Nil or 5% GST rate. Only a few items attract 12 or 18%.
- ❖ The Committee not mandated to make any recommendation on rates.
- ❖ The list provided by Karnataka is wide. It contains items which are also produced mechanically in large quantity yielding significant revenue
- ❖ Any differential rate for such handmade goods without adequate safeguards would be prone to misuse.
- ❖ One possible way could be to treat particular handmade products produced and marketed exclusively by specified federations/self-help groups on a different pedestal.

10



TOR 3- Specific issues of handicrafts sector

- ❖ The Committee examined issues being faced by the handicrafts sector.
- ❖ Of pertinent note were the issues relating to drawback, rates and market access of handicrafts.
- ❖ These issues are being already looked into by other committees, namely.
 - ✓ the rates by the Fitment Committee.
 - ✓ the drawback rates by the Drawback Committee
 - ✓ The export related issues by the Export committee
- ❖ Thus, it was felt that not specifically being a part of the handicraft committees mandate, no recommendations would be made on these issue

11

Proposals or consideration of the GST Council



- ❖ Approve the definition of 'handicrafts';
- ❖ Approve the list of handicrafts (along with HSN) as recommended by the Committee;
- ❖ Take a decision as regards the issues identified by the Committee for referring to the respective Committees.

12

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

In the 22nd Meeting of the GST Council held at New Delhi on 06th October, 2017, it was decided that the notifications, circulars and orders which are being issued by the Central Government with the approval of the competent authority shall be forwarded to the GST Council Secretariat, through email, for information and deemed ratification by the GST Council. Accordingly, in its 25th Meeting, held on 1 January, 2018, the GST Council had ratified the Notifications, Circulars and Orders issued before the date of the said Meeting.

2. In this respect, the following Notifications and Circulars issued after 18 January, 2018 (date of the 25th GST Council Meeting), till 05 March 2018, under the GST laws, by the Central Government, as available on www.cbec.gov.in, are placed before the Council for information and deemed ratification: -

Act/Rules	Type	Notification Nos/Circular Nos
CGST Act/CGST Rules	Central Tax	02 to 11 of 2018 [Notification Nos. 12 and 13 of 2018 are proposed to be issued by the Central Government on 07.03.2018]
	Central Tax (Rate)	01 to 09 of 2018
IGST Act	Integrated Tax	01 of 2018
	Integrated Tax (Rate)	01 to 10 of 2018
UTGST Act	Union territory Tax (Rate)	01 to 09 of 2018
GST (Compensation to the States) Act	Compensation Cess (Rate)	01 of 2018
Circulars	Under the CGST Act	29 to 31 and 33 of 2018

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

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

GIC took certain decisions between 18 January 2018 (when the 25th GST Council Meeting was held) and 05 March 2018 (before the 26th GST Council Meeting scheduled on 10 March 2018). Post the Council Meeting, whenever there were issues which required immediate resolution, the approval of the GST Implementation Committee was sought and consequential notifications/circulars/orders were issued. Due to the urgency involved, certain decisions were taken after obtaining approval by circulation amongst the GIC Members. The details of the decisions taken are given below:

2. Decisions by Circulation – 20 January 2018

2.1 An email was received from Commissioner, GST Policy Wing, wherein it was stated that in view of the difficulties faced by taxpayers in filing of GSTR-3B return due to technical glitches in GSTN, the last date for filing of GSTR-3B for December, 2017 is being extended by two days i.e. upto 22.01.2018 with the concurrence of the GIC Members.

2.2 Accordingly, notification No 02/2018 – Central Tax dated 20 January 2018 was issued.

3. Decisions by Circulation – 02 February 2018

3.1 An email was received from Joint Commissioner, GST Policy Wing, wherein notification for postponing the implementation of e-Way Bill Rules for both inter-State and intra-State movement of Goods was to be issued in view of the inability of taxpayers to operate the e-Way portal due to technical glitches as reported by GSTN. This was causing difficulties and disruptions to the trade and industry.

3.2 GSTN proposed to extend the date from which e-Way bill provisions for inter-State movement of Goods come into force to 16th February, 2018. GIC decided that the date of coming into force of the e-Way Bill Rules may be postponed till a date to be notified later.

3.3 Accordingly, notification No 11/2018 – Central Tax dated 02 February 2018 was issued.

4. 12th GIC Meeting – 15 February 2018

4.1 The 12th Meeting of the GIC was held at Kalpvriksha in North Block on 15 December, 2018 in which few Members participated through Video Conference. The agenda item, “proposal to set up a Grievance Redressal Mechanism to address technical glitches in GSTN” was discussed in view of the orders of the Hon’ble High Courts of Allahabad and Mumbai in relation to Writ Petition nos. 67/2018 and 2239/2018 respectively, relating to delay in filing of various returns and TRAN-1 due to glitches in GSTN and the specific direction of the Hon’ble High Court of Mumbai that a grievance redressal mechanism be put in place to address the problems faced by the taxpayers due to glitches in GSTN.

4.2 After discussion, the GIC decided that a final decision on this agenda could be kept in abeyance and that Member (GST), CBEC is authorised to take appropriate decision to comply with the orders of the Hon’ble High Courts of Allahabad and Mumbai in Writ Petition Nos 67/2018 and 2230/2018 respectively relating to delay in filing of various returns and TRAN-1 due to glitches in GSTN and to keep penalty and fine in abeyance.

5. 13th GIC Meeting – 26 February 2018

5.1 The 13th GIC Meeting was held on 26 February 2018 in which few Members participated through Video Conference. The 4 agenda items taken up for discussion and their outcome are as follows:

5.2 **Agenda Item 1:** Amendments in the e-Way bill rules

5.2.1. Commissioner, GST Policy Wing, CBEC, briefed about the proposed amendments to the e-Way Bill Rules. He added that the same could be notified from a date to be decided later.

5.2.2. The major changes in the e-Way Bill Rules were as detailed below:

- i. Transporters, Courier agencies and registered job workers may fill **PART-A** of **FORM EWB-01** after getting an authorisation for doing so from the registered person.
- ii. Value of exempt supply has been excluded from the consignment value.
- iii. Public conveyances have been included as a mode of transport and the e-way bill in case of movement of goods by public transport has to be generated by the consignor or the consignee.
- iv. Impact of an addition of a new sub-rule 2A would be that in case of movement of goods by railway, air and vessel, the e-way bill can be generated even after commencement of movement.
- v. Railways have been exempted from generating and carrying e-way bill with the condition that without the production of e-way bill, railway will not deliver the goods to the recipient.
- vi. The distance from the place of consignor to the place of transporter for which **PART-B** of **FORM EWB-01** may not be filled has been increased to 50 km from 10 km to handle practical issues and to facilitate express delivery industry.
- vii. In case of trans-shipment or vehicle change, the transporter or the consignor/consignee can assign the e-way bill to another registered or enrolled transporter who can update the vehicle no. in **PART-B** multiple times.
- viii. Rule 138(7) shall come into force from a future date which provides for the transporter to generate an e-way bill in case of inter-State movement of goods carried in a single conveyance by road valued at more than Rs 50,000/- and where the consignor/consignee have not generated the e-way bill.
- ix. The consignor/consignee or the transporter now have 15 days to fill the information in **PART-B** of **FORM EWB-01** as compared to 72 hours. The recipient is required to communicate his acceptance or rejection of the e-way bill within the validity period of the concerned e-way bill or 72 hours whichever is earlier.
- x. Carrying e-way bill in physical form is no longer mandatory and may be carried in electronic form.
- xi. Insert a definition of Over Dimensional Cargo (ODC) and to have a separate validity period of e-Way bill for movement of ODC (20 km per day).

5.2.3. The GIC approved the amended e-Way Bill Rules with the following modifications/additions:

- i. In the second proviso to Rule 138 (1) of the CGST Rules, 2017, to insert at an appropriate place, the words “on an authorisation received from the consignor”. The FAQ to be issued on e-Way bill would clarify that for Provisos 1 and 2 to Rule 138(1) of the CGST Rules, 2017, an authorisation would mean an authorisation from the consignor and to the Transporter or to the Courier company. If the Transporter or the Courier company is generating the e-Way Bill, the authorisation of the consignor can be given in any manner and it should only be given to the Transporter or the Courier company and no copy need to be filed with the Tax Department. Further, the consignor would be bound by the declaration made by the Transporter or the Courier company on behalf of the consignor.

- ii. The word “may” shall be substituted by the word “shall” in Rule 138(2) of the CGST Rules, 2017.
- iii. For the proviso to Rule 138(10) of the CGST Rules, 2017, a few additions would be made in the list of ‘exceptional circumstances’ under which the Transporter may extend the validity period of e-Way bill, namely transshipment, vehicle breakdown, vehicle accident, and any other event that CCT, Gujarat, may suggest. This would also be incorporated as a clarification in the FAQ to be published on a later date.
- iv. In Rule 138(14) (m), to insert the word “cargo” after the word ‘empty’ and before the word ‘container’.
- v. For Rule 138 (14) (k), formulation relating to ‘Defence Group’ to be worked out by the GST Policy Wing, CBEC in consultation with the Ministry of Defence.
- vi. In the Annexure to Rule 138 for the FORM GST EWB-01, in PART B, for the entry against B.1. i.e. “Vehicle Number for Road”, in addition to regular vehicle numbers, entries can also be made for vehicle numbers of Defence forces, Temporary Registration Numbers and Vehicle numbers from Bhutan and Nepal.

5.2.4. The GIC approved the proposal with minor modifications as stated in paragraph 5.2.3. The revised e-Way Bill Rules are at **Annexure 1**. The implementing notification No. 12/2018 – Central Tax is proposed to be issued on 07 March 2018.

5.3. **Agenda Item 2** – Amendment in relation to transitional credit in Central Goods and Services Tax Rules, 2017

5.3.1. Commissioner, GST Policy Wing, CBEC, stated that the last date for furnishing the details in **FORM GST TRAN-2** was not specified in the CGST Rules, 2017 and that the FORM was made available on the common portal only from 11th December 2017. The Law Committee had proposed to specify the last date for furnishing **FORM GST TRAN-2** as 31st March, 2018 and to amend Rule 117(4)(b)(iii) of the CGST Rules, 2017 as follows:

"The registered person availing of this scheme and having furnished the details of stock held by him in accordance with the provisions of clause (b) of sub-rule (2), submits a statement in **FORM GST TRAN 2** by 31st March 2018, or within such period as extended by the Commissioner, on the recommendations of the Council, for each of the six tax periods during which the scheme is in operation indicating therein, the details of supplies of such goods effected during the tax period;"

5.3.2. The GIC approved the amendment proposed in Rule 117(4)(b)(iii) of the CGST Rules, 2017.

5.3.3. The implementing notification No. 12/2018 – Central Tax is proposed to be issued on 07 March 2018.

5.4. **Agenda Item 3** - Change in the declaration to be submitted in FORM GST RFD-01A

5.4.1. Commissioner, GST Policy Wing, CBEC, stated that certain registered persons were facing difficulty in getting refunds sanctioned against applications submitted manually in **FORM GST RFD-01A** due to the requirement of submitting a declaration along with the said form declaring that no drawback has been claimed on goods or services or both in respect of which the refund is claimed. The intent behind requiring a taxpayer to submit the above declaration along with the application in **FORM GST RFD-01A** was to ensure that no refund was sanctioned in respect of those goods against which drawback had also been availed from the Customs Authorities. Accordingly, it was proposed that the said declaration may be amended as under:

“I hereby declare that the goods exported are not subject to any export duty. I also declare that I have not availed any drawback of central tax on goods or services or both and that I have not claimed refund of the integrated tax paid on supplies in respect of which refund is claimed”

5.4.2. Commissioner, Commercial Taxes, West Bengal, stated that lot of State Tax officers were not clear about the concept of lower rate and higher rate of drawback and the same needed to be clarified.

5.4.3. After discussion, it was agreed that to make the declaration more unambiguous, it could read as follows:

“I hereby declare that the goods exported are not subject to any export duty. I also declare that I have not availed any drawback of central tax, central excise or service tax on goods or services or both and that I have not claimed refund of the integrated tax paid on supplies in respect of which refund is claimed”

5.4.4. The GIC agreed to the revised formulation proposed in paragraph 5.4.3.

5.4.5. The implementing notification No. 12/2018 – Central Tax is proposed to be issued on 07 March 2018.

5.5. **Agenda Item 4** – Rescinding notification No. 06/2018 – Central Tax dated 23rd January, 2018

5.5.1. Commissioner, GST Policy Wing, CBEC, stated that the issue contained in the agenda item pertained to filing of **FORM GSTR – 5A** which captures the details of the supplies of online information and database access or retrieval services (**OIDAR**) by a person located in a non-taxable territory to a non-taxable online recipient.

5.5.2. He further stated that it was observed that as per section 20 of the IGST Act, 2017 vide which various provisions of the CGST Act, 2017 have been made applicable to like matters in relation to integrated tax, the provisions relating to late fee had not been made applicable [Section 20(viii) of the IGST Act refers]. Thus, section 47 of the CGST Act levying late fee for delayed filing of returns beyond the due date was not applicable to delayed filing of a return under the IGST Act. Hence, no late fee was payable for delayed filing of the return under the IGST Act. Accordingly, it was proposed that Notification No. 6/2018 – Central Tax dated 23rd January, 2018 needed to be rescinded. He further stated that during the process of law amendment, a suitable provision would be incorporated to make returns under the IGST Act also subject to late fees.

5.5.3. The GIC approved the proposal to rescind Notification No.6/2018-Central Tax dated 23rd January, 2018.

5.5.4. The implementing notification No 13/2018 – Central Tax is proposed to be issued on 07 March 2018.

6. The decisions of GIC are placed for information of the Council.

Annexure 1

Revised e-Way Bill Rules

“138. Information to be furnished prior to commencement of movement of goods and generation of e-way bill. - (1) Every registered person who causes movement of goods of consignment value exceeding fifty thousand rupees—

- (i) in relation to a supply; or
- (ii) for reasons other than supply; or
- (iii) due to inward supply from an unregistered person,

shall, before commencement of such movement, furnish information relating to the said goods as specified in **Part A** of **FORM GST EWB-01**, electronically, on the common portal along with such other information as may be required on the common portal and a unique number will be generated on the said portal:

Provided that the transporter, on an authorization received from the registered person, may furnish information in **Part A** of **FORM GST EWB-01**, electronically, on the common portal along with such other information as may be required at the common portal and a unique number will be generated on the said portal:

Provided further that where the goods to be transported are supplied through an e-commerce operator or a courier agency, on an authorization received from the consignor, the information in **Part A** of **FORM GST EWB-01** may be furnished by such e-commerce operator or courier agency and a unique number will be generated on the said portal:

Provided also that where goods are sent by a principal located in one State to a job worker located in any other State, the e-way bill shall be generated either by the principal or the job worker, if registered, irrespective of the value of the consignment:

Provided also that where handicraft goods are transported from one State to another by a person who has been exempted from the requirement of obtaining registration under clauses (i) and (ii) of section 24, the e-way bill shall be generated by the said person irrespective of the value of the consignment.

Explanation 1. – For the purposes of this rule, the expression “handicraft goods” has the meaning as assigned to it in the Government of India, Ministry of Finance, notification No.32/2017-Central Tax dated the 15th September, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R 1158 (E) dated the 15th September, 2017 as amended from time to time.

Explanation 2.- For the purposes of this rule, the consignment value of goods shall be the value, determined in accordance with the provisions of section 15, declared in an invoice, a bill of supply or a delivery challan, as the case may be, issued in respect of the said consignment and also includes the central tax, State or Union territory tax, integrated tax and cess charged, if any, in the document and shall exclude the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods.

(2) Where the goods are transported by the registered person as a consignor or the recipient of supply as the consignee, whether in his own conveyance or a hired one or a public conveyance, by road, the said person shall generate the e-way bill in **FORM GST EWB-01** electronically on the common portal after furnishing information in **Part B** of **FORM GST EWB-01**.

(2A) Where the goods are transported by railways or by air or vessel, the e-way bill shall be generated by the registered person, being the supplier or the recipient, who shall, either before or after the commencement of movement, furnish, on the common portal, the information in **Part B** of **FORM GST EWB-01**:

Provided that where the goods are transported by railways, the railways shall not deliver the goods unless the e-way bill required under these rules is produced at the time of delivery.

(3) Where the e-way bill is not generated under sub-rule (2) and the goods are handed over to a transporter for transportation by road, the registered person shall furnish the information relating to the transporter on the common portal and the e-way bill shall be generated by the transporter on the said portal on the basis of the information furnished by the registered person in **Part A** of **FORM GST EWB-01**:

Provided that the registered person or, the transporter may, at his option, generate and carry the e-way bill even if the value of the consignment is less than fifty thousand rupees:

Provided further that where the movement is caused by an unregistered person either in his own conveyance or a hired one or through a transporter, he or the transporter may, at their option, generate the e-way bill in **FORM GST EWB-01** on the common portal in the manner specified in this rule:

Provided also that where the goods are transported for a distance of upto fifty kilometres within the State or Union territory from the place of business of the consignor to the place of business of the transporter for further transportation, the supplier or the recipient, or as the case maybe, the transporter may not furnish the details of conveyance in **Part B** of **FORM GST EWB-01**.

Explanation 1. – For the purposes of this sub-rule, where the goods are supplied by an unregistered supplier to a recipient who is registered, the movement shall be said to be caused by such recipient if the recipient is known at the time of commencement of the movement of goods.

Explanation 2.- The e-way bill shall not be valid for movement of goods by road unless the information in **Part-B** of **FORM GST EWB-01** has been furnished except in the case of movements covered under the third proviso to sub-rule (3) and the proviso to sub-rule (5).

(4). Upon generation of the e-way bill on the common portal, a unique e-way bill number (EBN) shall be made available to the supplier, the recipient and the transporter on the common portal.

(5). Where the goods are transferred from one conveyance to another, the consigner or the recipient, who has provided information in **Part- A** of the **FORM GST EWB-01**, or the transporter shall, before such transfer and further movement of goods, update the details of conveyance in the e-way bill on the common portal in **Part B** of **FORM GST EWB-01**:

Provided that where the goods are transported for a distance of upto fifty kilometres within the State or Union territory from the place of business of the transporter finally to the place of business of the consignee, the details of the conveyance may not be updated in the e-way bill.

(5A) The consignor or the recipient, who has furnished the information in **Part-A** of **FORM GST EWB-01**, or the transporter, may assign the e-way bill number to another registered or enrolled transporter for updating the information in **Part-B** of **FORM GST EWB-01** for further movement of consignment:

Provided that after the details of the conveyance have been updated by the transporter in **Part B** of **FORM GST EWB-01**, the consignor or recipient, as the case maybe, who has furnished the information in **Part-A** of **FORM GST EWB-01** shall not be allowed to assign the e-way bill number to another transporter.

(6) After e-way bill has been generated in accordance with the provisions of sub-rule (1), where multiple consignments are intended to be transported in one conveyance, the transporter may indicate the serial number of e-way bills generated in respect of each such consignment electronically on the common portal and a consolidated e-way bill in **FORM GST EWB-02** maybe generated by him on the said common portal prior to the movement of goods.

(7) Where the consignor or the consignee has not generated **FORM GST EWB-01** and the aggregate of the consignment value of goods carried in the conveyance is more than fifty thousand rupees, the transporter, except railways, air and vessel, shall, in respect of inter-State supply, generate **FORM GST EWB-01** on the basis of invoice or bill of supply or delivery challan, as the case maybe, and may also generate a consolidated e-way bill in **FORM GST EWB-02** on the common portal prior to the movement of goods:

Provided that where the goods to be transported are supplied through an e-commerce operator or a courier agency, the information in **Part A** of **FORM GST EWB-01** may be furnished by such e-commerce operator or courier agency.

(8) The information furnished in **Part A** of **FORM GST EWB-01** shall be made available to the registered supplier on the common portal who may utilize the same for furnishing details in **FORM GSTR-1**:

Provided that when the information has been furnished by an unregistered supplier or an unregistered recipient in **FORM GST EWB-01**, he shall be informed electronically, if the mobile number or the e-mail is available.

(9) Where an e-way bill has been generated under this rule, but goods are either not transported or are not transported as per the details furnished in the e-way bill, the e-way bill may be cancelled electronically on the common portal within twenty-four hours of generation of the e-way bill:

Provided that an e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B:

Provided further that the unique number generated under sub-rule (1) shall be valid for a period of fifteen days for updation of **Part B** of **FORM GST EWB-01**.

(10) An e-way bill or a consolidated e-way bill generated under this rule shall be valid for the period as mentioned in column (3) of the Table below from the relevant date, for the distance, within the country, the goods have to be transported, as mentioned in column (2) of the said Table: -

Sl. No.	Distance	Validity period
(1)	(2)	(3)
1.	Upto 100 km.	One day in cases other than Over Dimensional Cargo
2.	For every 100 km. or part thereof thereafter	One additional day
3.	Upto 20 km	One day in case of Over Dimensional Cargo
4.	For every 20 km. or part thereof thereafter	One additional day in case of Over Dimensional Cargo:

Provided that the Commissioner may, on the recommendations of the Council, by notification, extend the validity period of an e-way bill for certain categories of goods as may be specified therein:

Provided further that where, under circumstances of an exceptional nature, including trans-shipment, the goods cannot be transported within the validity period of the e-way bill, the transporter may extend the validity period after updating the details in **Part B** of **FORM GST EWB-01**, if required.

Explanation 1. —For the purposes of this rule, the “relevant date” shall mean the date on which the e-way bill has been generated and the period of validity shall be counted from the time at which the e-way bill has been generated and each day shall be counted as the period expiring at midnight of the day immediately following the date of generation of e-way bill.

Explanation 2. — For the purposes of this rule, the expression “Over Dimensional Cargo” shall mean a cargo carried as a single indivisible unit and which exceeds the dimensional limits prescribed in rule 93 of the Central Motor Vehicle Rules, 1989, made under the Motor Vehicles Act, 1988.

- (11) The details of e-way bill generated under sub-rule (1) shall be made available to the-
- (a) supplier, if registered, where the information in **Part A** of **FORM GST EWB-01** has been furnished by the recipient or the transporter; or
 - (b) recipient, if registered, where the information in **Part A** of **FORM GST EWB-01** has been furnished by the supplier or the transporter, on the common portal, and the supplier or the recipient, as the case maybe, shall communicate his acceptance or rejection of the consignment covered by the e-way bill.
- (12) Where the person to whom the information specified in sub-rule (11) has been made available does not communicate his acceptance or rejection within seventy-two hours of the details being made available to him on the common portal, or the time of delivery of goods whichever is earlier, it shall be deemed that he has accepted the said details.
- (13) The e-way bill generated under this rule or under rule 138 of the Goods and Services Tax Rules of any State shall be valid in every State and Union territory.
- (14) Notwithstanding anything contained in this rule, no e-way bill is required to be generated—
- (a) where the goods being transported are specified in Annexure;
 - (b) where the goods are being transported by a non-motorised conveyance;
 - (c) where the goods are being transported from the customs port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs;
 - (d) in respect of movement of goods within such areas as are notified under clause (d) of sub-rule (14) of rule 138 of the State Goods and Services Tax Rules in that particular State;
 - (e) where the goods being transported, as specified in the Schedule appended to notification No. 2/2017- Central tax (Rate) dated the 28th June, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R 674 (E) dated the 28th June, 2017 as amended from time to time, other than de-oiled cake;
 - (f) where the goods being transported are alcoholic liquor for human consumption, petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas or aviation turbine fuel;

- (g) where the goods being transported are treated as no supply under Schedule III of the Act.
- (h) Where the goods are being transported—
 - (i) under customs bond from an inland container depot or a container freight station to a customs port, airport, air cargo complex and land customs station, or from one customs station or customs port to another customs station or customs port, or
 - (ii) any other movement that takes place under customs supervision or under customs seal.
- (i) Where the goods being transported are transit cargo from or to Nepal or Bhutan.
- (j) Where the goods being transported are exempt from tax under notification No. 7/2017-Central Tax (Rate), dated 28th June 2017 and notification No. 26/2017-Central Tax.
- (k) Where the goods being transported are consigned by the Defence Group under the Ministry of Defence, Government of India;
- (l) Where the consignor of goods is Government or a local authority for transport of goods by rail.
- (m) Where empty cargo containers are being transported.
- (n) Where the goods are being transported upto a distance of twenty kilometres from the place of the business of the consignor to a weighbridge for weighment or from the weighbridge back to the place of the business of the said consignor subject to the condition that the movement of goods is accompanied by a delivery challan issued in accordance with rule 55.

Explanation. - The facility of generation, cancellation, updation and assignment of e-way bill shall be made available through SMS to the supplier, recipient and the transporter, as the case may be.

ANNEXURE

[(See rule 138 (14)]

S. No.	Description of Goods
(1)	(2)
1.	Liquefied petroleum gas for supply to household and non domestic exempted category (NDEC) customers
2.	Kerosene oil sold under PDS
3.	Postal baggage transported by Department of Posts
4.	Natural or cultured pearls and precious or semi-precious stones; precious metals and metals clad with precious metal (Chapter 71)
5.	Jewellery, goldsmiths' and silversmiths' wares and other articles (Chapter 71)
6.	Currency
7.	Used personal and household effects
8.	Coral, unworked (0508) and worked coral (9601)";

(iii) after rule 138, the following rules shall be inserted, namely: -

“138A. Documents and devices to be carried by a person-in-charge of a conveyance. -(1)

The person in charge of a conveyance shall carry—

- (a) the invoice or bill of supply or delivery challan, as the case may be; and
- (b) a copy of the e-way bill in physical form or the e-way bill number in electronic form or mapped to a Radio Frequency Identification Device embedded on to the conveyance in such manner as may be notified by the Commissioner:

Provided that nothing contained in this sub-rule shall apply in case of movement of goods by rail.”;

138B. Verification of documents and conveyances. - (1) The Commissioner or an officer empowered by him in this behalf may authorise the proper officer to intercept any conveyance to verify the e-way bill in physical or electronic form for all inter-State and intra-State movement of goods.

138C. Inspection and verification of goods. - (1) A summary report of every inspection of goods in transit shall be recorded online by the proper officer in Part A of **FORM GST EWB-03** within twenty-four hours of inspection and the final report in Part B of **FORM GST EWB-03** shall be recorded within three days of such inspection.

(2) Where the physical verification of goods being transported on any conveyance has been done during transit at one place within the State or in any other State, no further physical verification of the said conveyance shall be carried out again in the State, unless a specific information relating to evasion of tax is made available subsequently.

138D. Facility for uploading information regarding detention of vehicle. -Where a vehicle has been intercepted and detained for a period exceeding thirty minutes, the transporter may upload the said information in **FORM GST EWB-04** on the common portal.

FORM GST EWB-01

(See rule 138)

E-Way Bill

E-Way Bill No. :
E-Way Bill date :
Generator :
Valid from :
Valid until :

PART-A		
A.1	GSTIN of Supplier	
A.2	Place of Dispatch	
A.3	GSTIN of Recipient	
A.4	Place of Delivery	
A.5	Document Number	
A.6	Document Date	
A.7	Value of Goods	
A.8	HSN Code	
A.9	Reason for Transportation	
PART-B		
B.1	Vehicle Number for Road	
B.2	Transport Document Number/Defence Vehicle No./Temporary Registration No./Nepal or Bhutan Registration No.	

Notes:

1. HSN Code in column A.6 shall be indicated at minimum two-digit level for taxpayers having annual turnover upto five crore rupees in the preceding financial year and at four digit level for taxpayers having annual turnover above five crore rupees in the preceding financial year.
2. Document Number may be of Tax Invoice, Bill of Supply, Delivery Challan or Bill of Entry.
3. Transport Document number indicates Goods Receipt Number or Railway Receipt Number or Forwarding Note number or Parcel way bill number issued by railways or Airway Bill Number or Bill of Lading Number.
4. Place of Delivery shall indicate the PIN Code of place of delivery.
5. Place of dispatch shall indicate the PIN Code of place of dispatch.
6. Where the supplier or the recipient is not registered, then the letters “URP” are to be filled-in in column A.1 or, as the case may be, A.3
7. Reason for Transportation shall be chosen from one of the following: -

Code	Description
1	Supply
2	Export or Import
3	Job Work
4	SKD or CKD
5	Recipient not known
6	Line Sales
7	Sales Return
8	Exhibition or fairs
9	For own use
0	Others

FORM GST EWB-02

(See rule 138)

Consolidated E-Way Bill

Consolidated E-Way Bill No. :

Consolidated E-Way Bill Date :

Generator :

Vehicle Number :

Number of E-Way		
Bills		
E-Way Bill Number		

FORM GST EWB-03

(See rule138C)

Verification Report

Part A	
Name of the Officer	
Place of inspection	
Time of inspection	
Vehicle Number	
E-Way Bill Number	
Invoice or Challan or Bill Date	
Invoice or Challan or Bill Number	
Name of person in-charge of vehicle	
Description of goods	
Declared quantity of goods	
Declared value of goods	
Brief description of the discrepancy	
Whether goods were detained?	
If not, date and time of release of vehicle	
Part B	
Actual quantity of goods	
Actual value of the Goods	
Tax payable	
Integrated tax	
Central tax	
State or Union Territory tax	
Cess	

Penalty payable	
Integrated tax	
Central tax	
State or UT tax	
Cess	
Details of Notice	
Date	
Number	
Summary of findings	

FORM GST EWB-04

(See rule138D)

Report of detention

E-Way Bill Number	
Approximate Location of detention	
Period of detention	
Name of Officer in-charge	(if known)
Date	
Time	

FORM GST INV – 1

(See rule 138A)

Generation of Invoice Reference Number

IRN:		Date:	
Details of Supplier			
GSTIN			
Legal Name			
Trade name, if any			
Address			
Serial No. of Invoice			
Date of Invoice			
	Details of Recipient (Billed to)	Details of Consignee (Shipped to)	
GSTIN or UIN, if available			
Name			
Address			
State (name and code)			
Type of supply –			
	B to B supply		
	B to C supply		
	Attracts Reverse Charge		
	Attracts TCS	GSTIN of operator	
	Attracts TDS	GSTIN of TDS Authority	
	Export		
	Supplies made to SEZ		
	Deemed export		

Sr No.	Description of Goods	H S N	Qt y.	U nit	Pri ce (pe r uni t)	To tal val ue	Disco unt, if any	Taxa ble valu e	Central tax		State or UT tax		Integrat ed tax		Cess	
									Ra te	A mt	Ra te	A mt	Ra te	A mt	Ra te	A mt
	Freight															
	Insurance															
	Packing and Forwarding Charges etc.															
Total																
Total Invoice Value (In figure)																
Total Invoice Value (In Words)																

Signature
Name of the Signatory
Designation or Status”;

Agenda Item 4: Review of Revenue position for the month of January and February, 2018 under GST

In the GST Council meeting held on 18th January, 2018, revenue collection figures upto 31st December, 2017 were placed before the Council. **Table 1** and **Table 2** below give the details of revenue collected as Central Goods and Services Tax (CGST), State Goods and Services tax (SGST) and Integrated Goods and Services tax (IGST) collected upto 31th January, 2018 and 28th February, 2018 including the details of funds transferred to the Centre and States on account of settlement of funds.

Table 1*: GST revenue for month of January, 2018 (Rs. in crore)

	January receipts		Funds transferred due to settlement	Net revenue after settlement
CGST	14869		8583	23452
SGST	21536		15068	36604
IGST	44484		23651	20833
Cess	8040			8040
Total				88929

Table 2*: GST revenue for month of February, 2018 (Rs. in crore)

	February receipts		Funds transferred due to settlement	Net revenue after settlement
CGST	14763		11327	26090
SGST	20621		13479	34100
IGST	44325		24806	19519
Cess				8338
Total				88047

*Figures rounded to nearest whole number

Revenue Trends

2. The details of State wise revenue collection figures for the month of January and February, 2018 and percentage revenue shortfall of GST collections for each month since August 2017 are given at **Annexure 1**. The following revenue trends can be noted from the details given at the **Annexure 1**:

- (i) **Trend of revenue shortfall:** The average revenue shortfall of all the States for the month of August was 28.3%. The revenue shortfall of States was 15.5% and 21.1% in January and February, 2018 respectively.
- (ii) **States with maximum revenue shortfall:** States with revenue shortfall of more than 25% for the month of January, 2018 as compared to monthly revenue to be protected, show the following revenue shortfall for the month of February, 2018:

Sl. No.	Name of the State	Percentage shortfall in January 2018 revenue	Percentage shortfall in February 2018 revenue
1.	Puducherry	47.8	48.1
2.	<u>Himachal Pradesh</u>	<u>41.4</u>	<u>50.2</u>
3.	Bihar	40.2	40.0
4.	Punjab	39.3	43.5
5.	<u>Uttarakhand</u>	<u>35.5</u>	<u>44.6</u>
6.	Odisha	29.5	32.9
7.	Chattisgarh	29.5	29.9
8.	Jharkhand	29.5	26.6
9.	Tripura	28.8	24.3
10.	<u>Jammu & Kashmir</u>	<u>28.5</u>	<u>40.8</u>
11.	Madhya Pradesh	27.7	28.6

- (iii) **States with least shortfall in revenue:** The following States which showed the least percentage shortfall (below 20%) in GST collections for the month of January 2018 as compared to monthly revenue to be protected show the following percentage shortfall in February, 2018:

Sl. No.	Name of the State	Percentage shortfall in January 2018 revenue	Percentage shortfall in February 2018 revenue
1.	Nagaland	-14.5	-1.1
2.	Mizoram	-2.8	-51.1
3.	Andhra Pradesh	-1.4	5.5
4.	<u>Maharashtra</u>	<u>1.9</u>	<u>11.9</u>
5.	Manipur	2.1	-29.7
6.	Telangana	5.1	9.1
7.	<u>Delhi</u>	<u>5.6</u>	<u>20.8</u>
8.	<u>Tamil Nadu</u>	<u>6.4</u>	<u>18.3</u>
9.	Gujarat	9.7	12.9

10.	Uttar Pradesh	13.1	18.7
11.	Kerala	16.3	21.5
12.	West Bengal	16.5	15.8
13.	<u>Sikkim</u>	<u>16.6</u>	<u>29.3</u>
14.	Rajasthan	17.3	22.7
15.	Assam	17.9	20.6
16.	<u>Meghalaya</u>	<u>18.8</u>	<u>26.2</u>
17.	Goa	19.1	22.9

- (iv) **States showing maximum improvement revenue collection upto February, 2018:** The following States have shown the maximum improvement in February, 2018 collections as compared to August 2017 collections:

Sl. No.	Name of the State	Percentage shortfall in revenue in August 2017	Percentage shortfall in revenue in February, 2018	Percentage reduction in shortfall in February, 2018 revenue as compared to August 2017 revenue
1.	Mizoram	47.7	-51.1	98.8
2.	Manipur	46.6	-29.7	76.3
3.	Nagaland	50.5	-1.1	51.7
4.	Arunachal Pradesh	42.6	-6.4	49.0
5.	Tripura	59.4	24.3	35.1
6.	Meghalaya	52.2	26.2	26.0
7.	J & K	63.9	40.8	23.0
8.	Andhra Pradesh	27.9	5.5	22.4
9.	Haryana	40.3	18.5	21.8
10.	Assam	39.5	20.6	19.0
11.	Chattisgarh	48.8	29.9	18.9
12.	Telangana	27.8	9.1	18.7
13.	Gujarat	31.5	12.9	18.5

The revenue collection shown for any month in the note above, say, February has been collected in that month as per data received from GSTN for return period of January 2018. It also includes revenue collection on imports for the month of January 2018 collected in January itself. This data is received from Customs through Pr. CCA office.

3. The revenue position for the month of January and February, 2018 under GST is placed for information of GST Council.

State		Revenue to be protected every month	January, 2018		February, 2018		Jan-Feb shortfall	% Shortfall (Revenue collected vs revenue to be protected)												(In crore Rs.) % Improvement in Feb over Aug 2017
			SGST	Settlement	SGST Total	Settlement		SGST Total	Aug	Sept	Oct	Nov	Dec	Jan	Feb					
1	Mizoram	20	4	17	21	5	26	31	47.7	33.0	24.3	8.0	-17.6	-2.8	-51.1	98.8				
2	Manipur	38	8	29	37	8	41	49	46.6	33.2	15.6	17.2	0.8	2.1	-29.7	76.3				
3	Nagaland	28	6	26	32	5	23	28	50.5	43.7	35.4	20.8	14.7	-14.5	-1.1	51.7				
4	Arunachal Pradesh	28	9	35	43	7	23	30	42.6	47.3	27.8	18.3	-0.9	-56.6	-6.4	49.0				
5	Tripura	85	17	44	61	19	46	65	59.4	50.1	22.1	37.3	28.5	28.8	24.3	35.1				
6	Meghalaya	69	21	35	56	18	32	51	52.2	47.6	39.6	39.6	39.9	18.8	26.2	26.0				
7	J & K	516	145	225	369	125	180	305	63.9	45.9	40.1	36.2	35.9	28.5	40.8	23.0				
8	Andhra Pradesh	1457	714	764	1478	581	795	1377	27.9	20.2	4.4	15.8	16.8	-1.4	5.5	22.4				
9	Haryana	1649	966	352	1318	942	402	1345	40.3	23.5	16.5	26.3	18.1	20.1	18.5	21.8				
10	Assam	648	222	310	532	203	312	515	39.5	35.6	26.8	25.4	25.4	17.9	20.6	19.0				
11	Chattisgarh	797	367	195	562	389	169	558	48.8	42.0	43.3	38.2	37.2	29.5	29.9	18.9				
12	Telangana	1745	855	801	1656	795	791	1585	248	15.6	6.5	11.2	13.4	5.1	9.1	18.7				
13	Gujarat	3125	2060	762	2823	2031	690	2721	31.5	22.0	16.6	24.8	18.6	9.7	12.9	18.5				
14	West Bengal	2176	991	827	1817	1183	648	1831	33.4	19.6	18.3	20.1	22.1	16.5	15.8	17.6				
15	Goa*	236	117	74	191	127	55	182	39.9	33.4	33.0	27.6	24.0	19.1	22.9	17.0				
16	Madhya Pradesh	1660	614	587	1201	578	607	1185	934	43.4	42.8	25.6	26.8	27.7	28.6	14.8				
17	Odisha	1194	470	371	841	486	314	801	746	45.2	41.2	27.9	39.1	39.2	29.5	32.9				
18	Rajasthan	1858	858	679	1537	764	673	1437	743	34.8	27.5	22.0	22.0	18.9	17.3	22.7				
19	Bihar	1367	281	537	818	270	550	820	1096	52.1	55.6	41.5	40.5	39.3	40.2	40.0				
20	Uttarakhand	537	269	80	349	274	23	298	54.5	46.8	50.0	37.7	43.8	35.1	44.6	9.9				
21	Kerala	1822	698	827	1525	621	809	1430	31.3	14.0	14.4	22.4	22.7	16.3	21.5	9.8				
22	Jharkhand	694	354	135	490	341	168	510	33.6	47.4	31.8	29.4	28.7	29.5	26.6	7.0				
23	Puducherry	119	31	31	62	28	33	62	52.3	51.5	59.5	43.6	51.5	47.8	48.1	4.2				
24	Karnataka	3914	1810	1176	2986	1714	1085	2799	2044	31.3	26.3	25.3	30.8	23.7	28.5	2.8				
25	Punjab	1567	425	526	951	386	499	885	45.4	39.9	39.0	40.6	45.3	39.3	43.5	1.9				
26	Himachal Pradesh	394	125	106	231	107	89	196	360	49.9	48.3	46.8	48.8	41.4	50.2	-0.3				
27	Maharashtra	6553	4449	1976	6426	4297	1477	5774	906	10.6	11.1	2.6	8.0	6.7	1.9	-1.3				
28	Delhi	1818	1099	616	1716	930	510	1440	480	17.5	8.6	-0.2	6.4	14.3	5.6	20.8				
29	Uttar Pradesh	3613	1453	1687	3140	1357	1581	2939	1147	13.5	27.1	17.2	15.6	18.1	13.1	18.7				
30	Tamil Nadu	3226	1889	1130	3019	1901	733	2634	799	9.0	4.6	4.4	10.8	5.5	6.4	18.3				
31	Sikkim	27	11	11	22	9	10	19	12	-13.2	47.6	26.7	9.0	21.1	16.6	29.3				
	Total	42979	21274	14784	36057	20442	13205	33647	15717	28.3	24.0	17.5	20.9	20.7	16.1	21.7				
					Shortfall in revenue :	6921		9332												

Agenda Item 5: Accounting for provisional settlement of IGST and devolution of balance IGST at the end of any financial year

A. Provisional settlement of IGST:

In the 25th GST Council Meeting held on 18th January, 2018, the GST Council had approved the following after discussion on **agenda item no. 2:**

“(i) Out of Rs. 1,35,000 crore lying in the IGST account, a sum of Rs. 35,000 crore shall be provisionally settled between the Centre and the States. 50% of this amount shall be allocated to the Central Government and the remaining 50% shall be provisionally distributed between the States based on their share of collection of tax during the base year 2015-16.”

2. In order to implement the above decision of the GST Council, the Goods and Services Tax Settlement of Funds Rules, 2017 has been amended as under:

2.1. In the Goods and Services Tax Settlement of Funds Rules, 2017, in rule 11, after sub-rule (2), the following sub-rule shall be inserted, namely: -

“(3) At any point of time in any particular financial year, the Central Government may, on the recommendations of the Goods and Services Tax Council, provisionally settle any sum of integrated goods and services tax collected in that particular financial year which has not been settled so far.”

2.2. Copy of the notification amending the Goods and Services Tax Settlement of Funds Rules, 2017 is at **Annexure 1**.

3. Accordingly, Rs. 35,000 crore have been provisionally settled among the States as per the decision of the GST Council. Copy of sanction order for the same is at **Annexure 2**. It may be mentioned that the criteria for provisional settlement, i.e. settlement on the basis of collection of tax during the base year 2015-16 is different from actual settlement which is done on the basis of the extent of net utilization of IGST credit for the payment of SGST liability and the extent of B2C transactions. A provision is thus made for the **adjustment of provisional settlement of IGST done in 2017-18 referred to above** as follows: -

- i) The provisional apportionment from IGST made in the year 2017-18 will be adjusted in the year 2018-19 from the regular settlement of IGST under sections 17 and 18 of IGST Act on the basis of the monthly returns in ten equal installments starting from the month of April 2018.
- ii) The settlement from IGST on the basis of monthly returns in the year 2018-19 will be netted by the amount to be adjusted by one-tenth every month and the remaining amount of settlement will be transferred to CGST and SGST/UTGST accordingly.

B. Devolution of IGST:

4. **Devolution of IGST balance available at end of any financial year: Article 269A** of the Constitution provides that the amount of IGST which is cross utilized or apportioned to the States by way of settlement does not form part of the Consolidated Fund of India and thus would not get devolved as per provisions of **Article 270**. However, the IGST balance which shall be available in the IGST account on 31st March i.e. at the end of each financial year which has not been apportioned or cross utilized by the end of the financial year which has not yet been settled, would form part of Consolidated Fund of India and would be devolved as per provisions of **Article 270**.

5. **Adjustment of IGST devolved at end of particular financial year in subsequent financial years:**

- (a) In case IGST collected in the month is more than the IGST amount to be settled, there would not be any need to adjust the amount of IGST devolved to States.
- (b) **Mechanism of IGST settlement in case the IGST collection in any month is less than amount to be settled between Centre and States:** Settlement of collections made under IGST is done as per sections 17 and 18 of the IGST Act. In 2018-19 and in subsequent financial years, whenever the IGST receipts are less than the amount to be settled in any particular month,

- (1) The amount of IGST shortfall for that month shall be recouped from IGST amount to be settled from IGST to SGST and CGST for that month in the ratio 42:58 i.e. the ratio in which funds are devolved among the States.

Explanation: For example, if in a month the total IGST collection is Rs. 40,000 crore and the total settlement requirement is Rs. 60,000 crore and thus the IGST shortfall for the month is Rs. 20,000 crore, then, the amount shall be recouped as follows:

IGST shortfall (Rs. in crore)	Amount recouped from settlement to be made	
20,000	From Centre (58%)	$0.58*20000=11,600$
	From States (42%)	$0.42*20000=8,400$
	Total	20,000

For recouping Rs.8400 crores, the amount which shall be recouped from each State shall be the same as the amount which each State would have received had Rs. 8,400 crores been devolved to the States.

- (2) The recouped amount in (1) above shall then be settled with the States and Centre as per settlement requirement for that month.

6. This is for information/approval of GST Council.

रजिस्ट्री सं० डी० एल०-33004/99

REGD. NO. D. L.-33004/99



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)

PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 66]

नई दिल्ली, मंगलवार, फरवरी 6, 2018/माघ 17, 1939

No. 66]

NEW DELHI, TUESDAY, FEBRUARY 6, 2018/MAGHA 17, 1939

वित्त मंत्रालय

(राजस्व विभाग)

अधिसूचना

नई दिल्ली, 6 फरवरी, 2018

सा.का.नि. 145(अ).—केन्द्रीय सरकार, केन्द्रीय माल और सेवा कर अधिनियम, 2017 (2017 का 12) की धारा 17 के साथ पठित धारा 53 और एकीकृत माल और सेवा कर अधिनियम, 2017 (2017 का 13) की धारा 17 और 18 तथा संघ राज्यक्षेत्र माल और सेवा कर अधिनियम, 2017 (2017 का 14) की धारा 21 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, माल और सेवा कर निधियों का निपटान नियम, 2017 में निम्नलिखित संशोधन करती है, अर्थात्:—

- (1) इन नियमों का संक्षिप्त नाम माल और सेवा कर निधियों का निपटान (संशोधन) नियम, 2018 है।
(2) ये राजपत्र में उनके प्रकाशन की तारीख को प्रवृत्त होंगे।
- माल और सेवा कर निधियों का निपटान नियम, 2017 के नियम 11 के उप-नियम (2) के पश्चात्, निम्नलिखित उप-नियम अन्तःस्थापित किया जाएगा, अर्थात्:—

"(3) केन्द्रीय सरकार, किसी विशिष्ट वित्तीय वर्ष में किसी भी समय, माल और सेवा कर परिपद की सिफारिशों पर उस विशिष्ट वित्तीय वर्ष में संग्रहीत एकीकृत माल और सेवा कर की किसी राशि का अनंतिम रूप से निपटान कर सकेगी जिसका अब तक निपटान नहीं किया गया है।"

[फा. सं. एस-31013/16/2017-एसटी-1--डीओआर]

एस. आर. मीना, अवर सचिव

टिप्पण : मूल नियम भारत के राजपत्र, असाधारण, भाग-II, खंड 3, उप-खंड (i) में सा.का.नि. 964(अ), तारीख 27 जुलाई, 2017 द्वारा प्रकाशित किए गए थे।

715 GI/2018

(1)

MINISTRY OF FINANCE**(Department of Revenue)****NOTIFICATION**

New Delhi, the 6th February, 2018

G.S.R. 145(E).—In exercise of the powers conferred by section 53 read with section 17 of the Central Goods and Services Tax Act, 2017 (12 of 2017), sections 17 and 18 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) and section 21 of the Union Territory Goods and Services Tax Act, 2017 (14 of 2017), the Central Government hereby makes the following amendments in the Goods and Services Tax Settlement of Funds Rules, 2017, namely:—

1. (1) These rules may be called the Goods and Services Tax Settlement of Funds (Amendment) Rules, 2018.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Goods and Services Tax Settlement of Funds Rules, 2017, in rule 11, after sub-rule (2), the following sub-rule shall be inserted, namely:—

“(3) At any point of time in any particular financial year, the Central Government may, on the recommendations of the Goods and Services Tax Council, provisionally settle any sum of integrated goods and services tax collected in that particular financial year which has not been settled so far.”

[F. No. 31013/16/2017-ST-I-DoR]

S. R. MEENA, Under Secy.

Note : The principal rules were published in Gazette of India, Extraordinary, Part- II, Section 3, Sub-Section (i), *vide* number G.S.R. 964(E), dated the 27th July, 2017.

RAKESH
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RAKESH SUKUL
Date: 2018.02.06
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Annexure 2

No. S.31013/16/2017-ST-I-DoR/2
 Government of India
 Ministry of Finance
 Department of Revenue
 (State Taxes Division)

North Block, New Delhi
 Dated the 21st February, 2018

To,

The Pr. Accounts Officer
 O/o Pr. CCA, CBEC, (Central Accounting Authority of GST)
 1st Floor, AGCR Building, I.P. Estate, New Delhi

Subject: Sanction of Provisional / Advance settlement of IGST lying with Govt. of India to the States / UTs, to be adjusted from the regular settlement, consequent upon the GST Council decision - regarding.

Sir,

Sanction of the President is hereby conveyed for transfer of funds to the States/ UTs as detailed in para 2 below, towards provisional / advance settlement of Integrated Goods and Services Tax (IGST) collected and lying with the Centre in terms of Section 17 of IGST Act, 2017, Section 11(3) of the Goods and Services Tax Settlement of Funds Rules, 2017 and in accordance with decision of the GST Council in its 25th meeting held on 18th January 2018.

2. The functional heads of accounts under which the amount is to be transferred from IGST to SGST / UTGST are under consideration of the O/o CGA / C&AG. Therefore, as an interim measure, the aforesaid transfer may be made under the functional heads (being used for monthly apportionment of IGST on the basis of Returns of taxpayers) as mentioned against each State /UT, as per following details:

(Amount in Rs. crore)

State Code	Name of the State / UT	Head of Account (existing heads of account for monthly apportionment of IGST to States / UTs)	Provisional / Advance Settlement	Amount of 10 equal monthly Instalments to be adjusted during April 2018 to January 2019
(a)	(b)	(c)	(d)	(e)
1	Jammu and Kashmir	0008.02.953.01.00	209.00	20.90
2	Himachal Pradesh	0008.02.953.02.00	159.00	15.90
3	Punjab	0008.02.953.03.00	633.00	63.30
4	Chandigarh	0008.02.956.04.00	64.00	6.40
5	Uttarakhand	0008.02.953.05.00	217.00	21.70
6	Haryana	0008.02.953.06.00	667.00	66.70
7	Delhi	0008.02.953.07.00	735.00	73.50
8	Rajasthan	0008.02.953.08.00	751.00	75.10
9	Uttar Pradesh	0008.02.953.09.00	1460.00	146.00
10	Bihar	0008.02.953.10.00	552.00	55.20
11	Sikkim	0008.02.953.11.00	11.00	1.10
12	Arunachal Pradesh	0008.02.953.12.00	11.00	1.10
13	Nagaland	0008.02.953.13.00	11.00	1.10
14	Manipur	0008.02.953.14.00	15.00	1.50
15	Mizoram	0008.02.953.15.00	8.00	0.80

[Signature]

Contd...

16	Tripura	0008.02.953.16.00	35.00	3.50
17	Meghalaya	0008.02.953.17.00	28.00	2.80
18	Assam	0008.02.953.18.00	262.00	26.20
19	West Bengal	0008.02.953.19.00	879.00	87.90
20	Jharkhand	0008.02.953.20.00	281.00	28.10
21	Odisha	0008.02.953.21.00	482.00	48.20
22	Chhattisgarh	0008.02.953.22.00	322.00	32.20
23	Madhya Pradesh	0008.02.953.23.00	671.00	67.10
24	Gujarat	0008.02.953.24.00	1263.00	126.30
25	Daman and Diu	0008.02.956.25.00	28.00	2.80
26	Dadra and Nagar Haveli	0008.02.956.26.00	34.00	3.40
27	Maharashtra	0008.02.953.27.00	2648.00	264.80
29	Karnataka	0008.02.953.29.00	1582.00	158.20
30	Goa	0008.02.953.30.00	95.00	9.50
31	Lakshadweep	0008.02.956.31.00	0.00	0.00
32	Kerala	0008.02.953.32.00	736.00	73.60
33	Tamil Nadu	0008.02.953.33.00	1304.00	130.40
34	Puducherry	0008.02.953.34.00	48.00	4.80
35	Andaman & Nicobar Islands	0008.02.956.35.00	5.00	0.50
36	Telangana	0008.02.953.36.00	705.00	70.50
37	Andhra Pradesh	0008.02.953.37.00	589.00	58.90
	Total		17500.00	1750.00

3. The Pr. A.O. O/o Pr. CCA, CBEC, may transfer the funds to the States / UTs as detailed in para 2 of the sanction above by issue of Inter Government Advice to the Reserve Bank of India.

4. After the opening of the new functional heads of Accounts for Provisional/Advance Settlement of IGST, the amount may be accounted for in the correct head of Account by making the Transfer Entry.

5. The provisional/advance settlement from IGST made in the year 2017-18 will be adjusted in the year 2018-19 from the regular settlement of IGST under Section 17 of the IGST Act, 2017 on the basis of monthly returns in ten equal instalments starting from the month of April 2018 (as per column (e) of the Table at para 2 above).



(S. R. Meena)

Under Secretary to the Govt. of India
Tel. - 2309 2976

Copy to:

- Pr. CCA, CBEC with a request for further necessary action.
- Pr. Secretary / Secretary (Finance) of the concerned State / UT.
- Joint Secretary (TRU-I), CBEC
- Commissioner (Commercial Taxes) of the concerned State / UT.
- Accountant General of the concerned State / UT.
- Director (Budget), Department of Economic Affairs.
- Director (IFU-III), Department of Revenue.
- Under Secretary (State Taxes-II), Department of Revenue

Agenda Item 6: Amendments to Anti-profiteering Rules

Chairman, National Anti-profiteering Authority vide DO letter dated 12th February, 2018 had proposed certain amendments to Anti-profiteering Rules. The changes proposed by the Chairman, National Anti-profiteering Authority were circulated amongst the Members of the Law Committee for their comments. The comments / suggestions received from the Law Committee Members were further deliberated upon in the Ministry and certain changes were approved. The agreed changes to the Anti-profiteering Rules and the rationale therefor are summarized below:

(i) Rule 125: Instead of ADG Safeguards working as the Secretary to the Authority, it is being proposed that an officer not below the rank of Additional Commissioner shall be posted by the Board to the DG Safeguards whose services shall be placed at the disposal of the Authority and such officer shall work as Secretary to the Authority. As the officer would exclusively deal with matters relating to anti-profiteering, the functioning of the National Anti-profiteering Authority would be facilitated by this provision.

(ii) Rule 129(6): As per this rule, the DG Safeguards shall complete the investigation within a period of 3 months of the receipt of the reference from the Standing Committee. Presently, the power to grant extension of time, not exceeding a further period of 3 months, for completion of investigations lies with the Standing Committee. This power is proposed to be given to the Authority as, under the Act, the National Anti-profiteering Authority is the body responsible for implementation of the provisions of section 171. Also, under the rules made thereunder, the Authority is required to furnish a performance report to the Council at the close of each quarter.

(iii) Rule 133: This rule deals with examination of the report of the DG Safeguards by the Authority and passing orders in regard to anti-profiteering. Two sub-rules are proposed to be added to this rule to empower the Authority to refer the matter to DG Safeguards for further investigations where, pursuant to examination of the report of DG Safeguards, the Authority feels that further investigation is called for in the matter in accordance with the provisions of the Act and the rules.

(iv) Rule 134: This rule provides that if the Members of the Authority differ in opinion on any point, the point shall be decided according to the opinion of the majority. It is being proposed that in the event of the equality of votes, the Chairman shall have the second or casting vote. This will facilitate decision-making. Also, an amendment is being made to the effect that a minimum of three Members of the Authority shall constitute the quorum at its meetings.

(v) Presently, in the Explanation to the Anti-Profiteering Rules, the definition of ‘interested party’ includes a supplier/ recipient of goods or services under the proceedings. The definition is being amended to include ‘any other person, organization or entity alleging that a registered person has not passed on the benefit of reduction in the rate of tax on any supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices’. This is necessary because, under rule 128, apart from suppliers / recipients and the Commissioner, any other person can file an application alleging that a registered person has not passed on the benefit of reduction in the rate of tax on any supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices.

3. The proposed amendments have been carried out in the text of the Anti-profiteering Rules in track change mode (deletions in strike-through and additions in red) and the same is placed below:

(i) Rule 125. Secretary to the Authority. - ~~The Additional Director General of Safeguards under the Board shall be the Secretary to the Authority.~~ The services of an officer not below the rank of Additional

Commissioner working in the Directorate General of Safeguards shall be placed at the disposal of the Authority and such officer shall work as Secretary to the Authority.

(ii) Rule 129. Initiation and conduct of proceedings.- Sub-rule (6) The Director General of Safeguards shall complete the investigation within a period of three months of the receipt of the reference from the Standing Committee or within such extended period not exceeding a further period of three months for reasons to be recorded in writing as may be allowed by the ~~Standing Committee~~ Authority and, upon completion of the investigation, furnish to the Authority, a report of its findings along with the relevant records.

(iii) Rule 133. Order of the Authority.- New sub-rule (4) If the report of the Director General of Safeguards referred to in sub-rule (6) of rule 129 recommends that there is no contravention of the provisions of section 171 or these rules, but the Authority is of the opinion that further investigation is called for in the matter, it may refer the matter to the Director General of Safeguards to cause further investigations in accordance with the provisions of the Act and these rules.

New sub-rule (5) If the report of Director General of Safeguards referred to in sub-rule (6) of rule 129 recommends that there is contravention of the provisions of section 171 or these rules, and the Authority is of the opinion that further inquiry is called for, it may refer the matter to the Director General of Safeguards to inquire into such contravention in accordance with the provisions of the Act and these rules.

(iv) Rule 134. Decision to be taken by the majority. - New sub-rule (1) A minimum of three Members of the Authority shall constitute the quorum at its meetings.

(2) If the Members of the Authority differ in opinion on any point, the point shall be decided according to the opinion of the majority of the Members present and voting, and in the event of an equality of votes, the Chairman shall have second or casting vote.

(v) Explanation. - (c) “interested party” includes-

- a. suppliers of goods or services under the proceedings; ~~and~~
- b. recipients of goods or services under the proceedings; and
- c. any other person, organisation or entity alleging that a registered person has not passed on the benefit of reduction in the rate of tax on any supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices.

4. The GST Council may approve the amendments proposed in **paragraph 3** above subject to such modifications of drafting as may be carried out by the Ministry of Law and Justice at the time of vetting.

Agenda Item 7: Grievance Redressal Mechanism in GST regime in light of recent judgements of Hon'ble High Courts of Allahabad and Mumbai

Pursuant to the orders of Hon'ble High Court of Allahabad and Mumbai in the case of M/s Continental India (P) Ltd. and M/s Abicor Binzel Technoweld regarding TRAN-1s which could not be filed by taxpayers due to glitches in GSTN, it is proposed to set up a grievance redressal mechanism to address the following broad issues:

- a) Where an IT related glitch has been identified as the reason for failure of a class of taxpayer in filing of a return or a form within the time limit prescribed in the law and there are collateral evidences available to establish that the taxpayer has made bonafide attempt to comply with the process of filing of form or return, GST Council may delegate power to the IT Grievance Redressal Committee to recommend to the GSTN that the procedure for filing of the return or form be allowed to be completed deeming that the condition of filing of form or return within the limitation prescribed in law or rule has been satisfied.
 - b) Where an IT related glitch has been identified as the reason for failure of a taxpayer in filing of a return or form prescribed in the law, the consequential fine and penalty would also be required to be waived. GST Council may delegate power to the IT Grievance Redressal Committee to recommend waiver of fine or penalty, in case of an emergency, to the Government in terms of section 128 of the CGST Act, 2017 under such mitigating circumstances as are identified by the Committee. All such notifications waiving fine or penalty shall be placed before GST Council.
 - c) Where adequate time is available, the issue of waiver of fee and penalty shall be placed before the GST Council with recommendation of the IT-Grievance Redressal Committee.
 - d) In cases of M/s Abicor Binzel and M/s Continental India (P) Ltd., the order of the Hon'ble High Courts of Bombay and Allahabad has been accepted after verification of the facts of the case. Affidavits have been accordingly filed in the Courts. Similar order in case of M/s Rasik Products (P) Ltd. is pending acceptance and approval. GST Council may approve the implementation of these three orders and delegate the power to accept or otherwise any High Court order in future in terms of the proposed grievance redressal mechanism, after due verification of facts.
2. A detailed suggested outline of the proposed Grievance Redressal Mechanism is enclosed as **Annexure-A** for approval of the GST Council.

Annexure-A

Proposed Grievance Redressal Mechanism

1. Introduction

1.1 It is proposed to put in place an IT-Grievance Redressal Mechanism, where owing to glitches in GSTN, relief needs to be given to a section of taxpayers such as allowing filing of any Form or Return prescribed in law or amending any Form or Return already filed.

1.2 Where an IT related glitch has been identified as the reason for failure of a class of taxpayer in filing of a return or a form within the time limit prescribed in the law and there are collateral evidences available to establish that the taxpayer has made *bonafide* attempt to comply with the process of filing of form or return, GST Council may delegate power to the IT Grievance Redressal Committee to recommend to the GSTN that the procedure for filing of the return or form be allowed to be completed deeming that the condition of filing of form or return within the limitation prescribed in law or rule has been satisfied.

2. Scope

Problems which are proposed to be addressed through this mechanism would essentially be those which relate to Common Portal (GSTN) and affect a large section of taxpayers. Where the problem relates to individual taxpayer, due to localised issues such as non-availability of internet connectivity or power or a specific system (common portal) behaviour for the taxpayer, this mechanism shall not apply.

3. IT-Grievance Redressal Committee

Any issue which needs to be addressed through this mechanism shall be identified by GSTN and approved by a Committee consisting of three members, namely – CEO (GSTN), DG (Systems), CBEC and a third member from any State nominated by Secretary, GST Council. This Committee shall be called IT Grievance Redressal Committee.

4. Suggesting solutions

The Committee shall suggest solution to the problem and steps to be taken to resolve the same. These steps may include directions to GSTN or the field officers for resolving the issue.

5. Nodal officers and submission of application

- (a) GSTN, Central and State government would appoint nodal officers in requisite number to address the problem a taxpayer faces due to glitches, if any, in the Common Portal. This would be publicized adequately.
- (b) Taxpayer shall make application to these officers where there was a demonstrable glitch on the Common Portal in relation to identified issue due to which the due process as envisaged in law could not be completed on the common portal.
- (c) Such an application shall be enclosed with evidences as may be needed for an identified issue to establish bonafide attempt on part of the taxpayer to comply with the due process of law.
- (d) These applications shall be forwarded to GSTN who would on receipt of application, after identifying the issue involved therein, forward the same to the IT Grievance Redressal Committee for decision.

6. Identified issue and resolution thereof

- (a) States and Centre may bring any issue identified as above to the notice of GSTN where they are of the view that it affects a large section of the taxpayers and their grievance needs to be addressed.
- (b) On receipt of the identified issue from GSTN, based on the application and the evidences adduced by the taxpayer, IT-Grievance Redressal Committee shall decide the procedure to resolve the issue. The decision of the IT- Grievance Redressal Committee, on the issue, shall be implemented by GSTN or the CGST/SGST nodal officer or both within 15 days.
- (c) The decision taken in relation to the application of the taxpayer would be centralized at DG (Systems) and the decision shall be communicated electronically to GSTN and the field officer concerned by DG (Systems), where the implementation needs such a step.

7. Legal issues

- (a) Where the IT Grievance Redressal Committee has proposed a relief as stated in paragraph 1.2, the same shall be placed before the GST Council directly at the earliest for ratification.
- (b) Where an IT related glitch has been identified as the reason for failure of a taxpayer in filing of a return or form prescribed in the law, the consequential fine and penalty would also be required to be waived. GST Council may delegate power to the IT Grievance Redressal Committee to recommend waiver of fine or penalty, in case of an emergency, to the Government in terms of section 128 of the CGST Act, 2017 under such mitigating circumstances as are identified by the Committee. All such notifications waiving fine or penalty shall be placed before GST Council.
- (c) Where adequate time is available, the issue of waiver of fee and penalty shall be placed before the GST Council with recommendation of the IT-Grievance Redressal Committee.

8. Acceptance and Implementation of High Court Orders

In cases of M/s Abicor Binzel and M/s Continental India (P) Ltd., the order of the Hon'ble High Courts of Bombay and Allahabad has been accepted after verification of the facts of the case. Affidavits have been accordingly filed in the Courts. Similar order in case of M/s Rasik Products (P) Ltd. is pending acceptance and approval. GST Council may approve the implementation of these three orders and delegate the power to accept any High Court order in future in terms of the proposed Grievance Redressal Mechanism, after due verification of facts.

9. Mechanism for addressing problem of stuck TRAN-1s and Return filing

GSTN has proposed a mechanism (enclosed as **Annexure-B**) for implementation of High Court Order in the case of M/s Abicor Binzel Technoweld and M/s Continental India (P) Ltd. to enable the taxpayer to file GSTR-3B return and at the same time ensure that the credit flowing from TRAN 1 which is not digitally signed is not used by the taxpayer till the time the issue is resolved. The same mechanism may be also approved by the GST Council to be followed in all similar cases.

Annexure-B

1.1 For those taxpayers who filed TRAN-1 initially with digital signature/e-verification, and later on revised and submitted, but never filed with digital signature/e-verification successfully, the status of TRAN-1 shall be reversed to 'not submitted' and the incremental credit calculated basis the net difference of credit being carried forward from revision and the credit claimed initially during first time filing of TRAN-1, will be reversed.

1.2 For those taxpayers, who had submitted TRAN-1 initially, and later on after revision again submitted it but not filed, the status of TRAN-1 will be set to not submitted and the entire credit carried forward through Form TRAN-1 from both initial filing and revised filing shall stand reversed.

1.3 For those taxpayers, who have submitted TRAN-1 only once but not filed under their digital signature/EVC, the status of TRAN-1 will be set to not submitted and entire Input Tax Credit shall be reversed.

1.4 For all these taxpayers, to carry forward their credit from previous regime, their issues will be taken up in terms of the IT Grievance Redressal Mechanism proposed at **Annexure-A**.

1.5 For the above-mentioned category of TRAN-1 status for taxpayers, who do not have sufficient Input Tax Credit in their ITC ledger for reversal, a liability to an extent of the amount liable to be reversed basis their status in the aforementioned three categories at para 1.1 to 1.3 above, shall be posted to their liability register part A along with the other liabilities of that tax period. This additional liability shall however, not be visible separately to the taxpayers while the entry shall be maintained in a separate table in the database.

1.6 The taxpayers, who are aggrieved of the reasons mentioned above, may be allowed selectively to file TRAN-1, subject to instructions received from the IT-Grievance Redressal Committee to GSTN Nodal officer.

1.7 Approval may also be accorded to GSTN that any late fee incurred due to above reasons, may be reversed to the respective tax heads of the cash ledger of taxpayer, after taxpayer makes the payment and sets off all the liabilities.

Agenda Item 8: Extension of suspension of reverse charge mechanism under section 9(4) of the CGST Act, 2017, section 5(4) of the IGST Act, 2017 and section 7(4) of the UTGST Act, 2017 and provisions relating to TDS (section 51) and TCS (section 52)

The GST Council in its 22nd Meeting held on 06 October, 2017 recommended that the reverse charge mechanism (RCM) under section 9(4) of the CGST Act, 2017, section 5(4) of the IGST Act, 2017 and section 7(4) of the UTGST Act, 2017 shall remain suspended till 31.03.2018.

2. Accordingly, the operation of the provisions was suspended till 31.03.2018 vide notification No. 38/2017-Central Tax (Rate), dated 13.10.2017, notification No. 32/2017-Integrated Tax (Rate), dated 13.10.2017 and notification No. 38/2017- Union Territory Tax (Rate), dated 13.10.2017 respectively.

3. In this regard, the Law Review Committee, in its report dated 04.01.2018, had recommended the following: -

“1.2. Section 9(3) to be amended to provide power to GST Council to extend this provision to specified class of taxable persons. In case at a later stage it is considered necessary that the supplies from a class of or all unregistered suppliers need to be charged on reverse charge basis, the power can be exercised.

1.3. Such a provision in the case of persons opting for composition scheme to be provided in the law itself.

1.4. Section 9(4): In view of the proposed amendment to 9(3), we may omit 9(4) but retain a power under 9(3) for collection of information based on PAN, Aadhaar or any other such identifier.

1.5. In the interim, till the law is amended, the provisions of section 9(4) may be kept in abeyance.”

4. Accordingly, this proposal formed part of the Agenda containing the proposals for amending the CGST Act, 2017 and was placed before the GST Council in its 25th Meeting held on 18 January 2018 as below.

Gist of Issue	Relevant Section/Rule	Proposal
Payment on reverse charge basis: Payment on reverse charge basis on account of purchase from unregistered supplier under section 9 (4) of the CGST Act and 5 (4) of the IGST Act should be omitted	Sections 9(4) of CGST Act and 5(4) of IGST Act	Section 9(4) and 5 (4) may be modified as follows: Enabling power to be given to the Government to impose RCM on class of persons as recommended by the Council; Compulsory RCM for composition dealers; Details of supplies received from unregistered persons to be captured on the basis of PAN /Aadhaar in the return.

5. The same was approved in principle by the GST Council. Further, the proposal was discussed in the joint meeting of the Law Review Committee and the Law Committee held on 18 February 2018. However, the final proposals for law amendments are yet to be finally approved and recommended by the Council. Thus, in the meantime, it is submitted that the extant provisions of section 9(4) of the CGST Act, 2017, section 5(4) of the IGST Act, 2017 and section 7(4) of the UTGST Act, 2017 may remain suspended till 30.09.2018.

Tax Deduction at Source (TDS) / Tax Collection at Source (TCS)

6. The provisions relating to TDS and TCS under sections 51 and 52 of the CGST Act, 2017 respectively have not yet been notified. The Central Government vide notification No. 33/2017-Central Tax, dated 15.09.2017, had appointed 18.09.2017 as the date from which the provisions of sub-section (1) of section 51 of the CGST Act shall come into force with respect to persons specified under clauses (a) and (b) of the said sub-section, as well as the persons notified under clause (d) of the said sub-section. Further, the notification also specified the category of persons under clause (d) of the said sub-section. Further, the GST Council, in its 22nd meeting held on 06.10.2017, recommended that the deduction/collection of tax shall commence from 01.04.2018.

7. The Law Review Committee in its report recommended that the provisions relating to TDS/TCS may be kept in abeyance till the system stabilises. Hence, it is proposed that the provisions may be kept suspended for a further period of six months, that is, until 30.09.2018.

8. Hence, it is proposed that the provisions of reverse charge mechanism under sections 9(4) of the CGST Act, 2017, 5(4) of the IGST Act, 2017 and 7(4) of the UTGST Act, 2017 and TDS/TCS may be kept in abeyance for a further period of six months, until 30.09.2018.

9. Accordingly, the GST Council may approve the proposal contained in paragraph 8 above.

Agenda Item 9: Minutes of the 6th and 7th Meeting of Group of Ministers (GoM) on IT Challenges in GST Implementation for information of the Council and discussion on GSTN issues

The Group of Ministers (GoM) constituted to monitor and resolve the IT challenges faced in implementation of GST met for its 6th and 7th Meeting on 17 January 2018 and 24 February 2018 at Bengaluru and New Delhi respectively under the Convenorship of Shri Sushil Modi, Hon'ble Deputy Chief Minister, Bihar.

2. The first meeting of GoM was held on 16 September 2017. In the first meeting, the GoM had identified 47 items (48 items out of which one item was repeated twice) for time bound resolution. The resolution of these priority items was reviewed in detail by GoM in the second meeting (held on 04/10/2017), third meeting (held on 28/11/2017), the fourth meeting (held on 18/11/2017), the fifth meeting (held on 16/12/2017) and the sixth meeting (held on 17/01/2018). The seventh meeting (held on 24/02/2018) was devoted to review of recommendations of Committee on Return Filing and e-way bill implementation.

3. The Minutes of the 1st, 2nd and the 3rd, 4th and the 5th Meeting were placed before the Council for information in the earlier Council Meetings. The conclusions drawn in the 6th and the 7th Meeting of the GoM are as follows:

3.1. The 6th Meeting of GoM

- i. It is observed that progress has been good and Infosys has done good work and most of things have improved considerably. People have got used to GSTR-3B and that complaints have reduced
- ii. The Phase 2 of GST, i.e. implementation of e-way bill system should be proper. People are apprehensive about the same and hence every care should be taken to ensure smooth rollout. Awareness programs should be conducted.
- iii. The phase 3 of GST implementation is matching of invoices and will be finalized after discussions with GST Council.
- iv. Even though the filing percentage of Returns was increasing, however it was not getting converted into revenue and there was urgent need to analyse the issue. The decrease in revenue over period of time is a major concern and reasons for the same may be analysed.
- v. Composition taxpayers need to be monitored since the tax paid by them is very small.
- vi. The MIS for Model 2 States are very important and should be made available on priority.
- vii. There should be filter based query and designated officers should be able to generate such reports on their own rather than asking GSTN to generate the same. For each Model 2 State, a senior officer should be authorized to generate such reports based on various filters and GSTN should make arrangements for the same.
- viii. An analysis of the probable impact on the current system (in terms of re-engineering it) in the event of the proposal regarding amendment to the return process being adopted should be done.
- ix. The next meeting will be in first week of April and feedback from States may be taken regularly to improve system.
- x. A meeting of the IT Committee should be held before the next meeting of the Group

3.2. The 7th Meeting of GoM

3.2.1 Remarks on Recommendations of the Committee on Return Filing

- i. The GSTR 1/2/3 Model failed and taxpayers were put to inconvenience. Therefore, if a new system is being proposed for reducing the number of returns, then adequate precautions need to be taken before implementation.

- ii. The focus should be on simplicity of design and usage without any rigidity. Frauds are not avoidable but system should have provisions to monitor through dashboards and reports. The system should be such that fraudulent seller is captured real time or at the earliest and should be punished.
- iii. During the discussion, one view emerged as per which no provisional input tax credit should be provided but that buyers should not be made responsible for acts of sellers and sellers should be punished for not paying tax. Sellers having genuine difficulty in business should be differentiated from those willfully defaulting on taxes. Collusion and connivance between seller and buyers must be detected and action taken as per law.
- iv. The other view was based on current provisions of law and that in VAT laws of majority of States, as per which seller's tax payment should be linked to the buyer getting provisional credit.
- v. There were divergent views in the meeting and no clarity emerged, hence the decision would be left to the GST Council for adoption of final Model of Return filing.

3.2.2 Status of implementation of e-way Bill.

- i. E-way bill system should be implemented after proper testing and completion of all required activities. Since EWBS implementation had to be postponed from February 1, 2018 due to performance issues, now special care should be taken to avoid the same issues, ensure proper testing and see that the system is accessible and available to all the users on the new date of rollout.
 - ii. After due discussion, considering the end of the current financial year, it was decided that the system may be implemented from April 1, 2018 for Inter-State only. Till then taxpayers may be allowed to generate e-way bills on trial basis and system may be tested on all accounts like load, integration and application testing.
 - iii. It was also decided that e-way bill system may be implemented for intra-State in small lots after the Inter-State fully stabilizes.
4. The Minutes of the 6th and the 7th Meeting of the GoM held on 17 January 2018 and 24 February 2018 respectively are placed before the Council for information as **Annexure A** and **Annexure B**.

Annexure A

Minutes of the 6th Meeting of GoM held on January 17, 2018 at Bengaluru, Karnataka

In pursuance of decision taken in the 21st Meeting of GST Council held on 9th September 2017 at Hyderabad, a Group of Ministers (GoM) was constituted to monitor and resolve the IT challenges faced in implementation of GST.

2. The first meeting of GoM was held on September 16, 2017 where the GoM had identified 47 items (48 items out of which one item was repeated twice) for time bound resolution. In the 3rd meeting, 8 more items were added to this list, which was reviewed by the GoM in its subsequent meetings. The sixth meeting of GoM was held on January 17, 2018. The list of priority items and FORMS with status as on January 17, 2018, as reviewed by GoM is attached as **Annexure 1** and **Annexure 2** to the Minutes of 6th GoM Meeting respectively.

3. The sixth meeting was attended by the following Hon'ble Members of GoM.

Sl. No.	Name	Designation	
1	Shri Sushil Kumar Modi	Hon'ble Deputy Chief Minister, Bihar	Convenor of GoM
2	Shri Krishna Byregowda	Hon'ble Minister for Agriculture, Karnataka	Member, GoM

4. Shri Shashi Bhushan Behera, Hon'ble Minister for Finance, Odisha, Shri Amar Agarwal, Hon'ble Minister for Commercial Taxes, Government of Chhattisgarh and Shri Etela Rajendar, Hon'ble Finance Minister, Telangana could not attend due to other pressing engagements.

5. The list of officers who attended the GoM meeting from CBEC/States, GSTN and Infosys is at **Annexure 3** to the Minutes of the 6th GoM Meeting.

6. The agenda items discussed in the meeting are as follows:

I E-way Bill System Update:

7. NIC presented status of e-Way Bill project implementation, highlights of which are given below:

- i. Training of Master trainers of all States has been completed for e-way Bill system and regular VCs are conducted to resolve the queries of Tax officers. As far as training of Master trainers of CBEC is concerned, training of one lot was conducted at Bengaluru and the second one is scheduled on 18th January 2018 at NACIN, Faridabad.
- ii. The e-Way Bill system is enabled for inter-State as well as intra-State transactions.
- iii. A centralized Helpdesk has been made operational for taxpayers. It is the same helpdesk number as that of GST.
- iv. The new hardware has been installed at Delhi data center of NIC and software loading/testing is in progress.
- v. The portal has been opened for trial by stakeholders from all States/UTs.
- vi. Integration with NSDL and UID databases is going on and is expected to be completed by 21st of January, 2018.

- 7.1 Highlights of the discussions, which followed the presentation are given below.
- i. Hon. Convenor asked to provide details of Helpdesk such as mail id/ phone numbers of NIC helpdesk and GST Helpdesk in advertisements issued for e-way Bill system for benefit of taxpayers. Presently only CBEC details are provided in advertisements.
 - ii. Shri Arun Mishra, Additional Secretary, Bihar requested to inform about failure of reporting by officers and truck owner in the e-way bill system. NIC informed that the facility of Form 3 and Form 4 dealing with this subject are already available on the e-way bill portal.
 - iii. Hon. Convenor asked about reports available in e-way bill system. NIC informed that reports related with e-way bill generation by supplier/receiver/transporter are available in system and also 15 days live data is available to Joint Commissioner level officer of State. Hon. Convenor asked to provide this live data for validity period of e-way bill by extending the 15 days period.
 - iv. Hon. Convenor remarked that since there were lot of issues at the time of GST implementation, the taxpayers are apprehensive about e-way bill system and special care should be taken in creation of awareness and helpdesk should have updated information to be provided to taxpayers.
 - v. CEO GSTN suggested that rollout of e-way bill should be done in staggered manner with inter-state first for a month thereafter intra-state e-way bill system should be implemented. Hon. Convenor while agreeing in principle to this suggestion, added that this can only be recommendatory and as such subject to the decision of the Council in this regard. He also asked States/CBEC to designate one Nodal officer and to resolve issues related with e-way bill system.
 - vi. NIC informed that mobile numbers of 1,50,000 registrants are not in database provided by GSTN. GSTN should quickly provide details to NIC.
 - vii. Commissioner, Karnataka shared experience of e-way Bill system implementation since September 2017 and requested that it may be implemented in stages. He agreed to share note about experience in e-way Bill system implementation in Karnataka with all States. He further suggested that in the initial stages, focus should be more on education of the stakeholders.
 - viii. CEO, GSTN suggested that the trial period should be extended to one month as period of 15 days is not sufficient.
 - ix. Hon. Convenor suggested that e-way bill system should be linked with “VAHAN” databases of MoRTH to validate vehicle details entered by the user. On this CEO, GSTN informed that “VAHAN” database is not fully live. However, NIC is working to make it live by linking all RTOs. After that e-way bill system will validate the vehicle details from “VAHAN” of MoRTH.
 - x. The need to provide officers’ credentials on the system was also highlighted.

II. **GST Portal update:**

8. Before start of presentation on GST portal system, Hon. Convenor gave following opening remarks.
- i. The pace of resolution of issues had slowed down in the month leading upto the meeting while there was good progress in the preceding month.
 - ii. The issues pending from 3rd and 4th GoM meetings should be resolved on priority.
 - iii. The timeline about readiness of backend functionalities should be shared by Infosys/GSTN
 - iv. MIS for Model 2 States as promised in earlier meeting has not been rolled out by Infosys.

- v. Return defaulter lists are not available to States from the System. Also Return data dump about GSTR 4 needs to be shared with States.
- vi. Suo-moto cancellation of registration by officers has not been made operational even after six months of operation of GST. The same needs to be rolled out without any further delay.
- vii. The module for creation of tax, penalty, demands should be evolved on the system as soon as possible and the liability register should be made functional without any further delay.
- viii. Tax officers are not able to upload the report of field visits in the system, as mobile based application has not been made available.
- ix. The details about Chapter 99 for services, needs to be updated on portal by changing the SAC codes which are outdated.
- x. Taxpayers have faced problem in invoice updation and generation of summary in case of GSTR 1 and same needs to be resolved quickly.
- xi. View of GSTR 4 has not been made available to officers of Model -2 States. This needs to be provided quickly on the pattern of what has been done for GSTR 1/GSTR 3B and TRAN -1/Ledgers.
- xii. Tool for division of taxpayers has not been implemented
- xiii. Bulk delete facility should be provided in GSTR -1
- xiv. Improvement of error messages is required, as random errors are still being shown in many cases.
- xv. GSTR-4 has been made available with considerable delay and GSTR-4 amendment Table is yet to be provided
- xvi. Many processes with regard to GSTR-1 coincided on 10-01-18
- xvii. Field visit report by officers is yet to be provided

8.1. Representative of Odisha Government submitted the following issues:

- i. Early provisioning of Part B of liability ledger
- ii. Tax period should be shown in the “Record search option in Back Office”
- iii. Date of liability should be mentioned in the Registration profile of the taxpayer in search application
- iv. Taxpayers with TRAN-1 under “submitted” status are not able to file the Return
- v. OTP is getting sent to different email and phone number in case of few taxpayers.

8.2. Representative of CBEC submitted following issues before the GoM:

- i. Early deployment of REG-10
- ii. Early deployment of REG-13
- iii. Early deployment of ITC-03
- iv. Early deployment of PMT-03
- v. Early deployment of PMT 04

8.3. Shri Arun Mishra, Additional Secretary, Bihar raised a point that in Bihar, 33000 taxpayers are not allotted to either Centre or State and this is creating hardship to taxpayers. Other States also raised this point. It was informed that migration data till October 24, 2017 was provided to States/CBEC. It was decided that GSTN will provide details of migrated dealers who completed Part B of Form after October 24, 2017.

8.4. CEO, GSTN requested considering extending the timeline for filing of composition return for Q2 in view of the low level of filing thus far. He also asked putting on the officers’ dashboard the list of

taxpayers required to file GSTR-4 (quarter wise) and do age analysis of tickets raised by the Resident Engineers and by taxpayers to central helpdesk. He further urged raising of a ticket for an issue even if it is a common issue.

8.5. CEO, GSTN and SVP Infosys presented the status of issues raised in IT committee and status of prioritized GoM items and other issues raised by CBEC and States. Status in respect of issues flagged by Hon. Convenor and officers were also provided, which are given below:

8.5.1. Response to issues raised in the meeting:

Sl. No.	Issues raised	Response provided
1	The timeline about readiness of backend functionalities	They will be shared by GSTN/Infosys
2	MIS for Model 2 States.	Status as given in Para 9(vi) of the minutes
3	Return defaulter lists and GSTR 4 data	Return defaulter lists will be available to States and GSTR 4 data will be shared.
4	Suo-moto cancellation of registration by officers' functionality is not available	It will be made available in 3 weeks' time
5	Upload of field visit report on GST portal by Tax Officer	Native Mobile base app will be made available on priority.
6	Updation of Chapter 99 for services (SAC)	This will be completed on priority
7	Difficulty in invoice updation and generation of summary	This has been resolved.
8	View of GSTR 4 has not been made available to officers of Model -2 States	This will be made available on priority.
9	Tool for division of taxpayers has not been implemented	Undergoing UAT. Will be made available in 10 days.
10	Bulk delete facility should be provided in GSTR -1	This is available
11	Improvement of error messages, as random errors are still being shown in many cases	It is an ongoing process.
12	Early provisioning of Part B of liability ledger	Undergoing UAT. Will be made available in ten days.
13	Tax period should be shown in the "Record search option in Back Office"	Will be provided in 4 weeks' time
14	Date of liability should be mentioned in the Registration profile of the taxpayer in search application	Will be taken up on priority
15	Taxpayers with TRAN-1 under "submitted" status are not able to file the Return	This will be raised in upcoming GST Council meeting
16	OTP is getting sent to different email and phone number in case of few taxpayers	GSTIN needed to investigate
17	Early deployment of REG-10, REG-13, ITC-03, PMT-03, PMT-04	This will be done as per priority.

18	Bihar – 33000 taxpayers are not allotted to either Centre or State	Data of migrated taxpayers who have completed process after October 24, 2017 will be shared with States/CBEC
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8.6. **Status in respect of prioritized items identified by GoM were presented as given below:**

- i **Data sharing issue and reconciliation with States:** The count of Registration>Returns/Payment shared by GSTN through APIs and that received by States/CBEC was presented. The GoM observed that lot of improvement has taken place in regards to GSTR 3B and only few issues are pending with regards to GSTR -1.
- ii Additional Secretary, Bihar and Commissioner, Karnataka requested for weekly Meeting with CBEC and Model 1 States to resolve pending issues. It was decided to have VC meeting every Wednesday.
- iii **API Release and Support:** It is informed that API calendar is revised every fortnightly and shared with all stakeholders.
- iv **Resident engineers:**
 - a. Hon. Convenor informed that Resident Engineers are taking time to resolve pending issues of States. He informed that more than 13 issues are pending for more than 30 days in Bihar and asked that support to Resident Engineers should be provided by Infosys Central team to resolve issues on priority.
 - b. Commissioner, Karnataka informed that tickets are not raised in many issues and requested that tickets should be raised for every issue and pending age analysis should be shared on common google doc.
- v **Relevant and accurate messages on portal and user-friendly interface** – The officers informed that there was improvement, however a lot is required to be done.
- vi **Availability of MIS to Model 2 States:**
 - A. The status of priority MIS reports was presented to GoM. It is informed that 5 MIS reports are live and 4 more will be delivered by January 22, 2018 and 6 more will be available by January 27, 2018.
 - B. The GoM was further informed that view of GSTR 3B, GSTR 1 and TRAN 1 have been made available to jurisdictional officers of Model 2 states. The jurisdictional officers can also view ITC ledger/cash ledger/liability ledger of taxpayers falling under their jurisdiction. The officers can also view all forms related with registration.
 - C. It was informed that data in regards to following is shared on daily basis with concerned stakeholders.
 - a. Count of Forms Filed
 - Registration (Normal, TDS, TCS, GSTP)
 - Composition Dealers
 - Transition and ITC
 - b. Enrolment Report
 - c. State Wise Returns Filing for GSTR1 and GSTR3B
 - d. Enrolment full / incremental dump
 - e. Registration full / incremental dump
 - f. Casual taxpayer full / incremental dump
 - g. GSTR3B full / incremental dump
 - h. Period wise Return filing full / incremental dump

- vii **Updates on GoM prioritized functionalities (Annexure 1)**
 - a. Out of 55 prioritized functionalities, 12 functionalities are on hold and balance 43 are being tracked. Out of 43, till date, 39 functionalities are made operational and remaining are being under process.
 - b. CBEC representative raised the issue that part payment for filing of GSTR 3B should be allowed, and it is decided to discuss this issue in GST council
 - c. CBEC representative also raised point that some taxpayers have wrongly chosen SEZ and they should be given opportunity to edit this as non-core amendment. Infosys representative raised the point that once SEZ is chosen as basis of registration, the same can't be amended. It was decided to discuss this issue further in detail to resolve.
 - d. CBEC representative stated that as per law, the primary Authorized signatory should be Indian resident, however system requires primary Authorised signatory to be an Indian citizen and this needs to be corrected
- viii The issue of newly registered taxpayers was discussed and it was informed that about 35 lakh new taxpayers are registered and field visits are required for verification of some of the taxpayers. It is suggested that a native app on Android and iOS should be developed for verification of taxpayers by field staff so that data can be filled in same by visiting tax officer at the location where latitude /longitude and date/time will be automatically recorded. The app will help field visit of inspector and process of cancellation of registration by officer.
- ix The issue of registration and processing of GST Practitioners was discussed and it was pointed out that though applications for GSTP are uploaded by GSTP, processing of same is very poor. Since there is no upper limit prescribed, the applications are not being processed by tax officers. Tax authorities may get this expedited.

8.7. Making available 69 prioritized Forms on GST Portal (Annexure 2)

8.7.1. The CEO briefed the GoM on the Prioritized Forms. Out of 69 Forms identified by Policy wing of CBEC, 47 have been made available on the GST Portal and 3 are on hold. The timelines for making available remaining forms was presented before the GoM. Copy of the same is attached as Anenxure-2. The Convenor suggested that timelines should be strictly followed for operationalization of remaining form.

9. The meeting concluded with following closing remarks:

- a. Closing remarks Hon. Shri Krishna Byregowda, Minister of Agriculture, Karnataka.
 - i. Hon. Minister suggested that there should be filter based query and designated officers should be able to generate report on their own rather than asking GSTN to generate the same. For each Model 2 State, a senior officer should be authorized to generate reports based on various filters and GSTN should make arrangements for the same.
 - ii. Hon. Minister remarked that though the filing percentage of Returns is increasing, however it is not getting converted into revenue and there is urgent need to analyse the issue for increasing revenue.
 - iii. The Hon'ble Minister, Karnataka further urged an analysis of the probable impact on the current system (in term of re-engineering it) in the event of the proposal regarding amendment to the return process being adopted.

- b. Closing remarks from Hon. Convenor of GoM
- i. It is observed that progress has been good and Infosys has done good work and most of things have improved considerably.
 - ii. People have got used to GSTR-3B and that complaints have reduced
 - iii. The Phase 2 of GST-i.e. implementation of e-way bill system should be proper. People are apprehensive about same and hence every care should be taken to ensure smooth rollout. Awareness programs should be conducted.
 - iv. The phase 3 of GST implementation is matching of invoices and will be finalized after discussions with GST Council.
 - v. The decrease in revenue over period of time is major concern and reasons for same may be analyzed.
 - vi. Composition taxpayers needs to be monitored since the tax paid by them is very small.
 - vii. The MIS to Model 2 states are very important and should be made available on priority.
 - viii. The next meeting will be in first week of April and feedback from States may be taken regularly to improve system.
 - ix. A meeting of the IT Committee should be held before the next meeting of the Group

10. The meeting ended with Vote of thanks to the Chair.

Annexure 1

Status of implementation of items identified by GoM

#	FORM	FORM Components/Details	Agreed Date of Deployment	Actual Date of Deployment/ETA	Status	Remarks
1	GSTR 3B	Solution for 3.5 lakh GSTR3B who have submitted but not filed	19-Sep-17	21-Sep-17	Complete	Closed
2	MIS	Reports Data Dump for Model-2 States	22-Sep-17	07-Oct-17	Complete	Closed
3	Registration	Amendments of Core fields	22-Sep-17	27-Sep-17	Complete	Closed
4	Registration	Opt out for Composition scheme	22-Sep-17	01-Oct-17	Complete	Closed
5	Registration	Suo Moto Registration and Payment option by Govt. department 1) ID creation, 2) Create Challan, 3) Making Payment	29-Sep-17	27-Sep-17	Complete	Closed
6	Registration	GSTP Registration Processing	29-Sep-17	27-Oct-17	Complete	Closed
7	Registration	TDS/TCS Registration and Processing	29-Sep-17	TDS – 13-Oct-17 TCS – 14-Dec-017	Complete	Closed
8	GSTR 1A	Generation & Submission/Filing of GSTR- 1A	30-Sep-17	10-Oct-17	Complete	Closed
9	Refunds	Refund for Export - ICEGATE API (Part of RFD-01)	30-Sep-17	05-Oct-17	Complete	Closed
10	Offline	Creation and submission of Returns in Offline Utility for GSTR-2 without xls download from tool	06-Oct-17	14-Oct-17	Complete	Closed
11	Offline	Creation and submission of Returns in Offline Utility for GSTR-2 with xls download from tool	11-Oct-17	25-Oct-17	Complete	Closed
12	GSTR 2A	GSTR-2A for ISD changes	11-Oct-17	11-Oct-17	Complete	Closed
13	Tran 1	Revised Tran1 (Reopening Transition	13-Oct-17	8-Nov-17	Complete	Closed

		Form-1 to enable Multiple Submit)				
14	Tran 1	CSV Utility for 6a, 6b, 7b, 9a, 9b of TRAN-1	13-Oct-17	8-Nov-17	Complete	Closed
15	Payment	Grievance for Payment not reflecting in Cash Ledger - PMT07	16-Oct-17	25-Oct-17	Complete	Closed
16	GSTR 5A	Creation & Submission of GSTR-5A (OIDAR supplies)	17-Oct-17	15-Dec-17	Complete	Closed
17	ITC01	Application for eligible ITC prior to registration / withdrawal from compounding scheme ITC 01	17-Oct-17	11-Jan-18	Complete	Closed
18	GSTR 3B	GSTR-3B - Feature Enhancement 1) Edit Option 2) Full Preview with suggested ITC utilization	15-Nov-17	29-Dec-2017	Partial Complete	1) Edit was made operational 21-Nov-17 2) Nil Return and Questionnaire made operational on 13-Dec-17
19	GSTR 3B	GSTR-3B - Enhancement to enable Print out/PDF Download	18-Oct-17	13-Oct-17	Complete	Closed
20	GSTR 1A	GSTR 1A Offline utility	18-Oct-17	27-Oct-17	Complete	Closed
21	Registration	Change of authorized signatory by Tax Officer	18-Oct-17	Use Case: 12-Oct-17 API: 1-Dec-17	Complete	Closed
22	Registration	Registration of Non Resident Tax Payers	18-Oct-17	9-Nov-17	Complete	Closed
23	Tran 1	G2G API's for Transition forms	20-Oct-17	7-Dec-17	Complete	Closed
24	GSTR 1	GSTR 1 - Enhancement to enable Preview and Print out/PDF Download	20-Oct-17	20-Oct-17	Complete	Closed
25	GSTR 2	GSTR-2 - Enhancement to enable Preview and	20-Oct-17	20-Oct-17	Complete	Closed

		Print out/PDF Download				
26	MIS	MIS Reports for Model-2 States	20-Oct-17	24-Oct-17 Plan for remaining Reports: Start: 11-Dec-17 End: 23-Feb-17	In Progress with delay	1.5 MIS reports are live a. Registration Application Register b. Summary of Approved Registrations c. Casual Taxpayer's Details Report d. Tax collection list e. Tax collection summary Next lot will follow staggered release
27	GSTR 6, GSTR 6A	Creation & Submission of Return for ISD GSTR-6 / View of GSTR-6A (ISD)	23-Oct-17	GSTR 6A:31-Oct-17 GSTR 6:8-Dec-17	Complete	Closed
28	Registration	Change of jurisdiction by Tax Officer before approval / rejection	30-Oct-17	25-Oct-17	Complete	Closed
29	Registration	OIDAR Registration and Processing	30-Oct-17	14-Dec-17	Complete	Workaround made operational on 14-Dec-2017
30	Registration	Cancellation and Surrender of Registration Certificate	30-Oct-17	10-Oct-17	Complete	Workaround provided for cancellation by 10th Oct.
31	Registration	Revocation of RC (Application against Cancellation by Tax-official)	30-Oct-17	8-Mar-18	In Progress with Delay	Cancellation by Taxpayers operational Cancellation by Tax Official in progress Revocation appeal will be taken up once rest cancellation by

						Tax Official is completed
32	Registration	Grievance Management	30-Oct-17	12-Jan-18	Complete	Closed
33	Registration	GSTP Dashboard	30-Oct-17	14-Nov-17	Complete	Closed
34	Tran 2	Transition Form 2 Development	30-Oct-17	15-Dec-17	Complete	Closed
35	GSTR 4	Creation & Submission of Quarterly Return by Compounding Taxpayer GSTR-4	03-Nov-17	08-Nov-17	Complete	Closed
36	GSTR 11	Filing of Returns by UIN Holders for Inward Supplies GSTR-11	10-Nov-17	12-Jan-18	Complete	Closed
37	GSTR 5	Return for non-resident taxable person	17-Nov-17	20-Dec-17	Complete	Closed
38	Refunds	Refunds - Exports WO payment of tax - part of RFD01	20-Nov-17	5-Nov-17	Complete	Work around: 5-Nov-17
39	Refunds	Refunds - BO Processing	20-Nov-17	30-Apr-18	In Progress	It is a full use case and will be delivered as per overall Refunds implementation plan
40	Refunds	Refunds - Excess Balance in Cash Ledger	01-Dec-17	29-Nov-17	Complete	Workaround operational Main use case ETA: 23-Mar-18
41	Refunds	Refunds - Exports of Services	08-Dec-17	22-Dec-17	Complete	Limited functionality on 22-Dec-17
New Items discussed in GoM Meeting on 28th Oct 2017						
42	Returns	New search facility to see the status of return filing of a taxpayer	25-Nov-17	30-Jan-18	In Progress	Delayed due to completion of the solution approach and layout
43	Returns	A new pop-up regarding intimation of late fee, if there is a gap between filing and submission of	20-Nov-17	17-Nov-17	Complete	Closed

		return after the due date.				
44	GSTR 3	Creation & Submission Of Monthly Return GSTR-3	30-Oct-17			On Hold based on decisions taken in last GST Council
45	Mismatch Report	Creation & Display of Mismatch Report	30-Oct-17			On Hold based on decisions taken in last GST Council
46	GSTR 4A	View of GSTR-4A (composition supplies)	17-Nov-17			On Hold – needs redesign with GSTR 2 being on hold and new timeline for GSTR1
47	GSTR 7	Creation and Submission of TDS Return GSTR-7	08-Dec-17			On Hold based on decisions taken in last GST Council
48	GSTR 7A	View of GSTR-7A (TDS)	08-Dec-17			On Hold based on decisions taken in last GST Council
49	GSTR 8	Creation & Submission of Return for e-Commerce GSTR-8	08-Dec-17			On Hold based on decisions taken in last GST Council
50	Returns	GST Return filing history should be provided on the pattern of GST Payment Challan History.				On Hold based on decisions taken in last GST Council
51	GSTR-2	GSTR-2: The name of the dealer should be reflected in the table along with GSTIN in the downloaded GSTR2 file				On Hold based on decisions taken in last GST Council
52	GSTR-2	GSTR-2: offline tool should be further upgraded to include facility to do comparison of downloaded data with those from the purchase register of				On Hold based on decisions taken in last GST Council

		the taxpayer to show mismatches and matched entries.				
53	GSTR-2	GSTR-2: Bulk acceptance of invoices should be made available on the Portal as well as the Offline Tool.				On Hold based on decisions taken in last GST Council
54	GSTR-2	GSTR-2 JSON should be kept ready for download immediately after last date of filing of GSTR-1. This will save time required today to generate the downloadable file.				On Hold based on decisions taken in last GST Council
55	Returns	MIS for policy making	TBD	TBD		Management Decision on Analytics– not a MIS point

Annexure 2

Details about 69 Prioritized FORMS

Registration Forms (16 out of 21 Operational)					
Sl.No	Form No.	Details of Form	Rule No.	Urgent	Status
1	GST REG-01	Application for Registration	8	Yes	Operational
2	GST REG-02	Acknowledgment	8(5)	Yes	Operational
3	GST REG-03	Notice for Seeking Additional Information	9(2)	Yes	Operational
4	GST REG-04	Clarification/ additional information/ document for Registration / Amendment/ Cancellation	9(2)	Yes	Operational
5	GST REG-05	Order of Rejection of Application for <Registration / Amendment / Cancellation/	9(4)	Yes	Operational
6	GST REG-06	Registration Certificate	10 (1)	Yes	Operational
7	GST REG-07	Application for registration as TDS / TCS	12(1)		Operational
8	GST REG-09	Application for Registration of Non Resident Taxable Person	13	Yes	Operational
9	GST REG-10	Application for registration of person supplying online information and data base access or retrieval services from a place outside India to a person in India, other than a registered person.	14	Yes	<p>1. Workaround is operational since 14-Dec-17.</p> <p>2. Regular Form will be available from – 25-Jan-18</p>
10	GST REG-11	Application for extension of registration period by casual / non-resident taxable person.	15	Yes	Not Operational ETA : 7-Feb-18
11	GST REG-12	Order of Grant of Temporary Registration/ Suo Moto Registration	16	Yes	Operational

12	GST REG-13	Application/Form for grant of Unique Identity Number to UN Bodies/ Embassies / others	17	Yes	1. Workaround available since 14-Dec-17 2. Regular form will be available from – 1-Mar-17
13	GST REG-14	Application for Amendment in Registration Particulars (For all types of registered persons)	19	Yes	Operational
14	GST REG-15	Order of Amendment	19	Yes	Operational
15	GST REG-16	Application for cancellation of registration	20	Yes	Operational
16	GST REG-25	Certificate of Provisional Registration	24(1)	Yes	Operational
17	GST REG-26	Application for Enrolment of Existing Taxpayer	24(2)	Yes	Operational
18	GST REG-27	Show Cause Notice for cancellation of provisional registration	24(3)	Yes	Not Operational (Under Development) ETA: 20-Feb-18
19	GST REG-28	Order for cancellation of provisional registration	24(3)	Yes	Not Operational (Under Development) ETA: 20-Feb-18
20	GST REG-29	Application for cancellation of provisional registration	24(4)	Yes	Operational
21	GST REG-30	Form for Field Visit Report	25	Yes	Not Operational ETA: 22-Mar-18 Needs to be made available on priority.
Composition forms (4 Out of 4 operational)					
22	GST CMP-01	Intimation to pay tax under section 10 (composition levy) (Only for persons registered under the existing law migrating on the appointed day)	3 (1)	Yes	Operational
23	GST CMP-02	Intimation to pay tax under section 10 (composition levy)	3(3 & 3A)	Yes	Operational

		(For persons registered under the Act)			
24	GST CMP-03	Intimation of details of stock on date of opting for composition levy (Only for persons registered under the existing law migrating on the appointed day)	3(4)	Yes	Operational
25	GST CMP-04	Intimation/Application for Withdrawal from Composition Levy	6(2) & 6(3)	Yes	Operational
ITC (1 out of 4) and ENR (not in scope)					
26	GST ITC-01	Declaration for claim of input tax credit under sub-section (1) of section 18	40(b)	Yes	Operational
27	GST ITC-02	Declaration for transfer of ITC in case of sale, merger, demerger, amalgamation, lease or transfer of a business under sub-section (3) of section 18	41	Yes	Operational
28	GST ITC-03	Declaration for intimation of ITC reversal/payment of tax on inputs held in stock, inputs contained in semi-finished and finished goods held in stock and capital goods under sub-rule (4) of rule 44	3	Yes	Under Development ETA: 30-Jan-18
29	GST ITC-04	Details of goods/capital goods sent to job worker and received back	45(3)	Yes	Operational
30	GST ENR-01	Application for Enrolment u/s 35 (2)	35(2)	Yes	Not in Scope
Returns (6 out of 10 Operational, 2 are on Hold)					
31	GSTR-1	Details of outward supplies of goods or services	59(1)	Yes	Operational (24-07-2017)
32	GSTR-2	Details of inward supplies of goods or services	60(1)	Yes	Operational (01-09-2017)
33	GSTR-3B	Return in lieu of monthly return	61(5)	Yes	Operational (11-08-2017)

34	GSTR 3	Normal Monthly Returns	61(1)	Yes	Not operation (Ready for Deployment, kept on hold)
35	GSTR 4	Creation & Submission of Quarterly Return by Compounding Taxpayer GSTR-4	62	Yes	Operational (03-11-2017)
36	GSTR-5	Return for non-resident taxable person	63	Yes	Operational (3-Jan-2018)
37	GSTR-5A	Details of supplies of online information and database access or retrieval services by a person located outside India made to non-taxable persons in India	64	Yes	Operational (15-Dec-17)
38	GSTR-6	Return for ISD	65	Yes	Operational (8-Dec-2017)
39	GSTR 7 and GSTR 8	TDS and TCS return	66(1) & 67(1)	Yes	Not Operational (On hold)
40	GSTR-11	Statement of inward supplies by persons having Unique Identification Number (UIN)	82	Yes	Operational (12-Jan-2018)
GST Practitioners (5 out of 5 Operational)					
41	GST PCT-01	Application for Enrolment as Goods and Services Tax Practitioner	83	Yes	Operational
42	GST PCT-02	Enrolment Certificate of Goods and Services Tax Practitioner	83(2)	Yes	Operational
43	GST PCT-03	Show Cause Notice for disqualification	83(4)	Yes	Operational
44	GST PCT-04	Order of rejection of enrolment as GST Practitioner	83(4)	Yes	Operational
45	GST PCT-05	Authorisation / withdrawal of authorisation for Goods and Services Tax Practitioner	83(6)	Yes	Operational (Engage / Dis-engage GSTP)
Registers and Ledgers (5 out of 7 operational)					
46	GST PMT-01	Electronic Liability Register of Registered Person	85	Yes	Operational

47	GST PMT-02	Electronic Credit Ledger of Registered Person	86	Yes	Operational
48	GST PMT-03	Order for re-credit of the amount to cash or credit ledger on rejection of refund claim	86(4)	Yes	ETA 24-Apr-18
49	GST PMT-04	Application for intimation of discrepancy in Electronic Credit Ledger/Cash Ledger/ Liability Register	86(4)	Yes	Operational
50	GST PMT-05	Electronic Cash Ledger	87	Yes	Operational
51	GST PMT-06	Challan for deposit of goods and services tax	87(2)	Yes	Operational
52	GST PMT-07	Application for intimating discrepancy relating to payment	87(8)	Yes	Operational
Refund (RFD-01 workaround ready)					
53	GST RFD-01	Application for Refund –	89	Yes	<p>With IGST: 16-Nov-17 (Operational)</p> <p>Excess Bal in cash leger: 29-Nov-17 (Operational)</p> <p>ITC accumulated for exporters - 23-Dec-17 (Operational)</p> <p>Inverted Duty: 23-Dec-17 (Operational)</p> <p>SEZ Unit/ Developer: With/ without payment of Tax – 23-Dec-2017 (Operational)</p> <p>SEZ Unit/ Developer: With/ with payment of Tax – 23-Dec-2017 (Operational)</p> <p>Deemed exports: 23-Dec-2017 (Operational)</p> <p>Assessment/Appeal/any other order: 25 –Jan-2017 (in UAT)</p>

					On account of tax paid on advance/refund voucher 25-Jan-2017 (in SIT)
54	GST RFD-02	Acknowledgment	90	Yes	Not Operational; ETA: 23-Mar-18, 20-Apr-18
55	GST RFD-03	Deficiency memo	90(3)	Yes	Not Operational; ETA: 23-Mar-18, 20-Apr-18
56	GST RFD-04	Provisional Refund Order	91(2)	Yes	Not Operational; ETA: 23-Mar-18, 20-Apr-18
57	GST RFD-05	Payment Advice	91(5)	Yes	Not Operational; ETA: 23-Mar-18, 20-Apr-18
58	GST RFD-06	Refund sanction/ rejection order	92	Yes	Workaround RFD 01 B; ETA:25 –Jan-2017 (in UAT)
59	GST RFD-07	Order for Complete adjustment of sanctioned Refund	92(2)	Yes	Not Operational; ETA: 23-Mar-18, 20-Apr-18
60	GST RFD-08	Notice for rejection of application for refund	92(3)	Yes	Not Operational; ETA: 23-Mar-18, 20-Apr-18
61	GST RFD-09	Reply to Show Cause Notice	92(3)	Yes	Not Operational; ETA: 23-Mar-18, 20-Apr-18
62	GST RFD-10				ETA: 25-Jan-18 (in SIT)
63	GST RFD-11	Furnishing of bond or Letter of Undertaking for export of goods or services	96A	Yes	ETA: 25-Jan-18 (in SIT)
Appeal (in progress)/Transitional Form (All 3 operational)					
64	GST ARA-01	Application Form for Advance Ruling	104	Yes	Operational (Workaround available)
65	GST APL-01	Appeal to Appellate Authority	108	Yes	Not operational ETA: 5-Jan-18, 8-Feb-18
66	GST APL-02	Acknowledgment for submission of appeal	108(3)	Yes	Not operational ETA: 5-Jan-18
67	GST APL-03	Application to the Appellate Authority under sub-section (2) of Section 107	108(3)	Yes	Not operational ETA: 8-Feb-18

68	GST TRAN-01	Transitional ITC / Stock Statement	117	Yes	Operational
69	GST TRAN-02	Details of inputs held in stock of which taxpaying document is not available	117(4)(a)	Yes	Operational (from 15-Dec-17)
70	GST TRAN-01	Revision of Transitional ITC / Stock Statement	120A	Yes	Operational
71	GST TRAN-03				Operational

Annexure 3
List of Officers present during the GoM meeting

1. GSTN: The following officers attended the meeting from GSTN:

Sl. No.	Name	Designation
1	Shri Prakash Kumar	CEO
2	Shri Nitin Mishra	EVP(Technology)
3	Shri Pankaj Dixit	SVP (Infrastructure)
4	Shri Bhagwan Patil	VP (Services)
5	Shri Abhishek Singh	AVP (PM)

2. CBEC: The following officers attended the meeting from CBEC:

Sl. No.	Name	Designation
1	Shri Basavaraj Nelagave	ADG Systems, CBEC ,Bengaluru
2	Shri B. Senthilvelvan	Additional Director , CBEC
3	Shri Vignan Pattamatta	A D Systems, CBEC

3. States: The following officers attended the meeting from States:

Sl. No.	Name	Designation
1	Shri MS Srikar	CCT, Karnataka
2	Shri Arun Mishra	Addl. Secretary, CT, Bihar.
3	Shri M S Reddy	Additional Commissioner, Telangana
4	Shri K. S. Basavaraj	Joint Commissioner, Karnataka
5	Shri Harshal Nikam	Joint Commissioner, Maharashtra
6	Shri N Sai Kishore	Joint Commissioner, Telangana
7	Shri Dipankar Sahu	Dy. Comm, Odisha
8	Shri Deepak Giri	Dy. Commissioner, Chhattisgarh
9	Shri Mukesh Kumar	CTO, Bihar

4. NIC

Sl. No.	Name	Designation
1	Shri Nagesh Shashri	DDG, NIC
2	Shri Vinaya Kumar	SIO, Karnataka, NIC
3	Shri P V Bhat	Sr. Director , NIC

5. Infosys: The following officers attended the meeting from Infosys:

Sl. No.	Name	Designation
1	Mr. Renga	SVP
2	Shri Binod Hampapur	EVP

3	Mr. P.N. Moorthy	AVP (Delivery Manager)
4	Shri Venkat Narayan	AVP
5	Mr. Murali Vasudevan	AVP (Release Manager)
6	Ms. Surya Kumari Achal	AVP (Test Manager)
7	Mr. Indrasis Dasgupta	Program Manager
8	Mr. Akhil Gandhi	Domain Team
9	Shri Debapriya Ghosh	Domain Team

Annexure B

Minutes of the 7th Meeting of GoM held on February 24, 2018 at New Delhi.

The seventh meeting of GoM on IT was convened on February 24th, 2018 specially to consider the recommendations of the Committee of Return Filing, as per decision of the GST Council taken in its last meeting held on January 18th, 2018. Shri Sushil Modi, Hon'ble Deputy Chief Minister, Bihar and the Convenor of GoM had also invited Hon'ble Finance Ministers of Delhi, Kerala, Punjab and Jammu & Kashmir for this meeting.

2. The seventh meeting, was attended by the following Hon'ble Members of GoM.

Sl. No.	Name	Designation	
1	Shri Sushil Kumar Modi	Hon'ble Deputy Chief Minister, Bihar	Convenor of GoM
2	Shri Krishna Byregowda	Hon'ble Minister for Agriculture, Karnataka	Member, GoM
3	Shri Shashi Bhushan Behera	Hon'ble Minister for Finance, Odisha	Member, GoM
4	Shri Amar Agarwal,	Hon'ble Minister for Commercial Taxes, Chhattisgarh	Member, GoM

3. Shri Etela Rajendar, Hon'ble Finance Minister, Telangana could not attend due to other pressing engagements.

4. Shri V K Garg, Advisor (Financial Resources) to Chief Minister, Punjab attended on behalf of Punjab Finance Minister. Finance Ministers of Delhi, J&K and Kerala could not attend due to other pressing engagements.

5. The list of officers who attended from CBEC/ States, GSTN and Infosys is at **Annexure 1 to the Minutes of 7th GoM Meeting.**

6. The agenda items discussed in the meeting are as follows:

I. E-Way Bill System Update:

7. At the outset, Hon'ble Convenor asked the NIC team to present the update on e-Way Bill System

7.1. DG, NIC presented status of e-way Bill project implementation, highlights of which are given below

- a. The planned rollout of e-way Bill system on 1st Feb 2018 had to be abandoned after the system operating from Karnataka Data Centre could not take the load. The design was based on estimation of load by extrapolating the Karnataka figures; however, the same was proved to be highly inadequate. Accordingly, the Infrastructure (hardware/software) has been upgraded to handle load of 50 Lakh e-way Bill generation per day.

- b. Training of Master trainers of all States and CBEC has been completed for e-way Bill system and regular VCs are conducted to resolve the queries of Tax officers. The integration testing with external agencies like GSTN, NSDL, UIDAI has been completed.
- c. The helpdesks have been established by States in local language for resolving taxpayer's queries related to e-way bill system. A national Helpdesk has been started at Delhi by GSTN.
- d. The load on system for generation of e-way bill is maximum between 4:00 P.M. to 8:30 PM and is about 45% of total daily load.
- e. Load testing is currently under way and a concurrency of 20000 users has been possible so far. With augmentation of infrastructure and tuning of the software, efforts are on to achieve concurrency of 40000 users.
- f. The Data Centre at Delhi's Shastri Park with adequate capacity augmentation has been made ready where the application is being tested. The current users will be shifted from Bangalore DC to Delhi DC, after the load testing is completed.

7.2. Highlights of the discussions, which followed the presentation are given below.

- a. CEO, GSTN informed the GoM that around 198 Crore B2B invoices have been uploaded along with GSTR-1 in last 7 months. Taking 1/3 of these B2B invoices pertaining to services, 20 Crores per month will be B2B goods supplies which will mean a daily figure of 70 Lakh e-way bills. This is without taking into consideration consignments carried by courier companies. If courier companies are required to generate e-way bills, then the number of e-way bills required to be generated will be much higher. He presented figures shared by Safexpress which alone will need to generate 4 lakhs e-way bills. He suggested to go for information return from Courier agencies which could be used to cross check return data of businesses.
- b. Convenor asked whether courier companies are required to generate e-way bills under GST. Shri Upender Gupta informed that for e-way bill generation, value of goods above Rs 50, 000/- in single consignment was criteria and it is applicable to all.
- c. Hon. Convenor remarked that, e-way bill system should be implemented after proper testing and completion of all required activities. Since EWBS implementation had to be postponed from February 1, 2018 due to performance issues, now special care should be taken to avoid the same issues, ensure proper testing and see that the system is accessible and available to all the users on the new date of rollout.
- d. After due discussion, considering the end of the current financial year, it was agreed that the system may be implemented from April 1, 2018 for Inter-State only. Till then taxpayers may be allowed to generate e-way bills on trial basis and system may be tested on all accounts like load, integration and application testing.
- e. It was also decided that e-way bill system may be implemented for intra-State in small lots after the inter-State fully stabilizes.

II. Discussions on the Recommendations of Committee on Returns Filing.

8. Presentation by Shri Nandan Nilekani

8.1. Shri Nandan Nilekani, Non-Executive Chairman of Infosys and former Chairman of UIDAI made a detailed presentation on what simplifications could be made in the Return filing system under GST. His main emphasis was on making return filing simple and taxpayer friendly which is embedded in the business process of an enterprise.

8.2. The proposal contained in his presentation hinged on following principles

- a. A taxpayer will get ITC (input tax credit) only on those invoices which are uploaded by his suppliers.
- b. The input tax credit should be allowed without linking it with whether the tax is paid by seller against those invoices.
- c. All invoices will be uploaded by the seller only and there should not be any provision for provisional credit.
- d. The invoices can be uploaded anytime and the buyer can accept the same after which it can't be amended.

8.3. A small demo was made as to how the system will work on these principles. In the demo, the functionality of upload, acceptance on mobile app, reminder to seller through mobile app etc. were presented.

8.4. Sh Nilekani further informed that in earlier Indirect tax era, there was no invoice matching and so time gap to identify fraud was about six months to a year which was long enough for fraudulent taxpayers to exit from the system.

8.5. It was argued that making buyer responsible for tax payment by seller may not be a good practice and also possibly an injustice to the buyer. Instead, fraudulent sellers should be discovered for which the fraud identification system should be strong for identifying and verification of frauds by use of technology. Business intelligence and analytics should be used for catching fraudulent taxpayers instead of preventing buyers from taking credit.

8.6. Also, using technology, the fraudulent taxpayers should be identified at early stage for which following factors may be kept in mind:

- a. At registration stage only validations like one PAN –many registrations, one email-many registration, one phone number-many registrations, one address-many registrations should be identified and such taxpayers kept under watch list to identify frauds at early stage.
- b. Identification of related party transactions needs to be under observation
- c. Use of technology to catch real time frauds
- d. If allowance of input tax credit to buyer is linked to tax payment into government treasury by Seller, then system will be complex

8.7. The Frauds may be of four types

- a. Inflated credit
- b. Reduction in tax liability
- c. Non-payment of tax- Missing taxpayer by issuing bills only
- d. Invoices out of system

8.8. Provisional credit should not be allowed to taxpayers because supplier may not upload invoices on GST portal and in first phase, GSTR1 can be replaced by upload of invoices. In the second phase, buyer needs to accept the invoices.

8.9. Shri Nilekani proposed a phased movement from the current GSTR 3B system to the GSTR 3 which would be auto generated by the system, in an approximate 6-month timeframe. In the subsequent stage, GSTR-3B will be discontinued and auto generation of GSTR 1 will start based on invoices uploaded along with other information. The data quality will be high if we go along with invoice acceptance by buyers, which could be a daily phenomenon.

9. **Presentation by Convenor of Committee on Return Filing**

9.1. Shri Manish Kumar Sinha, Commissioner, CBEC presented Model agreed by the Committee on Return filing.

9.2. He stressed on 2 aspects viz. securing revenue and simplification of processes for all stakeholders. He emphasized on the linkage between input tax credit claimed by buyer and tax paid by seller as per GST Law.

9.3. The facility of continuous viewing and offline utility may be provided to taxpayers. The main return proposed was only one- having summary of invoices uploaded and liability thereon and the input tax credit claimed as a lump sum. The buyer will be required to reconcile the credit claimed and what accrues to him based on invoices of suppliers forming part of valid return. For reconciliation, a period, say three months was proposed to be provided after which the taxpayers will have to pay tax on the non-reconciled amount.

9.4. He further stated that if there is no linkage between tax paid by seller and credit claim by buyer then it is anticipated that:

- a. The officers will have to be given discretionary powers to follow defaulters and collect revenue and more enforcement activity will be required and self-policing will not be there.
- b. There will be IGST settlement issues and States will have to pay to Centre and other States even if revenue is not paid by seller into government treasury and this will create many issues.

9.5. He also stated that the issue of inverted duty structure will be high risk area. The issue of missing taxpayers' credit will be high due to which there could be loss to exchequer.

10. **Highlights of the discussion which followed the presentations:**

10.1. If buyer is free to claim credit then self-policing will go away and this is against present position in the law. As per legal provisions under section 16(1) (c) credit will be allowed to buyer, only if money is deposited in government treasury by seller.

10.2. The Case of Bombay High court, Gujrat High court and Delhi High court were discussed and it was stated that courts have also agreed that credit will be allowed only if tax is paid by seller into government treasury.

10.3. Shri V K Garg, Advisor (Financial resources) to Chief Minister, Punjab quoting recent economic survey report stated that only 25000 taxpayers pay about 75% revenue and so we should identify risks involved with these taxpayers. He stressed on combining positive sides of both models. He stressed that the main risk is wrong claim of input tax credit by fraudulent exporters which could happen even if provisional credit is linked to tax payment by the Seller. Hence this risk remains irrespective of the model chosen and he supported that the model proposed by Shri Nilekani.

10.4. Shri J. Syamala Rao, Commissioner, Andhra Pradesh highlighted that in the Nilekani's proposal tax administration may not be able to track total credit claim by buyers and the tax paid by sellers and thus States may lose out in the process.

10.5. Chairman, GSTN stressed that law provides that buyers' credit be linked with payment of tax by the seller. If this provision is removed and buyer is allowed to claim credit without seller paying tax to government treasury, then level of fraudulent bills may increase manifold which will affect revenue of the Govt.

10.6. Shri M.S. Srikar, CCT, Karnataka, brought out that it would be necessary to assess about allowance of provisional credit and also how the trade and industry will react to disallowance of

provisional credit. He also advised to assess the political fallout of either of the decisions. He also asked that the UI of the applications be user friendly, simple to use so as to avoid backlash from the trader community.

10.7. Hon. Finance Minister of Chhattisgarh raised that issue that presently taxpayers with annual turnover less than Rs 1.5 crore are allowed to file quarterly Return and wanted to know whether they will require to file monthly turnover in new scenario. It was clarified that such taxpayers will be required to file monthly returns. He also asked why buyer should be denied credit if seller has not paid tax and suggested that with help of analytics, the scrutiny within two months from filing of returns could help detect fraudulent transactions.

10.8. Hon. Finance Minister of Odisha proposed that provisional credit should be allowed to taxpayers and credit to buyers should be linked to tax payment by seller into government treasury.

10.9. Representative of Govt of Gujarat opined that if input tax credit is allowed without tax payment into government treasury then State revenue will be negatively affected. He gave examples of the trade where carousel trading is difficult to detect, enforce and also to prove in court of law. Revenue that is lost by fraudulent means is extremely difficult to recover and hence he recommended that provisional credit must be linked to tax payment by the seller. He also opined that if the linkage of provisional credit and tax claim by buyers is removed, then tax officer-tax payer interactions will increase (this would be because to avoid revenue loss, the tax officers would frequently track the transactions of buyer-seller). This would in turn lead to loss of ranking in the Ease of Doing Business.

10.10. Hon. Shri Krishna Byregowda opined that the results on compliance are not encouraging and the liberalization has not happened as expected. He highlighted that IT has not been able to give information regarding what is happening inside the system. He further stated that analytics have not helped as compliance is slipping as data provided is not actionable. He suggested that while he fundamentally supports simplification and liberalization but in practice it has not been delivered and hence the Nilekani model could become a risk. If a system could help in ease of compliance while at the same time be able to plug the revenue leaks that would be ideal. He also mentioned that the buyer should not be made accountable for seller not paying tax.

10.11. Officers of CBEC explained that the two scenarios of buyer colluding with seller and buyer not colluding with Seller should be treated differently. They stated that the erstwhile Service tax regime was different from the GST regime and even a 5 % tax credit mismatch, in cases of frauds, would be a huge revenue loss to the Govt. They emphasized that the proposed system enhances stakeholder participation and minimizes distortions and missing tax payer who intend to perform frauds. The distortions would be minimized and enhance compliance, while minimizing revenue losses. They quoted examples of the HMRC system where the onus of conducting business with fraudulent sellers was put on the buyers due to collusion. Also, it was experienced that proving collusion in a court of law itself was a very onerous task.

10.12. Shri Nandan Nilekani, put up two issues before committee and asked to decide on same.

- a. The political decision is required about whether buyer should be responsible for payment of tax or the supplier should be responsible for payment of tax.
- b. To decide about whether provisional credit is necessary or not.

11. **Closing Remarks:** The meeting concluded with following closing remarks from the Group of Ministers.

11.1. **Hon. Finance Minister of Chhattisgarh** opined that law is for protecting honest tax payers and simple systems should be available such that buyers should not be made accountable for acts of sellers.

11.2. **Hon. Shri Krishna Byregowda, Minister of Agriculture, Karnataka** stated that: The buyer should be protected and seller should be accountable for unpaid taxes.

- i. Sellers having genuine difficulty in business should be differentiated from those willfully defaulting on taxes. Collusion and connivance between seller and buyers must be detected and action taken as per law.
- ii. If tax payment is delinked with allowance of credit, then provisional credit should not be given.
- iii. Since no clarity is emerging in the meeting, the GST Council would be asked to take a decision on the final Model.

11.3. **Shri Nandan Nilekani** opined that more meetings will not be able to solve an issue which needs a political decision on whether the buyer has to be made responsible for a seller not paying tax. Since the trade and industry in his interactions have asked for simplification and not provisional credit, the decision on the proposed model needs to be taken by the Govt.

11.4. **Closing remarks by Hon. Convenor. Hon'ble Convenor of GoM made the following concluding remarks at the meeting.**

- i. That the Law Committee and GST Council will be apprised of discussions of Seventh GoM meeting.
- ii. He stated that earlier the GSTR 1/2/3 Model was developed which failed and taxpayers are put to inconvenience. Therefore, if a new system is being proposed for reducing the number of returns, then adequate precautions need to be taken before implementation.
- iii. He emphasized that the focus should be on simplicity. He recalled the example of his meeting and discussions with taxpayers in Patna, where the demand of taxpayers was that they do not want provisional input tax credit but that buyers should not be responsible for acts of sellers (and sellers should be punished for not paying tax). He also brought out that the Reverse Charge Mechanism was protested against so much that it had to be withdrawn.
- iv. He concluded that the decision is not hinging upon whether seller's tax payment should be linked to the buyer getting provisional credit. He urged all to be flexible and also not to complicate the system. Frauds are not avoidable but system should have provisions to monitor through dashboards and reports. He asked why a six-month cycle should be provided for tax reconciliation and why it could not happen in 1 or 2 month cycles. The system should be such that fraudulent seller is captured real time or at earliest and should be punished.
- v. He again emphasized that it is time to simplify without rigidity and flexibility and simplicity are the key.
- vi. He concluded that since there are divergent views in this Seventh meeting, the decision would be left to the GST Council for adoption of final Model of Return filing model.

12. The meeting ended with Vote of thanks to the Chair.

Annexure 1

List of officers' present in the GoM Meeting

1. GSTN: The following officers attended the meeting from GSTN:

Sl. No.	Name	Designation
1	Shri Prakash Kumar	CEO
2	Ms. Kajal Singh	EVP(Services)
3	Shri Pankaj Dixit	SVP (Infrastructure)
4	Shri Bhagwan Patil	VP (Services)
5	Abhishek Singh	AVP (PM)

6. CBEC: The following officers attended the meeting from CBEC:

Sl. No.	Name	Designation
1	Shri Mahender Singh	Member , CBEC
2	Shri Upender Gupta	Commissioner (Policy –GST)
3	Shri Manish Kumar Sinha	Commissioner
4	Shri G D Lohani	Commissioner
5	Shri S. Thirunavukkarasu	ADG, Systems, Chennai , CBEC
6	Shri Vignan Pattamatta	A D Systems, CBEC

7. GST Council

Sl. No.	Name	Designation
1	Shri Dheeraj Rastogi	Commissioner, GST Council

8. States: The following officers attended the meeting from States:

Sl. No.	Name	Designation
1	Ms. Sujata Chaturvedi	CCT, Bihar
2	Shri MS Srikar	CCT, Karnataka
3	Shri J. Syamala Rao	CCT, Andhra Pradesh
4	Ms. Sangeetha Sudarshan	CCT, Chhattisgarh
5	Shri Arun Mishra	Addl. Secretary, CT, Bihar.
6	Shri Laxminarayan	Additional Commissioner, Telangana
7	Shri Anand Tiwari	Additional Commissioner, CTD , Delhi
8	Shri N Sai Kishore	Joint Commissioner, Telangana
9	Shri Dipankar Sahu	Dy. Comm, Odisha

9. NIC

Sl. No.	Name	Designation
1	Ms. Neeta Verma	DG, NIC
2	Shri R.S. Mani	Senior Technical Director

3	Shri Dipankar Sengupta	Senior Technical Director
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10. Infosys: The following officers attended the meeting from Infosys:

Sl. No.	Name	Designation
1	Shri Nandan Nilekani	Non-Executive Chairman
2	Shri Venkat Narayan	AVP
3	Mr. Indrasis Dasgupta	Program Manager
4	Shri Abhishek Kumar	Domain Team

Agenda Item 10: Decision of date of reintroduction of e-Way Bill requirement

In 23rd Meeting of the GST Council held on 10 November 2018, it was decided that the e-Way Bill system could be rolled out from 1 January, 2018 in a staggered manner in State after State and could be implemented across the country from 1 April, 2018. In 24th Meeting of the GST Council held on 16 December 2017, it was decided that the e-Way Bill will be launched from the 1st of February, 2018 for inter-State movement and the States were to decide their own schedule for implementation of e-Way Bill for intra-State movement of goods on any date before 1st June, 2018.

2. The e-Way Bill software designed as per GST Law/Rules, was first made operational in September 2017 in Karnataka State by hosting the application on servers at NIC's Karnataka State Data Centre. Thereafter 3 more States viz. Rajasthan, Kerala and Uttarakhand joined in December 2017 and the system was opened to all States for trial on voluntary basis on 16 January 2018. The underlying infrastructure continued to be the same albeit with augmentation to handle 26 lakhs e-Way Bills per day. This load estimation was done by NIC based on data of Karnataka VAT System which had both inter-State and intra-State permits. On an average, 1.3 lakh permits were generated per day. Taking note that Karnataka accounts for 6% of all-India tax collection and has 6% of all-India Tax Payers, and extrapolating this data, all India e-way bills were estimated at 26 lakh per day.

3. In the meantime, the IT infrastructure was procured and installed at National Data Centre of NIC at Delhi with disaster recovery site at Pune. The testing of infrastructure and software on the same was taking time and hence the e-Way Bill system was opened for regular use for all States for Inter-State and intra-State for few States on 1st February 2018. It was noticed that number of States which notified intra-State e-Way Bills went beyond what was intimated earlier. The augmented State NIC infrastructure could not withstand the load and it crashed within few hours of operation. That day only 4.5 lakhs e-way bills could be generated whereas more than 7 lakhs were being generated till 31st January 2018 during trial phase. As a result, the implementation of e-Way Bill had to be kept in abeyance.

Challenges on Load Estimation:

4. Failure of System led to a re-look into estimation of load on the e-way bill system as well as its design. Since data on both inter-State and intra-State movement is not available from States, widely varying estimates have emerged which are given below:

- i. Karnataka generates 1.3 lakh e-Way Bills for both inter-State and intra-State. Karnataka taxpayers constitute 6% of total taxpayers in the country and also tax collected by Karnataka is 6% of national tax collection. Hence, all-India figure was estimated to be 21.67 lakhs (1.3 lakh X 16.67 (100/6)). Putting a safety margin of more than 100%, NIC came up with peak load as **50 lakh e-Way Bills per day** for the revamped system.
- ii. The GST System got 198 crore invoices in GSTR-1 during last 7 months. Assuming service invoices as 1/3rd of total, one is left with 20 crore invoices of goods per month for B2B only. This makes 67 lakh transactions of Goods for B2B sector per day. If an average of two changes is taken in part-B of the e-Way Bill on account of change of mode of transport or assignment to a new transporter, the stakeholders will be touching the system 2 crore times per day. Thus, the daily requirement of e-Way Bills including updation of Part-B comes to 105 lakh. [As per transporters association, 90% trucks run with part load and only 10% carry full load of one consignor]

- iii. Estimate of transport industry on the other hand is around 2 crore e-Way Bills per day including part-B updation on account of change of vehicle/mode of transportation or the transporter.

Recommendations of GoM:

5. These estimates as well as status of IT Infrastructure deployment and testing were presented before GoM in its 7th meeting held on 24th February 2018. The recommendations of the GoM are given below:

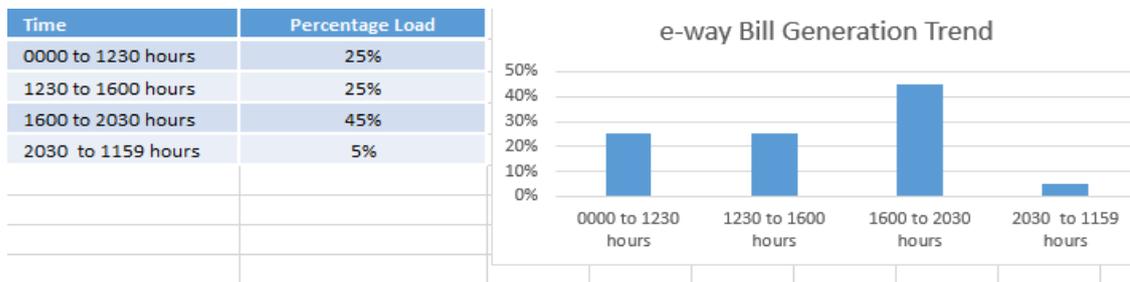
- i. The NIC should upgrade the capacity of the system to handle **75 lakh e-Way Bills per day in place of 50 lakh per day**
- ii. E-Way Bill system (EWBS) should be implemented after proper testing and completion of all required activities. Since EWBS implementation had to be postponed from February 1, 2018 due to performance issues, now special care should be taken to avoid the same issues, ensure proper testing and see that the system is accessible and available to all the users on the new date of rollout.
- iii. After due discussion, considering the end of the current financial year, it was decided that the system may be implemented from April 1, 2018 for inter-State only. Till then taxpayers may be allowed to generate e-Way Bills on trial basis and system may be tested on all accounts like load, integration and application testing.
- iv. The e-Way Bill system may be implemented for intra-State in small lots after the inter-State fully stabilizes.

Status of E-Way Bill System Implementation:

6. E-Way Bill software has been revamped by NIC and the software has been deployed on the new infrastructure which has been further augmented by moving equipment from Pune Data Center. The e-Way Bill system was upgraded for 50 lakh e-Way Bills per day. Based on directions of GoM, NIC is working to improve the throughput of the system to 75 lakh e-Way Bills per day including updation of Part-B. The status of various activities related to e-Way Bill deployment is given below:

	Components	Status
1	Hardware (Server, storage, network) installation	completed
2	Software (Operating System, Database) installation	completed
3	Security Audit of the application	completed
4	Integration with external agencies (UIDAI, GSTN, NSDL, SMS, email)	completed
5	Application testing on new infrastructure	completed
6	One round of load test has been completed and 15 lakhs EWBS are generated in an hour	completed
7	Full load test	Ongoing

6.1. During trial phase following pattern of e-Way Bill generation was observed:



- i. Design of e-Way Bill system takes care of this skewed load distribution.
- ii. Load testing is currently under way and a concurrency of 20,000 users has been achieved. Efforts are on to increase this to 40,000 users.
- iii. A central helpdesk by GSTN and helpdesks at State level by States have been established for resolving taxpayer's queries related to e-Way Bill system. Also, weekly VCs are conducted with States/CBEC officers for resolving issues.
- iv. Training of Master trainers of all States and CBEC has been completed for e-Way Bill system and regular VCs are conducted to resolve the queries of Tax officers.

7. Following are placed before the GST Council for approval:

- i. As recommended by GoM on IT, e-Way Bill may be implemented from April 1, 2018, **for inter-State transactions only**. Till then, taxpayers may be allowed to generate e-Way Bills on trial basis and system may be tested on all accounts like load, integration and application testing, by GSTN and NIC.
- ii. To start with, daily load of 75 lakh transactions will be taken up.
- iii. Opening of intra-State e-Way Bill will be done after examining the usage pattern and the system performance for inter-State e-way bills for first three weeks. As per data of trial period, ratio of inter-State and Intra-State is 1:3.
- iv. Intra-State e-Way Bill could be taken up for States as per following groups based on the feedback taken from States by the Council's Secretariat.

1st Lot

Andhra Pradesh; Kerala, Karnataka, Uttar Pradesh, Telangana and Gujarat

2nd Lot

Bihar, Haryana, Jharkhand, Uttarakhand and Tamil Nadu

3rd Lot

Arunachal Pradesh, Madhya Pradesh, Meghalaya, Puducherry and Sikkim

4th Lot

Remaining States

- v. Keeping in view large number of transaction of B2C supplies, which are largely handled by courier companies, there is a need to consider informational return for such transactions rather than creating e-Way Bills. Law Committee may be asked to examine the same.

Agenda Item 11: Status of e-Wallet scheme for exports and decision on continuance of payment of IGST through advance authorization, EPCG, etc. /exemption to EOU and SEZ units

In its 22nd Meeting held on 06.10.2017, the GST Council had taken a decision to resolve the difficulty of cash blockage of exporters on account of having to upfront pay GST / IGST on the required inputs, raw materials etc. /finished goods imported /procured for purposes of exports. The interim solution that was approved upto 31.03.2018 was to re-introduce the pre-GST tax exemptions on such procurement/imports. The permanent solution agreed to by the Council was to introduce an e-Wallet scheme with effect from 1 April 2018. The e-Wallet scheme envisaged the creation of electronic e-Wallets for the exporters and their suppliers, which would be credited with notional or virtual currency by the DGFT. The notional / virtual currency would be used to make the payment of GST / IGST on the goods imported / procured by the exporters so that their funds are not blocked.

2. The aforementioned decision of the Council was implemented by the issue of various notifications and circulars whereby the pre-GST exemption on imports / domestic procurement was effectively restored. Further, for merchant exporters, a special scheme of payment of GST @ 0.1% on their procured goods was introduced. Finally, some categories of domestic procurement such as supplies made under Advance Authorization, EPCG, EOU schemes were recognized as deemed exports with flexibility that either the suppliers or the recipients i.e., the exporters could claim a refund of GST / IGST paid thereon. In line with the decision of the Council, all these avenues have been made available upto 31.03.2018.

3. In order to implement e-Wallet, immediately after the Council's decision to this effect on 06.10.2017, internal meetings with stakeholders such as DGFT and GSTN took place. Thereafter, GSTN floated a concept note on the subject which paved the ground for further discussion. Subsequently, on 16.12.2017, Union Finance Secretary constituted a Working Group with representatives of Central and State Governments to examine how to operationalize the e-Wallet scheme with effect from 1 April 2018. The Working Group is chaired by Chairman, GSTN. The Working Group has since been deliberating on the subject and the Union Finance Secretary too has from time to time reviewed the progress.

4. The Working Group has identified some of the challenges in implementing the e-Wallet scheme. Firstly, a firm commitment is necessary on the part of DGFT, Department of Commerce to take ownership of the scheme. Secondly, there are technical issues as the e-Wallet would rest on an independent IT platform but with strong linkages with GSTN on one side and Custom IT system on the other. The IT related changes in GSTN are of particular importance to make e-Wallet work. Thirdly, there are legal and administrative issues in determining the quantum of credit of virtual currency in e-Wallet, the transfer of credits from the exporters to suppliers, accountal of subsequent exports, validation of entries in ledger etc. There would certainly be other issues which arise and would need to be resolved on the road to implementing e-Wallet.

5. Whereas the Working Group is examining the matter in its entirety, one finding that has emerged is that the complex issues to be resolved would require time. The Working Group is also sensitive to the fact that major IT changes are in the offing on account of the current discussions on a modified return mechanism. The introduction of electronic e-Way Bill with effect from 1 April 2018 is another factor. Also, on practical considerations the time is simply too short now to implement the e-Wallet scheme by 01.04.2018. Thus, the Working Group would need more time to complete its task.

6. In view of the circumstances explained above, the matter is placed before the Council for consideration and approval to:

- (a) Defer the implementation of the e-Wallet scheme by 6 months i.e., upto 01.10.2018; and

- (b) Extend the present dispensation in terms of exemptions etc. which is available up to 31.03.2018, for a further 6 months i.e., upto 01.10.2018.

Agenda Item 12: New system of Return Filing

A **detailed write-up on return simplification** is enclosed (**Annexure 1**) which proposes that the following two policy decisions may be approved by the GST Council –

- (i) The tax payment and credit link provided in the law shall continue.
- (ii) Provisional credit shall continue to be available.

2. Consequent to the approval of the above two policy issues, GST return suggested by the revenue officers may be approved as the IT design is incompatible with the above policy decisions. The sequential steps of the proposed return design suggested by officers are as follows –

- (i) There shall be monthly return for all taxpayers except those who are composition dealers (quarterly returns) and those who are required to file NIL (no inward or outward supplies).
- (ii) This main return shall consist of summary return like present GSTR 3B and as its annexure invoices for outward supplies and inward supplies attracting reverse charge.
- (iii) There would be no system-based matching of individual invoices but matching shall be done by the buyer and seller offline.
- (iv) Facility would be available for the buyer to continuously upload the invoices and to the seller to continuously view the invoices.
- (v) Facility for the seller to lock his own invoices or for the buyer to lock the invoice uploaded by the seller would be provided. Locked invoice cannot be withdrawn from a return and would be mandatorily added to calculate the tax liability.
- (vi) The steps at S No. (iv) and (v), uploading and locking, shall be available as mobile application also.
- (vii) An offline utility would also be provided which would allow information to be extracted from accounting software and prepare the draft return. This offline utility would also be capable of downloading invoices shown to the buyer.
- (viii) Partial Payment of tax on the declared liability in a return shall be allowed.
- (ix) Individual invoices shall be identified as tax paid on the basis of self-assessment of the seller and declared in the return where he pays partial liability.
- (x) Tax payment of invoices would be shown to the buyer after the return has been filed and taxes paid by the seller.
- (xi) Return filing date shall be spread out. Taxpayers having turnover upto Rs. 1.5 Crore shall be required to file return by 10th of the next month, whereas taxpayers having higher turnover shall be required to file return by 20th of the next month. Taxpayers having NIL return for six consecutive months can file one six monthly return.
- (xii) Once the main return is filed, the buyer would be given IT facility to add missing invoices, to keep the tax administration and seller informed.
- (xiii) There would be continuous facility available to the seller to add missing invoices or pay tax on unpaid invoices of the past period. This facility would be available for three months after the due date for the filling of return and if not paid, then such credit will be auto-reversed at the hands of the supplier.
- (xiv) Within the said rectification period of three months, after two months, a notice on the credit availed in the main return, credit available as per the invoice visible and non-tax paid invoices shall be sent to the buyer. He would thereafter get another month to mandatorily report the missing invoices and get from the seller the missing invoices added or tax paid on the non-tax paid invoices.
- (xv) After the period of three months, a reconciliation statement shall be shown to the taxpayer in those cases where credit availed in the return for any tax period is higher

than the tax available as calculated through uploaded invoices which are tax paid.
Excess credit taken shall be required to be reversed by the taxpayer.

- (xvi) GST Council shall have power to extend the period of rectification and the date on which the excess credit shall be auto-reversed.
- (xvii) On the basis of above decisions, it approved, complete design of the GST Return, draft law and rules shall be submitted to the GST Council for approval.

Annexure 1

Detailed write-up on Return Simplification

Introduction: The Committee for Simplification of Return Design under Chairman, GSTN met from time to time for internal discussions. It also had extensive consultations with the trade. Officers of the Return Committee and the IT Committee had a meeting on 2nd February, 2018 where the broad contours of Return Design were agreed upon. For ease of reference, this design would be called Revenue Design hereafter. An alternative design was presented by the Infosys team which was discussed at various levels in the Ministry of Finance by the Infosys team. For ease of reference, this design hereafter would be called IT Design. Presentations were made on both the designs before the Group of Ministers (GoM) constituted to monitor and resolve the IT challenges faced in implementation of GST on 24th February, 2018 in Delhi. GoM desired that both the designs be presented in the next GST Council meeting along with the key policy issues which need to be decided. Accordingly, this agenda has been moved to decide key policy issues stated in paragraph no 9. Once the policy issues at para 9 are decided as suggested, the approval for the Revenue Return design shall follow as a consequence.

2.1 No system-based matching – The Committee on Return Design examined various models of invoice matching in operation in the States. In one design, all buying and selling invoices are captured with the return and they are cross-matched on various parameters like GSTIN number, taxable Value, tax payable etc. In the alternative possible design, the invoice is captured only from the seller's end and using that as principal information, the input tax credit availed by the buyer is reconciled. Noting that the design in States can throw up 30-40% mismatch and removing this level of mismatch can involve very high compliance load, the Committee recommended that the alternative possible method of credit matching be used.

2.2 Seller's invoice necessary for input tax credit: The Committee also recommended as a supplementary decision to para 2.1, that the invoices uploaded by the seller be the only document recognised in law for availing input tax credit. The key difference between Revenue Design and IT Design is regarding tax payment status of the invoice and also that ITC is not available unless seller has not uploaded the invoice. In the Revenue Design, besides matching of invoice, tax payment against that invoice would continue to be a necessary condition for finalising the provisionally availed input tax credit. This is already provided in Section 16(2) (c) of the CGST Act, 2017 and corresponding SGST Acts. This was also the position obtaining in VAT laws of many States. This is consistent with the fundamental GST policy of self-policing. However, in the IT Design, matching of invoice is considered as enough for availing input tax credit without examining the tax payment status of the invoice at any stage later. In the Revenue Design, ITC would be allowed on provisional basis even if the invoice has not been uploaded by the supplier which would be reconciled at a later date. In the IT Design, ITC would not be admissible unless invoices have been uploaded by the supplier.

2.3 Continuous viewing of invoices: Recipient would be able to continuously see the invoice uploaded by the supplier (akin to 2A viewing facility). The viewing facility would be akin to monthly ledger meaning that an invoice uploaded later than the date for main return shall also be shown in the viewing facility for the month to which the invoice date relates.

2.4 Offline Utility - An offline tool will be provided to the buyer to download the invoices shown to him and compare with B2B purchases in his own account. This effectively takes matching out of the IT systems. This offline utility would also provide facility for extracting information from the accounting software and prepare draft return.

2.5 Return Stages: In the Revenue Design it is proposed that the return would be one only but opportunity would be provided to add, modify or correct the missing invoices. After a period during

which these corrections are carried out, the input tax credit would be reconciled with the suppliers' tax paid invoice. The output tax liability gets declared and paid in one step but the input tax credit gets finalised in three steps, namely -

(i) **Main return:** This would be a summary return with outward supply invoices and reverse charged inward supply invoices captured as annexure to this main return. Liability declared in the main return would be validated but credit would be availed on self-declaration basis like in the present GSTR 3B return on purchase invoices. The requirement of receipt of goods under cover of an invoice would continue to be the necessary condition in law for availing credit.

(ii) **Rectification platform:** Once the main return is filed, buyers are expected to check the tax payment status invoices uploaded by the seller. Optional facility would be provided for missing invoices to be communicated by buyer to the seller through the IT platform. Seller would be able to continuously add missing invoices, credit note and debit note for the past period and pay tax liability thereon to remove the difference between credit availed and credit available. This facility would be available for three months. Within this rectification period of three months, after two months, a notice on the credit availed in the main return, credit available as per the invoice visible and non-tax paid invoices shall be sent to the buyer.

[Note: These two steps are common to both the return designs]

(iii) **Reconciliation for input tax credit mismatch:** The taxpayer thereafter would get another month to mandatorily report the missing invoices and get from the seller the missing invoices added or tax paid on the non-tax paid invoices. After the period of three months, a reconciliation statement shall be shown to the taxpayer in those cases where credit availed in the return for any tax period is higher than the tax available as calculated through uploaded invoices which are tax paid. Excess credit taken shall be required to be reversed by the taxpayer.

3. **Provisional Credit:** Provisional Credit means credit availed by the buyer on the basis of invoices relating to a tax-period for which taxes have not been paid by the seller. When the invoice for the month of say April issued by the seller is used for availing credit in the month of April itself, it leads to availing provisional credit as taxes are unpaid by then. As of now, provisional credit exists in the system. Examination of data on credit utilisation pattern indicates that almost 80% of the tax base consists of traders and they need provisional credit to pay taxes. Removal of provisional credit would lead to equivalent cash requirement in the economy and stress. In Revenue Design, provisional credit continues. In Revenue Design, provisional credit is allowed to buyer even when the supplier has not uploaded the invoices which is not proposed to be allowed in IT Design.

4. **Phased implementation:** An important learning from the GST roll-out has been that whichever of the two aforesaid designs is finalized, it needs to be implemented in a phased manner, starting with a few simple steps and adding more features over a period of time.

5.1. **Number of returns and periodicity:** The number of returns is proposed to be kept at 12 in a year for both small and large taxpayers. Effectively it would be a monthly return called GSTR return.

5.2. **The Rectification activity** on reconciliation platform is not to be counted as an independent return. It actually is a facility for taxpayer to correct his mistake and would not be needed by the taxpayers who make no mistake while filing the main return.

5.3. **Reconciliation Statement** is proposed to be sent to the taxpayer on rolling basis after the expiry of the rectification period. The liability flowing from the same shall be added to the liability of the tax payable in the next month.

6. **HSN:** For taxpayers having annual turnover below Rs 1.5 crore, HSN code shall not be mandatory and therefore they would report liability at the rate level whereas taxpayers having higher turnover shall report liability at HSN code and rate level.

7. **Spreading the date of return filing:** Return filing dates shall be spread out. Taxpayers having annual turnover upto Rs 1.5 crore shall be required to file return by 10th of next month whereas taxpayers having higher turnover shall be required to file return by 20th of the next month. Taxpayers having NIL return for six consecutive months can file one six monthly return.

8. **Further simplification:** The information intended to be collected in GSTR 1/2/3 process needs to be closely examined as GSTR 1 had 13 tables, GSTR 2 also had 13 tables and GSTR 3 had 15 tables. This is when GSTR 1A and 2A is ignored. The information purported to be collected may be examined while working out the details of the return and where possible either be dropped from the return or taken to the annual return.

9. **Key issues to be decided by GST Council:** Two key issues to be decided by the GST Council are:-

(i) **To achieve simplification of return design, should the credit-tax link as available in the current GST laws be removed?**

Suggested decision: The credit-tax link should continue in the law. There are disadvantages in breaking tax credit link in five key areas, namely – controlling default in tax payment, refund of accumulated input tax credit, intrusive power to the inspectors, encouragement to the missing trader frauds leading to huge revenue loss, and IGST settlement on one hand without receipt of tax at the other hand.

(ii) **Should the provisional credit be removed to achieve simplification?**

Suggested decision: Provisional credit should continue in GST. The cash flow problem which would get created due to removal of provisional credit would be explained in the presentation. The IT design has provided a clear transition plan to address this issue.

10.1 **IT Design attributes** namely, the facility of buyer uploading the invoice and seller accepting on a mobile application can be provided as an optional IT facility in either of the designs. This would allow the Revenue Design to merge into IT Design at a later date.

10.2 **Adopting analytics:** Default in tax payment and Missing Dealer Credit problem needs multi-pronged strategy including use of analytics. The development of analytics suggested in the IT design should be one of the areas of focus to improve compliance in GST.

11. **Detailing:** Once decision is taken on the two key issues as above, detailing of the return design would be completed. This would involve, designing the form and drafting of the law and rules. Example of one return cycle is enclosed.

Example for the month of April –

April			May			June			July			August			Sept			Oct					
											N1					R1				A			

	April and the tax payment period for April
	Three-month opportunity for rectification by sellers in relation to missing invoices of April to either add invoice or pay tax on missing invoice.
N1	Notice for reconciliation for the month of April.
R1	Reconciliation Statement for the month of April.
A	Addition in the next return of the excess credit taken.

Agenda Item 13: Applicability of Goods and Services Tax on Extra Neutral Alcohol (ENA)

Briefly stated, an Agenda Note for GST Council on the taxation of rectified spirit/Extra Neutral Alcohol (ENA) under GST was considered in the 20th Meeting of GST Council held on 05.08.2017, wherein the Council, had recommended:

- a) for the time being status quo should be maintained regarding taxation of ENA for manufacture of alcoholic liquor for human consumption.
- b) legal opinion of the Attorney General of India may be sought regarding whether within the prevailing constitutional provisions, GST can be levied on supply of ENA for manufacture of alcoholic liquor for human consumption or not?
- c) representatives of States who wish to participate in briefing to the Ld. AG may also be invited for such briefing.

2.1 Accordingly, the issue of applicability of GST on supply of rectified spirit/ Extra Neutral Alcohol (ENA) for manufacture of alcoholic liquor for human consumption within the prevailing Constitutional provisions was referred to Ld. Attorney General. Further, as desired by the Ld. Attorney General of India, a number of States had sent detailed notes on applicability of GST on rectified spirit/ ENA for manufacture of alcoholic liquor for human consumption, which were forwarded to the Ld. Attorney General. Thereafter, representatives of Tamil Nadu, Karnataka, Haryana, West Bengal, Andhra Pradesh, Rajasthan and Maharashtra also met the Ld. Attorney General and briefed him on the issue. The Ld. Attorney General, after considering the note submitted by the States and the briefing of States representatives to him on the issue has rendered his opinion on the matter, through Ministry of Law and Justice, as under:

- i. There is no dispute between the Centre and the States as to the levy of GST on industrial alcohol (i.e., denatured ENA); there is divergence of opinion in regard to ENA that is used for manufacture of ‘alcoholic liquor for human consumption.’
- ii. A note containing the views received from the State of West Bengal, objects to the levy of GST on ENA by relying on the judgment of the Supreme Court of India in *Bihar Distillery v. Union of India* (1997) 2 SCC 727. The State contends that no GST can be levied on ENA that is used to manufacture alcoholic liquor for human consumption and the power to regulate and impose taxes on ENA is vested exclusively in the States.
- iii. The representations received from the Government of Tamil Nadu, Rajasthan and Andhra Pradesh also place reliance on the judgment of the Supreme Court in *Bihar Distillery (supra)* to contend that no GST can be levied on ENA.
- iv. At the request of the Ministry of Finance, a conference was held with the representatives of the States of West Bengal, Karnataka, Andhra Pradesh, Tamil Nadu, Rajasthan and Maharashtra. During the conference, these States have once again placed reliance on the judgment of the Supreme Court in *Bihar Distillery* to submit that the power to levy tax on ENA would vest exclusively with the State Governments and therefore, no GST can be levied.
- v. Even though the judgment of the Supreme Court in *Bihar Distillery (supra)* does hold that the States have the power to control rectified spirit removed for manufacturing potable liquors, this judgment cannot be used as precedent for the proposition that the States have absolute power to impose taxes on ENA that is used to manufacture ‘alcoholic liquor for human consumption’. This is because:
 - a) The court in *Bihar Distillery* was not concerned with the power of the State to levy Excise under Entry 51. To that extent, the court did not deal with the meaning of the words ‘alcoholic liquor for human consumption’ as used in Entry 51. On the other hand, the Court

was only concerned with the regulatory power of the State under Entry 8 of List II. Entry 8 in its entirety reads – ‘intoxicating liquors, that is to say, the production, manufacture, possession, transport, purchase and sale of intoxication liquors’. Nowhere does Entry 8 use the phrase ‘alcoholic liquor for human consumption’

- b) The meaning of the term ‘alcoholic liquor for human consumption’ has been dealt with categorically in *Synthetics and Chemicals v. State of UP* (1990) 1 SCC 109 (7 judges) and *State of UP v. Modi Distillery* (1995) 5 SCC 753 (3 judges). In *Synthetics*, the Court has held that the expression ‘alcoholic liquor for human consumption’ means that liquor which as it is consumable in the sense capable of being taken by human beings as such as beverage of drinks. In *Modi Distillery*, the Court held that ethyl alcohol (95 per cent) was not an alcoholic liquor for human consumption but could be used as a raw material or input, after processing and substantial dilution, in the production of whisky, gin, country liquor, etc.
- c) The two-judge bench of the Court in *Bihar Distillery (supra)* has not referred to the three-judge bench decision in *Modi Distillery* where the Court, dealing with the power of the State under Entry 51 List II, clearly held that “by common standards, ethyl alcohol (which had 95 per cent strength) was an industrial alcohol and was not fit for human consumption.”
- d) The Supreme Court has subsequently overruled *Bihar Distillery* on the very question of imposition of excise duty by the State on rectified spirit. In *Deccan Sugar & Abkari Co. Ltd. V. Commissioner of Excise, A.P.*, (1998) 3 SCC 272 the Supreme Court once again dealt with the question of the power of the State to levy Excise duty on rectified spirit and after noticing the judgment in *Bihar Distillery*, the Court referred the matter to a larger bench for consideration of the question whether any excise duty can be levied by the State on the manufactured rectified spirit which may ultimately be used for production of potable liquor. At Para 4 of the judgment, the Court held:

‘4. It is to be kept in view that the aforesaid decision rendered in Bihar Distillery case [(1997) 2 SCC 727] by a bench of two learned Judges of this Court was strictly concerned with the question whether the State could cancel licenses given to a distillery manufacturing rectified spirit on the grounds as alleged to be relevant for such cancellation. Therefore, strictly speaking there was no occasion for this Court in Bihar Distillery case [(1997) 2 SCC 727] to consider the wider question whether any excise duty can be levied by the State on the manufactured rectified spirit which may ultimately be used for production of potable liquor. Even that apart the aforesaid observations made in Bihar Distillery case [(1997) SCC 727] by the Division Bench of this Court prima facie run counter to the scheme of legislative competence as examined by the Constitution Bench of this Court as well as in the three-Judge Bench of this Court in Modi Distillery [(1995) 5 SCC 753] . Consequently, in our view these matters are required to be placed for decision before a larger Bench of three learned Judges of this Court for reconsideration of the judgment in Bihar Distillery case [(1997) 2 SCC 727]. We therefore direct the Registry to place all these appeals for disposal before a larger Bench of three learned Judges....’

- e) Thereafter, a three-judge bench of this Court was constituted. This bench considered the matter on 13th February 2002 and in a judgment reported in (2004) 1 SCC 243 it held that “the state can levy excise duty only on potable liquor fit for human consumption and as rectified spirit does not fall under that category the State Legislature cannot impose any excise duty”.
- f) Lastly, in *State of Bihar v. Industrial Corporation*, (2003) 11 SCC 465, the Supreme Court, while dealing with the question of the power of the State to levy a penalty for loss or wastage of molasses, rejected the argument of the State that molasses were diverted towards

manufacturing liquor which is fit for human consumption and held that ‘no penal duty could have been imposed on rectified spirit’. At Para 23 of the judgment, the Court, after referring to *Bihar Distillery (supra)* has held:

“24. How far and to what extent the said observations are correct need not be considered by us but suffice it to point out that this decision had not noticed the earlier decision given by a Bench of three learned Judges in Modi Distillery. Modi Distillery applies on all fours to the facts of the present case and we are bound thereby...”

vi. ENA typically contains 95% alcohol by volume and as such, is not fit for human consumption. Under Article 246A (1) read with Article 366 (12A), GST cannot be levied on the ‘supply’ of ‘alcoholic liquor for human consumption’. ENA that is used for the manufacture of alcoholic liquor is not supply for the purpose of human consumption as it is not consumed directly, but goes through a process of manufacture.

2.2 For the reasons mentioned above, Ld. AG is of the opinion that the judgment of the Hon’ble Supreme Court in *Bihar Distillery* does not denude the Centre or the States of the power to levy GST on ENA that is used to manufacture ‘alcoholic liquor for human consumption’.

3. The abovementioned opinion of the Ld. Attorney General was circulated among States vide GST Council email dated 16.01.2018.

4. The above issue was discussed in the GST Core Group Meeting held on 1st March, 2018, where it was decided that in view of the opinion of the Ld. Attorney General, the issue may be placed before the GST Council for its consideration and necessary recommendations.

5. Accordingly, the GST Council may like to consider the issue of applicability of GST on rectified spirit/Extra Neutral Alcohol (ENA) for manufacture of alcoholic liquor for human consumption and make suitable recommendations.



Additional Agenda for 26th GST Council Meeting

10 March 2018



File No: 106/26th GSTC Meeting/GSTC/2018
GST Council Secretariat

Room No.275, North Block, New Delhi
Dated: 28 February, 2018

Notice for the 26th Meeting of the GST Council scheduled on 10 March 2018

The undersigned is directed to refer to the subject cited above and to the earlier meeting notice dated 21 February 2018 and to say that in view of the extensive agenda items for discussion, the 26th Meeting of the GST Council will now be held on 10 March 2018 at Hall No 2-3, Vigyan Bhavan, New Delhi. The schedule of the meeting is as follows:

- Saturday, 10 March 2018 : 11:00 hours onwards

2. In addition, an Officer's Meeting will be held on 9 March 2018 at Hall No 2-3, Vigyan Bhavan, New Delhi as follows:

- Friday, 9 March 2018 : 14:30 hours onwards

3. The agenda items for the 26th Meeting of the GST Council will be communicated in due course of time.

4. 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

Additional Agenda Items for the 26th Meeting of the GST Council on 10 March 2018

14. Any other agenda item with the permission of the Chairperson
 - i. Consideration of representation dated 22.09.2017 by M/s Honda Siel Products as per the Directions of the Hon'ble High Court of Delhi
 - ii. Procedure to be followed for grant of adhoc exemption on imports under Section 25 (2) of the Customs Act, 1962
 - iii. Appointment of Deputy Commissioner as member of Authority for Advance Ruling- Amendment in Rule 103 of the CGST Rules, 2017.

TABLE OF CONTENTS

<u>Agenda No.</u>	<u>Agenda Item</u>	<u>Page No.</u>
14	Any other agenda item with the permission of the Chairperson i. Consideration of representation dated 22.09.2017 by M/s Honda Siel Products as per the Directions of the Hon'ble High Court of Delhi ii. Procedure to be followed for grant of adhoc exemption on imports under Section 25 (2) of the Customs Act, 1962 iii. Appointment of Deputy Commissioner as member of Authority for Advance Ruling-Amendment in Rule 103 of the CGST Rules, 2017.	6 27 28

Discussion on Agenda Items

Agenda Item 14: Any other agenda item with the permission of the Chairperson

Agenda Item 14(i): Consideration of representation dated 22.09.2017 by M/s Honda Siel Products as per the Directions of the Hon'ble High Court of Delhi

Briefly stated, M/s Honda Siel Products Ltd have filed a writ petition before the Hon'ble High Court of Delhi, inter alia, stating that their representation dated 22.09.2017 (**Annexure 1**) had not been considered by the GST Council. The matter was heard by the Hon'ble High Court on 01.12.2017, which vide its order dated 01.12.2017 (**Annexure 2**) directed the GST Council (3rd respondent) to appropriately consider the petitioners pending representations about the differential GST rates between its products and the fixed speed diesel engines.

2. Subsequently, the GST Council secretariat, vide its letter no. F.No.88/CWP-10720/2017/HSPL/GSTC/2018 dated 13.02.2018, had requested that the matter be placed before the Fitment Committee, so that it can be considered finally by GST Council.

3. The aforesaid representation of M/s Honda Siel states that fixed speed diesel engines below 15HP attract GST at 12%, whereas petrol/kerosene engines attract GST at 28%. It alleges that the above differentiation is arbitrary and founded on erroneous logic. The averments raised in the support of their claim are:

- a) That historically there was no difference in the excise duty rate between diesel and petrol/kerosene engines.
- b) That the state VAT rates were same on Diesel and Petrol/kerosene engines.
- c) That diesel causes greater damage to the environment in comparison to the Petrol/Kerosene engines.

3.1. In view of the above, the representation seeks that the rate of GST applicable on supply of petrol/kerosene engines below 15HP be reduced to 12%, to maintain parity with fixed speed diesel engines below 15HP.

4. M/s Honda Siel Power Products Ltd. had in their earlier representation, dated 14th June, 2017 had stated that initially the effective rate of GST for both types of engines (IS 11170-1985 CI Diesel engines upto 26HP and IS 7347-1974 Spark ignition engines, mostly of 1.5HP to 5 HP) was the same irrespective of the fuel used. However, in the meeting on 11th of June 2017, the rate on Diesel engines ranging upto 26HP viz. IS 11170-1985 (mainly used by large farmers and for industrial purposes) was reduced to 12%, which was discriminatory and the rate of both types may either be retained at 28% or both may be reduced to 12%.

5. In this context, it may be recalled that GST rate on fixed speed diesel engines upto 15HP [falling under sub-heading 8408] was discussed by the Fitment Committee in its meeting held on 07.06.2017 & 08.06.2017 and based on the suggestion made by the states of Gujarat and UP that the GST rate may be aligned with that of submersible pumps [which attracted 12% GST], the GST rate of 12% was recommended on fixed speed diesel engines, while the rest of the engines falling under 8408 remaining at 28%. The same was considered by the GST Council in its 16th meeting held on 11.06.2017 and it recommended 12% GST rate on fixed speed diesel engines up to 15HP.

6. In this regard it is to state that fixed speed diesel engines [upto 15HP] are used for agricultural purposes with more and more farmers opting for lifts irrigation and the demand for such diesel engines

has been increasing steadily, due to, *inter alia*, relatively lower price of diesel as compared to other fuels.

7. As per information available on web, M/s Honda Siel Power Products Ltd. [HSPPL] is the Indian subsidiary of Honda Motor Company, Japan, **who are the World's largest manufacturer of Portable Generators**; [HSPPL](#) are suppliers of Power Products, in different Segments like **Portable Generators, Water Pumps, General Purpose Engines, Brush Cutter, Lawnmowers, Backpack Sprayer & Power Tillers** to meet varying demand of a wide customer base; [HSPPL](#), with strength of over 600 dealers and 17 Area Offices across India, have been continuously bringing joy and satisfaction through its range of Power Products that suits the requirements of a variety of customers engaged in the field of Agriculture, Horticulture, Disaster & Rescue, Defence & Paramilitary forces, Railways, Post Offices etc. besides Homes & small businesses. Further, M/s Honda Siel Products Ltd seem to supply three types of water pumping sets, namely, petrol water pumping sets, kerosene water pumping sets and diesel water pumping sets, and if the engines used in diesel water pumping sets are of fixed speed diesel engines upto 15HP, then such engines will also be eligible for 12% GST rate. As such, it appears that petrol and kerosene engines are generally not used by the farmers, and therefore extending same tax treatment to such engines as that to fixed speed diesel engines upto 15HP, would be treating unequals equally and, thus, may not be warranted.

8. The views/comments/recommendations of the members of the Fitment Committee were sought. In response, out of 11 members of the Fitment Committee only 4 members have provided comments. Detailed comments of these four states are given in **Annexure 3** to this note. Out of these States, two States have stated that extending 12% GST rate to petrol and kerosene engines may not be advisable. One of these States has stated that Fixed Speed Diesel Engines (upto 15HP) are mainly used by small and marginalized farmers for agricultural purposes, primarily irrigation and these are manufactured/assembled in Unorganized Units whereas the Petrol/Kerosene engines are used as Electricity Generators, predominantly by the upper middle-class segment, and are manufactured in well run units of Organized Sector and are not used generally by farmers. The other State has stated that diesel engines are used in farming and therefore have been kept so aligned with the rate of tax of submersible pumps. One State has recommended reducing the GST rate of petrol and diesel engine to 12% to remove ambiguity if revenue implications are not found substantial. However, there is no ambiguity in classification of such engines, as kerosene and petrol engines and diesel engines are clearly distinguishable. One State has stated that fixed speed diesel engines, below 15 HP are mostly used for agricultural purposes and the rate of tax on them has been fixed in alignment of rate of tax on power driven pumps primarily designed for handling water, deep tube well turbine pumps, submersible pumps which are also taxable at 12%. Other engines are used for purposes other than agriculture and as such there is no justification to reduce its rate to 12%. However, the rate of such goods can be brought down to 18%. In this context, it may be recalled that 12% rate on fixed speed diesel engines resulted in tax inversion and had necessitated reduction in GST rate on parts suitable for use solely or principally with fixed speed diesel engines upto 15HP. Since parts and components of engines, in general attract 28% GST rate, reduction in GST rate on such engines to 18% will result in similar inversion, necessitating reduction in GST rate on parts and components of such engines. No comments, have been received from 7 other states [who are members of the Fitment Committee], and it appears that such States are in agreement with the agenda note circulated. Therefore, no State has recommended reduction in rate on the ground of discrimination as has been argued by the petitioner.

9. In view of the above, on merit there does not appear a case for reduction in the GST rate on petrol and kerosene engines upto 15 HP from 28%.

10. The GST Council may take a view regarding the representation dated 22.09.2017 of M/s Honda Siel Products seeking reduction in GST rate on petrol and kerosene engines upto 15 HP to 12%, as per the Directions of the Hon'ble High Court of Delhi.

Annexure 1



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366

ANNEXURE-P6

22nd September, 2017

To
Dr Hasmukh Adhia
Secretary (Revenue)
Ministry of Finance
North Block
New Delhi - 110001



Subject: Representation for seeking parity in GST rates on supply of petrol/kerosene engines and fixed speed diesel engines below 15 HP

Dear Sir

Please find enclosed a representation on behalf of M/s Honda Siel Power Products Ltd ("HSPPL"). HSPPL is engaged in manufacture of petrol and kerosene engines which are used in power driven water pumps and other products. The power capacity of such engines is in the range of 0.5 HP to 3 HP.

Presently, supply of fixed speed diesel engines below 15 HP, which cause pollution, attracts GST @ 12% whereas supply of petrol/kerosene engines which are more environmentally friendly attract GST @ 28%.

Accordingly, the representation enclosed herewith is being filed arguing that the rate of GST applicable on supply of petrol/kerosene engines below 15 HP be reduced to 12% to maintain parity with fixed speed diesel engines below 15 HP.

Thanking You

Yours Sincerely

PDS Legal Advocates & Solicitors

Encl: as above

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367

**REPRESENTATION TO THE
HON'BLE SECRETARY (REVENUE),
MINISTRY OF FINANCE
GOVERNMENT OF INDIA**

**REPRESENTATION ON BEHALF OF M/S
HONDA SIEL POWER PRODUCTS LTD.**

AUGUST, 2017

Table of Contents

I. EXECUTIVE SUMMARY3

II. BACKGROUND5

III. RATIONALE FOR ALIGNMENT OF RATES6

IV. RELIEF'S SOUGHT14

I. EXECUTIVE SUMMARY

- 1.1. This Representation is being filed on behalf of M/s Honda Siel Power Products Ltd. ("HSPPL") to address the issue pertaining to non-parity of rates of tax levied on petrol/ Kerosene engines and fixed speed diesel engines under the Goods and Service Tax Regime.
- 1.2. The GST regime has been introduced with effect from 01.07.2017 with the objective of mitigating the cascading effect of taxation or double taxation. Various levies such as excise duty, service tax and VAT have been subsumed into GST. Henceforth, GST is payable on supply of goods or services or both.
- 1.3. HSPPL is *inter-alia* engaged in the manufacture of amongst all power products, petrol / kerosene engines. Such engines are of variable speed type and the capacity of such engines is from 0.5 HP to 3 HP and are sold to OEMs who use these engines in manufacture of Power Driven Water Pumps, lawnmowers, tiller, and backpack sprayers. Such products are mostly used in the agriculture sector.
- 1.4. Prior to introduction of GST, these petrol / kerosene engines manufactured by HSPPL attracted excise duty @ 12.5% and VAT in the range of 12-5%-14.5% in different States. Further, similar rate of excise duty and VAT was attracted on manufacture and sale of diesel engines used in Power Driven Water Pumps.
- 1.5. After transition into the GST regime, while fixed speed diesel engines below 15 HP attract GST @ 12%, all other engines including petrol/kerosene engines manufactured by HSPPL attract 28% despite

being below 15 HP. This has led to a disparity in the rates of petrol/kerosene engines and fixed speed diesel engines below 15 HP. While diesel engines cause pollution and are required to be discouraged are at a lower rate of GST @ 12%, petrol engines which are more environmentally friendly are being charged to GST @ 28%. Further, if diesel engines are charged to GST @ 12%, there is no basis for charging kerosene engines @ 28%.

- 1.6. It is the well adverted policy of the Government of India that usage of cleaner fuels is to be promoted. Various studies undertaken have highlighted the harmful effects of using diesel over petrol and have supported reduction in usage of diesel. On various occasions, the Hon'ble Supreme Court has banned diesel vehicles and recommended use of cleaner fuels. Moreover, there is no rationale for affixing different rates of tax for fixed speed diesel engines below 15HP and other types of engines and will result in a tax arbitrage especially considering the fact that such products are used in the agriculture sector which is extremely price sensitive.
- 1.7. In terms of the rationale set out in this Representation, it is prayed that the rate of tax on supply of petrol / Kerosene engines below 15HP be reduced to 12% to maintain parity with fixed speed diesel engines below 15 HP;

II. BACKGROUND

- 2.1. M/s Honda Siel Power Products Ltd (hereinafter referred to as "HSPPL") is a public limited company situated at Plot no. 5, Sector 41 (Kasna), Greater Noida Industrial Development Area, Distt. Gautam Budh Nagar, Uttar Pradesh-201306 and is a subsidiary of M/s Honda Motor Company Ltd., Japan. HSPPL is engaged in manufacturing other power products of *inter alia*, petrol/ kerosene engines.
- 2.2. The petrol / kerosene engines manufactured by HSPPL are *inter alia* for the purpose of usage in Power Driven Water Pumps, lawnmowers, tiller, and backpack sprayers by OEMs. The smallest type of petrol /kerosene engine manufactured by HSPPL is GX-80 Engine (Q-type)- 2 HP and the biggest variant is G 300. The power capacity of engines manufactured by HSPPL varies from 0.5 Horse Power (HP) to 3 HP. Most of the products wherein the petrol/Kerosene engines are used are meant for agricultural purposes.
- 2.3. With the introduction of GST with effect from 01.07.2017, differential rates of tax have been introduced with regard to supply of fixed speed diesel engines below 15 HP and other types of engines including the variable speed petrol /kerosene engines manufactured and sold by HSPPL. While fixed speed diesel engines below 15 HP attract GST @ 12%, all other engines attract GST @ 28%. This has resulted in various issues which have been explained subsequently in the representation below.

III. RATIONALE FOR ALIGNMENT OF RATES

HISTORICAL PERSPECTIVE

- 3.1 It may be noted that prior to the introduction of GST from 01.07.2017, the manufacture of petrol / kerosene engines attracted the levy of excise duty @ 12.5% and were classifiable under Central Excise Tariff Heading (CETH) 8407. Moreover, diesel engines (not manufactured by HSPPL) were classified under CETH 8408 and attracted excise duty @ 12.5 %. Hence, there was no difference in the rate of excise duty payable on the manufacture of a petrol / kerosene or diesel engines wherein such engines were used in water pumps.
- 3.2 It is further pertinent to note that on the sale of such petrol / kerosene and diesel engines, the rate of Value Added Taxes (VAT) applicable in all States and Union Territories were also the same. The rate of VAT applicable and payable on the engines in different States of India by the assessee in the pre-GST regime is as below:-

STATE WISE VAT RATE		
SL.NO.	STATE	ENGINE
1	MAHARASTRA	12.50%
2	HARYANA	12.50%
3	MEGHALAYA	12.50%
4	MIZORAM	12.50%
5	ARUNACHAL PRADESH	12.50%
6	UTTARANCHAL	12.50%
7	UTTAR PRADESH	12.50%
8	CHANDIGARH	12.50%
9	HIMACHAL PRADESH	12.50%
10	GOA	12.50%
11	BIHAR	14.50%
12	ORISSA	14.50%
13	RAJASTHAN	5.50%
14	WEST BANGAL	14.50%
15	KERALA	14.50%
16	PONDICHERRY	14.50%
17	MEGHALAYA	12.50%
18	TAMILNADU	14.50%
19	ANDHRA PRADESH	5.00%
20	AASAM	14.50%
21	PUNE	13.00%
22	GUJARAT	4.00%
23	CHATTISGARH	14.00%
24	MADHYA PRADESH	14.00%
25	JHARKHAND	14.00%
26	JAMMU & KASHMIR	13.50%
27	MANIPUR	13.50%
28	TRIPURA	13.50%
29	NAGALAND	12.50%
30	KARNATAKA	14.50%

Hence, it can be seen that the incidence of tax on manufacture and sale of petrol/ kerosene and diesel engines was the same prior to the introduction of GST. Accordingly, a level playing field was in place wherein the rate of tax applicable did not determine consumer choices.

RATE OF TAX APPLICABLE WITH EFFECT FROM 01.07.2017

- 3.3 With effect from 01.07.2017, the individual levies of excise duty and VAT have been subsumed into GST with the assessee being liable to

make payment of Central GST and State GST on intra-State supply of goods or services or both or Integrated GST in case of inter-State supply of goods or services or both.

- 3.4 On the basis of the discussions of the 14th GST Council Meeting held on 18th May, 2017, the GST Council recommended the GST Rate Schedule for Goods. As per S. No. 84 of the said Schedule, the supply of products classifiable under CETH 8407 i.e., Spark-ignition reciprocating or rotary internal combustion piston engine attracted GST @ 28%. Hence, the supply of petrol /kerosene engines manufactured and sold by HSPPL was to attract GST @ 28%. S. No. 84 also provided that supply of products classifiable under CETH 8408 i.e., compression-ignition internal combustion piston engine (diesel or semi diesel engines) attracted GST @ 28%. Accordingly, by way of the GST Rate Schedule released on 18th May, 2017, the supply of petrol / kerosene and diesel engines attracted the same levy of GST @ 28% maintaining the competitiveness which existed in the pre-GST regime.
- 3.5 As per the discussions held in the 16th GST Council Meeting held on 11th June, 2017, a revised rate of GST for certain goods was released. It is pertinent to note that S. No. 40 of the said Schedule provided that the supply of Fixed Speed Diesel Engines classifiable under Chapter 84 attracted GST @ 12% instead of 28% as had been fixed in the 14th GST Council Meeting. Further, as per the Booklet of Rate of GST on Goods, the supply of Fixed Speed Diesel Engines of power not exceeding 15 HP were to attract GST @ 12%. Hence, supply of diesel engines below 15 HP will now attract GST @ 12%.
- 3.6 However, no corresponding reduction in rate of GST on supply of petrol / kerosene engines was announced by the GST Council. As a result, while the supply of fixed speed diesel engines below 15HP attracts

GST @ 12%, the supply of petrol / Kerosene engines (even those below 15HP) attracts GST @ 28%.

GOVERNMENT INITIATIVES TOWARDS CLEANER FUELS

- 3.7 Imposition of a lower rate of tax on supply of diesel engines is contrary to the policy of the Government of India to promote usage of cleaner fuels. It is relevant to note that the Draft National Energy Policy submitted by the Niti Aayog on 27.06.2017, amongst its suggestions to ensure cleaner air quality, has suggested that diesel being one of the biggest polluters must be discouraged as a source of energy not only for vehicles but for water pumps.
- 3.8 While petrol prices had been made market determined in 2010 itself, diesel price was also made market determined with effect from October, 2014. This step was undertaken to reduce the burden of subsidies given on diesel and diesel products and also reduce reliance on diesel as a source of fuel across all sectors in India.
- 3.9 Further, the policy of the Government to dis-incentivise diesel as a fuel can be seen in the GST rates applicable on sale of cars. GST Compensation cess @ 1% is payable on sale of cars using petrol and having an engine below 1200 cc whereas cars using diesel and having an engine below 1500 cc attract GST Compensation cess of 3%. Moreover, sale of all diesel engines which are above 15 HP will also attract GST @ 28%. Thus, while the Government itself recognize detrimental effects of use of diesel as fuel and seek to discourage it, the step to reduce GST rates on diesel engines is not in alignment with the policy of the Government and adversely affects the initiative to reduce use of diesel as a fuel.

REDUCTION OF DIESEL AS FUEL FOR CONTROLLING AIR POLLUTION

3.10 The impact of diesel generator sets in the rising air pollution across India has also been highlighted in various studies undertaken. Various studies undertaken which highlight the harmful impact of diesel as a fuel.

3.11 In a study undertaken by the International Agency for Research on Cancer for the World Health Organization, it was concluded that diesel engine exhaust can be classified as carcinogenic to humans. Further, even though diesel engine standards have improved over the years and the amount of particulates and chemicals has decreased, it is not clear whether the qualitative changes will translate into altered health effects.

3.12 In a report prepared by the Central Pollution Control Board in August, 2008, the following effects of diesel pollution were highlighted:

- i. Exposure to diesel exhaust reduces the capacity of lungs to clear bacteria and increases susceptibility of the lung to infection;
- ii. Diesel exhaust particulates cause DNA damage;
- iii. Exposure to even low levels of diesel exhaust reduces the expression of various genes
- iv. Exposure to diesel exhaust particles marked inflammatory response in the airways of humans.

3.13 The Hon'ble Supreme Court in **M.C. Mehta v. Union of India (2016) 4 SCC 269** had requested the Environment Pollution (Prevention & Control) Authority for the National Capital Region (EPCA) to prepare a report on air pollution. The said report was prepared and submitted to

the Hon'ble Court on 1st February, 2017 and highlighted various reasons for the prevailing air pollution problem in Delhi.

3.14 The Report stated that Delhi experiences higher than normal levels of PM2.5 which is a major cause of health ailments. This increase in PM2.5 is due to a variety of reasons which also includes the usage of diesel as a source of fuel for various purposes such as vehicles, generator sets etc. further, the report also suggested various methods through which diesel should be dis-incentivized as a fuel due to its toxicity.

3.15 In the Comprehensive Study on Air Pollution and Green House Gases in Delhi- IIT, Kanpur, January, 2016, it was highlighted that usage of diesel as a fuel is a major source of CO2, PM2.5 and SO2 pollution in Delhi. The Report has also recommended steps to be taken to reduce the pollution caused by diesel and minimise its use due to the air pollution caused by it by improving quality of engines, reduction in Sulphur content.

3.16 Thus, incentivizing the use of diesel engines by reduction in rate of tax while keeping the petrol /kerosene engines at higher rate of tax is a retrograde step in efforts to reduce the air pollution.

OBSERVATIONS BY THE JUDICIARY AGAINST USAGE OF DIESEL

3.17 It may be noted that to curb the use of diesel as a source of fuel, the Hon'ble Supreme Court vide its order dated 18.02.2016 in the case of **M.C. Mehta v. Union of India (2016) 4 SCC 269** banned the sale of diesel vehicles above 2000 CC temporarily in the State of Delhi. Further, the Hon'ble Supreme Court has in the decision of **M.C. Mehta v Union of India (1999) 6 SCC 9** observed that more than 90% of the

nitrogen oxide (NOx) and respirable particulate matter (RSPM) over Delhi is due to diesel emissions.

3.18 In fact, the Hon'ble Supreme Court in the decision of **M.C. Mehta v Union of India (2003) 11 SCC 771** had directed the Ministry of Non-Conventional Energy to tender necessary affidavit for stating the steps to be taken for having non-conventional energy instead of diesel generators.

3.19 It may also be noted that the National Green Tribunal vide its decision dated 14.09.2017 refused to interfere with its previous order dated 07.04.2015 for banning diesel vehicles which are more than 10 years old. Thus, it can be seen that the judiciary has consistently endorsed reduction in use of diesel as a fuel.

DISCRIMINATION AGAINST PETROL/KEROSENE ENGINES

3.20 It may be noted that diesel engines are both used in water pumps, lawnmowers and other products which use the petrol / kerosene engines manufactured by HSPPL. In light of the same, the rates of taxes payable on such products was also identical. In fact, such parity in taxation was proposed to be continued in the GST regime as well as can be seen from the discussions of the 14th GST Council Meeting. However, without assigning any reasons, a change in rate of diesel engines below 15 HP was introduced.

3.21 Neither there is any cogent reason nor a tangible basis to have a differential lower rate for diesel engines when compared with petrol / kerosene engines. The reduction in rate for diesel engines is completely arbitrary without taking into relevant considerations and

accordingly, rate of petrol / kerosene engines must also be reduced to 12%, especially as such engines are used for agricultural purposes.

DIFFERENTIAL TAX LEADING TO TAX ARBITRAGE

- 3.22 Petrol / Kerosene engines manufactured by HSPPL are most commonly used in the agricultural sector. It may be noted that in market for such products, even a slight change in the product price is sufficient to determine which product the consumer will purchase. The lower rate of tax on diesel engines will lead to arbitrage wherein the only factor compelling purchase of diesel engines instead of petrol / kerosene engines will be the lower rate of GST which it attracts.
- 3.23 The removal of tax arbitrage or tax becoming a factor to make or not make any transaction has been highlighted by the Organisation for Economic Co-operation and Development in the International VAT Guidelines. Guideline 2.3 provides that VAT Rules should be framed in such a way that they are not the primary influence on business decisions. Hence, the levy of GST should not operate in a manner to determine the choice of consumer in purchasing a product. The lower levy of GST on diesel engines than on petrol / Kerosene engines does provide tax arbitrage to suppliers of diesel engines adversely affecting the suppliers of petrol/ kerosene engines.
- 3.24 On the basis of the above discussion, it can be clearly seen that there is no rationale for keeping the higher rate of GST for petrol / kerosene engines when various studies and the Hon'ble Supreme Court has sought to dis-incentivize and regulate the usage of diesel as a source of fuel.

BENEFITS OF THE PROPOSED AMENDMENTS

3.25 The extension of beneficial rate of GST @ 12% on variable speed petrol/ Kerosene engines below 15 HP will result in encouragement of sales of petrol / Kerosene engines as opposed to diesel engines. Further, lowering of rate will also result in the following advantages, which can be summarized as under:-

- i. It is in consonance with the Government policy to disincentivize use of diesel and promote use of cleaner fuels;
- ii. It will remove the fiscal discrimination against petrol / Kerosene engines which can create a major trade deterrent especially as such engines are mainly used in agricultural products which are very price sensitive;
- iii. It will result in reduction of price of Power Driven Water Pumps which are used in agricultural products;

IV. RELIEF'S SOUGHT

4.1 In terms of the rationale set out in this Representation, it is prayed that:-

- (i) The rate of GST applicable on supply of variable speed petrol / kerosene engines below 15 HP is fixed at 12% and brought at par with fixed speed diesel engines;

TRUE COPY

Annexure 2

Annexure - II

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P. (C) 10720/2017, CM APPL.43939/2017

HONDA SIEL POWER PRODUCTS LTD. Petitioner
Through: Mr. Tarun Gulati with Mr. Sparsh Bhargava,
Mr. Anupam Mishra and Mr. Nikhil Gupta,
Advocates.

versus
UNION OF INDIA & ORS. Respondent
Through: Mr. Kirtiman Singh, CGSC for R-1&2 with
Mr. Gaurav Rohilla, Govt. Pleader.
Mr. Bhuvnesh Satija, Advocate for R-3.
Mr. Anuj Aggarwal, ASC, GNCTD with Ms.
Deboshree Mukherjee, Advocate, for R-4.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

01.12.2017

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Issue notice. Mr. Kirtiman Singh, Advocate accepts notice on behalf of first and second respondents. Mr. Bhuvnesh Satija, Advocate accepts notice on behalf of third respondent and Mr. Anuj Aggarwal, Advocate accepts notice on behalf of fourth respondent.

List on 12th February, 2018.

In the meanwhile, the third respondent shall appropriately consider the petitioner's pending representations about the differential GST rates between its products and the fixed speed diesel engines.

Order *Dasti*.

S. RAVINDRA BHAT, J

DECEMBER 01, 2017/vikas/

SANJEEV SACHDEVA, J

Annexure 3

S. No.	Member state of the Fitment Committee	Comments / Recommendation
1	Uttar Pradesh	<ol style="list-style-type: none"> 1. Fixed Speed Diesel Engines (upto 15HP) are mainly used by small and marginalized farmers for agricultural purposes, primarily irrigation. These are manufactured/ assembled in Unorganized Units whereas the Petrol/Kerosene engines are used as Electricity Generators, predominantly by the upper middle-class segment, and are manufactured in well run units of Organized Sector. 2. Hence it is evident that Petrol/Kerosene engines are not used generally by farmers, and extending the same tax treatment to Petrol/Kerosene engines as that of Fixed Speed Diesel Engines upto 15HP will not be advisable
2	Haryana	<ol style="list-style-type: none"> 1. It is proposed that the fixed speed diesel engines upto 15 HP be kept @ 12% GST. While rest of the engines falling under 8408 may remain at 28%. The above-mentioned diesel engines are used in farming and therefore has been kept so aligned with the rate of tax of submersible pumps. 2. In view of the above, no change is recommended.
3	Maharashtra	<ol style="list-style-type: none"> 1. The distinction made in rate of tax between the two products are on the following criteria: <ul style="list-style-type: none"> (i) The rate of fixed speed diesel Engine upto 15HP are to be aligned with the rate fixed for submersible pumps as decided in the Fitment Committee Meeting held on 7th & 8th June 2017. (ii) The fixed speed diesel engines upto 15HP are invariably used by farmers whereas petrol / kerosene engines are not used by them. 2. The past experiences reveal that distinction made in the rate of tax on the basis of end use are always difficult to monitor and hence evasion prone. If there is no substantial revenue involved in the supply chain of petrol / kerosene engines, it would be better if we try to remove the alleged discrimination by bringing down the rate of petrol / kerosene engines to 12% i.e. at par with fixed speed diesel engines upto 15HP and submersible pumps. Also, we have in the process of rationalization of rate, recently reduced the rates in 150 odd commodities from 28% to 18%. 3. Hence, if revenue implications are not found substantial, then we can think of reducing the rate of petrol / diesel engine to 12%.
4	West Bengal	<ol style="list-style-type: none"> 1. Fixed speed diesel engine below 15HP are mostly used for agricultural purposes by farmers and the rate of tax has been fixed in alignment with the rate of tax of power driven pumps primarily designed for handling water, deep tube-well turbine pumps, submersible pumps which are also taxable @ 12%. The objective was to help the farmers by reducing the rate of tax on such sets which are largely used by them for agricultural purpose. 2. Other engines are generally used for purposes other than agriculture and as such there is no justification to reduce its rate to 12%. However, the rate of such goods (HSN 8408) can be brought down to 18%.

5*	Tamil Nadu	<p>1. Under TNVAT Act, 2006 the diesel engines were liable to tax at 14.5% under entry 44 part C of first schedule to the TNVAT Act,2006 which is extracted below:</p> <p><i>“Internal combustion engine, marine engine, diesel engine, oil engine, generator, their spare parts, other than those specifically mentioned in this Schedule.”</i></p> <p>2. As the rate of tax on Fixed Speed Diesel Engines of power not exceeding 15HP is 12% which would be applicable when used in the Diesel Engine pump sets meant for agricultural purpose, the reduction in rate of tax for other types of Engines which will not be used for agricultural purpose, may not be considered. Further, this kind of representation by individual taxpayer through Hon’ble High Court may lead to other taxpayers to seek reduction on rate of tax on other commodities and set as a wrong precedent.</p>
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Agenda Item 14(ii): Procedure to be followed for grant of *ad hoc* exemption on imports under Section 25 (2) of the Customs Act, 1962

Background

Section 25 of the Customs Act, 1962 gives the power to the Central Government to exempt generally either absolutely or subject to such conditions as may be specified in the notification goods of any specified description from the whole or any part of duty of customs leviable thereon. Sub-section (2) of Section 25 allows for exemption from payment of duties under circumstances of an exceptional nature on import of any goods on which duty is leviable.

2. The request for exemptions under Section 25(2), viz., *ad hoc* exemptions are considered and in fit cases, exemption from all duties of Customs (including BCD, CVD, SAD etc.), leviable under section 3 of the Customs Tariff Act, 1975, and cesses is granted on approval of the Union Finance Minister, or the Minister of State for Finance (if the duty involved is less than Rs 2 crore). The requests are considered in terms of guidelines framed with the approval of Union Finance Minister and issued vide circular 09/2014 - Customs dated 19th August, 2014. The guidelines cover the cases of import of goods for:

- i. free distribution of goods for charitable purposes by charitable institutions/organizations,
- ii. promoting India's foreign relations,
- iii. re-import of artefacts and memorabilia representing India's historical, cultural and art heritage,
- iv. treatment of life threatening diseases by individuals,
- v. relief and rehabilitation of people affected by natural disasters and epidemics,
- vi. medical or surgical instruments and apparatus by charitable hospitals

Current Situation

3. Post implementation of GST, imported goods are being levied an Integrated Tax under Section 3(7) of Customs Tariff Act, 1975, Therefore, an *ad hoc* exemption order under section 25 (2) of Customs Act, 1962 granting special exemption will also involve exemption of Integrated Tax to such goods. Sub-section (2) of section 6 of the IGST Act empowers the Government to exempt Integrated Tax, upon recommendations of the GST Council, by special order in each case, under circumstances of an exceptional nature to be stated in such order, exempt from payment of tax on any goods or services or both on which tax is leviable.”

4. Thus, all requests for *ad hoc* exemptions are required to be placed before the Council for exemption of IGST, based on whose recommendation, the Hon’ble Finance Minister may exempt the IGST leviable.

Proposal

5. Considering the nature of *ad hoc* exemptions covered under Section 25(2) of the Customs Act, 1962, which are given for specific consignments and are often extremely urgent in nature, such as in cases of import of goods for relief and rehabilitation in case of natural disasters, treatment of life threatening diseases etc., it is proposed that the GST Council may allow grant of *ad hoc* exemptions upon the approval of the Union Finance Minister as per the guidelines laid down in Circular 09/2014 – Customs dated 19th August 2014, as was the case prior to the introduction of GST, subject to the condition that each such *ad hoc* exemption order be placed before the Council after issue of such order.

Agenda Item 14(iii): Appointment of Deputy Commissioner as member of Authority for Advance Ruling-Amendment in Rule 103 of the CGST Rules, 2017.

The Authority for Advance Ruling (AAR) is being constituted under the provisions of a SGST/UTGST Act in terms of the provisions of Section 96 of the GGST Act, 2017. Accordingly, Section 96(2) of the SGST Act, 2017, stipulates that the AAR shall consist of two members- one member each of Central Government and State/Union Territory (UT) Government. Rule 103 of the CGST Rules, 2017, states that the members of the AAR shall **not** be of the rank **below Joint Commissioner**.

2. Manipur State and UT of Puducherry have stated that no post of Joint Commissioner exists in hierarchy in their State/UT. Accordingly, they have requested for appointing officers of the rank of Deputy Commissioner from their State/UT as the member of AAR.

3. Change in eligibility of officer from Joint Commissioner to Deputy Commissioner requires amendment in Rule 103 of CGST Rules, 2017. If State/UT is allowed to appoint officer of the rank of Deputy Commissioner, then Centre should also be allowed to appoint officer of the same rank in order to ensure equal ranked members of AAR so as to avoid administrative issues.

4. In order to consider officers of the rank of Deputy Commissioner also for appointment by Central Government and State Government as members of Authority for Advance Ruling, two options can be considered. One option is to appoint officer not below the rank of Deputy Commissioner as member of the AAR instead of Joint Commissioner. It would have uniformity in all States in terms of appointing Deputy Commissioner as members of AAR. However, if both Central and States desire they can appoint an officer in higher rank than Deputy Commissioner. Since this kind of situation exists only in few States, the second option that can be exercised is by appointing Deputy Commissioner only in such cases where post of Joint Commissioner does not exist.

5. To summarize, the two options for amending the Rule 103 of CGST Rules, 2017 are as below:

Option-I:

5.1. The Government shall appoint officers not below the rank of Deputy Commissioner as member of the Authority for Advance Ruling;

Option-II:

5.2. The Government shall appoint officers not below the rank of Joint Commissioner; or an officer not below the rank of Deputy Commissioner, where the post of Joint Commissioner does not exist, as member of the Authority for Advance Ruling.

Where Deputy Commissioner is appointed by the State Government/ UT, the Centre shall also appoint officer of same rank.

6. In view of above, the proposal is placed before the GST Council for consideration and approval.

Table Agenda

Agenda Item 14: Any other agenda item with the permission of the Chairperson.

Agenda Item 14(iv): Minutes of meeting on GST on Liquor license fee convened on 20th February 2018

A meeting to discuss GST on license fee on alcoholic liquor for human consumption under the chairmanship of Finance Secretary, Dr. Hasmukh Adhia was held on 20th February, 2018 in room No. 41, North Block, New Delhi. The list of officials who attended the meeting is **Annexure 1**.

2. The meeting began with Finance Secretary asking JS, TRU-II to give a brief outline of the subject under discussion. In his introductory remarks, JS, TRU-II stated that the States had been requesting that there should not be any GST on the license fee on alcoholic liquor for human consumption collected by them as the same is in the nature of tax and thus there cannot be a tax on tax. Also, the alcoholic liquor for human consumption is outside the purview of GST. He further added that the representatives of States of Punjab, Haryana and Himachal Pradesh suggested that the name of the license fee may be changed to “registration vend charge” which will enable them to claim exemption from GST under notification No. 12/2017-CT(R) “*Services provided by the Central Government, State Government, Union territory or local authority by way of (a) registration required under any law for the time being in force*”. He further stated that the issue was discussed in the Fitment Committee and it was opined that merely a name change of the license fee collected by States may not suffice because the machinery provisions of the law may perhaps need changes. JS further added that the Government of Telangana had promulgated an ordinance vide Telangana Ordinance No. 5 of 2017 dated 28.06.2017 for amending the Telangana Excise Act, 1968 with retrospective effect from 02.06.2014 which, *inter alia*, inserted an Explanation to Section 28 of the said Act, so as to render any fees or charges by whatsoever name called to be deemed as Excise Duty or Countervailing duty on Excisable articles levied under the said Act. By virtue of the ordinance effecting the retrospective amendment, the licence fees collected is deemed as Excise duty/Countervailing duty, and thus would not attract GST.

2.1. Finance Secretary, thereafter, asked the States to elaborate on the revenue model of collection of excise duty and license fee, the amount of license fee and excise duty collected.

2.2. **Punjab:** Sh. V. P. Singh, Excise and Taxation Commissioner, Punjab stated that the States have power under Entry 8 of the State list to regulate and control alcoholic liquor, under Entry 51 to levy duties of excise on manufacture of alcoholic liquor for human consumption and under Entry 54 to levy tax on sale of alcoholic liquor for human consumption. This is the prerogative of the States and is not amenable to GST. He stated that granting license is not a business undertaken by the State and is not for furtherance of business; it is rather regulation to control the use of alcohol. Thus, the license fee is in the form of punitive levy and is to desist the use of alcoholic liquor. There is no quid pro quo involved in the provision of license and the license fee is part of excise revenue of the State.

2.3. Sh. M. P. Singh, Additional Chief Secretary, Punjab stated that as per Punjab Excise Act, 1914 the definition of “excise revenue” means revenue derived or derivable from any payment, duty, fee, tax, confiscation or fine imposed or ordered, etc. under the provisions of this Act, or of any other law for time being in force relating to liquor or intoxicating drugs, but does not include a fine imposed by a court of law. It was stated that revenue derived from auction of liquor license is part of excise revenue of State.

2.4. **Haryana:** Sh. Sanjeev Kaushal, Additional Chief Secretary, Haryana suggested that the matter should be examined as there is possibility of litigation on the levy. He suggested that a specific entry be made in the exemption list for the FY 2017-18 in relation to license fee.

2.5. It was stated by the Finance Secretary that creating a separate entry would not be feasible. However, addressing the issue by way of a clarification may be explored. It was enquired by the FS if the issue at hand also concerned the period prior to implementation of GST, to which Sh. Kaushal replied that the service tax issue remains for the period prior to GST.

2.6. **Himachal Pradesh:** Sh. R. Selvam stated that under Service Tax, there was tax incidence of Rs 383 crore for the period 1.4.2016 to 30.6.2017. He further added that circular No 192/02/2016-ST dated 13.04.2016 clarified that taxes, duties, cesses etc. are not a consideration and hence should not attract levy of tax.

2.7. It was stated by J.S.(TRU-II) that the amendment in the Negative List so as to levy Service Tax on services provided by Government to business entities was made w.e.f. 1.4.2016.

2.8. **Telangana:** Sh. V. Anil Kumar, Commissioner Commercial Taxes, Telangana stated that the State Government had amended the Telangana Excise Act, 1968 with retrospective effect from 02.06.2014 which, *inter alia*, inserted an Explanation to section 28 of the said Act, so as to render any fees or charges by whatever name called to be deemed as Excise Duty or Countervailing duty on excisable articles levied under the said Act and thus liquor license fee charged by the State of Telangana was/is not leviable to Service Tax/GST.

2.9. **Uttar Pradesh:** Sh. Sanjay Pathak, Joint Commissioner GST, UP stated that the Excise department has minimized the license fee and therefore, most of the incidence was of excise duty. The license fee collected in 2016-17 is around Rs 1500 Cr. Sh. V. Anil Kumar added that Andhra Pradesh has also adopted similar model.

2.10. JS(TRU-II) stated that if the States are sure that the licence fee collected vide their respective statutes is in the nature of excise duty, the issue of taxability of the same would not arise. In conclusion, Finance Secretary asked the State Governments to submit reports regarding the nature of the levy on alcoholic liquor for human consumption. It was agreed that the submissions made by the officials of the various State Governments shall be placed before the GST Council to concur in the request made to issue a clarification that GST is not leviable on licenses for alcoholic liquor for human consumption. This would also apply, *mutatis mutandis*, to the demands by service tax/central excise authorities of service tax on licenses for alcoholic liquor for human consumption in the pre-GST era, i.e., from period from 1st April 2016 to 30 June 2017.

2.11. The meeting ended with a vote of thanks to the Finance Secretary.

Submissions of State Governments pursuant to the meeting held on 20th February, 2018

3.1 The Government of Punjab vide DO No. PA/ETC/2018/10 dated 26-02-2018 addressed to the Finance Secretary have stated that Punjab Government has been levying license fee, special development fee, extra license fee, etc for many decades. All the fees are defined under Punjab Excise Act 2014 as excise revenue which fact has also been upheld by the Hon'ble Supreme Court in the case of Har Shankar & Ors. Etc vs The Dy. Excise & Taxation Commissioner on 21 January, 1975.

“The rules made under section 59(d) authorize the imposition of additional fees and such authorization would operate on all licenses to be effective thereafter. We are accordingly of the opinion that the payments demanded from the appellants are lawfully due to the State Government. Such payments are ‘excise revenue’ within the meaning of section 60(1) as of the Act. Section 3(9) of the Act defines “excise revenue” to mean “revenue derived or derivable from any payment, duty, fee, tax, confiscation or fine, imposed or ordered under the provisions of this Act, or of any other law for the time being in force relating to liquor or intoxicating drugs, but does not include a fine imposed by a court of law. The payments due from the appellants holding licenses in Form L-14A are also due to the Government on account of any contract relating to the excise revenue” as provided in section 60(1)(c) of the Act. It is therefore open to the Government to recover its dues in the manner authorized by section 60.”

3.2. In view of the above, it has been asserted that GST is not attracted on these levies which are part of State Excise Revenue. Recently, some notices have been issued to some liquor licencees by GST officers demanding GST on the same. Therefore, a clarification has been requested that GST is not leviable on any fee, levy or payment received by State Governments, which form part of State Excise Revenue as per the respective State Excise Acts.

3.3. The Additional Chief Secretary, Government of Haryana, Excise and Taxation Department vide memo No. SPL-1/ST-2 dated 27-02-2018 have requested for a suitable clarification that GST is not leviable for all fees received by the State Government which is part of the excise revenue in accordance with the State excise laws. In support of their contention, they have stated that all the recoveries which constitute revenue of excise as defined in the State Excise law and as upheld by various judicial pronouncements are not subject to GST. In addition, they have contended that alcoholic liquor for human consumption is excluded from the definition of GST and instead excise is levied on the same.

3.4. Telangana, as mentioned above, has passed an ordinance No. 5/2017 dated 28-06-2017 to amend the Telangana Excise Act 1968. By virtue of this amendment an explanation to section 28 has been inserted as follows: -

*“ **Explanation:-** For the removal of doubts, it is clarified that any fees or charges by whatsoever name called, collected in pursuance of this section or clause (d) of section 22 or any other section of this Act or any rules made under this Act, from time to time, for granting any lease, license or exclusive privilege for different purposes mentioned in sub-section (a) of section 17, shall irrespective of the time, mode and manner of such collection, be deemed to be and always deemed to have been Excise duty or Countervailing duty on excisable articles levied and collected under section 21.”*

3.5. An email has been received from the Joint Commissioner, GST, Uttar Pradesh enclosing therewith a request made on GST liquor licence for exemption. However, during the aforesaid meeting, for the reasons mentioned at para 2.8 above, it was submitted that it was not really an issue for them.

4. The Council may consider and take a decision on the proposal contained in paragraph 2.10.

Annexure 1

1. Dr Hasmukh Adhia, Finance Secretary - Chair
2. Dr. John Joseph, Member (Budget), CBEC
3. Shri Sanjeev Kaushal, Additional Chief Secretary, Government of Haryana
4. Shri M.P. Singh, Additional Chief Commissioner, Government of Punjab
5. Shri Amitabh Kumar, JS, TRU-II
6. Shri V.P. Singh, Excise and Taxation Commissioner, Government of Punjab
7. Shri V. Anil Kumar, CCT, Government of Telangana
8. Shri R. Selvam, Excise Commissioner of State Tax and Excise, Government of Himachal Pradesh
9. Shri Santosh Reddy, OSD, Government of Telangana
10. Shri Sanjay Pathak, Joint Commissioner, Commercial Tax Department, Government of Uttar Pradesh
11. Shri Pramod Kumar, DS, TRU-II
12. Shri Harsh Singh, TO, TRU-II