



Agenda for 39th GST Council Meeting

14 March 2020

Volume – 1



GST Council Secretariat

Room No.275, North Block, New Delhi

Dated: 20th February 2020

Notice for the 39th Meeting of the GST Council scheduled on 14th March 2020

The undersigned is directed to refer to the subject cited above and to say that the 39th Meeting of the GST Council will be held on 14th March 2020 at Hall No.2-3, Vigyan Bhawan, New Delhi. The schedule of the meeting is as follows:

- Saturday, 14th March, 2020 : 11:00 AM onwards
2. In addition, an Officers' Meeting will be held on 13th March, 2020 at Hall No.2-3, Vigyan Bhawan, New Delhi as follows:
- Friday, 13th March, 2020 : 12:30 PM onwards
3. The agenda items for the 39th 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. Ajay Bhushan Pandey)

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

Tel: 011 23092653

Copy to:

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

Agenda Items for the 39th Meeting of the GST Council on 14th March 2020

1. Confirmation of the Minutes of 38th GST Council Meeting held on 18th December 2019
2. Update by Infosys (through GSTN)
3. Review of Revenue Position
4. Issues recommended by the Fitment Committee for the consideration of the GST Council (Recommendations by the Committee of Officers on Revenue Augmentation)
5. Issues recommended by the Law Committee for the consideration of the GST Council
 - A. Issues recommended by the Law Committee for the consideration of the GST Council
 - i. Taxability of 'economic surplus' earned by brand owners of alcoholic liquor for human consumption
 - ii. Challenges faced in apportionment of ITC in cases of business reorganization under section 18 (3) of CGST Act read with rule 41(1) of CGST Rules
 - iii. Issue regarding waiver of penalty and interest on previous period due to removal of pre-import condition under Advance Authorization scheme
 - iv. Levy of interest under the provisions of section 50 of the CGST Act, 2017 for delay in payment of tax
 - v. Proposal for waiver of filing of FORM GSTR-1 by taxpayers who have availed the special composition scheme under notification No. 2/2019-Central Tax (Rate) dated 07.03.2019.
 - vi. Filing of GSTR-9 (Annual Return) and GSTR-9C (Reconciliation Statement)
 - vii. Proposals for amendment in the CGST Rules, 2017
 - viii. Proposals for amendment in the CGST Act, 2017 and the IGST Act, 2017
 - ix. Scheme of 'Know Your Supplier'
 - x. Notifying NPCI, Transunion CIBIL Ltd. and Association of Mutual fund of India under section 150(1)(p) and Banking Information return under Section 150(1)(e)
 - xi. Proposal for Notification / Rule change for enabling AADHAAR based authentication in GST
 - xii. Clarification in respect of appeal in regard to non-constitution of Appellate Tribunal
 - xiii. Exemption for certain class of registered persons from having e-invoicing along with extension of dates for implementation of e-invoicing
 - xiv. Exemption for certain class of registered persons from capturing dynamic QR code along with deferment of implementation of QR Code
 - xv. Agenda note for GST Council regarding extension of date of GSTR 3B filing for the month of Jan, 2020 till 31st March 2020
 - xvi. Agenda note for GST Council regarding continuation of the existing system of furnishing FORM GSTR-1 and FORM GSTR-3B till the month of September, 2020

- xvii. Transition Plan in view of merger of Union Territories of Dadra & Nagar Haveli and Daman & Diu
- xviii. Deferring e-Wallet scheme and extending duty exemption for exporters
- B. Deliberations of the Law Committee in the matter of the representation by Construction Federation of India on the orders of the Hon'ble High Court of Delhi
- 6. Creation of State and Area Benches of the Goods and Services Tax Appellate Tribunal (GSTAT) for the State of Uttar Pradesh
- 7. Quarterly Report of the NAA for the quarter October to December 2019 for the information of the GST Council
- 8. Deemed ratification by the GST Council of Notifications, Circulars and Orders issued by the Central Government
- 9. Decisions of the GST Implementation Committee (GIC) for information of the Council
- 10. Decisions/Recommendations of the IT Grievance Redressal Committee for information of the Council
- 11. Any other agenda item with the permission of the Chairperson
- 12. Date of the next meeting of the GST Council

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Discussion on Agenda Items

Agenda Item 1: Confirmation of the Minutes of the 38th GST Council Meeting held on 18th December 2019

The 38th Meeting of the GST Council (hereinafter referred to as ‘the Council’) was held on 18th December, 2019 at New Delhi under the Chairpersonship of Hon’ble Union Finance Minister, Smt. Nirmala Sitharaman (hereinafter referred to as the Chairperson). A list of the Hon’ble Members/Ministers 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) who attended the meeting, is at **Annexure 2**.

2. The following agenda items were listed for the discussion in the 38th Meeting of the Council:
 1. Confirmation of the Minutes of 37th GST Council Meeting held on 20th September 2019
 2. Issues concerning GST on Lottery
 3. GST Revenue Augmentation
 - Recommendations of the GoM on Revenue Analysis and
 - Deliberations of the Committee of Officers on Revenue Augmentation
 4. Report of GoM on Real Estate on boosting real estate sector
 5. Issues recommended by the Fitment Committee for the consideration of the GST Council
 6. Issues recommended by the Law Committee for the consideration of the GST Council
 - i. Standard Operating Procedure to be followed in case of non-filers of returns
 - ii. Proposed amendments in the CGST Act, 2017
 7. Creation of Public Grievance Redressal Committee as per Hon’ble High Court of Delhi’s order in the case of Sales Tax Bar Association
 8. Status of Group of Ministers (GoMs) constituted for various agenda items
 9. Deemed ratification by the GST Council of Notifications, Circulars and Orders issued by the Central Government
 10. Decisions of the GST Implementation Committee (GIC) for information of the Council
 11. Decisions/Recommendations of the IT Grievance Redressal Committee for information of the Council
 12. Quarterly Report of the NAA for the quarter July to September 2019 for the information of the GST Council
 13. Presentation on developments regarding implementation of

- i. GST EWB System – FASTag Integration
 - ii. New Return System
 - iii. Integrated refund system with disbursal by single authority
 - iv. Generation of electronic Invoice Reference Number
 - v. Linking GST registration with Aadhaar and proposed changes in the GST Law and GSTN System
14. Clarification on GST rate on fabrics and articles of textiles falling in Chapters 56 to 59 of the tariff pursuant to the order of the Hon'ble High Court of Delhi in Writ petition (Civil) No. 597 of 2019
15. Any other agenda item with the permission of the Chairperson
 - i. Creation of the State and Area benches of the Goods and Services Tax Appellate Tribunal (GSTAT)
 - ii. Measures for Revenue Augmentation
 - iii. Addendum to Agenda Item 10: Decisions of the GIC Implementation Committee (GIC) for information of the GST Council
 - iv. Proposal for change in GST rate on woven/non-woven bags and sacks of polypropylene/polyethylene, whether or not laminated and Flexible Intermediate Bulk Containers (FIBC) from 12% to 18%
16. Date of the next meeting of the GST Council

Preliminary discussion

3. The Chairperson invited the Union Revenue Secretary and the ex-officio Secretary to the GST Council (hereinafter referred to as the Secretary) to begin the proceedings. The Secretary welcomed everyone to the 38th GST Council Meeting. He, on behalf of the Council, welcomed Shri Dushyant Chautala, Deputy Chief Minister and the incoming Member, nominated from the State of Haryana to the Council. He also welcomed the following Council Members nominated specifically for the 38th GST Council Meeting:

- i. Shri Mekapati Gautam Reddy, Minister for Industries & Commerce and Information Technology, Andhra Pradesh
- ii. Shri Jayant Rajaram Patil, Finance Minister, Maharashtra
- iii. Shri V. Hangkhanlian, Minister of Agriculture, Manipur
- iv. Shri Kyrmen Shylla, Minister for Printing & Stationery Department, Revenue & Disaster Management and Social Welfare, Meghalaya
- v. Dr. Harak Singh Rawat, Minister for Forests & Wild Life, Uttarakhand.

On behalf of the GST Council, he also placed on record its appreciation for contribution made by the outgoing Council Members, Capt. Abhimanyu (the then Minister for Excise & Taxation), Haryana and Shri Sudhir Mungantiwar (the then Finance Minister), Maharashtra.

3.1 After the preliminary discussions, the Hon'ble Chairperson asked the Secretary to take up the individual agenda items for consideration of the Council.

Agenda Item 1: Confirmation of the Minutes of the 37th GST Council Meeting held on 20th September, 2019

4. The Secretary informed that the first agenda item was the confirmation of the Minutes of the 37th GST Council Meeting (hereinafter referred to as Minutes) held on 20th September, 2019 in Goa. He stated that the Minutes was circulated to all the States in advance and some corrections had been suggested by the States during the Officers' Meeting held on 17th December, 2019.

4.1. The following three changes were proposed by the State of Odisha to the version of the Hon'ble Member from Odisha recorded in the Minutes:

- i. In paragraph 4.23 of the Minutes, to replace the presently recorded version (They also suffered loss to the tune of Rs 600 crores on account of Sales Tax.) with the following version: 'They also suffered loss of VAT to the tune of Rs. 600 crores on account of paddy and pulses.'
- ii. In paragraph 22 of the Minutes, to replace the last line (The Hon'ble Minister from Odisha suggested that there should be a check in GST System where a registered taxpayer should not be allowed to file **FORM GSTR-3B** unless he/she had file **FORM GSTR-1** in previous month.) with the following version: 'The Hon'ble Minister from Odisha suggested that there should be a check in GST System where a registered taxpayer should not be allowed to file **FORM GSTR-1** unless he/she had filed **FORM GSTR-3B** in previous month.'
- iii. In paragraph 49.4. of the Minutes, to replace the first line (The Hon'ble Minister from Odisha stated that if any taxpayer did not provide the Aadhar number, his refund should be restricted.) with the following version: 'The Hon'ble Minister from Odisha stated that if any taxpayer did not provide the Aadhar number, his refund should be restricted, till he complies.'

4.2. The Secretary stated that the UT of Puducherry had suggested a change in version recorded in paragraph 14.4. of the Minutes of the Hon'ble Member from Puducherry (He further stated that Puducherry was entitled to 71% of the IGST amount collected by the Centre.) with the following version: 'He further stated that Puducherry was entitled to 0.27% of the IGST amount apportioned to the States which would work out to Rs 219 crore.'

4.3. He also stated that in paragraph 34.9. of the Minutes, the State of Uttar Pradesh had requested to replace the words recorded as 'revenue implication' with the word 'turnover.'

4.4. The Secretary proposed that the Council may confirm the Minutes of the 37th GST Council Meeting with the changes suggested above.

5. For **Agenda item 1**, the Council decided to adopt the Minutes of the 37th GST Council Meeting with the following changes.

5.1. To replace the sentence 'They also suffered loss to the tune of Rs 600 crores on account of Sales Tax.' in paragraph 4.23. of the Minutes with 'They also suffered loss of VAT to the tune of Rs. 600 crores on account of paddy and pulses.'

5.2. To replace the sentence 'The Hon'ble Minister from Odisha suggested that there should be a check in GST System where a registered taxpayer should not be allowed to file **FORM GSTR-3B** unless he/she had file **FORM GSTR-1** in previous month.' in paragraph 22 of the Minutes with 'The Hon'ble Minister from Odisha suggested that there should be a check in GST System where a registered

taxpayer should not be allowed to file **FORM GSTR-1** unless he/she had filed **FORM GSTR-3B** in previous month.'

5.3. To replace the sentence 'The Hon'ble Minister from Odisha stated that if any taxpayer did not provide the Aadhar number, his refund should be restricted.' in paragraph 49.4. of the Minutes with 'The Hon'ble Minister from Odisha stated that if any taxpayer did not provide the Aadhar number, his refund should be restricted, till he complies.'

5.4. To replace the sentence 'He further stated that Puducherry was entitled to 71% of the IGST amount collected by the Centre.' in paragraph 14.4. of the Minutes with 'He further stated that Puducherry was entitled to 0.27% of the IGST amount apportioned to the States which would work out to Rs 219 crore.'

5.5. To substitute the words revenue implication' in paragraph 34.9 of the Minutes with the word 'turnover'.

5.6. The Secretary also requested to be allowed to formally sign the already confirmed Minutes of the 34th GST Council Meeting held under the Chairmanship of the then Hon'ble Finance Minister and Chairperson of the Council, Late Arun Jaitley, on 19-3-2019 in New Delhi so that it can be put in public domain.

Agenda Item 2: Issues concerning GST on Lottery

6. The Secretary invited Shri Manish Kumar Sinha, Joint Secretary, TRU-II to brief the agenda to the Council.

6.1. Dr. Thomas T M Isaac, the Hon'ble Minister from Kerala intervened and stated that he and few other Hon'ble Ministers had requested for discussion on the issue of compensation to the States. However, he could not find the Agenda on compensation to the States listed and enquired as to when would the same be discussed. Shri Manish Sisodia, the Hon'ble Deputy Chief Minister of Delhi concurred with the views of the Hon'ble Minister from Kerala and stated that the agenda should have been listed and if not, then at least the reasons for not including the same may be informed. Shri Sushil Kumar Modi, the Hon'ble Deputy Chief Minister of Bihar stated that the compensation to States issue could be discussed along with Agenda Item 3 which would cover the issue of compensation to the States also. Dr. Amit Mitra, the Hon'ble Minister from West Bengal stated that the States had given up their taxation matters in the GST and, therefore, it was imperative to discuss compensation to them. Shri Manpreet Singh Badal, the Hon'ble Minister from Punjab stated that the agenda on revenue position should be discussed in every meeting as a part of agenda. The second issue he highlighted was regarding activating the dispute resolution mechanism which had been provided by the Constitution that the Council would establish a mechanism to adjudicate any dispute arising out of the recommendations of the Council or implementation thereof.

6.2. The Hon'ble Minister from West Bengal stated that the like Centre, the States had also surrendered many of their powers related to taxation so as to roll out GST regime. He recalled that prior to formation of GST Council, one of the reasons for which the Empowered Committee of Finance Ministers had agreed to GST regime was due to the binding nature and number of years for which compensation was agreed to be paid to States by the Government of India in case of revenue shortfall. However, he observed that for the first time, the compensation to States for August-September had been delayed for whatever reasons. The key point of the concerns expressed by the States and the desired agenda item was regarding the mechanism, periodicity, problems, prospects and the solutions related to

compensation to the States so that it becomes a consistent pattern as it has been so far. Shri T.S. Singh Deo, the Hon'ble Minister from Chattisgarh stated that time and again we had reminded ourselves about the federal nature of our polity and the constitution of GST Council. Therefore, the States should be reassured again as to what was the status of the single Member State and if a State had any issue and raised it to be included as an agenda, did it not merit a response. He further requested the Chairperson to reassure the Members that the issues which were of obvious importance would be taken up. The Hon'ble Minister from Kerala stated that the suggestion made by the Hon'ble Deputy Chief Minister of Bihar was acceptable and the issue of compensation to States could be clubbed along with Agenda item 3. The Hon'ble Chairperson stated that there was absolutely no hesitation in discussing this issue; that she would like to quell any worry that Centre did not want to discuss compensation. She added that it had been told to her that the issues on revenue augmentation was discussed during the Officer's Meeting held on 17th December 2019 and a presentation was to be made in this regard as part of Agenda item 3 and compensation issues would be discussed as part of that Agenda in an elaborate manner. The Council agreed to discuss the issues related to revenue and compensation in Agenda item 3 and continued with discussion on issues concerning GST on Lottery.

6.3. The Joint Secretary, TRU-II (JS, TRU-II) initiated the discussion with a presentation (attached as **Annexure 3**) on this agenda item by stating that it was essentially the proceedings till date of the GoM on Lottery headed by Shri Sudhir Mungantiwar, the then Hon'ble Finance Minister of Maharashtra and associated litigations. The issues referred to GoM on Lotteries were GST rate on supply of lottery; ensuring destination principle for supply so that GST revenue accrued to the consuming State; valuation principles to be adopted for charging GST; addressing the Constitutional challenge to levy of GST on Lottery as 'Goods'; regulation of online lottery; and miscellaneous issues related to Casinos, Horse Racing and Online Gaming. He further stated that the issues currently pending before the GoM were the GST rates on supply of lottery and miscellaneous issues related to Casinos, Horse Racing and Online Gaming.

6.4. He added that the recommendation of the GoM to the 33rd GST Council Meeting held on 24.02.2019 were that a single rate of GST should be levied on lottery instead of existing two rates and as lottery was a sin and demerit good, it should be taxed at the higher rate of 18% or 28% to be decided by the GST Council. However, no final decision could be taken in this regard and the Council requested GoM to further deliberate on the issue. He added that in the GoM, finality could not be arrived on the issue due to different stance of the States. He stated that while Assam, Arunachal Pradesh, Goa and Maharashtra supported single rate of GST, the States of Kerala, Punjab, West Bengal and Karnataka supported the existing two rates of GST on lottery. Therefore, the convenor of the GoM directed that the matter be placed before the GST Council for appropriate rate structure on the supply of lottery. JS, TRU-II, recapitulating the issue of tax rates, stated that the recommendations of GoM presented to 35th GSTC Meeting on 20.06.2019 were as follows:

(i) There was no consensus on the need for a new rate of GST on lottery. Assam, Arunachal Pradesh, Goa, Maharashtra supported single rate of GST. However, Kerala, Punjab, West Bengal and Karnataka supported the existing two rates of GST on lottery. Punjab was willing to consider lower uniform rate, if there were legal difficulties with rate differential. Therefore, the Convener of the GoM directed that the matter be placed before the GST Council and the Council decide appropriate rate structure on the supply of lottery. Given that this is a sin good, rate of tax should be high i.e. 28% or 18%.

(ii) The constitutional challenge to the dual rate structure should be defended forcefully.

The JS, TRU-II stated that in the 35th GST Council Meeting held on 20th June 2019, the Council was directed to seek legal opinion from learned Attorney General of India as to whether differential rate could be levied on lottery and whether it would violate Article 304 of the Constitution. He drew the attention to the opinion furnished by the learned Attorney General of India that there would be no impediment arising from the Constitution of India to the levy of a uniform rate of GST on ‘State Run Lotteries’ and State Authorised Lotteries’; that Article 304 of the Constitution of India had no bearing on the levy of differential GST on ‘State Run Lotteries’ and ‘State Authorised Lotteries’; and that these two lotteries could be treated as different goods.

6.5. The JS, TRU-II also drew attention to a Writ Petition (C) No. 961/2018 filed in the Hon’ble Supreme Court relating to levy of GST on lottery on the grounds that GST could not be levied on lottery ‘as goods’; GST on lotteries should be imposed after excluding the prize money component of the lottery ticket since the said amount never formed part of income in the lottery trade; and levy of GST on lottery at two different rates was in violation to the Constitution of India and all lotteries might be taxed at a uniform rate. He further stated that the learned Additional Solicitor General, Shri Vikramjit Bannerji had informed Department of Revenue that the Hon’ble Supreme Court had adjourned hearing of the petition to 15.01.2020 after giving final opportunity to the Group of Ministers/GST Council to decide on the issues agitated in the petition. In view of the above, he requested the GST Council to take decision on the issue of GST Rate on lottery, i.e., (a) whether a uniform rate of GST be levied on lottery? (b) If yes, what should be the rate of GST on lottery, 18% or 28%? (or any other rate). Further, he stated that the following issues might be referred to Law Committee to address the associated issues.as these issues were not part of the original terms of reference of the GoM: -

Supply	Request made by the Industry
Casinos	Value retained by a Casino after winnings as taxable value
Horse Racing	Value retained by a club after giving prize money as taxable value
Online Gaming	Value retained by an online platform after giving prize money as taxable value

6.6. The Hon’ble Chairperson requested the Hon’ble Members to give their views on the proposal.

6.7. The Hon’ble Minister from Kerala stated that in the 35th GST Council Meeting held on 21st June 2019, he had circulated a 15-page note where he had explained the rationale of differential treatment of the two types of lottery i.e. ‘State Run Lottery’ and ‘State Authorised Lottery’ in terms of actionable claims. He stated that the Council after long deliberation decided the current differential rate structure of 12% and 28% and that this position had been upheld by the Hon’ble High Court of Kolkata. Therefore, in his view, there was no need of a uniform rate on the two types of lottery. He also stated that he did not have the political mandate to change his stand and the Council might call for division and decide the issue of differential treatment of the lotteries. Dr. Himanta Biswa Sarma, the Hon’ble Minister from Assam stated that there had been enough debate on this issue. He added that he appreciated the views expressed by the Hon’ble Minister from Kerala but the North Eastern States too had their own view point on the issue. He stated that Kerala Government run its own lottery (State Run Lottery); however, the North-Eastern States did not have requisite infrastructure to run their own lotteries. Therefore, they had to outsource it to someone to run their lotteries. He likened it to State-operated bus service where the State also outsourced the bus service to private agencies to operate it

under the State's banner and the consumer did not have to pay differential rate for using the bus services irrespective of it being State run or State authorised. Similarly, there was no difference between the two kinds of lotteries. He added that irrespective of the argument of continuing the differential rate structure on lotteries, by having two different GST rates on lotteries, North-Eastern States were being discriminated. Therefore, he supported a Division to decide the issue. He also added that as lottery was a sin good, the GST rate might be pegged at higher rate of 28%.

6.8. Shri Mauvin Godinho, the Hon'ble Minister from Goa stated that this issue had been debated enough in the Council. He observed that even though the lotteries were classified as State Run and State Authorised, it could not be run privately. He had no doubt that irrespective of the fact that lottery was State Run or State Authorised, the lottery was one good and not two different goods, and therefore, they should attract the same rate of tax. He stated while the matter was under consideration in the Hon'ble Supreme Court, the Council was required to formulate its response as well. He stated that like the North Eastern States, the State of Goa was also losing because of the differential GST rates on lotteries. He also drew attention of the Council to the fact that a higher rate of 28% on lottery might lead to a legitimate business going underground and instead of lottery, people might start indulging in illegal things such as '*Satta Bazaar*' '*Matka*'. Therefore, he cautioned the Council while deciding the GST rate on lottery. On the issue of casino, he stated that the GoM could not deliberate on the issue of casinos that was referred to it by the Council and requested the Council to refer the matter to the Law Committee. He informed the Council that consequent to action by GST Intelligence Unit from Hyderabad, casinos in the State of Goa were on the verge of closing down, because GST was sought to be levied on the full amount, including the prize money instead of the gross gaming revenue. He requested that concerned authorities might be advised to wait till the issue got settled. The Hon'ble Minister from Goa concluded by saying that till now every decision was taken by consensus in the Council and all the Members were bound by it. He added that one should not distance oneself from decisions of the Council as the revenue collection fell during the slowdown in economy. The camaraderie and spirit of Council should be as it had been.

6.9. Shri Nitinbhai Patel, the Hon'ble Deputy Chief Minister of Gujarat stated that in GST we had implemented the principle 'One Nation, One Tax' and the differential rates of 12% and 28% on Lottery was not in line with the principles of GST. He stated that when the Hon'ble Supreme Court of India had required us to give an opinion by 15.01.2020 then the Council should decide on the issue. He also observed that till now all the decisions related to GST had been taken by consensus in the Council and till now it had never happened that a decision was taken by the Courts instead of the Council. He also stated that till date none of the decision on any issue had been done by division and requested the Council to decide something on the issue in hand by consensus again. He stated that in his view one standard rate could be prescribed for lottery. Further, as lottery was a sin good, it should attract higher GST rate of 28% so as to increase revenue for the Centre and the State simultaneously. The Hon'ble Deputy Chief Minister of Delhi requested JS, TRU-II to reiterate the advice furnished by the learned Attorney General of India. The JS, TRU-II stated that the Learned Attorney General had clarified that the two types of lottery could be intelligibly classified as two different goods but he also clarified that there was no bar in keeping the rate uniform. Thereafter, the Hon'ble Deputy Chief Minister of Delhi stated that two perspectives were being discussed on the issue, the first being in line with national interest for lottery being a sin good and the second was regarding augmentation of revenue by raising the GST rate on lottery. He added that on the first perspective, even if it was not domain of the Council, but he felt that for the sake of the country. With respect to the second perspective on revenue and it appeared that the revenue generated from lottery for one State clashed with the other. He stated that the Learned AG's opinion was not very clear, the GoM on Lottery had not given any categorical

recommendation and that the issue had been going on in Hon'ble Courts for a while. In this backdrop, he stated that he supported status quo to be maintained.

6.10. Shri Suresh Kumar Khanna, the Hon'ble Minister from Uttar Pradesh stated that the matter should be decided by consensus instead of division of votes and that supply of lottery should attract a uniform rate of 18% or 28%. Shri V. Narayansamy, the Hon'ble Chief Minister of Puducherry stated that the issue of GST on lottery had been deliberated in various Council Meetings. He stated that the differential rate on 'State Run Lottery' and 'State Authorised Lottery' was arrived after long deliberation in the Council. He added that in his view, a State authorising private parties to run its lotteries, taxed at higher GST rate, should not dictate terms to other States running their own lotteries taxed at lower GST rate and that it would be illogical and unacceptable. Therefore, in his view, they could continue to attract two different GST rates.

6.11. The Hon'ble Minister from West Bengal stated that his State had only paper lotteries i.e. 'State Run Lottery' and 'State Authorised Lottery', which were taxed differentially at 12% and 28% of GST rate respectively. Further, the State of West Bengal had banned online lottery and only paper lottery was there. He informed that the differential rates had been upheld by the Hon'ble High Court of Kolkata. He added that the lower tax rate of 12% on State Run Lottery was an incentive for people to buy it instead of the privately-run State Authorised Lotteries. Therefore, he wondered as to whether to continue the status quo or do away with dual rate and have a uniform rate as decided by the Council with the view of increasing revenue. However, he too preferred for status quo to continue and that the Council should try to reach to a decision by consensus and not by having division on the matter. The Hon'ble Deputy Chief Minister of Bihar stated that GST Council had been discussing this issue since long. He added that as stated by some of the Members, Goa and the North-Eastern States had been losing revenue due to this differential rate while they did not have many other sources of revenue. He observed that most of the States had given their opinion on the issue and the mood of the Council could be ascertained. He stated that personally he was of the opinion that Lottery should be banned across the country as it was a sin good. However, in the given context he supported a uniform higher rate for lotteries. He called upon the Council Members to move from 'unanimity' (*sarvaanumati*) to 'consensus' (*sarvasahmati*) and also to not insist for division of votes on the proposal.

6.12. Shri Metsubo Jamir, the Hon'ble Minister from Nagaland stated that the Hon'ble Member from Assam and Goa had explained the problems of North Eastern States and the smaller States vis-à-vis differential rates of GST on the two types of lotteries. He added the issue was not about lottery here, but the fact that because the apex body on GST matters i.e. GST Council was unable to take a decision on an issue and therefore, the Hon'ble Supreme Court would have to intervene in the matter based on litigation. While he appreciated the diversity of opinion among the Council members, he also stated that the outcome from today's meeting would reflect upon us and therefore, he felt that this body should make a decision in the matter. The Hon'ble Minister from Chattisgarh stated that in his view the issue did not seem to be of principles. He felt that the solution seemed to be struck in getting a particular viewpoint across. He observed that the State of West Bengal had two rates and were not being contested by the State; learned AG's opinion did not say that two rates were not allowed as per the Constitution. Therefore, he suggested to wait for the Hon'ble Supreme Court's decision in the matter. He also opined that the Council should continue with the tradition of decision by consensus instead of decision by majority.

6.13. The Hon'ble Minister from Assam stated the differential rates on State Run Lottery and State Authorised Lottery across the country was due to the decision of the Council. He stated that the North Eastern States lotteries did not have market in Kerala so they did not operate there whereas in West

Bengal by virtue of it being a neighbouring State the State Run Lottery of West Bengal and the State Authorised Lottery of North Eastern States operated in each other's region. Therefore, it was not that the North Eastern States had accepted something in West Bengal and not accepted in Kerala. He added that State Authorised Lottery of the North-Eastern States were unable to compete with State Run Lottery on account of higher differential rates on the former. He stated that the revenue accruing from Lottery for the larger States might be insignificant overall but for the smaller States of the North-Eastern region, the lottery revenue was very vital. He requested the Council Members and the Chairperson to accommodate the aspirations of the North-East, and if not then at least allow them to vote on the matter.

6.14. The Hon'ble Chief Minister from Puducherry added that even on the contentious issues, the Council had arrived at decisions by give and take and by consensus. Therefore, he requested the States demanding division and the Council Members to reconsider and not deviate from the tradition. He wondered as to what if the Council decided something on the matter and the same got challenged/decided otherwise in the awaited decision of the Hon'ble Supreme Court. Therefore, he suggested to arrive at any decision by consensus. Shri Dushyant Chautala, the Hon'ble Deputy Chief Minister of Haryana stated even though lottery was banned in Haryana, but since it was a sin good, it should be taxed in highest rate slab. He also stated that in line with tradition of the Council and its smooth functioning, it would be better if the matter could be decided by consensus instead of division of votes.

6.15. The Hon'ble Minister from West Bengal stated that the State Authorised Lotteries of North-Eastern States competed very well with State Run Lottery in the State of West Bengal. He observed that almost 92% of the revenue accruing to the State of West Bengal was from lotteries were generated from State Authorised lotteries. (This is shown in page 138 of the Detailed Agenda Notes - Volume.1). He observed that many States did not have paper lottery or might had only online lottery. Therefore, he suggested that the States where lottery was not banned might be allowed discretion on whether they wanted a dual rate or uniform single rate. The Hon'ble Minister from Punjab stated that they have no opinion in the matter. However, since some of the States were suggesting division, he wished to suggest a solution of levying GST rate of 12% and 18% on State Run Lottery and State Authorised Lottery. Thus, reducing the gap to only 6% between them. Perhaps, apart from levying GST, compensation cess could also be levied on lottery, as it was a sin good.

6.16. The Hon'ble Minister from Kerala once again stated that there were political compulsions as to why he could not agree to a single rate on lottery because they did not want private operators/intermediaries to come to Kerala. As regards the loss of revenue from lottery to the North Eastern States, he reiterated his proposal made during the previous Council Meetings to the States of North-East region to run their lottery and give them a better return than any private operator. He stated that the Council in its wisdom might decide on the issue and requested for division on the issue. The Hon'ble Minister from Assam clarified that his State did not run any lottery, nor did it allow any lottery to be operated, except in the autonomous region of Bodoland, where lottery was being run in four districts. However, he was fighting for *ashmita* of the people of North East. He stated that the crux of his submission was that the North Eastern States should not be discriminated and the path to integration of North East States with main stream India should be welcomed. Therefore, he submitted that the Lottery might be banned across the country since it was a sin good but as long as lottery trade was allowed, the North Eastern States should not be discriminated. He also stated that, if needed, the Council in its wisdom might decide the issue by division of votes.

6.17. Shri Brajendra Singh Rathore, the Hon'ble Minister from Madhya Pradesh stated that lottery was banned in his State. However, since the matter was already under consideration in the Hon'ble

Supreme Court, the Council might await the decision of the Hon'ble Court and defer its decision to next meeting. Shri D. Jayakumar, the Hon'ble Minister from Tamil Nadu stated that though his State did not run any lottery, he supported a uniform GST rate on lottery. Shri Chowna Mein, the Hon'ble Minister from Arunachal Pradesh stated that as one of the Member of the GoM on Lottery, they had earlier recommended to have a uniform GST rate on State Run Lottery and State Authorised Lottery and he reiterated the same. He further stated that they endorsed the views expressed by the Hon'ble Minister from Assam with respect to the North East. Shri Jishnu Dev Varma, the Hon'ble Deputy Chief Minister of Tripura stated that though his State also did not have any lottery, he also supported a single rate of lottery as the North Eastern States were smaller States with limited resources and they should have parity with the mainland States. Shri V. Hangkhanlian, the Hon'ble Minister from Manipur stated that even though they did not have lottery, still they also supported single GST rate on lottery. Shri Lalchamliana, the Hon'ble Minister of Mizoram also supported the views of Hon'ble Minister from Assam for the North Eastern States. He stated that their State also supported single GST rate on lottery.

6.18. Shri C P Singh, the Hon'ble Member from Jharkhand stated that his State had no lottery and he was of the opinion that lottery should be banned in the entire country. However, he supported uniform GST rate on lotteries. Shri Basavaraj Bommai, the Hon'ble Minister from Karnataka stated that his State ran no lottery. However, based on discussion in the Council, it appeared to him that there were two sets of States i.e. those who allowed the lottery and those who did not allow the lottery. He suggested that those who allowed lottery might be allowed to take any view in the matter after taking into consideration the view of stakeholders. Shri T. Harish Rao, the Hon'ble Minister from Telangana stated that the mood of the House was very clear with many States wanting to have a uniform GST rate on lotteries and requested the Hon'ble Minister from Kerala to not insist for division.

6.19. The Hon'ble Chairperson requested for final views of Hon'ble Council Members from the States of Assam and Kerala upon hearing the views of the other Council Members about the division and consensus in the process of decision making. The Hon'ble Minister from Kerala stated that he did not mean any insinuation but the issue on lottery was brought before the Council based on the representation made by lottery association and that he could not make a compromise on the issue. Therefore, the Members could proceed with Division as per the rule. The Hon'ble Minister from Assam stated that he too had expressed his views and he was alright with Division of votes for decision on the issue. The Chairperson clarified/stated that many issues were discussed in the GST Council at the request of some or the other association. She hoped that there was no question of any *mala fide* in the matter and the same was not implied in the Hon'ble Member from Kerala's statement. She once again asked the Members as to whether the Council should proceed as per the sense of the House or sought a Division. The Hon'ble Member from Goa suggested that Hon'ble Council Member from Kerala could put a note of dissent and the Council could proceed as per the sense of the House. However, the Hon'ble Minister from Kerala stated that the regulations framed by the GST Council for the conduct of its business provided that in case any Member sought division on any proposal then the same had to be agreed upon. The Hon'ble Chairperson with a view to re assess the sense of the Council asked the Members as to what should be done. The Hon'ble Members from many States including Uttar Pradesh, Gujarat, Bihar, Puducherry, Haryana, Uttarakhand Goa etc. stated that so far, we had run the Council by consensus and we should try to continue the same. The Hon'ble Minister from West Bengal suggested that if the Council felt that it would let the States do what they had with respect to taxation on lottery or change it as they wished. It could lead us to the solution of this impasse. The Hon'ble Chairperson once again on the behalf of the Council appealed to the Hon'ble Minister from Kerala to reconsider his demand for division. However, the Hon'ble Member from Kerala insisted on division.

6.20. The Hon'ble Chairperson requested the Secretary to follow the rules in this regard. The Secretary then read out the relevant Rule 14 i.e. 'Decision on proposals' in Chapter V from the Procedure and Conduct of Business Regulations of the Goods and Services Tax Council to the Members of the Council which reads as follows:

'All proposals before the Council shall be discussed threadbare. Thereafter, the Chairperson shall put the question and invite the Members of the Council to cast their votes by show of hands. In case Member seeks division on any proposal, the Chairperson shall put the proposal to vote through secret ballot'

The Hon'ble Chairperson directed the Secretary to conduct the proceedings accordingly. Thereafter, the Secretary put forth the question before the Council to vote i.e. "Do you support the proposal to levy a uniform rate of tax on State Run Lottery and the State Authorised Lottery?". Then the Secretary requested the Hon'ble Members to indicate their decision by the show of hands if they supported the proposal. The Secretary then read out the names of the States who voted for the proposal. The 21 States, namely: the States of Arunachal Pradesh, Assam, Manipur, Mizoram, Nagaland, Sikkim, Tripura, Bihar, Goa, Gujarat, Haryana, Himachal Pradesh, Jammu & Kashmir (UT), Jharkhand, Karnataka, Uttar Pradesh, Uttarakhand, Andhra Pradesh, Odisha, Tamil Nadu and Telangana raised their hands in favour of the proposal. Then, the Secretary requested the Hon'ble Members who were against the proposal, to raise their hands. The Secretary read out the names of the States who voted against the proposal. The 7 States, namely: Puducherry (UT), Kerala, Maharashtra, Madhya Pradesh, Chhattisgarh, Delhi (UT) and West Bengal voted against the proposal. The States of Punjab, Rajasthan and Meghalaya did not cast their votes. The Secretary then pronounced that in accordance with the Procedure and Conduct of Business Regulations of the Goods and Services Tax Council, of the 28 States present and voting, 18 votes were required for passage of the proposal. He informed that 21 States had voted in favour of the proposal and therefore, the proposal to levy a uniform rate on lottery had been passed in GST Council.

6.21. The Hon'ble Chairperson of the Council thereafter asked the Council Members as to what GST rate should we apply on lottery. The Hon'ble Deputy Chief Minister of Bihar stated that because lottery was a sin good, it should attract 28% GST along with cess. The Hon'ble Minister from Punjab cautioned that the drawback of high rate on lottery would be an increase in illegal market business. The Hon'ble Minister from Kerala stated that the highest rate should apply because the benefit of rate reduction would go to the middlemen. The Hon'ble Ministers from Goa, Assam, Puducherry, Delhi, West Bengal, Maharashtra, Uttar Pradesh, Haryana and Arunachal Pradesh supported the levy of 28% GST. The Hon'ble Minister from Telangana and Goa stated that the issue of taxation on horse racing and Casino were yet to be finalised, while Andhra Pradesh supported 28% GST on lottery. The GST Council thereafter decided to levy 28% GST on lottery by consensus. The Hon'ble Minister from Telangana also requested the Chairperson to include the State of Telangana in the GoM on Lottery. The Hon'ble Minister from Kerala requested for grace period of two months for implementing the new rate of 28% so as to enable printing of fresh lottery tickets and exhaust the already printed lottery tickets. The Secretary proposed that the Council may approve that 28% rate of lottery would apply from 01.03.2020.

7. For **Agenda item 2**, the Council decided to apply a single uniform rate of 28% on supply of State Run Lottery as well as State Authorised Lottery with effect from 01.03.2020.

7.1. The Council also decided to refer the pending matters relating to casino, horse racing and online gaming to the Law Committee/Fitment Committee.

Agenda Item 3: GST Revenue Augmentation

Recommendations of the GoM on Revenue Analysis and

Deliberations of the Committee of Officers on Revenue Augmentation

8. The Secretary requested the Hon'ble Deputy Chief Minister of Bihar, the Convenor of the GoM on Revenue Analysis to present the recommendations of the GoM to the Council. The Hon'ble Deputy Chief Minister of Bihar mentioned that the GoM had observed that the revenue gap for the period April 2019 – August 2019 had increased for almost all the States compared to the period April 2018 – August 2018 and that most States had growth rate of less than 14% in pre-GST period. He further stated that the GoM had made the following recommendations:

- i. States should be asked to suggest ways to improve the GST compliance.
- ii. A study should be conducted on rationalisation of GST rates/ tariff and merger of GST slab;
- iii. GST collection from real state sector should be analysed;
- iv. How States can be better equipped to harness the tax potential on supplies of services;
- v. A detailed study should be conducted on e-Commerce including deep discounts offered by them with a view to augmenting revenue;
- vi. A study should also be conducted to explore avenues for expanding the scope of the Cess being levied including increase in the Cess rate or bringing some new items under the levy of Cess.

8.1. The Hon'ble Deputy Chief Minister of Bihar called upon Joint Secretaries, TRU-I and TRU-II to initiate the discussions on the agenda item concerning revenue analysis. The presentation (attached as **Annexure 4**) was made jointly by JS, TRU-I and JS, TRU-II. The JS TRU-I initiated the presentation by stating that a Group of Ministers' Meeting on analysis of revenue from GST took place on 09.11.2019 at North Block, New Delhi. Further, a Committee of Officers consisting of Central and State Governments officials was constituted to consider looking into areas such as measures to improve voluntary compliance, measures for expansion of tax base, systematic changes in GST including checks and balances to prevent misuse, policy measures and relevant changes needed in the law, improved compliance monitoring and anti-evasion measures using better data management and better administrative coordination. Further, a letter from GST Council Secretariat was also circulated to States and Central officials inviting suggestions/input/proposals as regards measures on compliance as well as rates, to help in augmenting revenue including suggestions on, review of items currently under exemption; GST and compensation Cess rates on various items; rate calibrations for addressing the inverted duty structure; compliance measures other than those currently under implementation; and any other measure to augment revenue. A meeting had also been convened of the Committee of Officers to suggest measures to augment GST revenue collection and administration on 10.12.2019 where valuable inputs had been obtained from the SGST officials. Several States had also provided written suggestions on the above.

8.2. Continuing the presentation, JS, TRU-II stated that monthly GST collection in the year 2019-20 was higher than that of 2018-19 except during the months of September, 2019 and October, 2019. He stated that the revenue in the month of November, 2019 was more than that of November, 2018 and the short period of negative growth in GST collection was already over. The JS, TRU-I stated that while the growth rate of GST collection for April, 2019 – November, 2019 on domestic supplies was 8.3%, the same for IGST collection on import of goods showed a decline of 7.2%. He stated that imports have witnessed compression as well. He further stated that the combined growth rate (GST and Cess collection on domestic supplies and imports) was 3.7% which was less than the expected rate of growth.

He presented the projection of requirement for compensation when growth rates were assumed at 5%, 8% and 10%. He stated that while in the previous two financial years, the Compensation Cess collection was more than its requirement, in the next two years, the gap was likely to be widened, depending on the growth rate. He presented compensation requirement gap under various growth rate scenarios. The JS, TRU-I then proceeded with the presentation on the evolution of the GST rate structure, the recommendation regarding the revenue-neutral rate made by the Committee headed by the then Chief Economic Adviser (CEA) and a recent report of RBI on the decline in weighted average (effective) GST rate since before May 2017 till September 2019. He also stated that the RNR estimated by the Committee headed by the then CEA, made certain assumptions about collection efficiency post-introduction of GST which is higher than that in the past, and comparable to or higher than some other jurisdictions. It was, thereafter, highlighted about actual collection of GST (excluding Cess) at different rates, which showed that the taxable base attracting 5% and 12% slabs were significant. The presentation also listed out some of the major items at 5% and 12% slabs and exempted items. He then dwelt upon the manufactured goods which suffer inverted duty structure on account of lower rate while the inputs attracted higher GST rate, which has resulted in refunds estimated at about Rs.20,000 crore in a year. Suggestions received for augmenting revenue from some of the States were thereafter highlighted. Finally, in the slide on the requirement of Cess, the Cess gap and the extent to which compensation requirement was covered under the various revenue growth rates scenario was presented by JS, TRU-I.

8.3. The Hon'ble Deputy Chief Minister of Delhi stated that the presentation did not reflect the timelines for bringing about invoice matching and implementation of HS codes. The Secretary clarified that requirement to upload invoices in **FORM GSTR-1** was being fulfilled by the requirement that the gap which was presently admissible in the ITC allowed to be availed and the dealers' invoices uploaded was restricted to 20%. This would be discussed as an Agenda Item 15 (ii) under measures for revenue augmentation.

8.4. The Hon'ble Minister from Kerala stated that projections of revenue and compensation Cess collections had to be based on the rate-structure, the compliance levels and the current slow-down in the economy. These three factors would determine the compensation gap and thus, a simple linear projection might not give the complete picture. He stated that there was a short-term problem that had created this gap. He highlighted that the then Chairperson of the GST Council, Shri Arun Jaitley had stated in one of the Council Meetings that GST Council could borrow to fund the compensation Cess requirement and also decide to extend it from 5 years to 6 years. The problem would arise around February, 2020. He then wanted to know as to why there was a delay in disbursement of compensation Cess when money was available. He stated that the bi-monthly disbursal of compensation was backed by the law. This problem could recur and this would lead to non-fulfilment of expenditure requirement by the States. He further highlighted that in the 7th GST Council Meeting, an assurance was given by the then Chairperson, which had been duly minuted.

8.5. The Hon'ble Minister from West Bengal enquired about the expected rate of growth and stated that they would first like to understand and examine all the information provided in the presentation and then react. Ultimately, all this was a function of the political economy of the country. He stated that regarding compensation, the Centre might confirm the frequency of compensation disbursal for the future, so that the States were assured of their fiscal space.

8.6. The Hon'ble Deputy Chief Minister of Delhi stated that GST rates structure should not be tinkered with and instead focus should be there on utilizing all the tools available to increase compliance level. He further stated that as per the information provided in the 37th GST Council Meeting held on

20th September 2019 in Goa, around Rs. 35,000 crore was lying in the compensation cess account and another Rs. 5000 crore were added to the account during last few months taking the total to around Rs.40,000 crore. He enquired as to why the disbursement of this amount was delayed when sufficient amount was available in the fund. Of the monthly budgeted requirement of about Rs. 5,000 crore, Delhi Government gets about Rs.2,500 crore from GST. He stated that since the compensation amount formed a significant part of the State's budget requirement every month, it was important to know the reason for the delay in disbursement.

8.7. The Hon'ble Minister from Chhattisgarh enquired as to whether it would be prudent to raise taxes when the economy was slowing down. He also wanted to know if we had data projections with respect to national levels of consumption of goods, for instance edible oil. According to him, it was imperative to have consumption data at the national level in respect of goods and services before discussing the GST rates. He wanted to know as to why the States were being compensated, and to his mind, this was on account of the fact that the GST rates had been slashed vis-à-vis the erstwhile applicable VAT rates. There was a lacuna in realization and according to him the realization potential under the existing rates structure should be exhausted and thereafter only should we resort to increasing the GST rates.

8.8. The Hon'ble Minister from Uttar Pradesh stated that in the VAT system, the revenue accruing to his State from Pan Masala was around Rs.1,500 crore while in GST it was Rs. 500 crore, implying a Rs.1000 crore deficit in this product alone. He further stated that in case of brick kilns too, the State was observing a decrease in tax realization from Rs.550 crores in VAT regime to Rs.75 crores in GST regime. He stated that all such anomalies in different products might be observed and be corrected through capacity-based levy or such methods. He further requested that Uttar Pradesh should be included in the Group of Ministers on Analysis of Revenue from GST. He further stated that while the parts of mobile phone were charged at 18%, the finished product of mobile phone was charged at 12%. He stated that such anomalies might also be corrected in a way to ensure the revenues for both the States and the Centre. He stated that the States of Uttar Pradesh did well in GST regime and that they were optimistic that the States would continue to do well in the future. Ideally, the GST rate should take care of 10% increase in the VAT collections.

8.9. The Hon'ble Minister from Punjab stated that we had reached mid-way in the assured compensation regime. He highlighted the fact that the rates were predominantly decided in the 14th GST Council Meeting held on 18th & 19th May 2017 in Srinagar. Further, in the subsequent meetings, there had been several rate reductions without sufficient discussion which compromised the revenue of the Centre as well as the States. He stated that if the revenues were not balanced quickly, the consensus might disappear in the GST Council. Shri V. K. Garg, Advisor, Financial Resources to Chief Minister, Punjab drew attention of the Council to the fact that several reports had made recommendations on the GST rates structure till the inception of GST and had made varying recommendations on the rates structure. He further stated that GST was collected as a tax on final consumption, so tax on intermediate products did not matter except when such products were used in making exempt supplies. Therefore, supposing it was assumed that all the steel produced in the country was used in making automobiles, then the GST rates structure on steel did not matter; this was for the reason that the GST rate on automobile would end-up collecting the due GST on its raw material which was steel. He stated that when looking at the revenue from each of the rate slabs, we were looking at the GST collections from the first stage of revenue, not at the stage of consumption. He stated that for the last two years, the rates which were reduced were the rates at the stage of final consumption to appease the sensitivity of the consumer. He clarified that the reduction in rate on final consumption goods or white goods like paints, resulted in a fall in revenue collections which was more than what was initially apparent. He further

underscored the point that the fall in GST revenue was not on account of economic slowdown alone, but due to rate reduction/structure.

8.10. The Hon'ble Minister from Karnataka stated that immediate course correction was necessary to meet the gap in revenue collection. The options available to cover the compensation gap were to either increase the Cess base or the Cess rate. He stated that item-wise rate review should be made to improve revenue collection, with a focus on core sectors and their cascading effect. He further stated that State-specific corrections could also be looked at and be presented to the Centre.

8.11. The Hon'ble Minister from Assam stated that the rate reduction had taken place under the belief that this would improve compliance and thereby resulting in higher collections. However, it needed to be studied in detail as to whether this had really happened. He further stated that he was happy with the compensation given because prior to GST, the VAT revenues of Assam were growing at the rate of 9%, while GST had given them an additional 5% through way of assured growth rate of 14% for compensation. He felt that before questioning the Central Government, the States also needed to look at as to what was the growth in VAT revenue prior to GST and also whether the States had done enough to improve their GST collections. He finally requested to make a more in-depth constructive presentation on revenue which should be forwarded to State Governments seven days in advance of the next GST Council Meeting.

8.12. The Hon'ble Deputy Chief Minister of Bihar stated that the steepest reduction in the GST rates was effected in the 23rd GST Council Meeting held in Guwahati on 10.11.2017 when GST rate of 28% on 243 items was reduced to 18%. He stated that any shortfall in tax collection because of this reduction in rates, should have been observed within the following months and not after two years. Hence, the current fall in GST collections should not be attributed to the rate reduction undertaken in earlier years. He further stated that the increase in threshold limit for registration could not have caused significant fall in revenue collection. He suggested that in GST regime, the excise component which was hidden earlier had become visible to the consumer which resulted in resistance to higher rate slabs, necessitating reduction of rate for few items. He stated that GST collections had fallen not due to downward rate revisions but due to economic slowdown. He stated that knee-jerk reactions should be avoided as economic growth was expected to grow after two to three quarters. He further stated that complacency in the State tax administration because of the assured compensation should be avoided. He stated that changing rates or merging of the slabs should be avoided during the slow-down in the economy and such measures could wait for next 4-5 months. He stated that measures like e-invoicing, Aadhaar integration, new returns, linking of e-Waybill with FASTag, blocking of ineligible ITC, cancellation of registration of non-filers and their regular monitoring by the Ministers would result in increase in compliance level, thereby increasing GST revenue collections. As the GDP was growing at the rate of about 5%, therefore, the Compensation Cess would also grow at the rate of 5% and it needed to be examined whether assured compensation growth rate could be linked to GDP growth rate instead.

8.13. The Chairperson suggested that the Detailed Agenda Note might be circulated to the States well in advance for the next meeting, after incorporating the inputs from all the Hon'ble Members. The Hon'ble Minister from Kerala wanted to know the status of disbursement of compensation Cess due in December, 2019 (for October, 2019 and November, 2019). He also requested that it might be assured that whatever accumulated IGST and Cess was collected should be distributed. The Hon'ble Deputy Chief Minister of Gujarat stated that as most of the States had less liquidity, whatever compensation Cess was collected, should be distributed among the States.

8.14. Thereafter, the Hon'ble Chairperson informed the Council that the States of Uttar Pradesh and Jammu & Kashmir (UT with Legislature) would be making presentations on the best practices in GST and measures taken by the Govt. of Jammu & Kashmir to improve revenue collections. Thereafter, the Hon'ble Minister from Uttar Pradesh asked Shri Alok Sinha, Additional Chief Secretary, Commercial Tax Department, Uttar Pradesh to make the presentation (attached as **Annexure 5**). This was followed by a presentation by Shri K K Sharma, Advisor to Lt. Governor, Jammu & Kashmir on measures taken by them to improve revenue collections (attached as **Annexure 6**).

9. For **Agenda item 3**, the Council took note of the presentation made by JS TRU-I and TRU-II and the suggestions made by the Hon'ble Members. The Council also took note of the presentations made by the State of Uttar Pradesh and UT of Jammu & Kashmir.

Agenda Item 4: Report of GoM on Real Estate on boosting Real Estate Sector

10. The Secretary asked Shri Manish Kumar Sinha, JS, TRU-II i.e. Secretary to the GoM on Real Estate to apprise the Council about the developments in the GoM and their recommendations by way of a presentation (attached as **Annexure 7**) on the agenda item. The JS, TRU-II stated that the Hon'ble Chairperson in the 37th GST Council Meeting held on 20.09.2019 desired that a meeting of the GoM on Real Estate be held to address the pending issues. Accordingly, a GoM meeting headed by Shri Nitinbhai Patel, the Hon'ble Deputy Chief Minister of Gujarat, was convened on 21.11.2019 to discuss and examine the following four issues: -

- (i) Request from the State of Punjab to exempt from GST on long term lease of lands by private/ semi private bodies for setting up industrial parks.
- (ii) Request from the State of West Bengal for examining the proposal to exempt the supply of construction services provided by the Co-operative Housing Society to its members.
- (iii) Request from the State of Maharashtra on need to provide preferential tax treatment to free houses provided to slum dwellers in a slum rehabilitation/ redevelopment project and mechanism of taxing TDR handed over to builder by Government thereof.
- (iv) Request from industry associations on need to review the value limit of Rs. 45 lakh in the definition of affordable residential apartment for a metropolitan region, if necessary.

10.1. The JS, TRU-II stated that of the four pending issues, one of the issues forwarded by the State of Punjab at 10(i) was decided. The three other issues listed at paragraph 10 had been deferred by the GoM for the reasons as listed in the Report of the GoM on boosting real estate sector, appended as Annexure 1 to this agenda item. He thereafter, elaborated the summary of the decisions of the GoM on the four issues as follows:

10.2. **Proposal 1** - To exempt GST on long term lease of lands by private/ semi private bodies for setting up industrial parks.

- i. Service by way of grant of long term lease of land (thirty years, or more) of industrial plots or plots for development of infrastructure for financial business, provided by the State Government Industrial Development Corporations/ Undertakings or any other entity having 20% or more ownership of Central Government, State Government, Union

Territory to (a) industrial units or (b) developers in any industrial or financial business area, might be exempted from GST.

- ii. In case of breach of land use subsequently, (i.e. from industrial use to any other use), the exemption might be withdrawn and GST with interest and penalty might be recovered jointly and severally from the entity that had availed the exemption originally and all lessees who had subsequently purchased or entered into agreement with original supplier and subsequent buyers / owners.
- iii. The condition above (sl. no. ii) should be monitored and enforced by the State Government.
- iv. GST @ 5% might be levied on long term lease of land (thirty years, or more) of industrial plots or plots for development of infrastructure for financial business, provided by a *private person or entity, or an entity having less than 20% ownership of the Government. Similar safeguards as at sl. no. (ii) and (iii) above shall apply to this clause as well.

* The term 'private person' shall be clarified by way of a Circular.

The existing Explanation appended in the present notification would also apply and the number '50%' therein should be suitably substituted by '20%'.

10.3. **Proposal 2** -To exempt the supply of construction services provided by the Co-operative Housing Society to its members.

10.3.1. It was requested from State of West Bengal to provide more data and examples to explain that 'no value addition is involved' and that there would be no loss of revenue in the proposal. West Bengal might also suggest safeguards in such a way that the exemption if granted, it would be available only to a very select kind of housing society, who deserve this relief and couldn't be misused by other cooperative societies.

10.4. **Proposal 3** -To provide preferential tax treatment to free houses provided to slum dwellers in a slum rehabilitation/ redevelopment project and mechanism of taxing TDR handed over to builder by Government thereof; and

10.5. **Proposal 4** -To review the value limits of Rs. 45 lakhs in the definition of affordable residential apartment for a metropolitan region, if necessary.

10.6. The GoM during its second Meeting felt that the **proposal 3** and **proposal 4** might be deferred till President's Rule was in operation in Maharashtra and to take them up for examination after new Government was formed in the State.

10.7. The JS, TRU-II then invited the Hon'ble Deputy Chief Minister of Gujarat, Convenor of the GoM, to brief the Council about the recommendation of the GoM for consideration of the Council.

10.8. The Hon'ble Convenor of the GoM on Real Estate thereafter briefed the Council and stated that the Meeting of the GoM was convened by video conferencing due to the urgency expressed by the State of Punjab on account of the planned initiative similar to 'Vibrant Gujarat'. He apprised the Council that the state of Punjab had highlighted before the GoM that in Punjab, land was scarcely available for industrial development and there could be instance where, the State Government entity directly did not allot the land to the industry for development. Further, it was also suggested by some States including

Punjab that even in the case of private person or entity offering land for development of infrastructure for financial business on lease, then even in such cases, the benefits of GST @ 5% might be passed on at par with Government entities. He added that, the Hon'ble Minister from Uttar Pradesh was of the view that even the GST rate of 5% even in case private person or entity should be recommended. However, all the Members of the GoM, after due consideration, decided to recommend that service by way long term lease of land for industrial plots or plots for development of infrastructure for financial business, provided by the entity having 20% or more ownership of Central/ State/ UT Government, might be levied GST rate of 5% and the Council could decide on the applicable rate. He also requested Hon'ble Minister from Punjab to present his views.

10.9. The Hon'ble Minister from Punjab stated that the rationale behind the proposal and Punjab's request was long term leasing of land from the point of view of Punjab's New Industrial Policy and the role this exemption could play in promoting the Make-in-India campaign. He further stated that presently there was double taxation on lease of land (i.e. stamp duty of around 5-7% in various States and GST of 18% on the same transaction) which was a major hurdle in promoting industry in Punjab. He added that it would also lead to creation of employment and generation of revenue. He therefore, requested the Council to agree with the suggestion of the GoM.

10.10. The Additional Chief Secretary, Commercial Tax Department, Uttar Pradesh stated that the suggestion from Uttar Pradesh regarding exempting GST in the case of private person or entity offering land on lease for development of infrastructure for financial business, the associated condition should be that it should have been approved by the Government because in their industrial policy they had scheme of private industrial parks which are 100% owned by the private person or entity but those are approved by the State Government through a rigorous process and adequate safeguards and therefore, instead of granting exemption only to entities with 20% ownership of Government, same could also be allowed to lease of land by private entities which did not have any Government ownership otherwise they might not be able to compete with the Government.

10.11. In view of the foregoing discussion, the Secretary suggested that for the time being, the Council might accept the first part of the recommendation of proposal 1 to exempt the transactions along with the two associated conditions i.e.

- i. Upfront amount payable in respect of service by way of granting of long term lease of land (thirty years, or more) of industrial plots or plots for development of infrastructure for financial business, provided by the State Government Industrial Development Corporations/ Undertakings or any other entity having 20% or more ownership of Central Government, State Government, Union Territory to (a) industrial units or (b) developers in any industrial or financial business area, might be exempted from GST.
- ii. In case of breach of land use subsequently, (i.e. from industrial use to any other use), the exemption might be withdrawn and GST with interest and penalty might be recovered jointly and severally from the entity that had availed the exemption originally and all lessees who had subsequently purchased or entered into (sub-lease) agreement with original supplier (lessor) and subsequent buyers/owners.
- iii. The condition above (sl. no. ii) should be monitored and enforced by the State Government by issuing necessary order in this regard.

10.12. The Secretary further suggested that all the second portion of the first proposal relating to rate levy of GST on long term lease of land of industrial plots or plots for development of infrastructure for

financial business, provided by a private person or entity, might be referred to the Fitment Committee and then their recommendations might be discussed in the GST Council Meeting for the reason that it required little more examination on account of its cross-implications. The Council agreed to the above-mentioned suggestions of the Secretary.

10.13. The Secretary also suggested that effective date for implementation of the recommendation of the Council above could be from 1st January 2020. The issues discussed in proposal 2, proposal 3 and proposal 4 as per the report of the GoM were still pending before the GoM on Real Estate. The Council agreed to the same.

11. For **Agenda item 4**, the Council recommended the following: -

a. to exempt the transactions along with the two associated conditions i.e.

i. Upfront amount payable in respect of service by way of granting of long term lease of land (thirty years, or more) of industrial plots or plots for development of infrastructure for financial business, provided by the State Government Industrial Development Corporations/ Undertakings or any other entity having 20% or more ownership of Central Government, State Government, Union Territory to (a) industrial units or (b) developers in any industrial or financial business area, might be exempted from GST.

ii. In case of breach of land use subsequently, (i.e. from industrial use to any other use), the exemption might be withdrawn and GST with interest and penalty might be recovered jointly and severally from the entity that had availed the exemption originally and all lessees who had subsequently purchased or entered into (sub-lease) agreement with original supplier (lessor) and subsequent buyers / owners.

iii. The condition above (sl. no. ii) should be monitored and enforced by the respective State Governments by issuing necessary order in this regard.

b. This exemption shall be effective from 1st January, 2020.

c. Further, the Council also decided to refer the issue with respect to the second portion of the first proposal relating to rate levy of GST on long term lease of land (thirty years, or more) of industrial plots or plots for development of infrastructure for financial business, provided by a private person or entity, or an entity having less than 20% ownership of the Government for further examination to the Fitment Committee before any decision by the GST Council.

d. The Council also took note about issues discussed in **proposal 2, proposal 3 and proposal 4** (as per the report of the GoM) which were pending before the GoM on Real Estate.

Agenda Item 5: Issues recommended by the Fitment Committee for the consideration of the GST Council

Agenda Item 15 (iv): Proposal for change in GST rate on woven/nonwoven bags and sacks of polypropylene/polyethylene, whether or not laminated and Flexible Intermediate Bulk Containers (FIBC) from 12% to 18%

12. The Secretary asked JS TRU-I to present the fitment issue before the Council. He also informed that there were no fitment issues as such, but a Table Agenda (Agenda item 15 (iv)) concerning the GST rate rationalisation effected in the 37th Meeting of the GST Council on 20th September, 2019. Thereafter, JS, TRU-I stated that the Council in its 37th Meeting on 20th September, 2019 had recommended to rationalise the GST rates on woven/non-woven bags and sacks of

polypropylene/polyethylene (whether or not laminated) at a uniform rate of 12% to obviate classification disputes. He stated that earlier, the sacks and bags made up of man-made textile material, falling under heading 6305 attracted GST at the rate of 5% (their value being less than Rs.1000/-), while polypropylene, polyethylene and other plastic bags falling under heading 3923 attracted 18% GST. These differential rates gave rise to disputes regarding classification. To resolve the issue, a clarification was issued *vide* Circular No.80/54/2018-GST dated 31st December 2018. However, disputes continued and were aggravated due to multiple divergent Advance Rulings passed. To resolve the issue, the Council recommended a uniform rate of 12%. However, subsequent requests had been received from the trade associations stating that the major basic constituent ingredient for these bags was HDPE/PP granule which attracted 18% GST. They had further stated that 12% GST rate on woven and non-woven bags and sacks of polypropylene and polyethylene was leading to inverted duty structure and increasing the compliance burden and efforts for seeking refund on small manufacturers of these bags. This would make investment in the sector unviable. These woven and non-woven bags and sacks of polypropylene and polyethylene (whether or not laminated) were used in a number of applications such as packaging of cement, fertilizer, sugar, sponge iron/mineral packing etc. Increase of GST rate to 18% might not increase the cost of the bags to the end-consumer as this was a B2B product and full ITC of the GST paid on bags was available to the user industry. In fact, it would remove the inverted duty structure and accumulation of ITCs with the manufacturers of these bags. Moreover, FIBC classified under HS 63053200 were intermediate goods used in a number of industries for bulk packing and transportation of goods. ITC on GST paid on these goods was available to these users. The JS, TRU-I proposed, that to have uniform tax rate on all types of such bags, the GST rates on woven and non-woven bags and sacks of polypropylene and polyethylene, whether or not laminated (classified under 3923 or 6305) including Flexible Intermediate Bulk Containers (FIBC) may be considered for a raise from 12% to 18%. The Secretary proposed to the Council that the rate change may be effective from 1st January 2020.

12.1. The Hon'ble Minister from Tamil Nadu stated that the issue of rationalization of GST on matches was discussed in the 37th GST Council Meeting in Goa. He stated that even the Hon'ble Chief Minister of Puducherry agreed for GST rate at 12% and the same might be considered favourably. Further, he stated that his State received several representations on the very high rate of GST of 18% on insurance premium. The Secretary stated that these issues could be discussed in the Fitment Committee.

12.2. The Hon'ble Minister from Odisha stated that in his State 8 lakh poor people were working as pluckers of *tendu* leaves. Due to the high rate of 18% GST on *tendu* leaves, the poor were suffering. He added that the State of Odisha had declared *tendu* leaves as forest produce and pointed out that even in BJP's manifesto it had been promised to return the GST collected to the workers. The Hon'ble Minister added that he would move a proposal in this regard and requested the Fitment Committee to look into this issue. The Chairperson agreed and assured the matter would be looked into by the Fitment Committee.

13. For **Agenda item 5, read with Table Agenda item 15 (iv)**, the Council approved the proposal for change in GST rate on woven/nonwoven bags and sacks of polypropylene/polyethylene, whether or not laminated and Flexible Intermediate Bulk Containers (FIBC) from 12% to 18% with effect from 1st January 2020.

Agenda Item 6: Issues recommended by the Law Committee for the consideration of the GST Council

Agenda Item 6(i): Standard Operating Procedure to be followed in case of non-filers of returns

14. The Secretary asked Shri Yogendra Garg, Principal Commissioner, GST Policy Wing, CBIC to initiate the discussion on the issues recommended by the Law Committee for the consideration of the GST Council. The Principal Commissioner, GST Policy Wing, CBIC initiated the discussion by stating that the recommendations of the Law Committee were discussed in detail in the Officers' Meeting on 17th December 2019. The presentation made in this regard is annexed as **Annexure 8**. He stated that the rationale of recommendations was to improve compliance and simplify processes. He also stated that non-filers and late filers of returns had been a major issue in the GST regime, though some States such as Uttar Pradesh had dealt with the issue well, there had been no uniformity pan India in dealing with the same. He stated that the Law Committee recommended to issue a Circular for dealing with non-filers of returns under Sections 39, 44 & 45 of the GST Act. He further stated that some of the States were already issuing notices and the objective of the proposed draft circular was to make the process uniform and to improve due date filing of returns which has a direct correlation with the revenue. The draft circular delineated various steps *vis-à-vis* the return defaulters from issuing of a system generated message to notice in **FORM GSTR-3A** followed by best judgement assessment and ultimately, if the return was not filed for 6 months then initiation of action under Section 29 of the GST Act for cancellation of registration was proposed. He further added that the period of 30 days for reapplying for GST registration upon cancellation had been extended to 60 days on the suggestion of State of Odisha in the Officers' Meeting held on 17th December 2019. He also clarified that as for Composition tax payers, the return was filed annually, the same means that this could only be resorted to after the due date for such return.

15. For **Agenda item 6(i)**, the Council approved the issuance of Circular outlining a Standard Operating Procedure in case of non-filers of returns as proposed.

Agenda Item 6(ii): Proposed amendments in the CGST Act, 2017

16. The Principal Commissioner, GST Policy Wing, CBIC introduced the Agenda relating to amendments to the CGST /SGST Acts in the Budget 2020-21. He stated that the proposed amendments were discussed in detail in the Officers' Meeting on 17th December 2019. He informed that there were altogether 12 amendments proposed, some of which were in the nature of aligning with the earlier amendments. The first amendment sought to align certain entries in Schedule II of the GST Act with the amendments carried out vide the CGST (Amendment) Act, 2018 with effect from 1st February 2019. Likewise, the second amendment had been proposed to align the Composition Scheme under Section 10(1) and (2) of the CGST Act with Section 10(2A) of the said Act. The third amendment proposed was to allow ITC on Debit Notes by linking it to the date of issuance of the Debit Note by amending Section 16(4) of the GST Act. The fourth amendment was to allow a taxpayer who had taken voluntary registration to cancel it by amending Section 29 of the GST Act. The next amendment proposed was for amending Section 31 so as to align section 31(2) with 31(1) regarding manner of issue of invoices for services as well. With respect to the sixth amendment proposed, the Principal Commissioner, GST Policy Wing, CBIC stated that in Officers' Meeting on 17th December 2019, it was viewed that there was no requirement of amending Section 49(4) of the GST Act, and that it would be prudent that a new rule may be drafted using the existing powers under law and accordingly, it was proposed that Rule 86A might be inserted so as to block ineligible input tax credits and control the menace of fake invoices immediately. The seventh amendment recommended was for providing a system generated Tax

Deduction at Source (TDS) certificate by amendment in Section 51(3) and doing away with the late fees requirement by omission of Sub-Section 4 of Section 51 of the GST Act. The eighth amendment proposed was to carry out certain amendments in Sections 122 and 132, so as to insert necessary provisions to make the person receiving the benefit of a fraudulent transaction liable for penalty and arrest. The Principal Commissioner, GST Policy Wing, CBIC stated that presently, the person who availed the fake ITC only was liable for penal provisions. The objective of the proposed amendment was to align the liability of the mastermind with the person who was taking the fake ITC. The ninth amendment proposed was to insert in Section 140 of the GST Act enabling provisions to prescribe the time-limit and the manner of availing transitional credit. This was proposed to be done retrospectively with effect from 01.07.2017. The tenth amendment proposed was for vesting functions relating to job-work extension and remuneration of chartered accountants/ cost accountants with the jurisdictional Commissioners of CGST. The next amendment proposed was for extending the existing time-period of 3 year to 5 years from the date of commencement of the GST Act in Section 172 to enable the Government to issue orders for removal of difficulties in implementing the provisions of the Act. The last amendment proposed in respect of Section 17(5) was for making input tax credit eligible in respect of commercial vessels like drilling rigs, dredgers etc. Principal Commissioner, GST Policy Wing, CBIC explained that credit was available on such 'vessels' prior to the first amendment of CGST Act in August, 2018 and that while no recommendation of the Council was made to restrict the same, inadvertently due to a drafting error, this credit had come to be denied which is the likely cause of hardship to dredging companies, oil exploration companies etc. and that it was proposed to make suitable amendments to restore the original position. However, the Hon'ble Member from Chhattisgarh wanted that the tax cost/implication of the proposal in respect to vessels and aircraft be brought to the Council before any decision. Therefore, this proposal was deferred.

17. For **Agenda item 6(ii)**, the Council approved the amendments in the GST Act, as proposed and discussed above.

Agenda Item 7: Creation of Public Grievance Redressal Committee as per the Hon'ble High Court of Delhi's order in the case of Sales Tax Bar Association

18. The Secretary asked Principal Commissioner, GST Policy Wing, CBIC to introduce the agenda item. The Principal Commissioner, GST Policy Wing, CBIC, while introducing the agenda item also made a presentation (attached as **Annexure 8**). He stated that in view of the Writ petition W.P.(C) 9575/2017 & C.M. no. 38987/2017-Sales Tax Bar Association (regd.) & ANR in Hon'ble High Court of Delhi on non-availability of many functionalities on GST Portal, a proposal for suitable mechanism for grievance redressal at ground level was felt necessary. Therefore, a proposal for creating Grievance Redressal Committee had been placed for approval of the Council. The background details were mentioned in the agenda circulated.

18.1. He further stated that while in the Central Excise/Service Tax regime such an arrangement existed in the form of Regional Advisory Committee at the Zonal level, no such formal arrangement existed, under the GST regime to tackle grievances of specific/ general nature at the Zonal/ Commissionerate/ State level. Accordingly, it was proposed to operationalize a Grievance Redressal Committee (GRC) at Zonal/State level with membership of both CGST and SGST officers, representatives of trade and industry and other relevant officers of GSTN.

18.2. The constitution of the said Grievance Redressal Committee, its functions and mandate were proposed in the agenda as follows:

A. Constitution of the Committee:

- i. Zonal Principal Chief Commissioner/ Chief Commissioner of Central Tax (Co-chair)
- ii. Chief Commissioner/ Commissioner of State Tax (Co-chair)
- iii. Representatives of various Trade Associations – **12 in number**
- iv. Representatives of prominent Associations of Tax Professionals like Chartered Accountants, Tax Advocates, Tax Practitioners etc. – **4 in number**
- v. Nodal officer of ITGRC of the Central Tax and Nodal officer of ITGRC of the State Tax.
- vi. Representative of GSTN handling the concerned Zone/ State
- vii. Any other member with the permission of the Co-chairs.
- viii. Additional/Joint Commissioner of office of Zonal Principal Chief Commissioner/ Chief Commissioner of Central Tax and an officer nominated by the Chief Commissioner/ Commissioner of State Tax - Secretaries of the GRC.

B. Term of the Committee - The GRC would be constituted for a period of two (2) years and the term of each member so nominated also would be for a period of 2 years. Any member of the Committee absent for 3 consecutive meetings, without adequate reasons, would be deemed to have been withdrawn from the Committee and his place would be filled by fresh nomination by the Principal Chief Commissioner/Chief Commissioner of Central Tax and the Chief Commissioner/ Commissioner of State Tax.

C. Functions and mandate of the Committee:

- (i) Examining and resolving all the grievances and issues being faced by the taxpayers, including procedural difficulties and IT related issues pertaining to GST, both of specific and general nature.
- (ii) Referring any issue requiring a change in Act/Rules/Notification/ Form/Circular/ Instruction, etc., to the GST Council Secretariat and the relevant Policy Wing of the CBIC.
- (iii) Referring any matter related to IT related issue pertaining to GST Portal, to GSTN.

Whenever an issue would be referred by the GRC, the concerned Policy Wing of CBIC would examine the said policy issue and if required, would make suitable recommendation on the same for consideration/ approval of the GST Council. Likewise, if the matter would be an IT related issue pertaining to GST portal, the same would be resolved by GSTN in a time bound manner, preferably within one month.

D. Periodicity of Meeting of the Committee – The Committee would meet once every quarter or more often as the Co-chairs may decide.

E. Mechanism of Working of the Committee: The stakeholders would send their grievances/suggestions to the Secretary of the Committee, who would place the same before the Committee. Further, the Secretary of the Committee should also submit a quarterly progress report to the GST Council Secretariat as well as to the GST Policy Wing, CBIC.

18.3. Further, GSTN had also proposed (**Annexure B to the Agenda 7**) that,

- a) to ensure transparency and time bound handling of grievances and accountability, they would develop a portal for recording all such grievances (including their scanned images) and their disposal. It would be the responsibility of the Co-chairs to ensure timely entry of the grievances and updating the status of their disposal on the portal.

- b) the nodal officers of GSTN, Policy Wing of CBIC and GST Council Secretariat would also be able to update status of action taken at their end. The details of action taken on all issues would be displayed on the portal, which would be available for viewing by all stakeholders to check the status of the resolution.

18.4. The above proposal was placed before the GST Council for consideration and approval. The Council after deliberations approved the proposal.

19. For **Agenda item 7**, the Council considered and approved the constitution along with the functions and mandate of the Grievance Redressal Committee as contained in the agenda.

Agenda Item 8: Status of Group of Ministers (GoMs) constituted for various agenda items

20. The Secretary asked Dr. Rajeev Ranjan, Special Secretary, GST Council Secretariat to present the status of various GoMs constituted on the recommendations of the Council for different agenda items. The Special Secretary thereafter stated that altogether 12 GoMs had been constituted on the recommendations of the Council. Of these, 6 GoMs, namely, GoM on Composition and tax structure on Restaurants, GoM on Reverse Charge Mechanism, GoM on Digital Payments, GoM on Sugar Cess, GoM for MSME and GoM on Revenue Mobilisation in case of Natural Calamities and Disasters had given their reports and recommendations before the Council and the Council had taken requisite action in respect of the same. It had, therefore, been proposed to not continue these GoMs. Further, it was proposed that 3 GoMs as mentioned in para 15 (ii) may continue. Of these, the GoM on IT challenges in GST implementation was the most active and met frequently on account of its mandate to monitor and resolve the IT challenges faced in the implementation of GST. Likewise, the GoM on boosting real estate under GST regime and GoM on Analysis of Revenue from GST were also proposed to be continued. During discussion under Agenda Item 2 for the issues concerning GST on Lottery, in view of the submission of the report of the GoM on Lottery which was annexed to the said agenda item, a decision had been taken to refer the matter relating to casinos, horse racing and online gaming to Law Committee. Therefore, it was decided to discontinue the GoM on issues relating to lottery. Finally, the Special Secretary stated that the two GoMs, namely GoM on IGST Settlement and GoM on movement of Gold and precious Stones had been constituted recently and their reports were yet to be placed before the Council.

21. For **Agenda item 8**, the Council decided to continue with the 5 GoMs namely: GoM on IT challenges in GST implementation, GoM for boosting Real Estate Sector under GST regime, GoM on Analysis of Revenue from GST, GoM on movement of Gold and Precious Stones and GoM on IGST settlement.

21.1. The Council also decided to refer the pending matter relating to casinos, horse racing and online gaming to Law/Fitment Committee.

Agenda Item 9: Deemed ratification by the GST Council of Notifications, Circulars and Orders issued by the Central Government

22. The Secretary asked Principal Commissioner, GST Policy Wing, CBIC to place the agenda before the Council. The Principal Commissioner, GST Policy Wing, CBIC stated that in the 37th Meeting held on 20.9.2019, the Council had ratified all the notifications, circulars and orders issued before 11.9.2019. He thereafter made a presentation (attached as **Annexure 8**) listing out all the notifications, rate and non-rate, of CGST, UTGST, IGST and Compensation Cess, Circulars and

removal of difficulty orders issued after 11.09.2019 till 13.12.2019, under the GST Laws by the Central Government as available on www.cbic.gov.in.

23. For **Agenda Item 9**, the Council granted deemed ratifications to the notifications, circulars and Orders as in agenda item and the presentation (attached as **Annexure 8**) made during the Council Meeting, which are available on www.cbic.gov.in.

Act/Rules	Type	Notification/Circular/Order Nos
CGST Act/CGST Rules	Central Tax	42 to 72 of 2019
	Central Tax (Rate)	14 to 26 of 2019
UTGST Act	Union Territory Tax (Rate)	14 to 26 of 2019
ITGST Act	Integrated Tax	04 of 2019
	Integrated Tax (Rate)	14 to 25 of 2019
GST (Compensation to States) Act	Compensation cess (Rate)	02 and 03 of 2019
Circulars	Under CGST Act, 2017	110 to 127 of 2019
ROD Orders	Under CGST Act	8 and 9 of 2019

23.1. The notifications, Circulars and Orders issued by the States which are *pari materia* with above notifications, Circulars and Orders were also deemed to have been ratified.

Agenda Item 10: Decisions of the GST Implementation Committee (GIC) for information of the Council

24. The Secretary asked Principal Commissioner, GST Policy Wing, CBIC to present the Agenda before the Council. Thereafter, Principal Commissioner, GST Policy Wing, CBIC stated that the GST Implementation Committee (GIC) took decisions between 21.9.2019 and 17.12.2019. Further, due to the urgency involved, certain decisions were taken by GIC after obtaining approval amongst GST Members by circulation. Thereafter, he made a presentation (attached as **Annexure 8**) on the decisions taken by Members of the GIC post 37th GST Council Meeting. Thereafter, he also submitted that an **Agenda Item 15(iii)**, which was addendum to Agenda Item No. 10 regarding decisions of the GIC in its Meeting held on 02.12.2019 was also placed before the Council for information.

25. For **Agenda item 10**, the Council took note of the decisions of the GST Implementation Committee between 21.09.2019 and 17.12.2019.

Agenda 11: Decisions/Recommendations of the IT Grievance Redressal Committee for information of the Council

Decisions/recommendations of the 8th IT Grievance Redressal Committee

26. Introducing this Agenda item, the Secretary stated that the 8th Meeting of the IT Grievance Redressal Committee (ITGRC) was held on 13th August 2019 to resolve grievance of the taxpayers arising out of technical and non-technical issues. (Minutes of the Meeting attached as **Annexure A** of this agenda Item).

26.1. As per the agenda note, a total **491 cases of TRAN-1/TRAN-2** had been examined by GSTN (**Agenda 1**) and presented before the Committee. Out of these, 442 cases were sent by Nodal officers and 49 were court cases. All above cases had been categorized broadly reason-wise in two major categories as 'A' and 'B' by GSTN team. **Category 'A'** included cases in which the taxpayer could not apparently file TRAN 1/TRAN 2 because of technical glitches while **Category 'B'** included cases where no technical issues were found from the system logs in filing TRAN 1/TRAN 2.

26.2. In pursuance of decision in 32nd GST Council Meeting, regarding extended scope of ITGRC, GST Council Secretariat had received another **22 cases vis-a-vis** extended scope of ITGRC and analysis of these cases was also presented before the committee (**Agenda 3**).

26.3. It was also observed by GSTN that 04 cases of TRAN 1 had been brought twice before the ITGRC in 6th and 7th Meeting with wrong description and recommendations based on incomplete facts, which needed reconsideration. GSTN had again examined the system logs of 04 cases and presented them before the Committee for appropriate decision (**Agenda 4**),

26.4. After detailed discussion, the 8th ITGRC decided and had recommended as under: -

Recommendation for Agenda 1, Agenda 3 and Agenda 4 for

(A) 491 Cases presented through GSTN (Agenda 1):

- i) **To allow** filing of TRAN-1 in total **137 cases of TRAN-1 & TRAN-2** belonging to Category 'A' as per Annexures indicated in column No. 3 and 4 of Table-2 (136 cases of TRAN-1) & Table 4 (01 case of TRAN-2 in Category 'A') on account of technical/system issues as explained at paragraph 5 and paragraph 7 of Minutes, in accordance with the Law Committee recommendations regarding consequential benefits related to filing of TRAN 1.
- ii) **Allowed** GSTN to **withdraw two (02) cases** (one of each TRAN-1 and TRAN-2) as mentioned in Table 5 of Minutes without any decision and directed GSTN to present these cases after proper analysis before the next ITGRC Meeting.
- iii) **Not to allow** remaining **352 cases of Category 'B'** as per Annexures indicated in column No. 3 & 4 of Table-3 (351 cases of TRAN-1) and Table 4 (01 case of TRAN-2 in Category 'B') in absence of any evidence of technical/system errors in these cases as explained at paragraph 6 & 7 of Minutes, as was decided in similar cases in past seven ITGRC meetings.

(B) 22 Cases presented through GST Council Secretariat as per extended scope of ITGRC (Agenda 3):

Decision on these cases was deferred in view of discussion on the emerging issues as discussed with reference to **Agenda 2**. This matter would be discussed again in ITGRC in light of decision of **Agenda 2**, which inter alia included the issue of re-examining the limited

number of non-technical glitch/error cases. The details of discussion on **Agenda 2** might be referred for details.

(C) Cases which had been brought twice in 6th and 7th ITGRC (Agenda 4):

- i) ITGRC allowed 03 cases of TRAN-1 which were earlier not allowed in 6th ITGRC but they were allowed in 7th ITGRC.
- ii) Committee also accepted the proposal of fourth case to recall the decision of 7th ITGRC on this case, on account of error reported by GSTN and effectively restoring the decision of 6th ITGRC of allowing the filing/revision of TRAN-1.

Discussion on emerging issues before ITGRC (Agenda 2)

26.5. During the earlier ITGRC proceedings, it was observed that Nodal officers as well as GSTN had received various references and Writ Petitions where non-technical issues were also involved. The ITGRC could not handle those cases, as it was not empowered to take any decision on these issues. Further, on account of no appeal mechanism in respect of Forms TRAN-1/TRAN-2 under GST law, taxpayers were approaching various Hon'ble High Courts for grievance redressal. In 32nd GST Council Meeting, it was decided to enhance/expand the scope of the ITGRC to include those cases where no technical glitch/problem was evident, and the Commissioners would after examination recommend such cases but GSTN and GST Council Secretariat were receiving cases without proper scrutiny. Till 31st January, 2019, 62 cases (with incomplete details and not in conformity with the spirit of the decision of the 32nd GST Council Meeting) were received and placed before 4th ITGRC on 12.02.2019. Hence, it was recommended by the Committee that GST Council Secretariat might send another reminder to all States and Centre reiterating that the case details be checked; certified and it should also be clearly stated that the case was covered by the decision of 32nd GST Council Meeting along with clear recommendations from the State/Centre before sending by the concerned Jurisdictional Commissioner. Accordingly, 179 cases received till 31st March 2019 were placed before 6th ITGRC on 27.05.2019 while 22 cases were placed before 8th ITGRC which contained many of the cases that were found incomplete in 6th ITGRC. Till then, as no case has been allowed to file TRAN-1/TRAN-2 in accordance with the extended scope of ITGRC, therefore, such emerging issues before ITGRC were also discussed in the Committee as per Agenda 2.

26.5.1. In respect of Agenda 2 i.e. emerging issues in respect of cases involving non-technical glitches, it was discussed and recommended by ITGRC that for cases involving non-technical glitches, the process of examination by ITGRC might be redesigned and a pragmatic approach was required on the issue of allowing GST TRAN- 1/GST TRAN 2 for those taxpayers who were covered under the 32nd GST Council decision; having High Court decision and had filed the TRAN-1 before due date i.e. 27.12.2017 but not received the transitional credit due to non-technical error. The mechanism would include following aspects:

- a. The process would be applicable to the taxpayers who had satisfied the criteria and represented before the nodal officer/Jurisdictional Commissioner for non-technical glitches as per 32nd GST Council Meeting's decision.
- b. Definition of the non-technical error might include cases where TRAN-1/TRAN-2 had been filed before due date i.e. 27.12.2017 but credit not received to taxpayer including the scenario where the credit was entered in wrong column.
- c. The jurisdictional Commissioners of the State/Centre should get the claim of the taxpayer checked including the verification of credit and ascertain the amount of credit (CGST/SGST) that was claimed in the various tables of GST TRAN 1/GST TRAN 2. Wherever required a

certificate from counterpart tax authorities may also be obtained regarding genuineness of claimed credit.

- d. After being satisfied about the genuineness of the claim, the details should be sent to GSTN with proper recommendation and specific High Court order copy as per 32nd GST Council Meeting's decision to enable filing of TRAN-1/TRAN-2. The mode as well as format for such directions and the requisite certificate be finalised by GSTN in order to maintain the audit trail and generate report, if required.
- e. If deemed necessary, post audit of the taxpayers could be carried out by tax authorities in a time-bound manner, who would claim transitional credit above a particular threshold.
- f. In light of above, ITGRC could revisit the 'Category A' cases identified as non-technical cases placed in Annexure 3 of 6th ITGRC and Agenda 3 of the 8th ITGRC, taking inputs as required from GSTN.

26.6. The decisions/recommendations as per attached Minutes of the 8th ITGRC were placed for information of the Council.

27. For **Agenda item 11**, the Council took note of the decisions/recommendations of the 8th Meeting of the IT Grievance Redressal Committee.

Agenda Item 12: Quarterly Report of the NAA for the quarter July to September 2019 for the information of the GST Council

28. The Secretary introduced the Agenda item pertaining to various issues related to the National Anti-profiteering Authority (NAA) and stated that this agenda was discussed in the Officer's Meeting held on 17th December 2019. The quarterly performance report of National Anti-profiteering Authority along with performance reports of DGAP, Screening Committee and State Level Screening Committee for the quarter (July, 2019 to September, 2019) of the financial year 2019-20 was placed before the Council for information.

28.1. Performance of **National Anti-Profiteering Authority:**

Opening Balance	No. of Investigation Reports received from DGAP during the quarter	Disposal of Cases (during Quarter)				Closing Balance
		Total Disposal during quarter	No. of cases Where Profiteering established	No. of cases Where Profiteering not established	No. of cases referred back to DGAP	
50	39	2	1	1	3	84

28.2. The **final disposal of 2 cases by the NAA** was as under:

Sr. No.	Order No. and Date of Order	Respondent	Amount of Profiteering (Rs.)
1	46/2019 dt. 04.07.2019	HP India Sales	Nil
2	47/2019 dt. 26.09.2019	Paramount Propbuild Pvt. Ltd.	3,69,26,963

28.3. In addition, NAA had been conducting outreach program across the country to sensitize the jurisdictional Officers about their role and responsibility towards check of profiteering. During the tenure of this report, the outreach programs and zonal review meetings on Anti-Profiteering efforts was held at Indore on 16th September, 2019.

28.4. Further, the NAA had sent 516 profiteering complaints received by them till 31st July, 2019 via its web portal to 21 State Level Screening Committees

29. For **Agenda item 12**, the GST Council took note of the performance of the National Anti-profiteering Authority for the quarter July to September 2019...

Agenda Item 13: Presentation on developments regarding implementation of

- i. **GST EWB System – FASTag Integration**
- ii. **New Return System**
- iii. **Integrated refund system with disbursal by single authority**
- iv. **Generation of electronic Invoice Reference Number**
- v. **Linking GST registration with Aadhaar and proposed changes in the GST Law and GSTN System**

30. The Secretary stated that a detailed presentation was given by Shri Prakash Kumar, CEO, GSTN in the Officer's Meeting held on 17.12.2019 regarding the GST EWB System – FASTag Integration, status of implementation of New Return System, Integrated Refund System with disbursal by Single Authority, Generation of Electronic Invoice Reference Number and Linking GST registration with Aadhaar. The presentation made so is attached as **Annexure 9** to the Minutes. Following were the salient features of the presentation of CEO, GSTN.

A. GST EWB System – FASTag Integration

30.1. The MoU with Indian Highways Management Company Limited (IHMPCL) & GSTN had been signed on 14.10.2019.

- a. The MoU was for collaboration and working together for implementation track and trace mechanism to track the goods carrying vehicles through FASTag at the toll plazas across the country.
- b. NPCI was extending its NPCINet to E-Way Bill system.

- i. Routers at Primary Data Centre (at Delhi) & DR Centre (at Hyderabad) of NIC had been delivered.
- ii. Lease line (link) had also been delivered. Installation process was in progress.
- c. NPCI had already extended its network to the EWBS data center. Network testing and integration was completed.
- d. APIs were ready and available on sandbox. Testing on simulators was complete. Sandbox would be made available by NIC by 15th January 2020. Sample data from NETC would be used for testing.
- e. Integration was expected to be completed by mid-February, 2020.

B. New Return System

30.2. He updated on the extent of trial use of ANX-1 and ANX-2 in Centre and States till 15.12.2019 and also shared the status of development and deployment of ANX1 and ANX2 in his presentation on 17.12.2019. The New Return was proposed to be effective from 1.04.2019. He further informed that workshops were conducted on New Return in association with FICCI, PHD Chamber of Commerce, ASSOCHAM, CII and in coordination with Centre & State Tax Administrations.

C. Integrated refund system with disbursal by single authority

30.3. As regards updates on disbursement of refund through PFMS, CEO, GSTN, presented on 17.12.2019 that till 16.12.2019, total number of RFD-05 issued were 16,515 & out of which PFMS had accepted 7699 cases, rejected 61 cases, disbursed 5912 cases while 2400 cases were under processing. He had also presented the data as on 15.12.19 regarding refund applications which were not acknowledged and pending for more than 60 days (both State-wise and CBIC).

D. Generation of Electronic Invoice Reference Number

30.4. The CEO, GSTN presented the advantages of e-invoice Reference Number and that there was a need for standards to ensure complete inter-operability and elimination of manual data entry by businesses leading to transcription errors. He also presented the timeline for implementation of e-invoice and informed that NIC was developing the same for its roll out by 1st January, 2020 for taxpayers with turnover of Rs 500 crore on voluntary basis. In February, 2020, the taxpayers with turnover of Rs 100 crore would be required to use it on voluntary basis and thereafter, it will be made mandatory from 1st April, 2020 for tax payers with turnover above Rs 100 crore. He also informed about the stakeholder interaction plan for-invoicing which included Industry partners, Accounting Software Provider/GST Suvidha Provider & Accounting Software companies.

E. Linking GST registration with Aadhaar and proposed changes in the GST Law and GSTN System

30.5. As regards linking of GST registration with Aadhar and proposed changes in the GST Law and GST System, CEO, GSTN stated that this project was expected to be rolled out by 1st February 2020 and mentioned Infosys had completed Proof of Concept (POC) and had also completed the prototypes for the purpose.

31. For **Agenda item 13**, the Council took note of the latest updates as per the presentation made by CEO, GSTN.

Agenda Item 14: Clarification on GST rate on fabrics and articles of textiles falling in Chapters 56 to 59 of the tariff pursuant to the order of the Hon'ble High Court of Delhi in Writ Petition (Civil) No.597 of 2019

32. The Secretary asked JS, TRU-I to introduce the agenda item to the Council. The JS TRU-I, thereafter, submitted that the Hon'ble High Court of Delhi has directed *vide* its order dated 11.10.2019 to place before the Council the issue agitated before them and also to place a copy of the said order of the Hon'ble Delhi High Court. The issue brought before the Hon'ble High Court was that the Council in its 15th Meeting had prescribed that all fabrics were to be taxed at the rate of 5% and not 12% irrespective of whether they were used for making apparels or for specialised and industrial fabrics. The Department of Revenue filed affidavit and submitted before the Hon'ble High Court that the GST Council had made a specific recommendation to prescribe 12% GST rate on specialized and industrial fabrics of Chapters 56 to 59 which were notified by the Central and the State Governments and thus there was no variance from the recommendations of the GST Council on the GST rate on specialized and industrial fabrics of Chapters 56 to 59 and the notifications was issued by the Central and State Governments in pursuance of these recommendations. He further stated that the GST rates on fabrics was discussed in detail in the 15th GST Council Meeting held on 3rd June, 2017 and the GST rates were prescribed on the recommendations of the Council. The rate of 5% was prescribed on fabrics used for making apparels. The GST Council had recommended 12% GST rates on specialized and industrial fabrics. The Council had discussed the request for reduction in tax rates on fabrics of Chapters 56 to 59 from 12% to 5% in various meetings after the rollout of GST. The Council did not recommend any change in the tax structure on these goods i.e. technical textiles and specialized fabrics of Chapters 56 to 59. He submitted that as per the directions of the Hon'ble High Court, the copy of order dated 11.11.2018 of the Hon'ble Delhi High Court was also placed before the Council along with his submissions.

33. **For Agenda item 14**, the Council took note of the order dated 11.10.2019 of the Hon'ble Delhi High Court. The decision of the Council to levy 12% GST on specialized and industrial fabrics and technical textiles of Chapters 56 to 59 was confirmed.

Agenda Item 15: Any other agenda item with the permission of the Chairperson

Agenda Item 15 (i): Creation of the State and Area Benches of the Goods and Services Tax Appellate Tribunal (GSTAT)

34. The Secretary introduced the agenda and stated that in terms of Section 109 of the CGST Act, 2017, Goods and Services Tax Appellate Tribunal (GSTAT) were being constituted by the Government on the recommendation of the GST Council. The Appellate Tribunal having National / Regional Benches at National level and the State / Area Benches at State level, to hear appeals against orders passed by the Appellate Authority or by the Revisional Authority. He further directed Special Secretary GST Council to brief the Council.

34.1. In order to recapitulate, Special Secretary GST Council stated that the recommendations of the GST Council in respect of creation of the GSTAT and further developments in chronological order were as under:

- **In the 28th Meeting of the GST Council on 21.07.2018 the Council recommended:**
 - Constitution of Goods and Services Tax Appellate Tribunal (GSTAT); and

- Creation of National Bench of GST Appellate Tribunal at New Delhi and three Regional Benches at Mumbai, Chennai and Kolkata.
- Union Cabinet approved creation of National Bench of the GST Appellate Tribunal at New Delhi.
- National Bench at New Delhi had also been notified vide Notification No. **S.O. 1359(E)**— [No.1/2019,[F.No.A.50050/99/2018-Ad.1C(CESTAT)] dated 13-03-2019 issued by Department of Revenue.
- Till the 37th Meeting , the Council had recommended setting up of State Benches and Area Benches in 29 States and 5 UTs as per request received from States. It had also recommended to separately consider constitution of benches in Uttar Pradesh due to court cases. It also took note of constitution of Jammu & Kashmir GST Appellate Tribunal in terms of proviso to Section 109(6) of the CGST Act, 2017.
- The Rules for the GSTAT called the Goods and Services Tax Appellate Tribunal (Appointment and Conditions of Service of President and Members) Rules, 2019 were notified by Central Government as per the recommendations of the GST Council in 28th meeting, vide notification No. G.S.R. 584(E)- [F.No.A.50050/99/2018-Ad.1C(CESTAT)] dated 21.08.2019.
- State and Area bench as recommended by the GST Council till 36th GST Council Meeting had also been notified by Department of Revenue.

34.2. Further, in the 37th Meeting of the GST Council on 20.09.2019 had recommended location of State Bench and Area Bench in respect of following 4 States as under:

Sl. No.	Name of States/Union Territory	Location for State Bench	Location for Area Bench
1.	Meghalaya	Shillong	No bench
2.	Mizoram	Aizawl	-do-
3.	Rajasthan	Jaipur	Jodhpur
4.	Karnataka*	Bengaluru	Two Area benches at Bengaluru

*State bench of Karnataka at Bengaluru is already created.

34.3. Now, request from Madhya Pradesh had been received to create a State Bench at Indore, while two more requests had been received from Meghalaya and Punjab seeking amendments in the earlier recommendations of GST Council for creating bench at Shillong and Chandigarh respectively. Meghalaya had also requested to club their State bench with the State bench of Assam at Guwahati, which was notified as a common bench for Arunachal Pradesh, Manipur, Nagaland & Sikkim. Punjab had requested to change their State bench from Chandigarh to Ludhiana.

34.4. Accordingly, the above stated requests for creation of State benches, as detailed below, were placed before GST Council for consideration:

Sl. No.	Name of States/Union Territory	Location for State Bench
1.	Madhya Pradesh	Indore
2.	Meghalaya	Guwahati* (request from Govt. of Meghalaya requested to club State Bench of Assam at Guwahati instead of earlier proposed at Shillong)
3.	Punjab	Ludhiana* (the Govt. of Punjab requested to change the State Bench of Punjab to Ludhiana instead of Chandigarh)

Agenda Item 15 (ii): Measures for Revenue Augmentation

1. GSTR-1 Amnesty scheme along with E-Way Bill Blocking for non-filers of GSTR-1

35. Pr. Commissioner GST Policy Wing, CBIC introduced this agenda by stating that the **FORM GSTR-1** filing had been low and had crossed 60% only once in the last six months. This was despite the introduction of sub-rule (4) of Rule 36 which restricted availment of input tax credit in respect of those invoices, the details of which have not been uploaded by the supplier under Section 37 of the CGST Act (in **FORM GSTR-1**) to 20% of the eligible credit available in **FORM GSTR-2A** for a taxpayer. Presently late fees for delay in furnishing of **FORM GSTR-1** by the due date was Rs.20 per day for NIL filers and Rs.50 per day for others. The maximum late fee was Rs.10,000 per month (Rs.5,000 under the CGST/SGST Act).

- 1) Many taxpayers, had represented that they were willing to file their **FORM GSTR-1** but they were not willing to pay Rs.10,000 per month of late fee. This was one of the key reasons for low or no filing of **FORM GSTR-1**.
- 2) It might be noted that in the current GST system, there was no procedure for part payment/invalid return. Therefore, the only way taxpayers could declare admitted liability was through **FORM GSTR-1**. This could be later recovered with interest by the Government. Therefore, in order to improve filing of **FORM GSTR-1** the following were proposed:
 - a. A one-time amnesty scheme to file all **FORM GSTR-1** from July 2017 to November, 2019 might be given to taxpayers. There would be no late fees for filing such return if the same was filed till 10th January 2020.
 - b. E-way bill generation might be blocked for non-filing of any two **FORM GSTR-1** (similar to **FORM GSTR-3B**)

2. Credit availment to 10% of GSTR-2A in Rule 36(4)

35.1. This rule was inserted to ensure discipline among the taxpayers for filing GST returns. On analysis it was found that in FY 2018-19, the total gap in **FORM GSTR-2A** and **FORM GSTR-3B** was 13%. Therefore, approximately 13% of the total credit was lying unmatched in the system currently. He, therefore, proposed that the Law Committee had recommended that in the interest of revenue and to increase the proportion of matched credit in the system, Rule 36(4) be amended to restrict input tax

credit on missing invoices for any recipient to 10% of the total supplies received in his **FORM GSTR-2A** from his suppliers.

3. **Credit blocking in specific instances**

35.2. Principal Commissioner, GST Policy Wing, CBIC initiated the discussion stating that during investigations it had been accepted by the persons/registered persons that the input tax credit that had been passed on was fake credit as the underlying invoices that had been passed on were fake invoices. In course of investigation, the recipients who had availed the said input tax credit had also been identified (Rs.9028 crore by Centre and Rs.2740 crore by the States). Section 16 required ineligible credit was to be reversed in the return which was not happening as the return **FORM GSTR-3B** were self-assessed and were on a summary basis so it was not possible to determine the exact reason for reversal. There was a facility in the portal which allowed the tax authorities to block utilization of ITC which was being used by State Officers in as many as 25 States/UTs. It was further stated by the Principal Commissioner, GST Policy Wing that this issue was discussed in great depth in the Officers' Committee meeting on 17th December 2019. To ensure uniformity and in the interest of revenue, it was proposed that the GST Council, as a measure of revenue augmentation, may approve insertion of a new rule 86A to block the utilization of such credit.

4. **Extension of due date for filing of FORM GSTR-9 / 9C for FY 2017-18**

35.3. Principal Commissioner, GST Policy Wing, CBIC stated that notification No. 56/2019 dated 14.11.2019 was issued to simplify filing of Annual Return (**FORM GSTR-9**) and Reconciliation Statement (**FORM GSTR-9C**) for FY 2017-18 and FY 2018-19. Certain changes were required in the offline utility for filing of **FORM GSTR-9C**. It had been informed that the offline utility for filing of **FORM GSTR-9C** had not been deployed yet (till 16.12.2019). Taxpayers were expressing concern that they would get very little time for compliance. Accordingly, it was proposed to extend the due date for filing the FORM GSTR-9 and FORM GSTR-9C for FY 2017-18 from 31.12.2019 to 31.1.2020.

5. **Return extension for North-Eastern States**

35.4. The Principal Commissioner, GST Policy Wing, CBIC stated that internet had been suspended in many of the North-Eastern Areas with curfew also imposed in many of the territories. In light of this, many trade bodies had expressed their inability to file their return FORM GSTR-1, GSTR-7, GSTR-8, GSTR-9 and GSTR-9C. Therefore, Assam had requested for extension in due dates of filing FORM GSTR-1, GSTR-7, GSTR-8, GSTR-3B, GSTR-9 and GSTR-9C. Likewise, Manipur and Tripura had also requested for extension in due dates of filing in certain forms. The Principal Commissioner, GST Policy Wing requested the other North-Eastern States to inform if there was need to extend due dates in their regions. It was further stated by him that Section 39(6) of SGST Act empowered State Commissioners to extend the due date of filing their respective returns. Further, if such return was extended by the State Commissioner, the due date under the CGST Act was automatically extended. Therefore, all forms except GSTR-8, GSTR-9 and GSTR-9C might be extended by the State Commissioners on recommendation of the Council.

36. Further, the **Agenda Item 15(iii)** and **Agenda Item 15(iv)** were discussed in the Agenda Item 5 and 10 respectively.

37. For **Agenda Item 15**, the Council approved the following:

- i. Creation of the State and Area benches of the Goods and Services Tax Appellate Tribunal (GSTAT) as below:

Sl. No.	Name of States/Union Territory	Location for State Bench
1.	Madhya Pradesh	Indore
2.	Meghalaya	Guwahati* (request from Govt. of Meghalaya requested to club State Bench of Assam at Guwahati instead of earlier proposed at Shillong)
3.	Punjab	Ludhiana* (the Govt. of Punjab requested to change the State Bench of Punjab to Ludhiana instead of Chandigarh)

- ii. (a) Late fees to be waived for the registered persons who failed to furnish the details of outward supplies in **FORM GSTR-1** for the months/quarters from July, 2017 to November, 2019 by the due date if the same were filed till 10th January, 2020 and to block E-way Bill generation for non-filing of any two **FORM GSTR-1**.
(b) To amend the Rule 36(4) of GST Rules to restrict availment of input tax credit in respect of those invoices, the details of which have not been uploaded in the return filed under Section 37 (**FORM GSTR-1**) to the extent of 10% of the total eligible ITC, the details of which have been uploaded in **FORM GSTR-1**.
(c) To insert a new Rule 86A to block input tax credits under certain circumstances.
(d) To extend due date for filing of FORM GSTR-9 / 9C for FY 2017-18 to 31.1.2020.
(e) To extend the last date for filing returns in specified forms in case of Assam and certain other North-Eastern States on account of suspension of internet in these regions.
- iii. As recorded under Agenda Item No.10, the Council took note of the decisions of the 34th GIC Meeting held on 02.12.2019.
- iv. The proposal in agenda item 15(iv) to increase the GST rates from 12% to 18% on woven and non-woven bags and sacks of polypropylene and polyethylene (whether or not laminated) (classified under 3923 or 6305) including Flexible Intermediate Bulk Containers (FIBC), with effect from 1st January 2020.

Other issues

38. Finally, The Secretary stated that he was putting forth a proposal which may be considered by the Council that changes in GST rates normally should be carried out only once in a year because otherwise frequent rate changes create a lot of uncertainty. He requested the Council that they might consider it for acceptance later. It was further suggested by the Hon'ble Member from Uttar Pradesh that the revenue implication of every rate change should also be placed before the Council, along with whether the said good or service was a final consumption or an intermediate consumption.

Agenda Item 16: Date of the next Meeting of the GST Council

39. This agenda item was not taken up for discussion.
40. The Meeting ended with a vote of thanks to the Chair.

List of Hon'ble Ministers who attended the 38th GST Council Meeting on 18th December 2019

Sl No	State/Centre	Name of Hon'ble Minister	Charge
1	Govt of India	Ms. Nirmala Sitharaman	Union Finance Minister
2	Govt of India	Shri Anurag Singh Thakur	Minister of State (Finance)
3	Andhra Pradesh	Shri Mekapati Gautam Reddy	Minister for Industries & Commerce and Information Technology
4	Arunachal Pradesh	Shri Chowna Mein	Deputy Chief Minister
5	Assam	Dr. Himanta Biswa Sarma	Finance Minister
6	Bihar	Shri Sushil Kumar Modi	Deputy Chief Minister
7	Chattisgarh	Shri T.S. Singh Deo	Minister for Commercial Taxes
8	Delhi	Shri Manish Sisodia	Deputy Chief Minister
9	Goa	Shri Mauvin Godinho	Minister for Transport and Panchayat
10	Gujarat	Shri Nitinbhai Patel	Deputy Chief Minister
11	Haryana	Shri Dushyant Chautala	Deputy Chief Minister
12	Himachal Pradesh	Shri Vikram Singh	Minister for Industries
13	Jammu & Kashmir	Shri K K Sharma	Advisor to Lt. Governor
14	Jharkhand	Shri C.P. Singh	Minister - Department of Urban Development, Housing and Transport
15	Karnataka	Shri Basavaraj Bommai	Minister for Home Affairs and Co-operation
16	Kerala	Dr. T. M. Thomas Isaac	Minister for Finance & Coir

Sl No	State/Centre	Name of Hon'ble Minister	Charge
17	Madhya Pradesh	Shri Brajendra Singh Rathore	Commercial Tax Minister
18	Maharashtra	Shri Jayant Rajaram Patil	Finance Minister
19	Manipur	Shri V Hangkhanlian	Minister of Agriculture, Veterinary & Animal Husbandry
20	Meghalaya	Shri KyrmenShylla	Minister for Printing & Stationary Deptt, Revenue & Disaster Management and Social Welfare
21	Mizoram	Shri Lalchamlia	Minister, Taxation
22	Nagaland	Shri Metsubo Jamir	Minister, Urban, Municipal Administration
23	Odisha	Shri Niranjan Pujari	Finance & Excise Minister
24	Puducherry	Shri V. Narayansamy	Chief Minister
25	Punjab	Shri Manpreet Singh Badal	Finance Minister
26	Rajasthan	Shri Shanti Kumar Dhariwal	Minister for Local Self Government, Urban Development and Housing, Law and Legal affairs, Parliamentary affairs
27	Sikkim	Shri. B.S. Panth	Minister for Tourism, Civil Aviation, Commerce and Industries
28	Tamil Nadu	Shri D. Jayakumar	Minister for Fisheries and Personnel & Administrative Reforms
29	Telangana	Shri T. Harish Rao	Finance Minister
30	Tripura	Shri Jishnu Dev Varma	Deputy Chief Minister
31	Uttarakhand	Dr. Harak Singh Rawat	Minister for Forests & Wild Life, Environment & Solid Waste Disposal

Sl No	State/Centre	Name of Hon'ble Minister	Charge
32	Uttar Pradesh	Shri Suresh Kumar Khanna	Finance Minister
33	West Bengal	Dr. Amit Mitra	Finance Minister

List of Officials who attended the 38th GST Council Meeting on 18th December 2019

Sl. No	State/Centre	Name of the Officer	Charge
1	Govt. of India	Dr. A B Pandey	Revenue Secretary
2	Govt. of India	Dr. Krishnamurthy Subramanian	Chief Economic Advisor
3	Govt. of India	Shri Pranab Kumar Das	Chairman, CBIC
4	Govt. of India	Dr. John Joseph	Member (Tax Policy), CBIC
5	Govt. of India	Shri Sandeep M Bhatnagar	Member (GST & Investigation), CBIC
6	Govt. of India	Dr. Rajeev Ranjan	Special Secretary, GST Council
7	Govt. of India	Ms Archana Pandey Tiwari	Pr. Director General (Audit)
8	Govt. of India	Ms N Sumati	Pr. CCA
9	Govt of India	Shri Manoj Sethi	CCA
10	Govt. of India	Shri Anil Kumar Jha	Additional Secretary, DoR
11	Govt of India	Shri Ritvik Pandey	Joint Secretary, DoR
12	Govt. of India	Shri Yogendra Garg	Pr. Commissioner, GST Policy Wing, CBIC
13	Govt. of India	Shri Sanjay Mangal	Commissioner, GST Policy Wing, CBIC
14	Govt. of India	Shri G.D. Lohani	Joint Secretary, TRU I, DoR
15	Govt. of India	Shri Manish Kumar Sinha	Joint Secretary, TRU II, DoR
16	Govt. of India	Ms V. Usha	Pr. Commissioner, Ce.Ex, CBIC
17	Govt. of India	Shri A K Goel	Secretary, NAA

Sl. No	State/Centre	Name of the Officer	Charge
18	Govt. of India	Shri Rajesh Malhotra	DG (M&C), PIB
19	Govt. of India	Shri K M Nahar	MECO (M&C), PIB
20	Govt of India	Shri Gaurav Singh	Deputy Secretary, TRU-I
21	Govt of India	Shri Jainendra Singh Kandhari	OSD, TRU-I
22	Govt of India	Shri Praveen Kumar Bali	Dy. Comm., TRU-I
23	Govt of India	Shri S W Haider	Dy. Comm., TRU-I
24	Govt of India	Shri Abhishek Verma	Dy. Comm., TRU-I
25	Govt. of India	Shri Parmod Kumar	Commissioner (OCD) TRU-II
26	Govt. of India	Shri Pramod Kumar	Director, TRU-II
27	Govt. of India	Shri Harish Y. N	OSD, TRU-II
28	Govt. of India	Shri N Gandhi Kumar	Director, DoR
29	Govt. of India	Shri Amaresh Kumar	Joint Commissioner, GST Policy Wing, CBIC
30	Govt. of India	Shri Nimba Ram	Joint Commissioner, GST Policy Wing, CBIC
31	Govt. of India	Shri Vikash Kumar	Dy. Comm., GST Policy Wing, CBIC
32	Govt. of India	Shri Siddharth Jain	Dy. Comm., GST Policy Wing, CBIC
33	Govt. of India	Ms. Rajni Sharma	Dy. Comm., GST Policy Wing, CBIC
34	Govt. of India	Ms. Deepika Singh	Dy. Comm., GST Policy Wing, CBIC

Sl. No	State/Centre	Name of the Officer	Charge
35	Govt. of India	Ms. Megha Gupta	Asst Comm, GST Policy Wing, CBIC
36	Govt. of India	Shri Sumit Garg	Dy. Commr., TPRU
37	Govt. of India	Shri Shekhar Kumar	Dy. Commr., TPRU
38	Govt. of India	Shri Vipul Bansal	PS to Union Finance Minister
39	Govt. of India	Shri Binod Kumar	PS to MoS (Finance)
40	Govt. of India	Shri Debashis Chakraborty	OSD to Revenue Secretary
41	Govt. of India	Dr. Abhishek Chandra Gupta	OSD to Chairman, CBIC
42	Govt. of India	Shri Dev Kumar Rajwani	OSD to Chairman, NAA
43	GST Council	Shri Amitabh Kumar	Joint Secretary
44	GST Council	Shri S.K. Rahman	Joint Secretary
45	GST Council	Shri Dheeraj Rastogi	Joint Secretary
46	GST Council	Smt Ashima Bansal	Joint Secretary
47	GST Council	Shri Rajesh Agarwal	Director
48	GST Council	Shri G.S. Sinha	Director
49	GST Council	Shri Jagmohan	Director
50	GST Council	Ms. Ujjaini Datta	Director
51	GST Council	Shri Arjun Meena	Dy. Commissioner
52	GST Council	Shri Rakesh Agarwal	Dy. Commissioner
53	GST Council	Shri Rahul Raja	Under Secretary

Sl. No	State/Centre	Name of the Officer	Charge
54	GST Council	Shri Nitin Deepak Agarwal	Under Secretary
55	GST Council	Shri Mahesh Singarapu	Under Secretary
56	GST Council	Shri Krishna Koundinya	Under Secretary
57	GST Council	Shri SaribSahran	Superintendent
58	GST Council	Shri Adesh Nayak	Superintendent
59	GST Council	Shri Krishan Kumar Verma	Superintendent
60	GST Council	Ms Chanchal Soni	Superintendent
61	GST Council	Shri Maneesh Nemiwal	Superintendent
62	GST Council	Shri Om Veer Singh	Superintendent
63	GST Council	Shri Sumit Kumar	Superintendent
64	GST Council	Shri Vijay Kumar	Superintendent
65	GST Council	Shri Vipin Sethi	Superintendent
66	GST Council	Shri Sanjay Bansal	Superintendent
67	GST Council	Shri Rakesh Joshi	Inspector
68	GST Council	Shri Pankaj Bharadwaj	Inspector
69	GSTN	Shri Prakash Kumar	CEO
70	GSTN	Ms Kajal Singh	EVP, Services
71	GSTN	Shri Sarthak Saxena	OSD to CEO
72	Govt. of India	Dr Balbir Singh	Commissioner, Ahmedabad

Sl. No	State/Centre	Name of the Officer	Charge
73	Govt. of India	Shri MahendraRanga	Pr. Commissioner, CGST, Lucknow
74	Govt. of India	Shri V M Jain	Commissioner, CGST, Haryana
75	Govt. of India	Shri Satish Kumar Agarwal	Pr. Commissioner, CGST, Bengaluru
76	Govt. of India	Shri Pramod Kr Agarwal	Pr. Commissioner, CGST, Nagpur
77	Govt. of India	Ms. Hemambika R Priya	Pr. Commissioner, CGST, Delhi
78	Govt. of India	Shri B.K. Kar	Pr. Commissioner, CGST, Bhubaneswar
79	Govt. of India	Shri Krishna A Mishra	Pr Commissioner, CGST, Pune
80	Govt. of India	Shri Pramod Kumar Singh	Pr Commissioner, CGST, Jaipur
81	Govt. of India	Shri B. B. Mohapatra	Pr Commissioner, CGST, Raipur
82	Govt. of India	Shri Manas Ranjan Mohanty	Commissioner, CGST, Mumbai
83	Govt. of India	Shri Anuj Gogia	Commissioner, CGST, Uttarakhand
84	Govt. of India	Shri H. B. Negi	Commissioner, CGST, Shimla
85	Govt. of India	Shri Ashutosh Kr Baranwal	Pr. Commissioner, CGST, Chandigarh
86	Govt. of India	Shri M Srihari Rao	Commissioner, CGST, Vishakhapatnam
87	Govt. of India	Shri M. R. R. Reddy	Commissioner, CGST, Secunderabad
88	Andhra Pradesh	Dr D.Sambasiva Rao	Special Chief Secretary, Revenue

Sl. No	State/Centre	Name of the Officer	Charge
89	Andhra Pradesh	Shri Peeyush Kumar	Chief Commissioner (State Tax) (GST)
90	Andhra Pradesh	Shri J. V. M. Sarma	Joint Commissioner (ST)(GST)
91	Arunachal Pradesh	Shri Kanki Darang	Commissioner (Tax, Excise & Narcotics)
92	Assam	Shri Anurag Goel	Commissioner, State Tax
93	Assam	Md. Shakeel Saadullah	Joint Commissioner (State Tax)
94	Bihar	Shri Arun Kumar Mishra	Additional Secretary, CTD
95	Bihar	Shri Binod Kumar Jha	Joint Commissioner, CTD
96	Chandigarh	Shri Mandip Singh Brar	E&TC
97	Chandigarh	Shri Ramesh Kumar Chaudhary	Asst. E&TC
98	Chhattisgarh	Ms Reena Babasaheb Kangale	Secretary and Commissioner, State Tax
99	Chhattisgarh	Shri S L Agrawal	Special Commissioner, State Tax
100	Chhattisgarh	Shri Manish Mishra	Dy Commissioner, State Tax
101	Delhi	Shri Rajeev Verma	Principal Secretary, Finance
102	Delhi	Ms Padmini Singla	Secretary, Finance
103	Delhi	Shri H. Rajesh Prasad	Commissioner, State Tax
104	Delhi	Shri Anand Kumar Tiwari	Additional Commissioner, State Tax
105	Goa	Shri Dipak Bandekar	Commissioner, CT
106	Gujarat	Shri Pankaj Joshi	Additional Chief Secretary

Sl. No	State/Centre	Name of the Officer	Charge
107	Gujarat	Shri J. P. Gupta	Chief Commissioner, State Tax
108	Gujarat	Shri Ridhidesh Rawal	Dy, Comm, State Tax
109	Haryana	Shri Anurag Rastogi	Principal Secretary, Excise & Taxation
110	Haryana	Shri Amit Agarwal	Commissioner, E & T Dept
111	Haryana	Shri Vijay Kumar Singh	Addl. Excise & Taxation Commissioner
112	Haryana	Shri Rajeev Chaudhary	Jt. Excise&Taxation Commissioner
113	Himachal Pradesh	Shri Sanjay Kundu	Pr. Secretary, State Taxes and Excise
114	Himachal Pradesh	Dr. Ajay Sharma	Commissioner of State Tax and Excise
115	Himachal Pradesh	Shri Rakesh Sharma	Addl. Commissioner., State Tax & Excise
116	Jammu & Kashmir	Shri P K Bhatt	Commissioner, State Tax
117	Jharkhand	Shri Prashant Kumar	Secretary cum Commissioner, State Tax
118	Jharkhand	Shri Santosh Kumar Vatsa	Special Secretary, State Tax
119	Jharkhand	Shri Brajesh Kumar	State Tax officer
120	Karnataka	Shri SrikarM.S	Commissioner, State Tax
121	Karnataka	Shri Nitesh Patil	Additional Commissioner (Intelligence), State Tax
122	Karnataka	Dr Avinash Menon	Additional Commissioner, State Tax

Sl. No	State/Centre	Name of the Officer	Charge
123	Kerala	Shri Manoj Joshi	Additional Chief Secretary (Finance & Taxes)
124	Kerala	Shri Anand Singh	Commissioner, State Tax
125	Madhya Pradesh	Shri Raghwendra Singh	Commissioner, State Tax
126	Madhya Pradesh	Shri Sudip Gupta	Joint Commr, State Tax
127	Madhya Pradesh	Shri Narendra Singh Chauhan	Dy. Comm, State Tax
128	Maharashtra	Shri Rajiv Jalota	Commissioner, State Tax
129	Maharashtra	Shri Kiran Shinde	Dy Commissioner, State Tax
130	Manipur	Ms. Jaspreet Kaur	Commissioner, State Tax
131	Meghalaya	Shri L Khongsit	Joint Commissioner, State Tax
132	Mizoram	Shri Vanlal Chhuanga	Commissioner & Secretary, Taxation Deptt
133	Mizoram	Shri R. Zosiamliana	Addl. Commissioner, State Tax
134	Nagaland	Shri Y Mhathung Murry	Addl Commissioner, State Tax
135	Odisha	Shri Ashok K K Meena	Principal Secretary, Finance
136	Odisha	Shri Sushil Kumar Lohani	Commissioner, CT & GST
137	Odisha	Shri Ananda Satpathy	Special Commissioner, CT & GST
138	Puducherry	Shri L Kumar	Commissioner, State Tax
139	Puducherry	Shri K Sridhar	Dy. Comm, State Tax
140	Punjab	Shri M. P. Singh	ACS cum Financial Commissioner, Taxation Deptt

Sl. No	State/Centre	Name of the Officer	Charge
141	Punjab	Shri V. K. Garg	Advisor, Financial Resources to Chief Minister
142	Punjab	Shri Vivek Pratap Singh	Excise and Taxation Commissioner
143	Punjab	Shri Pawan Garg	Deputy Excise and Taxation Commissioner
144	Rajasthan	Dr. Prithvi Raj	Secretary Finance (Revenue)
145	Rajasthan	Dr. Preetam B Yashvant	Commissioner, State Tax
146	Rajasthan	Shri Ketan Sharma	Addl. Commissioner, GST, State Tax Dept
147	Sikkim	Shri. J D Bhutia	Commissioner, State Tax
148	Tamil Nadu	Shri K. Gnanasekaran	Addl. Commissioner (Policy & Planning)
149	Tamil Nadu	Shri C Palani	Joint Commissioner, State Tax
150	Telangana	Shri Somesh Kumar	Special Chief Secretary
151	Telangana	Smt Neetu Prasad	Commissioner, State Tax
152	Telangana	Shri Laxminarayan Jannu	Addl. Commissioner, State Tax
153	Telangana	Shri N. Sai Kishore	Joint Commissioner, State Tax
154	Tripura	Shri Sudip Bhowmik	Deputy Commissioner, State Tax
155	Tripura	Shri Badal Baidya	Assistant Commissioner, State Tax
156	Uttarakhand	Dr Sunita Pandey	Deputy Commissioner, State Tax
157	Uttarakhand	Shri S.S. Tiruwa	Deputy Commissioner, State Tax

Sl. No	State/Centre	Name of the Officer	Charge
158	Uttar Pradesh	Shri Alok Sinha	Additional Chief Secretary, CTD
159	Uttar Pradesh	Ms. Amrita Soni	Commissioner, CTD
160	Uttar Pradesh	Shri Sanjay Kumar Pathak	Joint Commissioner, CTD
161	Uttar Pradesh	Shri Gaurav Rajput	Asst. Comm., State Tax
162	Uttar Pradesh	Shri K Mrityunjay	Asst. Comm., State Tax
163	West Bengal	Shri H.K. Dwivedi	Addl Chief Secretary, Finance
164	West Bengal	Ms Smaraki Mahapatra	Secretary, Finance
165	West Bengal	Shri Devi Prasad Karanam	Commissioner, CT
166	West Bengal	Shri Khalid Aizaz Anwar	In charge GST-PPU



Agenda on Lottery

38th GST Council Meeting, New Delhi
18th December 2019

1

Issues referred to GoM on Lotteries

1. GST rate on supply of lottery
2. Ensuring destination principle for supply so that GST revenue accrues to the consuming state
3. Valuation to be adopted for charging GST
4. Addressing the Constitutional challenge to levy of GST on Lottery as 'Goods'
5. Regulation of online lottery
6. Miscellaneous issues: Casinos, Horse Racing & Online Gaming

2

Issues pending before GoM

1. GST rate on supply of lottery
2. Miscellaneous issues: Casinos, Horse Racing and Online Gaming

3

Recommendation of GoM to 33rd GSTC Meeting on 24.02.2019 [Agenda 7(i)]

(i) A single rate of GST should be levied on lottery instead of existing two rates. (Presently, the lotteries run by the State are taxed at the rate of 12% whereas the lotteries authorized by State Government are taxed at the rate of 28%). A uniform rate would be in conformity with GST principles.

(ii) Lottery is a sin/demerit good and should be taxed at high rate of GST. GST Council may take the final decision on the appropriate single rate of tax on lottery either at the rate of 28% or 18%.

Decision of 33rd GSTC Meeting: Rate not decided and let it for GoM to decide the GST rate

4

Recommendation of GoM to 35th GSTC Meeting on 20.06.2019 [Agenda 7(i)]

(i) There was no consensus on the need for a new rate of GST on lottery. Assam, Arunachal Pradesh, Goa, Maharashtra supported single rate of GST. However, Kerala, Punjab, West Bengal and Karnataka supported the existing two rates of GST on lottery. Punjab was willing to consider lower uniform rate, if there were legal difficulties with rate differential. Therefore, the Convener of the GoM directed that the matter be placed before the GST Council and the Council decide appropriate rate structure on the supply of lottery. Given that this is a sin goods, rate of tax should be high i.e. 28% or 18%.

(ii) The constitutional challenge to the dual rate structure may be defended forcefully.

Decision of 35th GSTC Meeting: Legal Opinion of Ld. Advocate General be taken on the rate issue of lottery.

5

Legal Opinion of Learned Attorney General of India

- There would be no impediment arising out of the Constitution of India to the levy of a uniform rate of GST on 'State Run Lotteries' and 'State Authorised Lotteries'.
- Article 304 of Constitution of India, would have no bearing on the levy of differential GST on 'State Run Lotteries' and 'State Authorised Lotteries'.
- State Run Lotteries and State Authorized Lotteries can be treated as different goods.

6

Recommendation of 37th GSTC Meeting on 20.09.2019 [Annexure VII of Agenda, Vol 3]

- (i) GoM on Lottery to decide the rate of GST on lottery
- (ii) GoM to decide on the associated issues related to Casinos, Horse Racing and Online Gaming
- **Decision of 37th GSTC Meeting: GoM on Lottery to meet and decide on the above two issues and bring it before the GST Council.**
- GoM has not been able to meet due to elections in Maharashtra.

7

Writ Petition (C) No. 961/2018 by Skill Lotto Solutions Pvt Ltd at Hon'ble SC

Three main grounds by the petitioner: -

- (i) GST cannot be levied on lottery as 'goods'.
- (ii) GST on lotteries should be imposed after excluding the prize money component of the lottery ticket since the said amount never forms part of income in the lottery trade.
- (iii) GST cannot be levied on lottery at two different rates as it is in violation of article 14, 19(1)(g), 301, 304 of the Constitution of India. The discriminatory rate of tax be set aside and all the lotteries may be taxed at the rate of 12%.

8

Writ Petition (C) No. 961/2018 by Skill Lotto Solutions Pvt Ltd at Hon'ble SC

- 30th April, 2019: Interim Order by Hon'ble SC after taking statement of Id. ASG that all the above issues will be considered by the GoM on lottery.
- 3rd December, 2019: Adjourned to 15.01.2019 after giving final opportunity to GoM/GST Council to decide on the agitated issues.
- 4th December, 2019: Shri Vikramjit Bannerji, Ld. ASG has informed Department of Revenue vide letter that Hon'ble SC has adjourned hearing of the petition to 15.01.2020, to enable the department to convey the decision of the GST Council on the issue **as a final opportunity**.

9

S.N.	Issue raised in the Writ Petition	Status
1	GST cannot be levied on lottery as 'goods'	GoM recommended that supply of lottery should continue to be treated as actionable claims i.e goods and leviable to GST as per the existing provisions of GST law. The 35 th GST Council on 21 st June 2019 accepted the decision of the GoM.
2	Impose GST on lotteries after excluding the prize money component of the lottery ticket.	GoM recommended that GST should continue to be levied on face value of lottery which includes prize money as per the existing provisions i.e Rule 31A of CGST Rules. The 35 th GST Council 21 st June 2019 accepted the decision of the GoM.

10

The next date of hearing in the Hon'ble SC on the matter is 15.01.2020, the Council is requested to take decision on the issue of tax rate on lottery i.e.

- (a) Whether a uniform rate of GST be levied on lottery?
- (b) If yes, what should be the rate of GST on lottery, 18% or 28% (or any other rate).

11

- Following issues may be referred to Law Committee as these issues were not part of the original terms of reference to the GoM: -

Supply	Request made by the industry
Casinos	Value retained by a Casino after winnings as taxable value.
Horse Racing	Value retained by a club after giving prize money as taxable value.
Online Gaming	Value retained by an online platform after giving prize money as taxable value.

- Suggest any other method to address the associated issues.
- **Another set of litigation by Online gaming portals are going on.**

12

Committee of Officers to suggest measures to augment GST Revenue

**The 38th Meeting of the GST Council
December 18, 2019**

1

Contents..

- Committee of officers- constitution, TOR and deliberations
- Revenue trends
- Compensation requirement gap projections
- Evolution of GST rate structure viz a viz RNR Committee recommendation
- Suggestions from States for revenue augmentation
- Certain scenarios for revenue trends in next two years

2

Context

- After witnessing impressive growth in the fourth quarter of last FY, the GST revenue growth rate declined in recent months.
- The compensation requirements have increased significantly. The compensation cess collections are inadequate to meet this requirement.
- In view of these concerns, a Committee of Officers was constituted to suggest measures to augment revenue.

3

TOR of the Committee of Officers

- Systemic changes in GST including checks and balances to prevent misuse
- Measures to improve voluntary compliance
- Policy measures and relevant changes needed in law
- Measures for expansion of tax base
- Improved compliance monitoring and measures using data analytics
- Better administrative control

4

Constitution of Committee

- **State CCTs**
 - Maharashtra
 - Tamil Nadu
 - Uttar Pradesh
 - West Bengal
 - Punjab
 - Any other State (opts to join)
 - Odisha
 - M.P.
 - Haryana
 - Rajasthan
- **Centre**
 - Joint Secretary (Revenue)
 - Pr Commissioner GST
 - Joint Secretary (TRU I/II)
 - ADG (ARM)
 - ADG (System)
 - Joint Secretary (GST Council)
 - Executive VP, GSTN
- **GSTC Sectt and GSTN**
 - Joint Secretary (GST Council)
 - Executive VP, GSTN

5

Discussions in the Committee

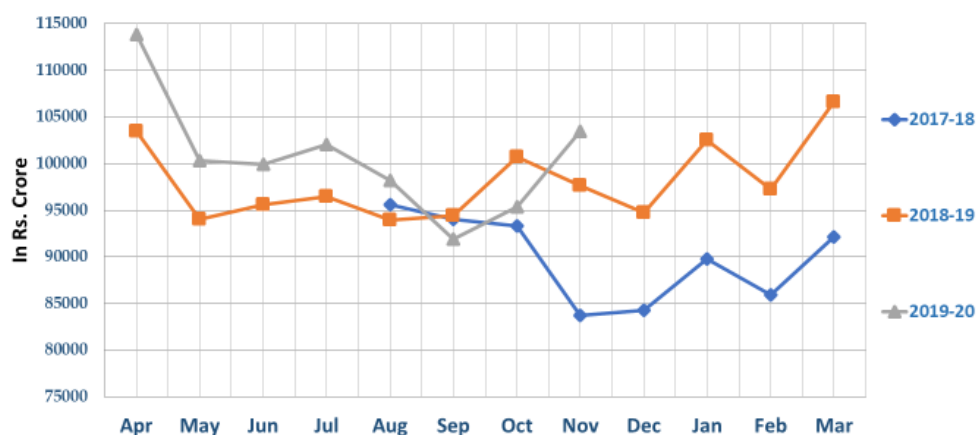
STATES were requested to provide specific suggestions on the following points

- Review of items currently under exemptions
- GST and compensation cess rates on various items
- Rate calibration for addressing the inverted duty structure
- Compliance measures other than those currently under implementation
- Any other measure to augment revenue

The Committee had elaborate discussions on 15th Oct and 12th Dec
Also exchanged views in between through mails

6

GST Gross Revenue Trends



7

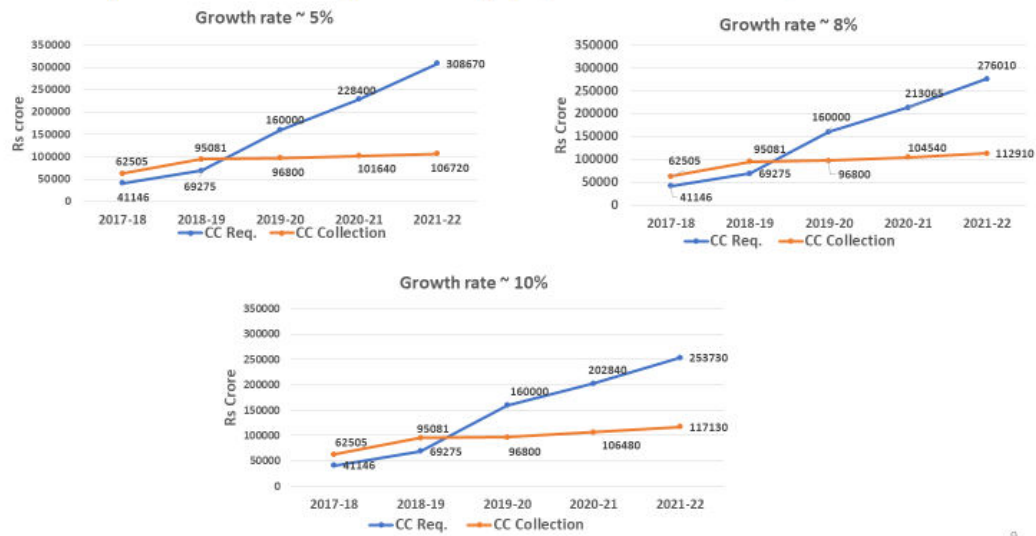
GST Gross Revenue[Centre + State]Trends

In Rs Crore

Tax Head	2017-18 (Jul –Mar)	2018-19	2018-19 (Apr –Nov)	2019-20 (Apr –Nov)	Growth (%) 19-20
GST (Dom)	4,83,716	7,89,497	5,14,245	5,56,938	8.3
CC (Dom)	56,319	87,289	57,482	57,637	0.3
Total Dom (A)	5,40,037	8,76,786	5,71,727	6,14,575	7.5
IGST Import	1,94,414	2,90,504	1,98,043	1,83,700	-7.2
CC(Import)	6,201	10,079	6,546	6,891	5.3
Total Import (B)	2,00,615	3,00,583	2,04,589	1,90,591	-6.8
Total [A+B]	7,40,652	11,77,369	7,76,316	8,05,166	3.7

8

Compensation Cess requirement gap (different scenarios)



9

GST RATE RATIONALISATION..

10

Evolution of GST rates structure

- GST Rates were initially worked out on RNR basis
- However, lower than RNR rates were prescribed on a number of items
- Items placed under 28% slab had pre-GST incidence in excess of 31%
- Items like tooth paste, mineral water, soap (pre-GST incidence~30%) kept in 18% slab
- Significant post GST rate reduction and other concessions

Meeting Date	GST rates reduction [No of goods]
09.09.2017	36
06.10.2017	26
10.11.2017	243
18.01.2018	24
21.7.2018	55
22.12.2018	16
20.9.2019	12
	[about 80 services]

Other concessions

Threshold increased to Rs 40 lakh in goods

Composition limit increase (Rs 75 lakh to Rs 1.5 Crore)

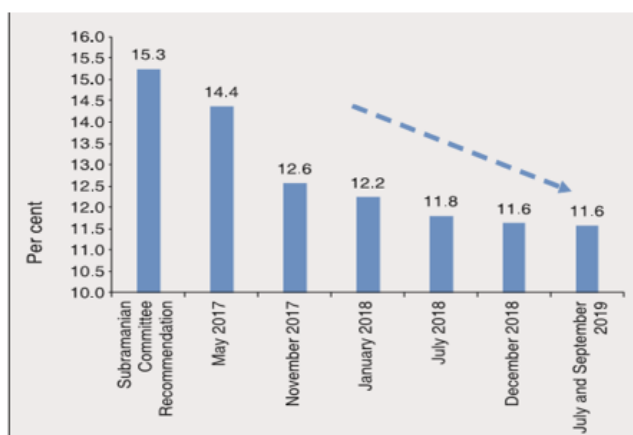
Composition rate lowered from 2% to 1% for manufacturers

Composition Scheme extended to services

Implications has been about Rs 1 lac crore in a year

11

Weighted Average (Effective) GST rate [RBI Report]



RBI's observation:

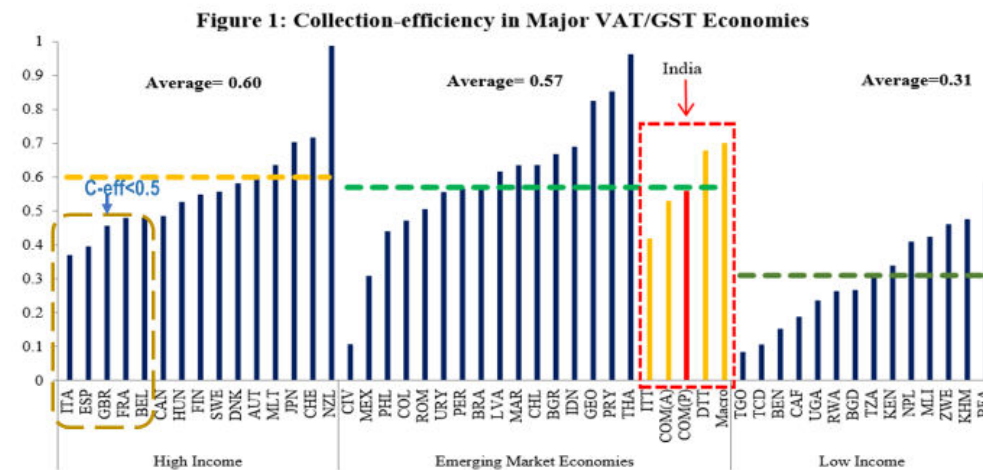
Enhanced buoyancy has been achieved by widening the tax base and reducing distortions

12

REVENUE NEUTRAL RATE BY THE CEA COMMITTEE

	RNR (%)	Rate on precious metals (%)	"Low" rate (Goods) (%)	"Standard" rate (%)	"High/demrit" rate or Non-GST excise (goods)
Preferred [C efficiency- 0.56]	15	6	12	16.9	40
		4		17.3	
		2		17.7	
Alternative [C-efficiency-0.53]	15.5	6	12	18.0	40
		4		18.4	
		2		18.9	

13

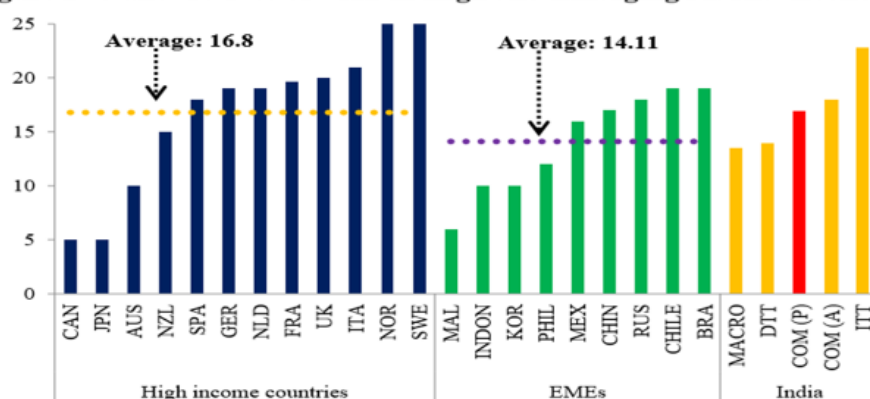


Source-IMF and Committee's calculations

From RNR Committee Report

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Figure 2: Standard rate of VAT in High and Emerging Market Economies



Source-IMF, Credit Suisse and Committee's own calculation

From RNR Committee Report

15

RNR Committee's observation on lower rate

- The lower rate should be closure to the RNR rate
- This would ensure
 - The standard rate could be kept reasonable
 - Lesser temptation to push the commodities to lower rate

Rate-wise share in GST collection (Excluding cess)

GST rate	Cash+ITC (% share)	Cash (% share)
3%	1.1	0.7
5%	8.0	10.2
12%	11.4	8.4
18%	60.6	63.3
28%	17.9	16.4

Significant base in
5% and 12% slab

16

Major items @ 5% slab

- Fertilizer
- Cotton, cotton yarn
- Branded cereals
- Edible oil, Spices
- Sugar
- Misc eatables
- Walnut, cashew
- Fabrics
- Garments (upto Rs1000)
- Coal/Dom LPG
- Footwear (upto Rs1000)
- Ores
- Oil cake/rice bran
- Renewable energy equipment
- Specified Handicrafts
- E-waste
- Goods transport
- Economy Air
- AC Rail travel
- E-vehicles
- Job work
- Restaurants
- Catering
- Construction of houses
- Tour operators
- Car renting
- Specified Pharma
- Ships/aircraft
- Assistive devices for disabled
- News print

Major items @ 12% slab

- Mobile
- Manmade Yarns
- Apparel(>Rs1000)
- Carpets
- Paintings
- Handicrafts
- Paper
- Ghee/butter
- Pickle, jam, jellies
- Fruit Juices
- Water (20 Ltr pack)
- Specified bio pesticides
- Misc-tooth powder, candles, hand bags
- Bicycle
- Tractors
- Railway wagons
- Toys
- General pharma
- Agri machinery
- Drip irrigation
- Air travel(Business)
- State Lotteries
- Cinema (upto Rs 100)
- Accommodation (Rs1000 to 7500)

17

Exemptions- Major items

- Education
- Health
- Public transport
- Accomo< Rs 1000
- House lease/rent
- Cereals/pulses
- Fruits
- Vegetables/plants
- Jaggery/khandsari
- Animals/fishes
- Animal feeds
- Honey
- Bread
- Salt
- Milk/paneer/curd
- Printed books, news paper
- Khadi yarn/khadi fabrics (KVIC)
- Raw silk, wool, jute
- Kajal kum-kum, sindoor
- Sanitary napkins
- Organic manure
- Hearing aids
- Manual agri implements
- Misc items like rakhi

18

Inverted duty structure

- Manufactured goods in lower rate slabs (5% // 12%) suffer inverted duty structure (IDS)
- IDS has led to
 - demand for refund ITC on services and capital goods.
 - litigation and distortions
- Estimated refunds on account of IDS ~ Rs 20,000 crore a year

Items
Fertilizers
Mobile phones
Footwear
Renewable equipment
Man-made yarns
Tractors
Fabrics
Pharma
RMG and Madeups
Generators/inverters
Edible oil
Job work
Aggarbatti

Items
Agri machinery
Utensil
Bicycles
LED light
Milling machines
Ink
Ethyl alcohol
Medical equip
PP_bags
Water pumps
Other Misc items

19

Suggestions received for augmenting revenue (1/2)

- **RATE SLAB**
 - Two rate structure 10% and 20%
 - Special higher rate on sin and luxury goods
 - Cess on goods like cosmetics, gambling, recreational services etc
 - Increase in the cess rates of existing items. Specific rates to be inflation indexed
 - Rationalisation of exemption
- **COMPOSITION**
 - Revise composition rate upward for manufacturers
 - Review of coverage under composition scheme
- **PLUGGING LEAKAGE**
 - ECO may be made principal supplier
 - MRP based levy of certain items like Pharma or goods sold to consumer
 - Capacity based levy

20

Suggestions received for augmenting revenue (2/2)

▪ Specific suggestions for base broadening and rationalisation

- Withdrawal of exemption on certain items which are presently exempt
- Education and health~ selective taxation of higher segments
- Precious metal (3% to 5%)
- Moving items from 5% /12% to higher slabs (like mobile from 12% to 18%)
- Revisit rates on certain items which went from 28%to 18%

▪ Improving compliance

- Suggestions were also received on procedural side, input tax credit, widening of TDS. A number of these, like e-invoice are under implementation.

21

Revenue scenarios if current position continues

Revenue growth rate	Financial year	CESS requirement (Rs Cr)	CESS GAP (Rs Cr)	Extent to which compensation covered (%)
5%	2019-20	1,60,000	63,200	8.5
	2020-21	2,28,400	1,26,760	6.2
	2021-22	3,08,670	2,01,950	4.8
8%	2020-21	2,13,060	1,08,520	6.9
	2021-22	2,76,010	1,63,100	5.7
10%	2020-21	2,02,840	96,360	7.3
	2021-22	2,53,730	1,36,600	6.5

- Increase in compensation cess rates would not yield any significant revenue to meet this gap

22

Best Practices in GST

Commercial Tax Department Uttar Pradesh

1

REGISTRATION PROCESS

Verification of Registration

- Physical Verification of new registration through mobile app
- Aim to physically verify all the Registered dealers, More than 1.1 lakh dealers verified so far.
- Provision of recording discrepancy in the Place of Business vis a vis nature of business declared by dealers.

2

Encouraging New Registrations

- Enumeration of all the business activities in all Urban Local Bodies and big Gram Panchayats.
- Collecting information from various departments of the state and agencies viz. Paytm etc. to create database of business entities eligible for registration.
- Aim to register all eligible dealers.
- Taking help of Vyapari Kalyan Board and local associations in the process
- Awareness campaign through news paper advertisements and seminars.

3

Return Filing

- Return filing alert SMS to eligible dealers on 5th, 15th & 18th of every month.
(More than 86 Lakh sms sent from April 2019 to Nov-2019)
- Online Notice generation for all non-filers on 25th of the month.
(More than 13 Lakh Notices Issued from April 2019 to Nov-2019)
- Online monitoring system for the disposal of notices.
- Action against the regular non-filers as per the provisions in GST.

4

Return Filing Status (State Dealers)

Tax Period	Filing Percentage	Non Filing Percentage
Apr-19	97.72	2.28
May-19	97.25	2.75
Jun-19	96.62	3.38
Jul-19	95.92	4.08
Aug-19	95.04	4.96
Sep-19	93.56	6.44
Oct-19	90.39	9.61

5

Dealer Risk Profiling

- Dynamic Dealer risk profiling on the basis of compliance and transactional data.
- Dealer Score on the basis of criticality of the parameter for tax evasion.
- Monthly dealer Score for **Scrutiny** and Mean Dealer Assessment Score for **Enforcement purpose**.
- Zone, Region & Sector wise risk Scores available in Officer login.

6

RFID

- RFID system to monitor the vehicle movement in, from & through the State.
- RFID Towers at 41 strategic locations capable of capturing the Fastag and customized State RFID tag.
- More than 3 lakh RFID tags affixed on vehicles
- Through RFID technology, multiple usage of E-Way bill case was caught & Rs. 87.5 Lakh got deposited by single vehicle carrying pan masala.

7

Mobile Management System(MMS)

- Red flagging of Vehicles, Transporter and dealers on the basis of data.
- All the mobile units are equipped with vehicle tracking system.
- Centralized command centre for monitoring of mobile units.
- From online detention memo to Appeal ...complete process is online.

8

SIB management System(SMS)

- All functionalities of Investigation & Raids are online
- Case profiles are filled online and monitoring is also online
- Body-worn camera for the Investigating Units during Raids.
- Centralized enforcement units at H.Q. for effective investigation and raids based on data analysis and other information.

9

Weekly monitoring of functional parameters

- **Registration application disposal & verification**
- **Return Filing**
 - Action against Non-Filers
 - Return Scrutiny
 - Red flag dealers scrutiny and follow up
- **Adjudication of SIB cases**
- **Recovery & Collection**
- **Refund Application disposal**

10

Suggestions for Revenue Augmentation

Systemic changes in GST including checks and balances to prevent misuse

- Need to capture B2C transactions.
- Seamless integration between GSTN, DGFT, banks, RBI, STPI and Special Economic Zones (SEZ) for effective monitoring

11

Suggestions for Revenue Augmentation

Measures to improve voluntary compliance

- Regular communication with dealers through SMS and app on weekly basis
- An incentive scheme for dealers involved in B2C supplies may be envisaged.

12

Suggestions for Revenue Augmentation

Policy measures and relevant changes needed in the law

- Enforce the provisions of Rule 138(7).
- Compulsory e-invoicing for sensitive commodities and services.
- Government departments, which are registered as normal tax payer for their outward supplies on forward charge, should not be provided facility of any outward supply on RCM basis.

13

Suggestions for Revenue Augmentation

Improved compliance monitoring and anti-evasion measures using better data analytics

- There should be HSN and SAC wise mapping of commodities and services at time of Registration.
- Real-time data sharing between NHAI, GSTN and State and Centre.

14

Measures taken by the Government of J&K to improve Revenue Collections

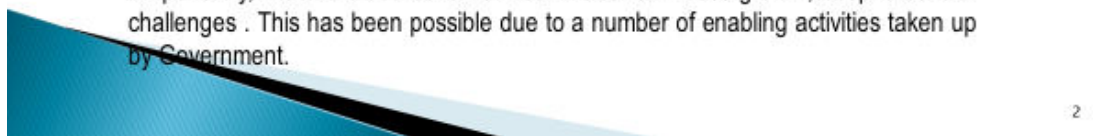
Finance Department Government of J&K

38th Meeting of GST Council, 18th December, 2019



Revenue Trends in 2019-20

- During the current financial year, the collections for the period April to July stood at 1769 crores against the collection of Rs. 1365 crores for the corresponding period of 2018-19 registering thereby a robust growth of 26%.
- On an average the revenue collections increased to Rs.442 crores per month up to July 2019
- Due to extension in date of filing of returns post August 2019 the average collections have declined to 362 crores per month (ending November, 2019)
- The total collection of SGST ending November 2019 is Rs. 2957.28 crores against Rs. 2851.49 crores collected ending November 2018 thereby reducing the percentage of growth from 26% ending July 2019 to 3.71 % ending November 2019
- Importantly, the overall collection still continues to witness growth, despite several challenges. This has been possible due to a number of enabling activities taken up by Government.



Revenue trends under GST for the last four months

Comparative Month-wise Revenue Statement under GST										
(Rs. in Crore)										
Month	Revenue Realized during F.Y. 2019-20					Revenue Realized during F.Y. 2018-19				
	State Goods & Service Tax (SGST)	Provisional Settlement of IGST	Ad-hoc/Advance settlement from IGST	Compensation (Grant-in-aid)	Total (1+2+3+4)	State Goods & Service Tax (SGST)	Provisional Settlement of IGST	Ad-hoc/Advance settlement from IGST	Compensation (Grant-in-aid)	Total (6+7+8+9)
	1	2	3	4	5	6	7	8	9	10
August	111.62	200.02	-30.58	470.00	751.06	129.78	225.78	72.00	0.00	427.56
September	99.02	139.69	-15.47	0.00	223.24	128.93	220.94	0.00	415.00	764.87
October	123.01	155.23	-27.42	0.00	250.82	132.80	226.04	178.80	292.00	829.64
November	160.54	198.83	0.00	0.00	359.37	127.11	265.58	0.00	0.00	392.69
The above chart shows that though there was some decline in SGST collection in the months of August & September, the collections have picked up momentum in October & witnessed growth in November.										

Return filling trends

- ▶ J&K has a tax base of approximately one lac registered tax payers
- ▶ On an average 70 per cent of the taxpayers file their returns in time (some of the dealers may not be required to file returns due to increase in threshold level but may not have cancelled the registration due to connectivity issues)
- ▶ Post July 2019, 38304 returns were filed in the month of August, 36212 in the month of September and 31888 in the month of October, which is nearly 50% of the regular returns filed, despite significant constraints
- ▶ Return filling percentage in Kashmir Division was particularly impacted for the months of August, September and October and was only 6 Per cent primarily due to constraints in internet connectivity
- ▶ Return filling percentage has increased in the month of December as a result of establishment of facilitation centres through out the UT and enabling of machine generated SMS for sending OTPs.

Government acted as enabler and facilitator in carrying out the business activities in the UT of J&K

Total banking transactions in UT of J&K made from 01-08-2019 to 26-11-2019 were 79932020 and amount transacted was Rs 297,769.94 crore out of which ATM transactions made were 18654441 and ATM withdrawals amounted to Rs 10243.29 crore.

- The monthly disbursement from the Treasuries of UT of J&K reflected an upward trend thereby increasing liquidity which has in creating momentum in the economy. Timely payments has been the hallmark since August

The comparative monthly details of disbursements for the periods are as under:-

Month	Financial Year 2018-19 (Rs In crore)	Financial Year 2019-20 (Rs In crore)
1	2	3
April	2966.94	3528.16
May	3134.33	4207.02
June	4151.10	3897.24
July	3952.63	4483.84
August	4007.84	4599.88
September	3965.40	4958.60
30 th October	3901.77	5179.19
Total	26080.01	30853.93

5

Inward and Outward Supplies in respect of J&K under GST (Comparative) based e-way bill data

Month	Type	No. of EWB 2018	2018 Invoice Value (in Crore)	No. of EWB 2019	2019 Invoice Value (in Crore)
August	Inward	180173	5833.00	107815	4008.00
August	Outward	30376	2737.00	28043	2552.00
Total		210549	8570.00	135858	6560.00
September	Inward	186069	5703.00	147725	6427.00
September	Outward	30149	2339.00	29849	2547.00
Total		216218	8042.00	177574	8974.00
October	Inward	202717	5739.00	199564	5062.00
October	Outward	32807	2334.00	28277	2148.00
Total		235524	8073.00	227841	7210.00
November	Inward	165151	5041.00	176117	5130.00
November	Outward	26704	1891.00	27563	2107.00
Total		191855	6933.00	203680	7237.00

Analysis of the data shows there has been gradual increase in volume of e-way bill generation from August to October indicating the growth in business transactions.

6

**Month-wise Toll Tax Collected during 2018-19 & 2019-20
(upto 17/12/2019) in respect of Excise Department, J&K**

		Rs. In lacs	
S.No.	Month	2018-19	2019-20
1	April	7361.31	7683.10
2	May	8349.99	8696.06
3	June	8283.79	8726.34
4	July	7616.35	9148.10
5	August	8543.58	6991.56
6	September	8286.06	7796.91
7	October	8659.17	8388.72
8	November	7282.51	8179.65
	Total	64382.76	65610.44

Analysis of the data indicates that there has been substantial decrease in Imports and Exports in the month of August but the same has registered upward trend from September onwards.

7

Measures taken by the Government to augment revenue collections

- ▶ Establishment of over 60 facilitation centres with 118 systems for providing assistance to the tax payers in filling their returns covering all districts and all circles of UT
- ▶ Increase in e way bill verifications for both in ward and outward supplies. Presently 66 per cent(approx) of the e way bill generated are verified despite having connectivity issues in the UT
- ▶ Increase in the enforcement activities by way of physically verifying the goods
- ▶ Verification of the business premises of all the tax payers post approval of registration
- ▶ Use of red flag data provided by the GSTN particularly with respect to the return defaulters and mismatch of ITC.

(.....cont)

8

Establishment of Facilitation Centers

1. Kashmir Division

TAX PAYER'S CIRCLE	LOCATION	ADDRESS OF FACILITATION CENTRE
A to R	OFFICE OF THE STATE TAXES OFFICER CIRCLE A to R SRINAGAR	EXCISE AND TAXATION COMPLEX SOLINA RAMBAGH
BUDGAM	OFFICE OF THE STATE TAXES OFFICER CIRCLE BUDGAM	OFFICE OF THE STATE TAXES OFFICER CIRCLE BUDGAM
BARAMULLA I,II,III (Sopore)	OFFICE OF THE STATE TAXES OFFICER CIRCLE BARAMULLA I,II,III (Sopore)	OFFICE OF THE STATE TAXES OFFICER CIRCLE BARAMULLA I,II,III (Sopore)
KUPWARA	OFFICE OF THE STATE TAXES OFFICER CIRCLE KUPWARA	OFFICE OF THE STATE TAXES OFFICER CIRCLE KUPWARA
ANANTNAG I,II,III	OFFICE OF THE STATE TAXES OFFICER CIRCLE ANANTNAG I,II,III	OFFICE OF THE STATE TAXES OFFICER CIRCLE ANANTNAG I,II,III
PULWAMA	OFFICE OF THE STATE TAXES OFFICER CIRCLE PULWAMA	OFFICE OF THE STATE TAXES OFFICER CIRCLE PULWAMA

DISTRICT	ADDRESS
Bandipore	Office of the District Development Commissioner, Bandipore, Kashmir
Ganderbal	Office of the District Development Commissioner, Ganderbal, Kashmir
Shopian	Office of the District Development Commissioner, Shopian, Kashmir
Kulgam	Office of the District Development Commissioner, Kulgam, Kashmir

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Establishment of Facilitation Centers

2. Jammu

TAX PAYER'S CIRCLE	LOCATION	ADDRESS OF FACILITATION CENTRE
A to S	GST COMPUTER LAB	FOURTH FLOOR EXCISE AND TAXATION COMPLEX,RAILHEAD,JAMMU
POONCH	OFFICE OF THE STATE TAXES OFFICER CIRCLE POONCH	OFFICE OF THE STATE TAXES OFFICER CIRCLE POONCH
RAJOURI	OFFICE OF THE STATE TAXES OFFICER CIRCLE RAJOURI	OFFICE OF THE STATE TAXES OFFICER CIRCLE RAJOURI
UDHAMPUR I	OFFICE OF THE STATE TAXES OFFICER CIRCLE UDHAMPUR I	OFFICE OF THE STATE TAXES OFFICER CIRCLE UDHAMPUR I
SAMBA	OFFICE OF THE STATE TAXES OFFICER CIRCLE SAMBA	OFFICE OF THE STATE TAXES OFFICER CIRCLE SAMBA
KATHUA I	OFFICE OF THE STATE TAXES OFFICER CIRCLE KATHUA I	OFFICE OF THE STATE TAXES OFFICER CIRCLE KATHUA I
KATHUA II	OFFICE OF THE DEPUTY COMMISSIONER STATE TAXES (ENFORCEMENT) LAKHANPUR	OFFICE OF THE DEPUTY COMMISSIONER STATE TAXES (ENFORCEMENT) LAKHANPUR
KISHTWAR	OFFICE OF THE STATE TAXES OFFICER CIRCLE KISHTWAR	OFFICE OF THE STATE TAXES OFFICER CIRCLE KISHTWAR
DODA	OFFICE OF THE STATE TAXES OFFICER CIRCLE DODA	OFFICE OF THE STATE TAXES OFFICER CIRCLE DODA
RAMBAN	OFFICE OF THE STATE TAXES OFFICER CIRCLE RAMBAN	OFFICE OF THE STATE TAXES OFFICER CIRCLE RAMBAN

The tax payers located in District of Reasi can use the facility at the State Taxes Department help desk established in the office of the District Development Commissioner, Reasi, Jammu

10

- ▶ Use of ITC verification tools in case of the tax payers who never pay tax in cash
- ▶ Creation of enforcement groups for verifying the day wise supplies of the tax payers.
- ▶ Regular surveys particularly with respect to the service providers.
- ▶ Use of the Back office Intelligence tool for identifying the tax evaders.
- ▶ Spot Verification of business premises of all the newly registered tax payers under GST.
- ▶ Deployment of the enforcement teams on the unconventional routes so as to prevent the smuggling of goods.
- ▶ Monitoring of top 500 tax payers

11

Constraints

- ▶ J&K being the end point consumption place face problems particularly with respect to the divisibility of the consignments below the value of rupees fifty thousand in order to avoid the away bill generation.
- ▶ No check on the purchases made by the unregistered persons using Adhar or PAN and invoicing the consignments below fifty thousand.
- ▶ Exemption on away bill generation on the goods supplied through post offices.
- ▶ Non availability of auto invoice matching system.

12



Agenda on Real Estate GST Council Meeting on 18th December, 2019

1

Pending issues discussed by GoM in its 2nd meeting

- **Punjab:** To exempt GST on long term lease of lands by private/ semi private bodies for setting industrial parks.
- **West Bengal:** To exempt GST on supply of construction services provided by the Co-operative Housing Society to its members
- **Maharashtra:** To provide preferential tax treatment to:
 - redevelopment of old buildings where the residents enter into a JDA with the developer.
 - free houses provided to slum dwellers in a slum rehabilitation/ redevelopment project
- **Maharashtra:** To review the value limit of Rs. 45 lakhs in the definition of affordable residential apartment for a metropolitan region.

2

Issue 1: GST on long term lease of lands by private/ semi private bodies for setting industrial parks.

Present GST rates:

Service	Rate
upfront amount payable for grant of long term lease of land (30 years, or more) of industrial plots or plots for development of infrastructure for financial business, <ul style="list-style-type: none"> provided by the State Government Industrial Development Corporations/ Undertakings or any other entity having 50% or more ownership of Government to industrial units or developers in any industrial or financial business area 	Exempt
upfront amount payable for grant of long term lease of land (30 years, or more) of industrial plots or plots for development of infrastructure for financial business, <ul style="list-style-type: none"> provided by private entities or any other entities where ownership of government is less than 50% to industrial units or developers in any industrial or financial business area 	18%

3

Issue 1: GST on long term lease of lands by private/ semi private bodies for setting industrial parks.

Recommendation of GoM:

Service	Rate
upfront amount payable for grant of long term lease of land (30 years, or more) of industrial plots or plots for development of infrastructure for financial business, <ul style="list-style-type: none"> provided by the State Government Industrial Development Corporations/ Undertakings or any other entity having 20% or more ownership of Government to industrial units or developers in any industrial or financial business area 	Exempt
upfront amount payable for grant of long term lease of land (30 years, or more) of industrial plots or plots for development of infrastructure for financial business, <ul style="list-style-type: none"> provided by private entities or any other entities where ownership of government is less than 20% to industrial units or developers in any industrial or financial business area 	5%

4

Safeguards:

- In case of **breach of land use** from industrial use to any other use,
 - the **exemption shall be withdrawn** and
 - **GST with interest and penalty** shall be recovered **jointly and severally** from the entity that has availed the exemption originally and all lessees who have subsequently purchased or entered into lease agreement
- The above condition shall be **monitored and enforced** by the State Government.

5

Issue 2, 3 and 4: Deferred by GoM

Issues	Reasons
Issue 2: GST on supply of construction services provided by the Co-operative Housing Society to its members	State of West Bengal to provide more data and examples
Issue 3: To provide preferential tax treatment to: <ul style="list-style-type: none">• redevelopment of old buildings where the residents enter into a JDA with the developer.• free houses provided to slum dwellers in a slum rehabilitation/ redevelopment project	At the time of meeting of GoM; Hon'ble finance Minister of Maharashtra had not been appointed
Issue 4: To review the value limit of Rs. 45 lakhs in the definition of affordable residential apartment for a metropolitan region.	

6



PPT for 38th GST Council

• 18th December 2019 New Delhi

- december 2019



1

Agenda 9: Deemed Ratification of Notifications, Circulars, Orders etc. (1/6)

Notifications issued under CGST Act, IGST Act and GST (Compensation to States) Act	
Notification No. 42/2019 - Central Tax dated 24.09.2019	Seeks to bring rules 10, 11, 12 and 26 of the CGST (Fourth Amendment) Rules, 2019 in to force
Notification No. 43/2019 - Central Tax dated 30.09.2019	Seeks to amend notification No 14/2019- Central Tax dated 7.3.2019 so as to exclude manufacturers of aerated waters from the purview of composition scheme
Notification Nos. 44/2019, 45/2019, 46/2019 - Central Tax all dated 09.10.2019	Seeks to prescribe the due date for furnishing of return in FORM GSTR-3B and FORM GSTR-1 (for both above and below 1.5 crore rupees aggregate turnover) for the month(s)/quarter, from October, 2019 to March, 2020
Notification No. 47/2019 - Central Tax dated 09.10.2019	Seeks to make filing of annual return under section 44 (1) of CGST Act for F.Y. 2017-18 and 2018-19 optional for small taxpayers whose aggregate turnover is less than Rs 2 crores and who have not filed the said return before the due date.
Notification No. 48/2019 - Central Tax dated 09.10.2019	Seeks to amend notification No. 41/2019 – Central Tax, dated the 31st August, 2019.
Notification No. 49/2019 - Central Tax dated 09.10.2019	Seeks to carry out changes in the CGST Rules, 2017.
Notification No. 50/2019 - Central Tax dated 24.10.2019	Seeks to extend the last date for filing of FORM GST CMP-08 for the quarter July-September 2019 by four days from 18.10.2019 till 22.10.2019.
Notification No. 51/2019, - Central Tax dated 31.10.2019	Seeks to amend notification No. 2/2017- Central Tax in order to notify jurisdiction of Jammu Commissionerate over UT of J&K and UT of Ladakh

2

Agenda 9: Deemed Ratification of Notifications, Circulars, Orders etc. (2/6)

Notifications under CGST Act, IGST Act and GST (Compensation to States) Act,		
Notification No. 52/2019, 53/2019, 54/2019 and 55/2019 – Central Tax all dated 14.11.2019	Seeks to extend the due date for furnishing FORM GSTR-3B, FORM GSTR-7 and FORM GSTR-1 (for both above and below 1.5 crore rupees aggregate turnover) for registered persons in Jammu and Kashmir for the month(s)/quarter from July, 2019 to September, 2019	
Notification No. 56/2019 – Central Tax dated 14.11.2019	Seeks to carry out Seventh amendment (2019) in the CGST Rules, 2017. [Primarily related to Simplification of the Annual Return / Reconciliation Statement]	
Notification No. 57/2019, 58/2019, 59/2019, 60/2019 and 61/2019 – Central Tax dated 26.11.2019	Seeks to extend the due date for furnishing of return in FORM GSTR-1, FORM GSTR-3B and FORM GSTR-7 for registered persons in Jammu and Kashmir	
Notification No. 62/2019 – Central Tax dated 26.11.2019	Seeks to notify the transition plan with respect to J&K reorganization w.e.f. 31.10.2019	
Notification No. 04/2019 - Integrated Tax dated 30.09.2019	Seeks to notify the place of supply of R&D services related to pharmaceutical sector as per Section 13(13) of IGST Act, as recommended by GST Council in its 37th meeting held on 20.09.2019.	
Notification No. 02 /2019-Compensation Cess (Rate) dated 30.09.2019	Seeks to amend notification No. 1/2017-Compensation Cess (Rate), dated 28.6.2017 on the recommendations of the GST Council in its 37th meeting dated 20.09.2019.	
Notification No. 03 / 2019-Compensation Cess (Rate) dated 30.09.2019	Seeks to disallow the refund of compensation cess in case of inverted duty structure for tobacco and manufactured tobacco substitutes.	

3

Agenda 9: Deemed Ratification of Notifications, Circulars, Orders etc. (3/6)

Rate notifications issued under CGST Act, UTGST Act and IGST Act, 2017		
Notification No. 14/2019- Central Tax (Rate) dated 30.09.2019	Seeks to amend notification No 1/2017-Central Tax (Rate) dated 28.6.2017 so as to specify effective CGST rates for specified goods, to give effect to the recommendations of the GST Council in its 37th meeting dated 20.09.2019. [similar rate notification issued under UTGST Act, 2017 and IGST Act, 2017]	
Notification No. 15/2019- Central Tax (Rate) dated 30.09.2019	Seeks to amend notification No 2/2017- Central Tax (Rate) dated 28.6.2017 so as to grant exemption to dried tamarind and cups, plates made of leaves, bark and flowers of plants. [similar rate notification issued under UTGST Act, 2017 and IGST Act, 2017]	
Notification No. 16/2019- Central Tax (Rate) dated 30.09.2019	Seeks to amend notification No. 3/2017- Central Tax (Rate) dated 28.6.2017 so as to extend concessional CGST rates to specified projects under HELP/OALP, and other changes. [similar rate notification issued under UTGST Act, 2017 and IGST Act, 2017]	
Notification No. 17/2019- Central Tax (Rate) dated 30.09.2019	Seeks to amend notification No 26/2018- Central Tax (Rate) dated 31.12.2018, so as to exempt CGST on supplies of silver and platinum by nominated agencies to registered persons. [similar rate notification issued under UTGST Act, 2017 and IGST Act, 2017]	
Notification No. 18/2019- Central Tax (Rate) dated 30.09.2019	Seeks to amend notification No 2/2019- Central Tax (Rate) dated 7.3.2019 so as to exclude manufacturers of aerated waters from the purview of composition scheme. [similar rate notification issued under UTGST Act, 2017]	
Notification No. 19/2019- Central Tax (Rate) dated 30.09.2019	Seeks to exempt supply of goods for specified projects under FAO. [similar rate notification issued under UTGST Act, 2017 and IGST Act, 2017]	
Notification No. 20/2019- Central Tax (Rate) dated 30.09.2019	Seeks to amend notification No. 11/2017- Central Tax (Rate) so as to notify CGST rates of various services as recommended by GST Council in its 37th meeting held on 20.09.2019. [similar rate notification issued under UTGST Act, 2017 and IGST Act, 2017]	

4

Agenda 9: Deemed Ratification of Notifications, Circulars, Orders etc. (4/6)

Rate notifications issued under CGST Act, UTGST Act and IGST Act, 2017	
Notification No. 21/2019-Central Tax (Rate) dated 30.09.2019	Seeks to amend notification No. 12/2017- Central Tax (Rate) to exempt services as recommended by GST Council in its 37 th meeting held on 20.09.2019 [similar rate notification issued under UTGST Act, 2017 and IGST Act, 2017]
Notification No. 22/2019-Central Tax (Rate) dated 30.09.2019	Seeks to amend notification No. 13/2017- Central Tax (Rate) so as to notify services under reverse charge mechanism (RCM) as recommended by GST Council in its 37 th meeting held on 20.09.2019 [similar rate notification issued under UTGST Act, 2017 and IGST Act, 2017]
Notification No. 23/2019-Central Tax (Rate) dated 30.09.2019	Seeks to amend notification No. 4/2018 - Central Tax (Rate), dated the 25 th January, 2018, by adding an explanation on the applicability of provisions related to supply of development rights. [similar rate notification issued under UTGST Act, 2017 and IGST Act, 2017]
Notification No. 24/2019-Central Tax (Rate) dated 30.09.2019	Seeks to amend notification No. 7/2019 - Central Tax (Rate), dated the 29 th March, 2019 by amending the entry related to cement [similar rate notification issued under UTGST Act, 2017 and IGST Act, 2017]
Notification No. 25/2019-Central Tax (Rate) dated 30.09.2019	Seeks to notify the grant of alcoholic liquor licence neither a supply of goods nor a supply of service as per Section 7(2) of CGST Act, 2017. [similar rate notification issued under UTGST Act, 2017 and IGST Act, 2017]
Notification No. 26/2019-Central Tax (Rate) dated 22.11.2019	Seeks to insert explanation regarding Bus Body Building in Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017. [similar rate notification issued under UTGST Act, 2017 and IGST Act, 2017]

Agenda 9: Deemed Ratification of Notifications, Circulars, Orders etc. (5/6)

Circulars issued under CGST Act, 2017	
Circular No. 110/29/2019 – GST dated 03.10.2019	Seeks to clarify the eligibility to file a refund application in FORM GST RFD-01 for a period and category.
Circular No. 111/30/2019 – GST dated 03.10.2019	Seeks to clarify procedure to claim refund in FORM GST RFD-01 subsequent to favourable order in appeal or any other forum.
Circular No. 112/31/2019 – GST dated 03.10.2019	Seeks to withdraw Circular No. 105/24/2019-GST dated 28.06.2019 regarding treatment of secondary or post-sales discounts under GST.
Circular No. 113/32/2019 – GST dated 11.10.2019	Clarification regarding GST rates & classification (goods) Circular.
Circular No. 114/33/2019 – GST dated 11.10.2019	Clarification on scope of support services to exploration, mining or drilling of petroleum crude or natural gas or both
Circular No. 115/34/2019 – GST dated 11.10.2019	Clarification on issue of GST on Airport levies.
Circular No. 116/35/2019 – GST dated 11.10.2019	Levy of GST on the service of display of name or placing of name plates of the donor in the premises of charitable organisations receiving donation or gifts by individual donors.
Circular No. 117/36/2019 – GST dated 11.10.2019	Clarification on applicability of GST exemption to the DG Shipping approved maritime courses conducted by Maritime Training Institutes of India.
Circular No. 118/37/2019 – GST dated 11.10.2019	Clarification regarding determination of place of supply in case of software/design services related to Electronics Semi-conductor and Design Manufacturing (ESDM) industry.
Circular No. 119/38/2019 – GST dated 11.10.2019	Clarification regarding taxability of supply of securities under Securities Lending Scheme, 1997.

Agenda 9: Deemed Ratification of Notifications, Circulars, Orders etc. (6/6)

Circulars issued under CGST Act, 2017	
Circular No. 120/39/2019 – GST dated 11.10.2019	Clarification on the effective date of explanation inserted in notification No. 11/2017- Central Tax (Rate) dated 28.06.2017, Sr. No. 3(vi).
Circular No. 121/40/2019 – GST dated 11.10.2019	Clarification related to supply of grant of alcoholic liquor license.
Circular No. 122/41/2019 – GST dated 05.11.2019	Generation and quoting of Document Identification Number (DIN) on any communication issued by the officers of the Central Board of Indirect Taxes and Customs (CBIC) to tax payers and other concerned persons-reg.
Circular No. 123/42/2019 – GST dated 11.11.2019	Seeks to clarify restrictions in availment of input tax credit in terms of sub-rule (4) of rule 36 of CGST Rules, 2017.
Circular No. 124/43/2019 – GST dated 18.11.2019	Seeks to clarify optional filing of annual return under notification No. 47/2019-Central Tax dated 9th October, 2019.
Circular No. 125/44/2019 – GST dated 18.11.2019	Seeks to clarify the fully electronic refund process through FORM GST RFD-01 and single disbursement.
Circular No. 126/45/2019 – GST dated 22.11.2019	Clarification on scope of the notification entry at item (id), related to job work, under heading 9988 of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017
Circular No. 127/46/2019 – GST dated 04.12.2019	Seeks to ab-initio withdraw the Circular No. 107/26/2019 dated 18.07.2019.
Removal of Difficulties Order issued under CGST Act, 2017	
Order No.8/2019 - Central Tax dated 14.11.2019	Seeks to extend the last date for furnishing of annual return/reconciliation statement in FORM GSTR-9/FORM GSTR-9C for FY 2017-18 till 31 st December, 2019 and for FY 2018-19 till 31 st March, 2020
Order No. 9/2019 - Central Tax dated 03.12.2019	Issuance of Removal of Difficulties Order so as to extend the last date for filing of appeals before the GST Appellate Tribunal against orders of Appellate Authority on account of non-constitution of benches of the Appellate Tribunal.

Agenda 9: Deemed Ratification of Notifications issued after Agenda circulation

Notifications under CGST Act, IGST Act and GST (Compensation to States) Act,	
Notification No. 63/2019, 64/2019, 65/2019, 66/2019 and 67/2019 – Central Tax dated 12.12.2019	Seeks to extend the due date for furnishing of return in FORM GSTR-1, FORM GSTR-3B and FORM GSTR-7 for registered persons in Jammu and Kashmir
Notification No. 68/2019 – Central Tax dated 13.12.2019	Seeks to carry out Eighth amendment (2019) in the CGST Rules, 2017. [Primarily related to introducing provisions related to e-Invoicing]
Notification No. 69/2019 – Central Tax dated 13.12.2019	Seeks to notify the common portal for the purpose of e-invoice
Notification No. 70/2019 – Central Tax dated 13.12.2019	Seeks to notify the class of registered person required to issue e-invoice
Notification No. 71/2019 – Central Tax dated 13.12.2019	Seeks to give effect to the provisions of rule 46 of the CGST Rules, 2017
Notification No. 72/2019 – Central Tax dated 13.12.2019	Seeks to notify the class of registered person required to issue invoice having QR Code

Agenda 10 :GIC decisions post 37th GST Council Meeting (1/4)

GIC decision by circulation dated 10th October, 2019

- The proposal regarding the scope the term ‘bus body building’ and Perceived overlap between entries at item (id) and (iv) under heading 9988
- ✓ Notification No. 26/2019- Central Tax (Rate) dated 22nd November 2019 and Circular No. 126/45/2019-GST dated 22nd November 2019 issued

32nd GIC meeting dated 16th October 2019

- Issuance of Circular on fully electronic refund process through FORM GST RFD-01 and single disbursement
- ✓ Circular No. 125/44/2019 – GST dated 18th November 2019 issued.
- Clarification regarding optional filing of annual return under notification No. 47/2019-Central Tax dated 9th October, 2019
- ✓ Circular No. 124/43/2019 – GST dated 18th November 2019 issued.
- Changes to statements 1A, 2 & 3 in Annexure–1 of FORM GST-RFD-01
- ✓ Notification No. 56/2019–Central Tax dated 14th November, 2019 issued.

9

Agenda 10 :GIC decisions post 37th GST Council Meeting (2/4)

GIC decision by circulation dated 19th October, 2019

- The proposal for extension of last date for filing FORM CMP-08 for the quarter of July, 2019 to September ,2019 was approved
- ✓ Notification No. 50/2019- Central Tax dated 24th October 2019

GIC decision by circulation dated 31st October, 2019

- The proposal before the GIC was regarding extension of due dates for filing of FORM GSTR-1, FORM GSTR-7 and FORM GSTR-3B for the months of July, August, September 2019 for the State of Jammu and Kashmir
- ✓ Notification No. 52/2019-Central Tax, dated 14th November 2019, 53/2019-Central Tax, dated 14th November 2019, 54/2019-Central Tax, dated 14th November 2019, 55/2019-Central Tax, dated 14th November 2019, Notification No. 57/2019-Central Tax, dated 26th November 2019, Notification No. 58/2019-Central Tax, dated 26th November 2019, Notification No. 59/2019-Central Tax, dated 26th November 2019, Notification No. 60/2019-Central Tax, dated 26th November 2019 and Notification No. 61/2019-Central Tax, dated 26th November 2019 & Notification Nos. 63 to 67/2109-Central tax dated 12th December 2019 issued.

10

Agenda 10 :GIC decisions post 37th GST Council Meeting (3/4)

33rd GIC meeting dated 09th November 2019

- Simplification of Annual Return and Reconciliation Statement for FY 2017-18 and 2018-19
- ✓ Notification Nos. 56/2019 dated 14th November 2019 and Removal of Difficulties Order No. 8/2019 – Central Tax dated 14th November 2019 were issued.
- Clarifications on restriction in availment of input tax credit in terms of sub-rule (4) of rule 36 of CGST Rules, 2017
- ✓ Circular No. 123/42/2019–GST dated 11th November 2019
- Amendment to Notification No. 50/2017-Customs dated 30th June, 2017 with respect to requirement of ‘end-use certificates’ to be issued by and Bond to be submitted to GST Officers
- ✓ The GIC agreed that a SOP including the mechanism for recovery of IGST in case of non-fulfilment of certification requirements and imposition of penalty, interest if any, may be prepared and shared. The GIC deferred the agenda item

11

Agenda 10 :GIC decisions post 37th GST Council Meeting (4/4)

Decision by Circulation - 11th November 2019

- Proposal regarding the transition plan for the State of Jammu and Kashmir in view of the reorganization of the erstwhile State of Jammu and Kashmir into two Union territories w.e.f. 31.10.2019 by way of issuance of notification under Section 148 of CGST Act, 2017 as made applicable to the UTGST Act, 2017.
- ✓ Notification No. 62/2019 – Central Tax dated 26th November 2019 issued.

34th GIC meeting dated 2nd December 2019

- Implementation of e-invoice scheme and QR code
- ✓ Notification Nos. 68 to 72/2019-Central Tax dated 13.12.2019 issued.
- GIC agreed to rescind the Circular No. 107/26/2019-GST dt. 18.07.2019 ab-initio.
- ✓ Circular No. 127/46/2019-GST dated 04.12.2019 was issued.

12

Agenda Item 6(i) :SOP on non filers

Issuance of a Circular to clarify Standard Operating Procedure to be followed in case of non-filers of returns

- A system generated message to be sent to all return defaulters immediately after the due date;
- A notice in **FORM GSTR 3A** to be sent by the proper officer five days after the due date of filing;
- In case the return is still not filed, assessment under section 62 and order in **FORM ASMT-13** to be issued and **FORM DRC-07** to be uploaded (after taking into account the **GSTR-1**, supplies auto-populated from GSTR-2A, information available from e-way bills, and information available from any other source, including from inspection);
- In case the return still remains unfurnished within the statutory period of 30 days from issuance of **FORM GST ASMT 13** then recovery proceedings u/s 78 to be initiated;
- In deserving cases action under section 83 may be contemplated before issuance of **FORM GST ASMT 13**;
- In cases where the return has not been filed for 6 consecutive months/three tax periods in case composition taxpayers, action under section 29 for cancellation of registration to be initiated.

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Agenda Item 6(ii) :Amendments to the CGST Act

Sections	Purpose
Schedule II	Omitting certain supplies without consideration from Schedule II
10	Aligning the Composition Scheme u/s 10(1) & (2) with scheme u/s 10(2A) by restricting provision of inter-State services, etc. in scheme u/s 10 (1 & 2)
16 (4)	Taking the date of issuance of debit note as the date for determining eligibility of ITC to the recipient
29	Allowing taxpayers who have taken voluntary registration to apply for cancellation of registration

14

Agenda Item 6(ii) :Amendments to the CGST Act

Sections	Purpose
31	Necessary provisions in Law to allow prescribing of manner for invoices for provision of services
49	Necessary provision in law to allow Commissioner to restrict utilization of ITC in specified cases*
51	Removal of requirement of TDS certificate, and related late fees, by officers as the facility is now in the system
122 & 132	Necessary provisions to make the person receiving the benefit of a transaction liable for penalty and arrest

* In view of insertion of Rule 86A as decided in the Officers' Committee on 17.12.2019, the Council may decide whether amendment in section 49 is required. 15

Agenda Item 6(ii) :Amendments to the CGST Act

Sections	Purpose
140	Enabling provision for prescribing time for availing transitional credit
168	Vesting functions related to job-work extension and remuneration of CA/CS with jurisdictional commissioner
172	Extending the power to issue removal of difficulties order from three years to five years.
17	Making ITC eligible in respect of "vessels and aircrafts"
29(2)(b)	To allow for cancellation of registration for composition taxpayers if one return (one year) is not filed.
30	To extend time for application of cancellation of registration from 30 days to another 30 days (by JC/ ADC) and further 30 days (by Commissioner) (90 days in case of a composition dealer)

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Agenda Item 7 : Public Grievance Redressal Committee (1/4)

Creation of Grievance Redressal Committee as per order of Hon'ble High Court in the case of Sales Tax Bar Association

- Hon'ble High Court of Delhi, while examining a Writ Petition, filed by Sales Tax Bar Association, desired that a mechanism of handling of individual grievances for IT related issues be made under a retired judge of High Court.
- In a meeting called by Hon'ble High Court on 16.11.2019 with officers of GSTN, GST Policy Wing and GST Council, it was proposed to constitute Grievance Redressal Committees at Zone/ State level.
- Hon'ble High Court in its order on 28.11.2019 desired to know the constitution, structure and mechanism of such Committees through an **affidavit to be filed within two weeks of the order of the Court.**

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Agenda Item 7 : Public Grievance Redressal Committee (2/4)

- There is presently no formal arrangement under GST regime to address grievances of specific/ general nature at the Zonal/ Commissionerate/ State level.
- It is proposed to constitute a Grievance Redressal Committee (GRC) at Zonal/State level with both CGST and SGTS officers and including representatives of trade and industry and other GST stakeholders (GST practitioners and GSTN etc.).
- Proposed Committee to be co-chaired by Zonal Pr Chief Commissioner/ Chief Commissioner of Central Tax and Chief Commissioner/ Commissioner of State Tax
- The Committee to meet at least once every quarter.

18

Agenda Item 7 : Public Grievance Redressal Committee (3/4)



▪ **Functions and mandate of the Committee:**

- Examining and resolving all the grievances and issues being faced by the taxpayers, including procedural difficulties and IT related issues pertaining to GST, both of specific and general nature.
- Referring any issue requiring a change in Act/Rules/Notification/Form/Circular/ Instruction, etc., to the GST Council Secretariat and the relevant Policy Wing of the CBIC.
- Referring any matter related to IT related issue pertaining to GST Portal, to GSTN.

19

Agenda Item 7 : Public Grievance Redressal Committee (4/4)



- GSTN has proposed to develop a portal for recording all such grievances and their disposal.
- The constitution, terms, functions and mandate, periodicity of meetings and mechanism of working of proposed Grievance Redressal Committee at Zonal/ State level are placed for the Council's approval.

20

Table Agenda (1/5)



- GSTR-1 filing has been low and has crossed 60% only once in the last six months
- Late fees for delay in furnishing of **FORM GSTR – 1** by the due date is Rs. 20 per day for NIL filers and Rs. 50 per day for others. The maximum late fee is Rs. 10,000 per month (Rs. 5,000 under the CGST / SGST Act) (Section 47)
- The only way taxpayers can declare outward supplies (admitted liability) is through FORM GSTR-1
- Proposal:
 - A one-time waiver of late fees to file all FORM GSTR-1 from July 2017 to November 2019 may be given to taxpayers
 - E-Way bill generation may be blocked for two consecutive non-filing of FORM GSTR-1 (similar to FORM GSTR-3B)

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Table Agenda (2/5)



- On analysis , it was found that in FY 2018-19 the total difference in FORM GSTR-2A and FORM GSTR-3B is 13% of total GSTR-2A.
- Approximately 13% of the total credit lies unmatched in the system currently
- Proposal:
 - In the interest of revenue and to increase the proportion of matched credit in the system, Rule 36(4) be amended to restrict input tax credit on missing invoices for any recipient to 10% of the total supplies received in his FORM GSTR-2A from his suppliers

22

Table Agenda (3/5)



- During investigations it has been accepted by the persons / registered persons that the input tax credit that has been passed on is fake credit as the underlying invoices that have been passed on are fake invoices
- In course of the investigation, the recipients who have availed the said input tax credit have also been identified (Rs. 9028 Cr. by Centre and Rs. 2740 Cr. by the States)
- Section 16 requires ineligible credit is required to be reversed in the return. Reversal not happening as the return FORM GSTR-3B are self-assessed and are on a summary basis -not possible to determine the exact reason for reversal
- There is a facility in the portal which allows the tax authorities to block utilization of ITC – being used by State Officers in as many as 25 States/UTs
- Proposal: Rules to be framed to ensure uniformity in protecting interest of revenue

23

Table Agenda (4/5)

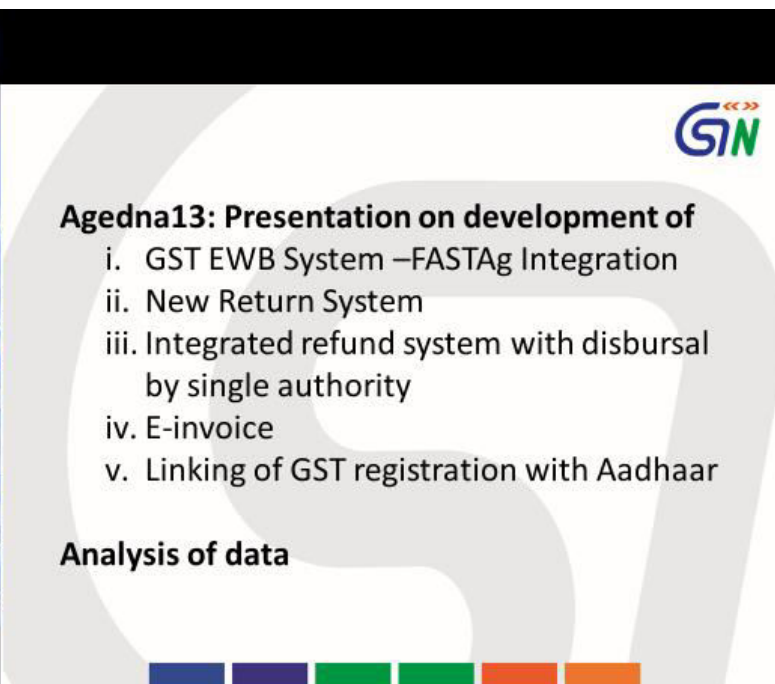
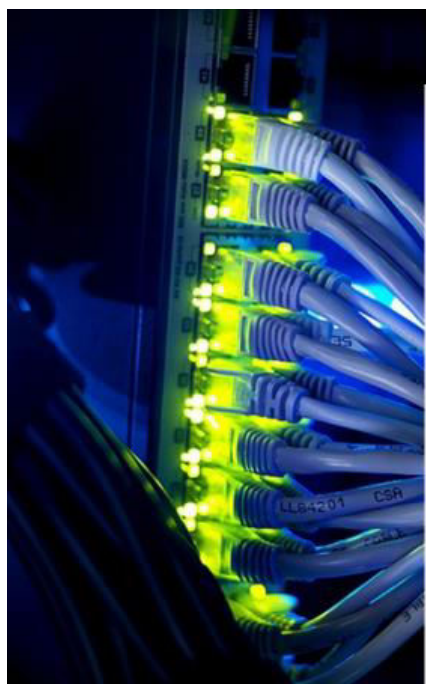


- Notification No. 56/2019 dated 14.11.2019 issued to simplify filing of Annual Return (FORM GSTR-9) and Reconciliation Statement (FORM GSTR-9C) for FY 2017-18 and FY 2018-19
- Certain changes required in the offline utility of FORM GSTR-9C
- It has been informed that the offline utility for filing of FORM GSTR-9C not yet deployed (till 16.12.2019)
- Taxpayers are expressing concern that they will get very little time for compliance
- Proposal: Due date for filing the FORM GSTR-9 and FORM GSTR-9C may be extended from 31.12.2019 to 31.01.2020

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- Internet has been suspended in many of the North Eastern Areas
- Assam has requested for extension in due dates of FORM GSTR-1, GSTR-7, GSTR-8, GSTR-3B, GSTR-9 and GSTR-9C
- Other North East States may be facing similar issues in internet connectivity
- Proposal:
 - Due date for all forms except GSTR-8, GSTR-9 and GSTR-9C may be extended, as per request by the States (Assam, Tripura and Manipur have already requested)

Annexure 9



Agenda13: Presentation on development of

- i. GST EWB System –FASTag Integration
- ii. New Return System
- iii. Integrated refund system with disbursal by single authority
- iv. E-invoice
- v. Linking of GST registration with Aadhaar

Analysis of data



Agenda 13(i): Linking of e-way bill with FASTag

Status and Review of EWB integration with FASTag



- ❖ MoU with Indian Highways Management Company Limited (IHMPCL) & GSTN has been signed on 14.10.2019.
- ❖ The MoU is for collaboration and working together for implementation track and trace mechanism to track the goods carrying vehicles through FASTag at the toll plazas across the country.
- ❖ NPCI is extending its NPCINet to E-Way Bill system.
 - ✓ Router at Primary Data Centre (at Delhi) & DR Centre (of Hyderabad has been delivered) of NIC delivered.
 - ✓ Lease line (link) has also been delivered. Installation Process is in Progress.
- NPCI has already extended its network to the EWBS data center. **Network testing and integration is completed.**
 - APIs are ready and available on sandbox. Testing on simulators is completed. Sandbox will be made available by NIC by 15th Jan. Sample data from NETC will be used for testing.
 - Integration is expected to be completed by mid February, 2020.



3



Agenda 13(ii): New GST Return



4

State/UT-wise upload : Overall Stat up to 15.12.2019



Form	Unique Taxpayers of State	Unique Taxpayers of Centre	Total unique GSTINs	% of State	% of Centre	Normal Taxpayers	Total uploads : Normal taxpayers
ANX-1	60,726	28,544	89,270	68.03%	31.97%	1,03,13,480	0.87%
ANX-2	9,061	3,836	12,897	70.26%	29.74%	1,03,13,480	0.13%
Total	69,787	32,380	1,02,167	68.31%	31.69%	1,03,13,480	0.99%

Unique GSTINs

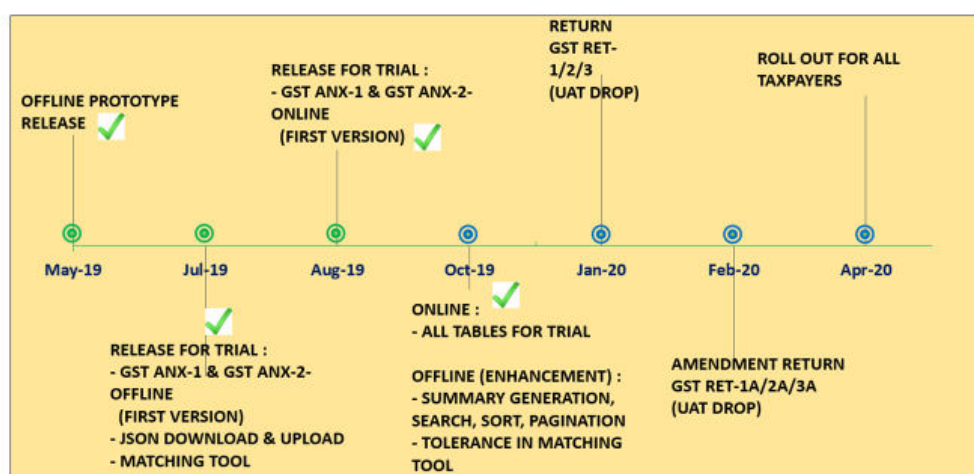
Form	Unique uploads (State/UT)	Unique uploads (Centre)	Total uploads	% of State	% of Centre
ANX-1	1,60,801	84,494	2,45,295	65.55%	34.45%
ANX-2	12,652	5,641	18,293	69.16%	30.84%
Total	1,73,453	90,135	2,63,588	65.80%	34.20%

Unique uploads (Total)



5

Status of Development and Deployment



6

State/UT-wise upload (Unique GSTINs) upto 15.12.2019



State /UT Name	ANX1 assigned to State	ANX-2 Assigned to State	ANX1 assigned to State	ANX2 Assigned to Centre	Total	% of State Tried	% of Centre Tried	Total Taxpayers (Normal)	% of total who tried
Nagaland (13)	900	19	225	3	1,147	80.12%	19.88%	6,688	17.15%
Meghalaya (17)	1,548	64	774	36	2,422	66.56%	33.44%	26,387	9.18%
Bihar (10)	8,875	4,306	3,373	1,624	18,178	72.51%	27.49%	3,32,366	5.47%
Mizoram (15)	208	17	57	6	288	78.13%	21.88%	6,033	4.77%
Chhattisgarh (22)	3,258	132	1,239	50	4,679	72.45%	27.55%	1,03,312	4.53%
Tripura (16)	736	19	328	12	1,095	68.95%	31.05%	24,205	4.52%
Karnataka (29)	19,577	2,242	7,265	748	29,832	73.14%	26.86%	7,19,151	4.15%
Assam (18)	3,908	342	1,384	129	5,763	73.75%	26.25%	1,43,698	4.01%
Puducherry (34)	486	69	151	14	720	77.08%	22.92%	19,948	3.61%
Odisha (21)	4,417	356	1,505	150	6,428	74.25%	25.75%	2,21,085	2.91%
Other Territory (97)	-	-	2	-	2	0.00%	100.00%	75	2.67%
Daman and Diu (25)	26	6	48	6	86	37.21%	62.79%	5,745	1.50%
Dadra and Nagar Haveli (26)	34	4	56	11	105	36.19%	63.81%	7,914	1.33%
Manipur (14)	70	9	38	3	120	65.83%	34.17%	10,086	1.19%
Himachal Pradesh (2)	722	18	281	14	1,035	71.50%	28.50%	87,788	1.18%
Telangana (36)	1,352	74	2,145	124	3,695	38.59%	61.41%	3,47,869	1.06%
Uttarakhand (5)	884	51	349	36	1,320	70.83%	29.17%	1,27,552	1.03%
Goa (30)	177	17	104	6	304	63.82%	36.18%	34,825	0.87%

7

State/UT-wise upload (Unique GSTINs) upto 15.12.2019



State /UT Name	ANX1 assigned to State	ANX-2 Assigned to State	ANX1 assigned to State	ANX2 Assigned to Centre	Total	% of State Tried	% of Centre Tried	Total Taxpayers (Normal)	% of total who tried
Jharkhand (20)	771	25	433	26	1,255	63.43%	36.57%	1,45,991	0.86%
Andhra Pradesh (37)	1,298	128	665	57	2,148	66.39%	33.61%	2,85,727	0.75%
Rajasthan (8)	1,533	240	1,162	154	3,089	57.40%	42.60%	5,40,590	0.57%
Kerala (32)	880	130	573	63	1,646	61.36%	38.64%	3,01,671	0.55%
Andaman and Nicobar Islands (35)	9	-	11	-	20	45.00%	55.00%	3,921	0.51%
West Bengal (19)	1,617	140	994	94	2,845	61.76%	38.24%	6,10,188	0.47%
Maharashtra (27)	2,561	181	1,732	127	4,601	59.60%	40.40%	13,66,536	0.34%
Tamil Nadu (33)	1,457	187	1,164	115	2,923	56.24%	43.76%	8,74,255	0.33%
Sikkim (11)	14	-	9	-	23	60.87%	39.13%	7,406	0.31%
Chandigarh (4)	38	-	29	4	71	53.52%	46.48%	26,946	0.26%
Arunachal Pradesh (12)	14	5	11	-	30	63.33%	36.67%	12,430	0.24%
Gujarat (24)	965	85	893	73	2,016	52.08%	47.92%	8,73,885	0.23%
Punjab (3)	415	18	148	18	599	72.29%	27.71%	3,08,426	0.19%
Haryana (6)	382	38	235	22	677	62.04%	37.96%	4,23,955	0.16%
Delhi (7)	570	35	446	40	1,091	55.45%	44.55%	7,42,218	0.15%
Uttar Pradesh (9)	783	70	541	53	1,447	58.95%	41.05%	11,24,216	0.13%
Jammu and Kashmir (1)	58	8	36	5	107	61.68%	38.32%	91,989	0.12%
Madhya Pradesh (23)	183	26	138	13	360	58.06%	41.94%	3,48,160	0.10%
India	60,726	9,061	28,544	3,836	1,02,167	68.31%	31.69%	1,03,13,480	0.99%

8

Training/Workshops (demo of offline and matching tool of New return)



- e-mails sent to authorized signatories regarding trial of New Returns.
- Workshops conducted on New Return in association with FICCI, PHD Chamber of Commerce, ASSOCHAM, CII & in coordination with Centre & State Tax Administrations.

No of Sessions conducted	No. of Cities covered	No. of Taxpayers participated	No. of Tax Officers participated
69	32	3,513	3,215

- 7 Webinars conducted in New Returns Offline Tool in English, Hindi, Tamil, Malayalam, Telugu and Marathi.
- VC conducted with field formations of CBIC on 22 November, 2019 in two sessions.



Agenda 13(iii): Refund-Statistics & disbursement through PFMS



10

Online Refunds: Statistics (As on 16th Dec.)



#	STATUS	COUNT	AMOUNT (IN CR.)	EXPLANATION	
1	Total applications received since 26/09/2019 (in RFD-01)	71254	23768.69		
2	Filed, but yet to be acknowledged (RFD-01)	16114	5979.13	22.61% of receipt (count)	25.16% of receipt (amount)
3	Out of (1-2) above, cases where deficiency memo issued (RFD-03)	20100	7388.88	28.21% of ack. (count)	31.09% of ack (amount)
4	Cases which are at various stages of processing (1-2-3)	35040	10400.68	Percentage of 35040 ↓	Percentage of 10400.68 ↓
5	Out of 4 above, cases which have been acknowledged but no further processing has started	11390	2275.36	32.51%	21.88%
6	Out of 4 above, Complete sanction (RFD-06) but payment advice not issued	16398	4016.75	46.80%	38.62%
7	Out of 4 above, Partial sanction (RFD-06) but payment advice not issued	1371	793.72	3.91%	7.63%
8	Out of 4 above, Found inadmissible (RFD-06)	791	143.21	2.26%	1.38%
9	Out of 4 above, for Consumer Welfare Fund (RFD-06)	41	3.44	0.12%	0.03%
10	Out of 4 above, cases where Provisional Order has been issued (RFD-04)	2537	2498.29	7.24%	24.02%
11	Out of 4 above, cases where SCN has been issued which have not been replied (RFD-08)	1892	409.84	5.40%	3.94%
12	Out of 4 above, cases where SCN has been replied and case under process (RFD-09)	615	259.65	1.76%	2.50%
13	Out of 4 above, cases withheld (RFD-7B)	5	0.42	0.01%	0.00%
14	Number of Payment Orders Issued in RFD-05	16,515	5,944.02		



Online Refunds: Status of RFD-05 (As on 16th Dec.)



#	STATUS	COUNT	AMOUNT (IN CR.)	EXPLANATION	
1	Total RFD-05 issued since 26/09/2019 (in RFD-01)	16,515	5,944.02		
2	Out of 1 above, sent to PFMS	16,072	5,844.57	97.32%	98.33%
				Percentage of 16072 ↓	Percentage of 5844.57 ↓
3	Out of (2) above, Accepted by PFMS	7699	2,615.37	47.90%	44.75%
4	Out of (2) above, Rejected by PFMS	61	30.64	0.38%	0.52%
5	Out of (2) above, Disbursed by PFMS	5912	2,503.12	36.78%	42.83%
6	Out of (2) above, balance in under process with PMFS	2400	695.43	14.93%	11.90%
7	Balance Yet to be sent to PFMS (out of 1)	443	99.45	2.68%	1.67%



*: 14/(1-2-3)

Online Refunds : Age analysis (as on 9th Dec. 2019)



STATUS	CENTER					STATE				
	<= 15 days	16 to 30 days	31 to 45 days	46 to 60 days	> 60 days	<= 15 days	16 to 30 days	31 to 45 days	46 to 60 days	> 60 days
Yet to be Acknowledged (RFD-01)	4425	277	101	73	51	6160	2073	804	927	769
Acknowledged but no further process started (RFD-02)	1556	1494	681	378	50	2240	1931	932	978	539
Deficiency Memo Issued (RFD-03)	1236	2417	1681	1962	2038	974	1793	1386	1877	2017
SCN issued (RFD-07)	88	132	138	162	86	153	329	202	258	168
SCN replied (RFD-09)	27	31	52	45	11	21	77	83	56	75
Grand Total	7332	4351	2653	2620	2236	9548	6203	3407	4096	3568



No. of RFD-01 which are yet to be acknowledged and pending more than 60 days (15th Dec)



State	Assigned to		TOTAL
	CENTER	STATE	
Jammu and Kashmir	0	4	4
Himachal Pradesh	0	57	57
Punjab	0	58	58
Chandigarh	0	0	0
Uttarakhand	2	1	3
Haryana	5	69	74
Delhi	3	46	49
Rajasthan	1	83	84
Uttar Pradesh	2	98	100
Bihar	1	5	6
Sikkim	0	3	3
Arunachal Pradesh	0	0	0
Nagaland	0	3	3
Manipur	0	1	1
Mizoram	0	0	0
Tripura	0	3	3
Meghalaya	0	0	0
Assam	0	16	16
West Bengal	3	3	6

State	Assigned to		TOTAL
	CENTER	STATE	
Jharkhand	0	16	16
Odisha	0	0	0
Chhattisgarh	0	4	4
Madhya Pradesh	0	31	31
Gujarat	2	229	231
Daman and Diu	0	0	0
Dadra and Nagar Haveli	2	16	18
Maharashtra	8	86	94
Karnataka	0	13	13
Goa	2	0	2
Lakshadweep	0	0	0
Kerala	7	19	26
Tamil Nadu	0	100	100
Puducherry	0	0	0
Andaman and Nicobar Islands	0	0	0
Telangana	0	39	39
Andhra Pradesh	0	3	3
Total	38	1006	1044



Agenda 13(v): Linking of Aadhaar for GST registration

15

Aadhaar Integration with Registration Process

S. No	Activity /Challenges	Date
1.	Business Requirement Document submitted to Infosys team.	4 th Sept 2019
2	Approved SRS shared to Infosys team	30 th Sept 2019
3	Meeting on Technical gap analysis done by Infosys on security and Aadhaar compliance requirement	14 th Oct 2019
4	Technical Comments shared with Infosys- Infra and security related matters by GSTN	18 th Oct 2019
5	For requirement freezing meeting with NIC team. Aadhaar authentication traffic will be routed through NIC	31 st Oct 2019
6	Infra team of Infosys has provided hosting server IP address for Pre-Prod	7 th Nov 2019
7	IA resubmitted and approval given by GSTN	28 th Nov 2019
8	TDD submitted by Infosys. Review completed and Infosys has to resubmit the efforts again to GSTN	9 th Dec 2019
9	Expected roll out date	1 st Feb 2020

Infosys has completed Proof of concept (POC) and has also completed the Prototypes.

Agenda 13(iv): Reporting of electronic Invoice to GST System

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Positioning e-Invoice?

- Is e-invoice taken into buyer's billing/accounting system directly? **NO**
- If not, how is the data entered? **Manually (even if received electronically)**



- Transcription errors
- Wrong entries



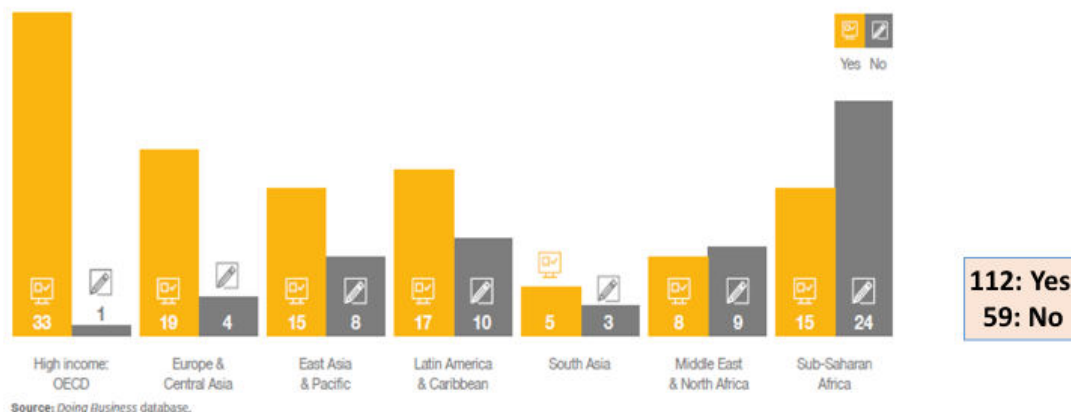
- Need for standards to ensure complete inter-operability
- Elimination of need of manual data entry and transcription errors

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Economies in the OECD high-income group are at the forefront of invoice digitization



Number of economies offering e-invoices



Source: World Bank Group

1
9

Advantages of e-Invoice



Generation of invoice and its reporting will become part of business process.

Also, no further reporting to GST portal or e-way bill portal.



Reporting to GST is a by-product.
Auto of Return by GSTN

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Benefits of e-invoice system



Case Study from France

Items	Paper invoice (pre e-invoice period)	After introduction of e-invoice	Change
Cost of handling of one invoice	7 Euros	0.3 Euros	96% saving
Number of invoices handled by an employee in a year	6,000 paper invoices	90,000 e-invoices	15 times efficiency improvement
Time saving	15 days for paper invoice	3 days for e-invoice	80% saving of time
52% businesses view the cost reduction as the principal advantage of digital transformation			

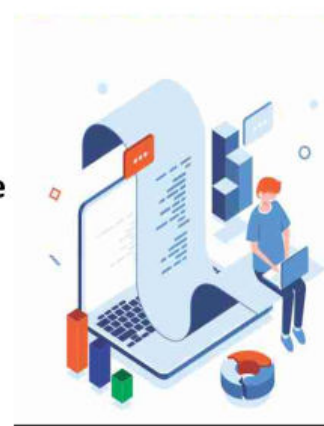
Source: EY Study 2016

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E-invoice: Generation and Reporting

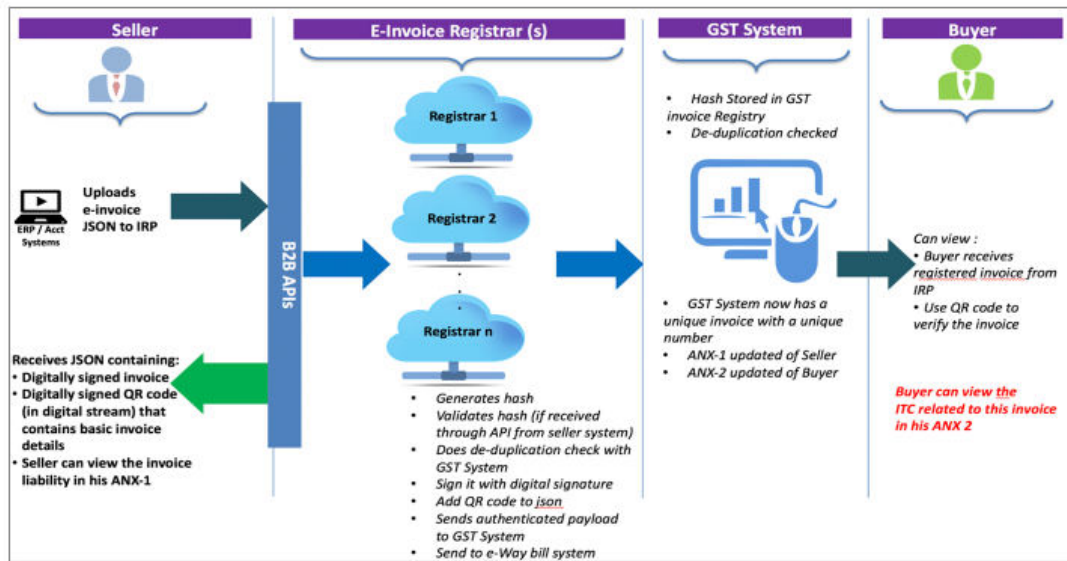


- e-invoice does not mean generation of electronic invoice on GST Portal **but reporting of electronic-Invoice?**
- What will change for users/taxpayers? **Nothing**
- The taxpayer will **NOT be required to make any change** in his ERP?
- Change?**: Reporting of invoice data generated in a particular format which can be understood by government portal as well as by buyers.
- The aim** is to make it part of business process of taxpayer and eliminate all reporting
- Reporting in near real time. → Return generation by GST System.



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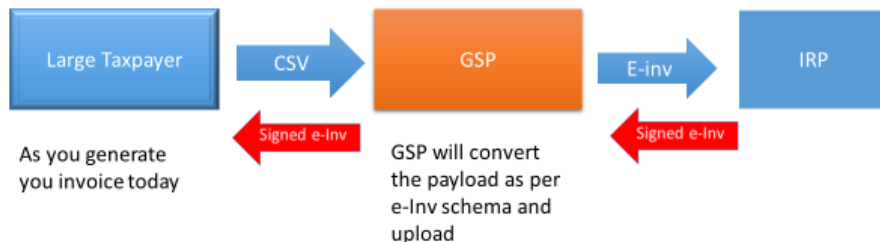
Flow of the E-Invoice Registration System



Solutions already demonstrated:



1. Thru a GSP.



2. ERP vendor to make changes in the software to enable taxpayers to generate e-invoice payload as per approved schema.

3. Mobile Apps for e-invoice generation by micro/small taxpayers. 4 out of 8 companies which are providing free accounting software have demonstrated it.

E-invoice – Stakeholder/IT Companies Interactions



1. Session with major ASP/GSP & Accounting Software companies – conducted on **04.12.2019**

2. Sessions planned across India :

#	City	Industry Body Partner	Tentative Dates
✓ 1.	✓ Delhi	NASSCOM, ASSOCHAM, CII, PHDCI, FICCI	06 th Dec 2019 3 to 5 pm ✓
✓ 2.	✓ Chennai	CII	11 th Dec 2019 3 to 5 pm ✓
✓ 3.	✓ Hyderabad	FICCI	12 th Dec 2019 ✓
✓ 4.	✓ Jaipur	PHDCCI	17 th Dec 2019 3 to 5 pm ✓
5.	Bangalore	ASSOCHAM	19 th Dec 2019
6.	Pune	CII	20 th Dec 2019 3 to 5 pm
7.	Mumbai	CII	(to be decided)



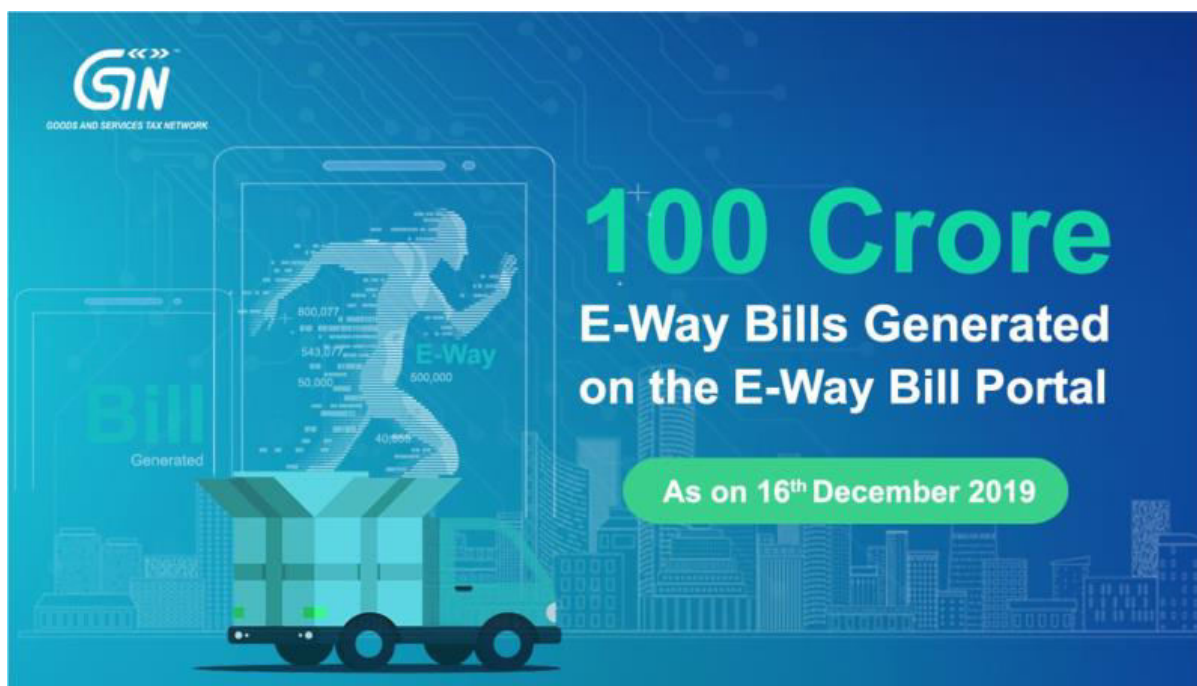
e-invoice : Steps Taken and Timelines



Steps	Status/Timeline
Sharing of approved e-invoice schema and concept with Billing and Accounting eco-system (GSP, ASP and eight Accounting and Billing software providers providing free basic accounting/billing software).	Completed in October
Rollout	
On voluntary basis for taxpayers having turnover above Rs 500 Crores.	from 1 st Jan 2020
On voluntary basis for taxpayers having turnover above Rs 100 Crores.	from 1 st Feb 2020
Based on lessons learnt, mandatory rollout for the same taxpayers	from 1 st April 2020
Others: Gradual reduction of Turnover limit	Based on experience
Interaction with SAP and Oracle (as most of them use these ERPs)	Three Rounds completed
Development of software by NIC: E-invoice will be rolled out on e-way bill hardware to start with.	On track

Note: Data from e-invoice will be taken to e-way bill (from 1st Jan) and ANX-1 (from 1st April) so that they do not have to report the same again.





Status of Pending Payment of Advance User Charges and Interest thereon as on 16.12.2019



Sl. No.	CENTRE/STATE/ UT	User Charges for FY 2018-19 (1st Instalment)	User Charges for FY 2018-19 (2nd Instalment)	User Charges for FY 2019-20	Total User Charges to be collected	Total Interest Liability
	CBIC		87.15	83.84	171	4.78
1	Andhra Pradesh		3.78	6.74	10.52	0.29
2	Andaman & Nicobar			0.09	0.09	0.01
3	Arunachal Pradesh			0.26	0.26	0.01
4	Assam			3.04	3.04	0.08
5	Bihar		2.58	-	2.58	0.06
6	Chandigarh					
7	Chhattisgarh			0.71	0.71	0.02
8	Dadra & Nagar Haveli		0.11	0.06	0.17	0.01
9	Daman and Diu					
10	Delhi					
11	Goa					
12	Gujarat					
13	Haryana			3.49	3.49	0.09
14	Himachal Pradesh					
15	J&K					
16	Jharkhand					
17	Karnataka					
18	Kerala		2.96	-	2.96	0.07
19	Lakshadweep		0.01	0.01	0.01	0.01

• Rs. In Crores

Status of Pending Payment of Advance User Charges and Interest thereon as on 16.12.2019



Sl. No.	CENTRE/STATE/ UT	User Charges for FY 2018-19 (1st Instalment)	User Charges for FY 2018-19 (2nd Instalment)	User Charges for FY 2019-20	Total User Charges to be collected	Total Interest Liability	• Rs. In Crores
	CBIC		87.15	83.84	171	4.78	
20	Madhya Pradesh						
21	Maharashtra						
22	Manipur			0.26	0.26	0.01	
23	Meghalaya			0.01	0.01	0.01	
24	Mizoram						
25	Nagaland			0.05	0.05	0.01	
26	Odisha		3.07	2.98	6.05	0.15	
27	Puducherry						
28	Punjab	5.29	4.24	-	9.53	0.25	
29	Rajasthan			0.57	0.57	0.01	
30	Sikkim			0.07	0.07	0.01	
31	Tamil Nadu			5.07	5.07	0.13	
32	Telangana		4.81	7.61	12.42	0.56	
33	Tripura						
34	Uttar Pradesh			16.08	16.08	0.4	
35	Uttarakhand						
36	West Bengal						
	Total	5.29	108.71	130.94	244.93	6.98	



Agenda Item 2: Update by Infosys (through GSTN)

Agenda Item 3: Review of Revenue position under Goods and Services Tax

1. The Table 1 below gives the details of revenue collected as Central Goods and Services Tax (CGST), State Goods and Services Tax (SGST), Integrated Goods and Services Tax (IGST) and Cess for the FYs 2017-18, 2018-19 and 2019-2020.

Table 1*: GST revenue during 2017-18, 2018-19 and 2019-20

(In ₹ Crore)	2017-18	2018-19	2019-20 (Apr-Feb)
CGST	1,18,876	2,02,444	2,08,261
SGST	1,71,803	2,78,817	2,83,632
IGST	3,87,356	5,98,739	5,42,193
<i>Domestic</i>	1,93,093	3,08,243	2,92,972
<i>Imports</i>	1,94,263	2,90,495	2,49,221
Comp Cess	62,614	97,369	90,440
<i>Domestic</i>	56,319	87,290	80,839
<i>Imports</i>	6,295	10,080	9,601
Total	7,40,650	11,77,369	11,24,526

*Figures rounded to nearest whole number

2. The Table 2 below shows the IGST collected, refunded and settled/apportioned during the period

Table 2: IGST Collection/Settlement/Appportionment/Refund from April'19-Feb'20

(Figures in Rs. Crore)

IGST Collection/Settlement/Appportionment/Refund from April'19-Feb'20

		Amount
1	Collections(+)	542193
2	Recovery from IGST Ad-hoc apportionment(+)	29000
3	Refunds (-)	88138
4	Settlement (-)	455830
(i)	CGST	261,773
(ii)	SGST	194,057
5	CGST ad hoc	13,500
6	SGST ad hoc	13,500
7	Net (1+2-3-4-5-6)	225

Figures rounded to nearest whole number

Compensation Fund

3. As per provision of GST (Compensation to States) Act, 2017 the Compensation Cess collected since implementation of GST w.e.f. 01.07.2017 till 29th February, 2020 and the compensation released are shown in the table below:

Table 3: Compensation Cess collected and compensation released

(Figures in Rs. Crore)				
	2017-18	2018-19	2019-20	Total
Compensation Cess collected	62,612	95,081	79,000	2,36,693
			(till Jan'20)	
Compensation released	41,146	69,275	1,20,498	2,30,919
			(till Nov'19)	
Balance	21,466	25,806	-41,498*	5,774

* Taking into account un-utilized cess of FY 2017-18 & FY 2018-19, despite the collection of Rs. 79,000 cr in current FY, excess amount of compensation has been released to States/ UTs.

4. In the current financial year, the GST compensation has been provisionally calculated and released fully for April to September, 2019 and partly for Oct-Nov, 2019. Resultantly, the GST compensation balance of Rs. 14,036 crore for Oct-Nov, 2019 is still to be released. Further, it is submitted that GST compensation for Dec, 2019-January, 2020 cycle has also become due in the month of February, 2020 as per GST (Compensation to States) Act, 2017. Therefore, the total amount required in current FY to meet the compensation for Dec, 2019-Jan, 2020 & the balance for Oct-Nov, 2019 is approximately Rs. 48,000 crore.

Trends in Monthly Revenue

5. Figure 1 shows the trends in the gross GST revenues since introduction of GST. Figure 2 shows the month-on-month growth rate for each month since March, 2019 till February, 2020.

Figure 1: Trends in gross GST Revenues (₹ crore)

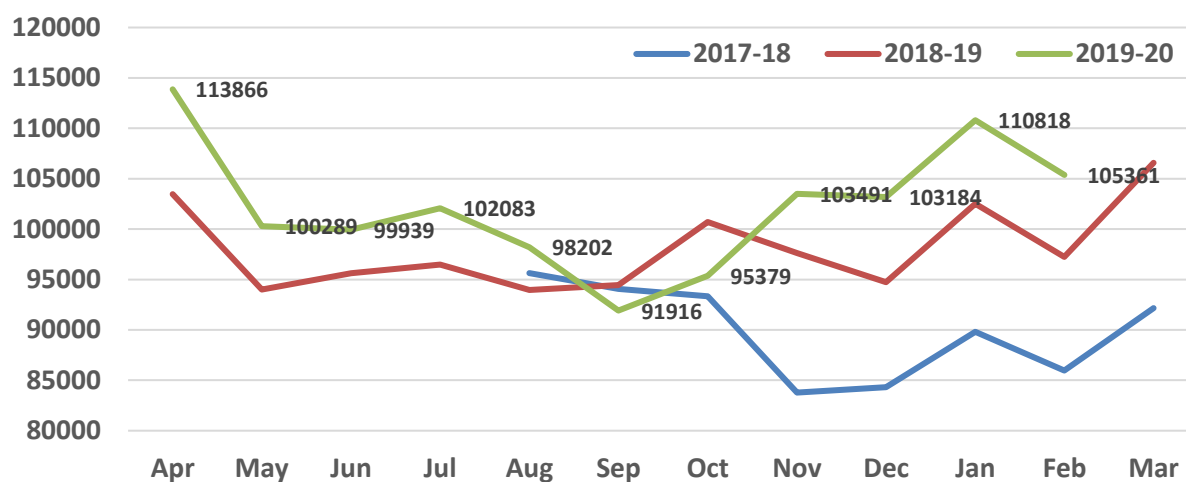
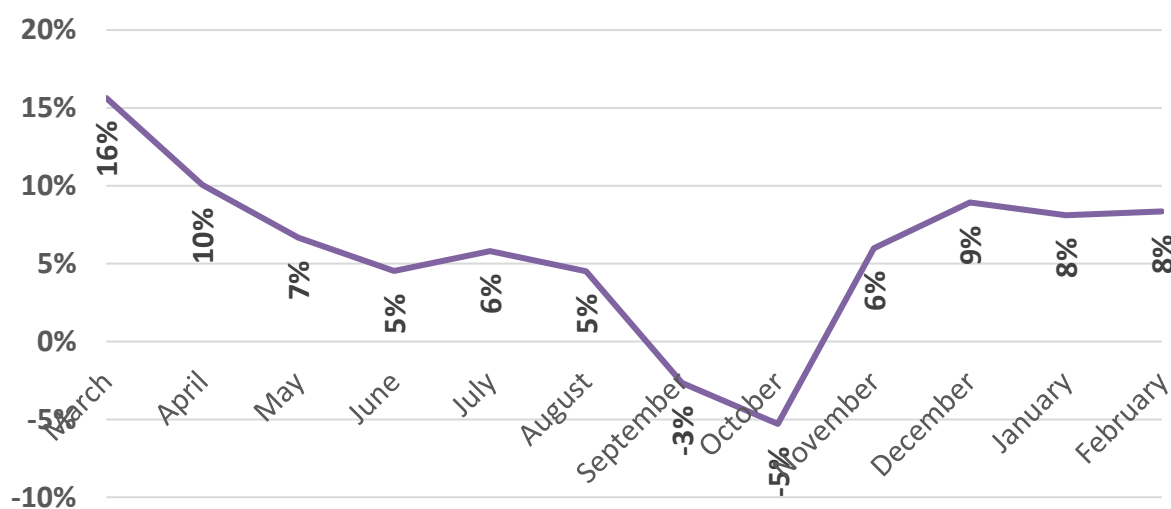


Figure 2: Month-on-Month growth in gross GST Revenues



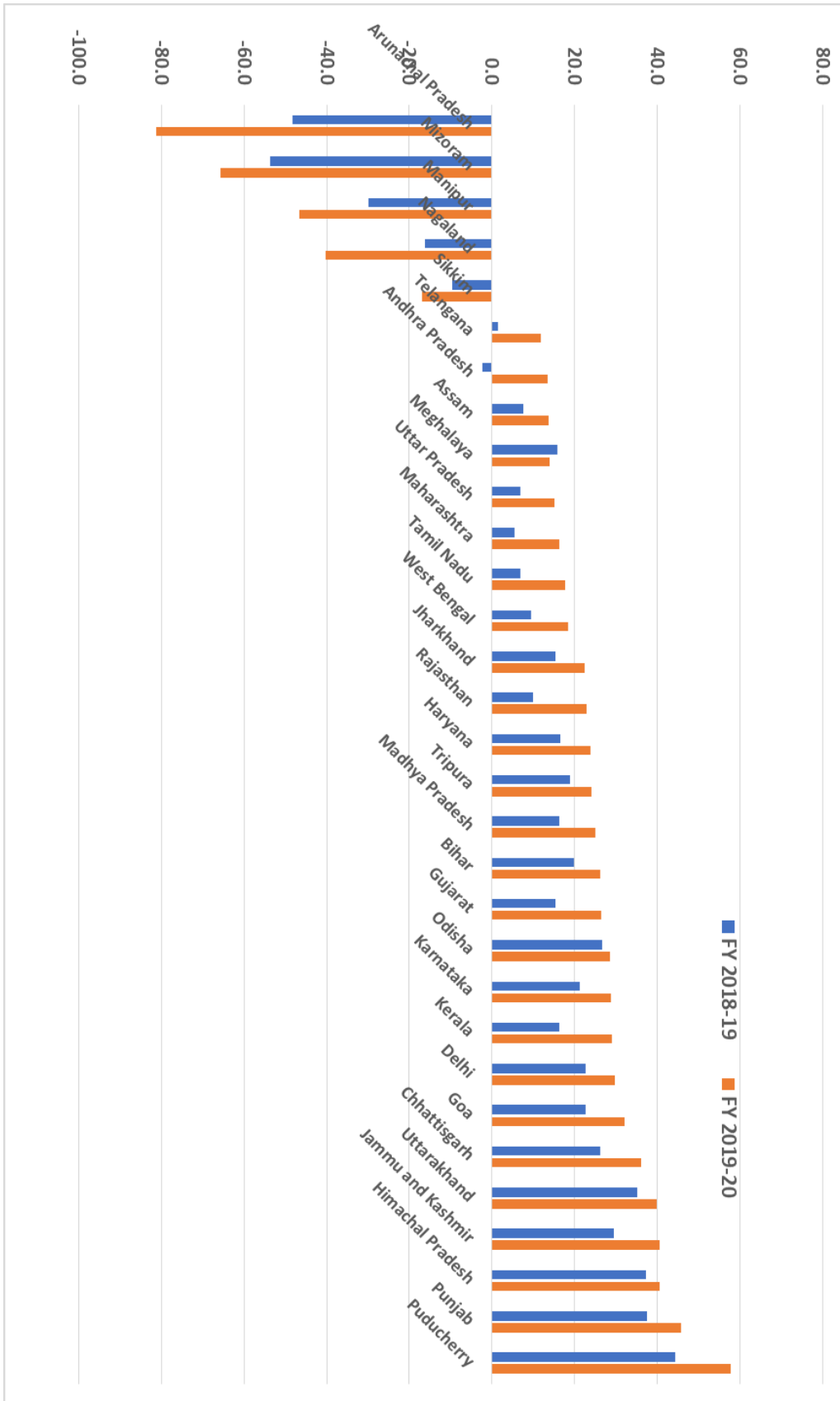
Gap with respect to base Revenue

6. The State-wise details of gap between the protected revenue and the post settlement gross SGST revenue (including ad-hoc settlement) for the period April-Feb in the current year as compared to the same period in the previous year may be seen in the Table 4. This information is also depicted in the graph placed at Figure 3.

Table 4: Revenue Gap during the period April-Feb

State/UT	2018-19	2019-20
Arunachal Pradesh	-48	-81
Mizoram	-54	-66
Manipur	-30	-47
Nagaland	-16	-40
Sikkim	-10	-17
Telangana	1	12
Andhra Pradesh	-2	13
Assam	8	14
Meghalaya	16	14
Uttar Pradesh	7	15
Maharashtra	6	16
Tamil Nadu	7	18
West Bengal	10	18
Jharkhand	15	22
Rajasthan	10	23
Haryana	17	24
Tripura	19	24
Madhya Pradesh	16	25
Bihar	20	26
Gujarat	15	26
Odisha	27	29
Karnataka	21	29
Kerala	16	29
Delhi	23	30
Goa	23	32
Chhattisgarh	26	36
Uttarakhand	35	40
Jammu and Kashmir	29	41
Himachal Pradesh	37	41
Punjab	38	46
Puducherry	44	58
Average	14	23

Figure 3: Revenue Gap during the period April-Feb



Trends in Return filing

7. The table below shows the trend in return filing in FORM GSTR-3B till due date and till date for return periods upto Jan, 2020.

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

Return Period	Till due date		Till 31 st Jan, 2020	
	Filed	%	Filed	%
Apr'19	6017388	61%	8627066	87%
May'19	6481965	65%	8676361	86%
Jun'19	6655120	66%	8702655	86%
Jul'19	7047881	69%	8741093	86%
Aug'19	6540650	64%	8763292	85%
Sep'19	5967642	58%	8776265	85%
Oct'19	6463266	62%	8763520	84%
Nov'19	7091985	68%	8694417	83%
Dec'19	6550743	63%	8307922	80%

Figure 4: GSTR-3B Filing

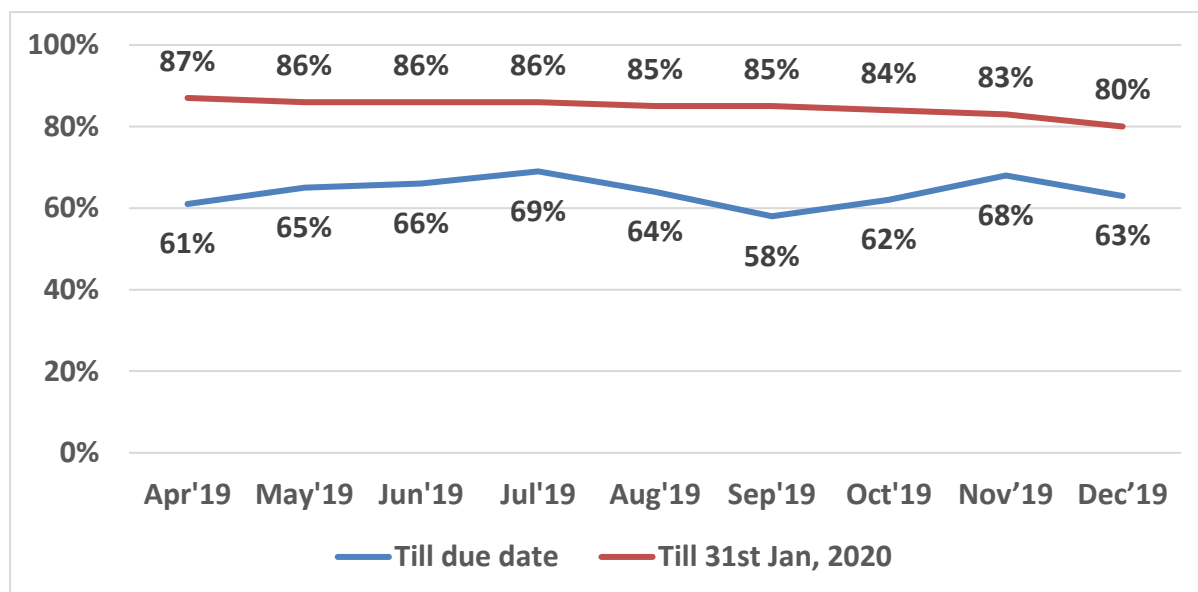


Table 6: State-wise Return filing (GSTR-3B) till due date (2019)

STATE	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Jammu and Kashmir	60%	62%	64%	26%	24%	22%	24%	46%	45%
Himachal Pradesh	64%	67%	67%	71%	66%	59%	65%	72%	65%
Punjab	74%	78%	78%	81%	76%	67%	72%	80%	72%
Chandigarh	73%	76%	76%	80%	75%	69%	74%	79%	74%
Uttarakhand	59%	61%	63%	66%	61%	56%	61%	68%	62%
Haryana	65%	69%	70%	74%	69%	61%	66%	72%	65%
Delhi	59%	62%	63%	66%	61%	54%	59%	64%	61%
Rajasthan	65%	68%	69%	73%	68%	61%	65%	73%	66%
Uttar Pradesh	65%	68%	69%	73%	68%	62%	66%	65%	64%
Bihar	50%	53%	55%	60%	54%	50%	53%	60%	55%
Sikkim	50%	52%	53%	58%	52%	47%	51%	56%	49%
Arunachal Pradesh	27%	30%	33%	37%	35%	32%	36%	36%	35%
Nagaland	36%	39%	42%	46%	42%	38%	42%	45%	42%
Manipur	34%	34%	37%	43%	38%	34%	37%	42%	40%
Mizoram	45%	46%	46%	52%	47%	45%	46%	52%	44%
Tripura	55%	59%	61%	65%	58%	55%	61%	63%	57%
Meghalaya	52%	55%	55%	59%	56%	52%	55%	47%	49%
Assam	39%	43%	44%	48%	43%	38%	43%	36%	48%
West Bengal	61%	65%	66%	69%	63%	59%	64%	66%	63%
Jharkhand	53%	57%	58%	63%	56%	52%	57%	66%	61%
Odisha	29%	57%	60%	66%	59%	57%	62%	69%	61%
Chhattisgarh	48%	54%	56%	62%	55%	49%	54%	63%	58%
Madhya Pradesh	58%	63%	65%	69%	63%	55%	61%	70%	65%
Gujrat	71%	75%	76%	79%	74%	69%	71%	78%	72%
Daman and Diu	59%	64%	65%	69%	64%	58%	61%	67%	62%
Dadra and Nagar Haveli	58%	61%	63%	66%	61%	56%	58%	67%	61%
Maharashtra	61%	64%	66%	68%	63%	57%	61%	68%	62%
Karnataka	62%	66%	67%	71%	67%	61%	65%	72%	65%
Goa	52%	55%	56%	59%	54%	49%	53%	56%	53%
Lakshadweep	37%	36%	40%	41%	39%	36%	35%	42%	36%
Kerala	56%	60%	62%	65%	55%	51%	58%	65%	57%
Tamil Nadu	60%	63%	64%	69%	63%	57%	63%	70%	62%
Puducherry	59%	62%	63%	67%	61%	56%	60%	68%	59%
Andaman and Nicobar Island	32%	32%	33%	35%	32%	30%	30%	39%	35%
Telangana	52%	56%	58%	61%	56%	49%	53%	60%	53%
Andhra Pradesh	58%	62%	64%	69%	62%	53%	60%	67%	60%
Other Territory	72%	74%	71%	70%	67%	68%	66%	72%	53%
	61%	65%	66%	69%	64%	58%	62%	68%	63%

Table 7: State-wise Return filing (GSTR-3B) till 31st Jan, 2020

STATE	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Jammu and Kashmir	84%	83%	82%	76%	75%	75%	74%	73%	66%
Himachal Pradesh	86%	85%	85%	85%	84%	84%	84%	83%	81%
Punjab	92%	92%	92%	92%	91%	91%	91%	91%	88%
Chandigarh	94%	94%	94%	94%	93%	93%	93%	93%	89%
Uttarakhand	83%	83%	84%	83%	83%	83%	83%	83%	79%
Haryana	89%	89%	89%	89%	89%	88%	88%	87%	83%
Delhi	84%	83%	83%	82%	81%	81%	81%	80%	77%
Rajasthan	88%	87%	87%	86%	86%	86%	86%	85%	84%
Uttar Pradesh	87%	87%	87%	86%	86%	86%	86%	85%	82%
Bihar	78%	78%	77%	77%	76%	76%	75%	74%	70%
Sikkim	80%	78%	77%	76%	76%	76%	75%	72%	64%
Arunachal Pradesh	64%	63%	62%	61%	60%	58%	57%	54%	47%
Nagaland	71%	70%	70%	70%	69%	68%	67%	65%	57%
Manipur	64%	63%	63%	64%	63%	63%	63%	60%	56%
Mizoram	76%	75%	74%	74%	72%	71%	69%	67%	59%
Tripura	80%	79%	79%	78%	77%	77%	77%	75%	72%
Meghalaya	74%	74%	73%	73%	72%	71%	70%	67%	62%
Assam	70%	69%	69%	68%	67%	67%	65%	64%	65%
West Bengal	85%	84%	84%	83%	83%	82%	81%	80%	76%
Jharkhand	83%	82%	82%	82%	81%	81%	81%	82%	78%
Odisha	83%	83%	83%	84%	84%	84%	84%	83%	78%
Chhattisgarh	87%	87%	87%	86%	86%	85%	84%	83%	78%
Madhya Pradesh	89%	89%	89%	88%	88%	88%	87%	86%	84%
Gujarat	93%	93%	93%	92%	92%	91%	91%	90%	87%
Daman and Diu	88%	90%	90%	89%	89%	88%	87%	85%	80%
Dadra and Nagar Haveli	87%	87%	86%	86%	85%	85%	84%	84%	79%
Maharashtra	90%	90%	89%	88%	88%	87%	85%	83%	79%
Karnataka	87%	86%	86%	86%	87%	87%	86%	85%	81%
Goa	80%	80%	79%	78%	77%	76%	75%	73%	67%
Lakshadweep	61%	61%	60%	60%	58%	57%	56%	53%	47%
Kerala	90%	90%	89%	89%	88%	88%	87%	85%	79%
Tamil Nadu	86%	85%	85%	85%	85%	84%	84%	84%	80%
Puducherry	88%	87%	87%	87%	86%	85%	85%	83%	79%
Andaman and Nicobar Island	74%	73%	72%	70%	69%	67%	65%	61%	52%
Telangana	82%	81%	81%	80%	79%	78%	77%	76%	71%
Andhra Pradesh	87%	87%	87%	86%	85%	85%	84%	82%	78%
Other Territory	83%	83%	84%	83%	83%	82%	81%	80%	72%
	87%	86%	86%	86%	85%	85%	84%	83%	80%

Agenda Item 5A: Issues recommended by Law committee for the consideration of the Council.

Agenda Item 5A(i): Taxability of ‘economic surplus’ earned by brand owners of alcoholic liquor for human consumption – reg.

Various representations have been received from entities engaged in the manufacture of alcoholic liquor for human consumption on the captioned subject. In this regard, a brief description of the various business models being followed in the industry for manufacturing of alcoholic beverage (AlcoBev) for human consumption is presented below.

2. Companies which are holder of registered brands in relation to IMFL (Indian Made Foreign Liquor) are commonly known in the industry as “Brand Owners (BO)”. BOs, who have the technical know-how for manufacture of alcoholic beverages (AlcoBev), have exclusive right to exploit the brands, including by way of sale of IMFL under those brands. The whole process of procurement, manufacture and sale of AlcoBev is governed by each State’s Excise laws which vary across States. Certain State Excise laws mandate that manufacture and sale of IMFL, as well as the procurement of Extra Neutral Alcohol (“ENA”) required for the manufacture of IMFL can only be undertaken by the parties, who have been duly licensed by the State Excise authorities. In order to meet the requirements under State Excise laws, BOs approach various Contract Bottling Units (CBUs) or Third Party Manufacturing Units (TMUs) who hold the requisite licence under the State Excise laws to source the ENA and carry out the manufacture and bottling of IMFL. Broadly, there are two types of arrangements between the BO and CBU for manufacture and sale of AlcoBev, as follows:

- a) Transfer of right to manufacturer for commercially exploiting brand of the BO in exchange for a consideration (‘franchise fee’ or any other name).
- b) Contract manufacturing by CBUs without any transfer of right to CBUs to commercially exploit the brand of BO.

3. In respect of the arrangement discussed at para 2(a) above, the BO is clearly engaged in the supply of a taxable service to the CBU which is in the nature of transfer of intellectual property rights (IPR) to the CBU in lieu of an agreed consideration. Thus, GST is payable on such supplies by the BO as supplier of service in the nature of “permitting the use or enjoyment of any intellectual property right” (S. No. 5(c) of Schedule II under section 7 of the CGST Act). This arrangement is not being discussed in this Agenda as the law is already settled in this regard and clarification has not been sought.

4. In context of the arrangement discussed at para 2(b), doubts have been raised regarding its taxability under GST. Therefore, the present discussion is regarding cases where the BO does not transfer right of commercial exploitation of the brand to CBU and the risks and rewards relating to such supplies remain vested with the BO. Given the variation in Excise law provisions across States, different business models are being followed in different States. An illustrative list of the prevalent business models is as follows:

- a) Lease/rent of licensed premises by CBU/TMU to BO: The entity (CBU/TMU) has the licence from the State Government to manufacture AlcoBev. It leases/rents out the licensed premises as well as the license for manufacture to the BO. The owner of the licensed premises, besides renting out the licensed manufacturing facility, also manufactures AlcoBev for the BO. Raw material is purchased and supplied by the BO. The BO directly sells AlcoBev so manufactured. TMU/CBU charges the BO ‘rent’ for renting of factory with licence and ‘conversion charge’ for converting raw material (ENA, flavors etc.) to liquor. The current practice is that CBU charges GST on both rent and conversion charges. In this model, the BO has beneficial

ownership of all raw materials and the manufactured liquor. The property in and the risk and reward associated with the liquor manufactured by CBU vests with the BO. Essentially, the CBU manufactures AlcoBev on behalf of the BO.

- b) CBU/TMU manufactures and sells liquor on behalf of the BO: This is the most prevalent model. In many States, there is a State Beverages Corporation, which alone is authorized to sell AlcoBev. The State Corporation buys liquor from the licensed manufacturers. Then there are States where State Beverage Corporation does not exist but law requires liquor to be sold only by licensed manufacturers. In such States, the BO cannot sell liquor. As per this arrangement, BO enters into contractual agreement with the CBUs on a non-exclusive basis (BO can enter into multiple contracts with other CBUs as well) under which CBUs receive payment for bottling charges and certain other agreed upon reimbursements from the BO, such as taxes and expenses borne by the CBU. The CBU procures all raw materials and packing materials from a list of approved/identified vendors at a price fixed by the BO. CBU is required to follow the process parameters and specifications provided by BO for manufacture of AlcoBev under the supervision and control of BO. CBU sells and delivers the manufactured products as per the direction of the BO at the price informed by the BO. Sale proceeds go into a bank account of TMU/CBU, which is controlled by the BO, through authorized signatories solely and exclusively nominated by the BO. The BO funds purchase of raw materials and other expenses for manufacture, packaging, sale and distribution of AlcoBev from the sale proceeds deposited in this bank account. In this model too, the property in and the risk and reward associated with the liquor manufactured by the CBU vests with the BO. Upon termination of the contract, CBU is obligated to cease and desist from using the trademark of the BO and dispose of the unsold stock at ex-brewery price. Further, CBU is also required to sell at cost the raw materials, labels, packing material etc. to the BO. In some cases, the BO also arranges working capital for the operations of the CBU, either directly or through institutional finance. The revenue sharing agreement stipulates that after deducting the cost of the raw material, bottling charges and other reimbursements (including taxes borne by CBU) paid to the CBU from the total sale proceeds of AlcoBev, the remaining amount is retained by the BO, commonly known as '**economic surplus**' or profit of the BO.

Economic Surplus of the BO = (Total Sale proceeds of the AlcoBev) – (Bottling charges + cost of raw materials + cost of packing materials + Taxes borne by the CBU + Other reimbursements paid to the CBU by BO)

5. The main issue in contention is whether the '**economic surplus**' retained by the BO is taxable under GST or not. It is noteworthy that under service tax regime, this issue was clarified vide **Letter F. No. 332/17/2009-TRU dated 30.10.2009 (Annexure - A)** wherein it was stated that service Tax would be payable on the bottling/job charges, distribution costs and other reimbursements and that the surplus/profit earned by the BO being in the nature of business profit (which falls within the purview of direct taxes), will not be chargeable to service tax. In light of the above clarification, the Delhi CESTAT in the case of BDA Limited ruled that the surplus earned under contract manufacturing arrangement by the BO represents business profit and are accordingly not exigible to Service Tax. The stand was upheld by the Hon'ble Supreme Court (**Annexure - B**). Furthermore, a similar decision was delivered in the case of M/s Skol Breweries and M/s Skol Breweries and M/s Diageo India Pvt. Ltd. In the latter case, it was observed that the CBU has no right to use the IPR of the BO and there is no transfer of the same to the CBU. It was also held that there is no representational right provided to the CBU and the brand name is being used by the brand owner in their own account. For the said reason, it was observed that the **surplus amount is in the nature of profits and not liable to service tax under**

IPR or Franchise services. It can be said that the economic surplus was not taxable under the Service tax regime since there was no service being provided by the BO to the CBU.

6. The BOs have in their representations that the treatment of ‘**economic surplus**’ should be the same under GST as was during the Service Tax regime, on the following grounds:

- a) There is no significant departure in the legal provisions under GST regime from the legal position as existed during service tax regime. Therefore, the treatment of ‘economic surplus’ should be the same in both regimes.
- b) The nature of contractual arrangement between the BO and CBU remains the same under GST.
- c) BO cannot be considered to be a supplier to CBU in the same transaction where CBU is supplying service to the BO by way of manufacture or bottling of alcoholic beverage for human consumption.
- d) The ‘economic surplus’ has already suffered State Excise and VAT (as applicable) as part of the overall sale price of AlcoBev.

7. However, it has been informed that the divergent Advance ruling has been given on the issue by the Karnataka and Maharashtra and accordingly, divergent practices are being followed in the field formations. It is a fact that the advance rulings are private rulings and thus are not universally applicable and are limited to the specific case in the concerned jurisdiction only. It doesn’t provide a rule. However, given the divergence of views in these rulings and the confusion it might create in field formations/investigating agencies, it is imperative that the issue is analyzed in detail in light of the legal provisions under GST. Further, the issue was settled in the pre-GST regime and the divergent ruling has created confusion in the trade and industry. Therefore, it is imperative to clarify the issue in totality. Accordingly, an examination of the issue is presented below.

8. Whether CBU is providing taxable service to the BO: It may be noted that the supply chain arrangement in AlcoBev sector is different from other consumer durable companies due to restriction under State Excise legislations. The contractual arrangement between the BO and CBU has evolved as a result of the intersection of the commercial requirements of the BO (to exploit the brands under its ownership through manufacture and sale of IMFL) and the licensing requirements under the State Excise laws (viz. only a licence holder can source ENA for such manufacture, carry out manufacture of IMFL and sell the alcoholic beverages). In order to comply with the State excise provisions, it is the CBU which raises invoice for the goods and receives the sale proceeds. However, the amount that CBU actually receives (as per his agreement with the BO) is much lower. In essence, the true commercial nature of the arrangement between the CBU and BO is one in which the CBU provides services to the BO as per the agreement entered into, and is remunerated in the form of bottling charges. Some of the features of the contract agreement clearly indicate that the CBU is supplying service to the BO and not *vice versa*. For example – the price of AlcoBev sold by CBU is determined by the BO, the list of vendors from which the CBU can procure inputs is also decided by the CBU, working capital is financed by the BO in some cases. Further, the contract clearly stipulates that the BO shall pay bottling charges to the CBU. Thus, it can be said that the CBU is engaged in supply of service to the BO and the entire ‘risk and reward’ is that of the BO as in any other contract manufacturing where such manufacturing is not regulated or even in the pharmaceutical industry where the regulator allows ‘loan licencing’ where the entire licences facility is officially shown on loan to the brand owner.

9. The ruling of Karnataka AAR, stating that CBU is not supplying any service to the BO appears to be misplaced. As per the ruling, since the activity of CBU cannot be classified under Heading 9988 and 9989 of notification No. 11/2017-Central Tax (Rate), it has been concluded that there is no

provision of service from CBU to BO. Whereas the agreement between BO and CBU clearly states that the CBU is supplying service to the BO. Mere inability to classify the supply under a particular category cannot take it outside the ambit of 'supply'. According to section 7 of the CGST Act, there are two essential parameters for an activity to qualify as 'supply' – (i) consideration, and (ii) course or furtherance of business. In the instant case, CBU undertakes manufacturing in the course of his business in lieu of a consideration (bottling charges) from the BO. Thus, CBU is clearly engaged in supply of service to the BO.

10. Whether 'economic surplus' retained by the BO is taxable under GST: The BO is not engaged in the supply of any service to the CBU. The arrangement between CBU and BO does not envisage any transfer of right to use the IPR of BO. As per the terms of the agreement, it is the CBU which supplies service to the BO and not *vice versa*. The ruling of Karnataka AAR treats the 'economic surplus' retained by the BO as a consideration for supply of service from the BO to the CBU. The amount transferred as 'economic surplus' to the BO is not for providing any service but a surplus inasmuch as the contract envisages consideration for the bottling done by CBU. Therefore, when the contract does not envisage any other transaction in the nature of service to be provided by the BO to CBU, assuming that the surplus is because of service provided by BO to CBU is without any basis. As there is no supply of service from the BO to the CBU, the 'economic surplus' cannot be treated as consideration. Further, there is no difference in the legal position on this issue under service tax regime and GST. Even the terms of agreement between the BO and CBU have not changed under GST. Therefore, there should be similarity of treatment between the two regimes. Accordingly, it can be construed that '**economic surplus**' is in the nature of business profit for the BO, therefore, not taxable under GST.

11. Based on the discussion in the above paras, a draft Circular was placed before the Law Committee in its meeting held on 28.01.2020. The Law Committee approved the said Circular and recommended it to be placed before the GST Council during its next meeting. The draft Circular clarifies the following:

- a. Brief description of the salient features of the various models of manufacture of AlcoBev on job work basis.
- b. The activity undertaken by CBU is in the nature of supply of service from the CBU to the BO, therefore, taxable under GST.
- c. 'Economic surplus' retained by the BO, being in the nature of profit of the BO, is not taxable under GST.

12. Accordingly, the draft Circular (**Annexure-C**) is placed before the GST Council for discussion and decision.

Annexure-A

F.No.332/17/2009 -TRU
 Government of India
 Ministry of Finance
 Department of Revenue
 Tax Research Unit

Room No.147-A, North Block
 New Delhi, dated the 30th October, 2009

To

The Director General of Service Tax,
 9th Floor, Piramal Chambers,
 Jijibhoy Lane, Parel, Lalbaug,
 Mumbai- 400012.

Sir,

Subject: Service tax on manufacture of alcoholic beverages on job work basis

It may be recalled that vide Finance (No. 2) Act, 2009, the definition of taxable service, namely, Business Auxillary Service (BAS) was suitably amended so as to include the manufacture of alcoholic beverages on job work basis. In practice, the brand owners (BO) of alcoholic beverages get the products (Indian Made Foreign Liquor) manufactured on job work basis under a contract manufacturing arrangement with distilleries having facility to manufacture such beverages. In trade parlance, such job workers/distilleries are called as 'contract bottling units' (CBU). The aforesaid arrangement has come under tax net w.e.f. 01.09.2009.

2. Under section 67 of the Finance Act, 1994, service tax is chargeable on the 'gross amount charged' by the service provider for providing taxable services. As per CIABC, the gross value of sales, as per invoice, includes the following elements:

- 1) Bottling/job charges – paid to CBU
- 2) Distribution costs including freight, transit insurance etc. – paid to CBU
- 3) Other reimbursables – paid to CBU
- 4) Cost of raw materials – paid to CBU
- 5) Cost of packaging materials – paid to CBU
- 6) State excise duty and VAT – paid to State Government
- 7) Surplus/profit – retained by BO

It was their plea that if the entire amount charged by CBU is subject to service tax, it would amount to charging tax on goods. The CIABC, therefore, requested that the service tax should be charged on the amount representing the charges for service alone. Accepting their plea, Notification No. 39/2009-ST dated 23.09.2009 was issued wherein exemption from service tax has been provided on the value which represents the value of inputs i.e. raw materials and packaging materials used in the manufacture of such alcoholic beverages.

3. The CIABC has now sought clarifications on the tax base on which the service tax would be chargeable after allowing the deduction provided in the notification. In

short, they want to know as to how many of the above 7 elements (para 2 above) would be includible in the value for the purpose of charging service tax.

4. For removal of doubts and with a view to avoid disputes on valuation, it is clarified that,-

- (a) Service tax would be payable on the bottling/job charges, distribution costs and other reimbursables.
- (b) So far as inputs i.e. raw materials and packaging materials are concerned, one of the conditions of exemption notification No. 39/2009-ST is that there should be documentary proof specifically indicating the value of these inputs. Therefore, service tax on the value of raw materials and packaging materials would be exempt only when such charges are specifically mentioned in the invoice raised/documents maintained by the CBU.
- (c) As regards the statutory levies, namely, excise duty/VAT, they do not represent any 'consideration' for rendering the service. Whether such amount is paid by BO or by CBU, they have no nexus with the provision of service. As such, these levies will not be included for charging service tax.
- (d) Similarly, the surplus/profit earned by the BO being in the nature of business profit (which falls within the purview of direct taxes), will not be chargeable to service tax.

5. This position may be clarified suitably to the field formations.

Yours faithfully,

[Signature]
(Gautam Bhattacharya)
Joint Secretary (TRU-II)
Tel: 2309 3027

Copy to Shri Pramod Krishna, Director General, Confederation of Indian Alcoholic Beverages Companies, Z-27, Hauz Khas, New Delhi - 110016.

[Signature]
(Gautam Bhattacharya)
Joint Secretary (TRU-II)

Annexure B

Annexure – B

Supreme Court Order

Commissioner v. BDA Pvt. Ltd. - 2016 (42) S.T.R. J143 (S.C.)

The Supreme Court Bench comprising Hon'ble Mr. Chief Justice H.L. Dattu and Hon'ble Mr. Justice Amitava Roy on 30-11-2015 after condoning the delay dismissed the Civil Appeal No. 14001 of 2015 (C.A. Diary No. 37295 of 2015) filed by Commissioner of Central Excise, Meerut against the CESTAT Final Order No. A/51870/2015-Cus(Br), dated 12-6-2015 as reported in **2015 (40) S.T.R. 352 (Tri.-Del.) (BDA Pvt. Ltd. v. Commissioner)**. While dismissing the appeal, the Supreme Court passed the following order :

"Delay condoned.

2. This appeal is directed against the judgment and order passed by the Customs, Excise & Service Tax Appellate Tribunal, New Delhi in Order No. FO/51870/2015-Cus(Br) in Service Tax Appeal No. 636 of 2009, dated 12-6-2015.

3. We have heard learned counsel for the appellant.

4. Having carefully gone through the records and hearing learned counsel for the appellant, we are of the considered opinion that the appeal, being devoid of any merit, deserves to be dismissed and is dismissed accordingly."

The Appellate Tribunal in its impugned order had held that profit earned brand owner of Indian Made Foreign Liquor (IMFL) for getting its products manufactured on job work and sale by such job worker cannot be taxed as royalty under Intellectual Property service as job worker has not been given right to use assessee's brand name. As per agreement, cost of raw material and other expenses either paid or reimbursed by assessee. Further State levies such as Excise or VAT reimbursed to job workers as IMFL sold by or as per direction of assessee. Profit/loss on account of manufacturing and sale of IMFL entirely on assessee's account holding property risk and reward of product. Job worker receiving consideration for undertaking manufacture on job work done basis - In view of C.B.E. & C. Letter F. No. 332/17/2009-TRU, dated 30-10-2009, surplus and profit earned by manufacturing company or brand owner is not chargeable to Service Tax.

It was further held that issue relating to liability to Service Tax on profit retained by brand owners on goods manufactured and sold by job workers under Intellectual Property Right service is in dispute till the issue was clarified by C.B.E. & C. Extended period of limitation is not invocable in such cases.

✓

In the Customs Excise and Service Tax Appellate Tribunal, New Delhi

Principal Bench

(BEFORE ASHOK JINDAL, MEMBER (JUDICIAL) AND R.K. SINGH, MEMBER (TECHNICAL))

M/s. BDA Pvt. Ltd. ... Appellants;

Versus

Commissioner of Central Excise, Meerut ... Respondent.

[Arising out of Order-in-Original No. 12/Commr/Mrt-I/2009 dated 31.03.2009 passed by
Commissioner of Central Excise Meerut]

Service Tax Appeal No. 636 of 2009 and Service Tax Misc Application No. 55738 of 2013

Decided on June 12, 2015, [Date of Hearing: 29.5.2015/Date of decision: 12.6.2015]

Appearance:

Shri L.P. Asthana with Shri Vishal Agarwal, Advocate for the Appellants

Ms. Suchitra Sharma, AR for the Respondent

ORDER NO. FO/51870/2015-Cus(Br)

ASHOK JINDAL:— The appellant is in appeal against the impugned order confirming the demand of Service Tax under the category of Intellectual Property service along with interest and penalties under section 77 and 78 of the finance Act, 1994

2. The brief facts of the case are that the appellant is owner of brand name "Officers Choice" They are engaged in manufacture and sale of Indian Made Foreign Liquor (IMFL). As the appellant was not having manufacturing facility to produce IMFL in the State of Uttar Pradesh, they entered into agreement dated 19.8.2000 with M/s. Pilkhani Distillery and Chemical Works (hereinafter referred to as M/s. Pilkhani). The Revenue is of the view that M/s. Pilkhani is using the brand name and technical knowhow of the appellant and paying consideration in terms of royalty for use of brand name and technical knowhow of the brand owner i.e. the appellant, but the appellant is not paying service tax thereon on the belief that the permission to use the brand name by the appellant is not a taxable service under the category of Intellectual Property Service under Section 65(65A) of the Finance Act, 1994. Therefore, the show cause notice dated 12.2.2008 was issued by invoking extended period of limitation for the period 10.9.04 to 31.3.05 to demand Service Tax under the category of Intellectual Property service. The said show cause notice was adjudicated. The demand of service tax was confirmed against the appellant along with interest and penalties under section 77 and 78 of the Finance Act, were imposed. Aggrieved from the said order, the appellant is before us.

3. Shri L.P. Asthana, learned advocate along with Shri Vishal Agarwal, Advocate appeared before us and submits that appellant was the brand owner of IMFL and marketing also. They got manufactured IMFL through M/s. Pilkhani and the same was delivered/sold by them and earned profit

as per difference in market rate/price and cost price as per the agreement with M/s. Pilkhani. Therefore, they are not liable to pay service tax as M/s. Pilkhani is their job worker. It is further submitted that the issue of taxability of the service was clarified by the CBEC Circular No. 249/1/2006-CX.4 dated 27.10.2008 wherein it has been clarified that the agreement and activity undertaken by the appellant and M/s. Pilkhani, no service tax is payable by the appellant. Therefore, they are not liable to pay the service tax. He further, submits that the issue was again examined by the CBEC and it further clarified by Ministry of Finance letter vide F. No. 332/17/2009-TRU dated 30.10.2009 clarifying that the profit earned by the brand owner being in the nature of business profit, no service tax is payable. Therefore, appellants are not liable to pay the service tax. He also relied on the decision of this Tribunal in the case of *Diageo India Pvt. Ltd. v. CCE, Thane II* [2013-TIOL-790-CESTAT-MUM] and *Skolli Breweries Ltd. Sab Miller India Ltd. v. CCE & ST, Aurangabad* [2014-TIOL-588-CESTAT-Mum].

4. They further, submitted that the Commissioner of Central Excise, Meerut have no jurisdiction to issue show cause notice to the appellant as the appellant is not having any registered office in its jurisdiction as held by the Tribunal in the case of *CCE, BSR v. Ores India (P) Ltd.* [2008 (12) STR 513 (Tri-Kolkata)]. They further submit that show cause notice have been issued by invoking the extended period of limitation. It is therefore stated that demand of service tax is barred by limitation as the issue whether the appellant is liable to pay service tax or not or under which category was not clarified and having no clarification thereof, same has been clarified by CBEC through a circular dated 27.10.08. Therefore, the demands are hit by limitation.

5. On the other hand, Shri Amresh Jain and Ms. Suchitra Sharma, AR's opposed the contention of learned Counsels and submit that on merits the appellants are receiving royalty as per the terms of agreement clause no. 22 and they are having their office in the jurisdiction of Meerut Commissionerate. Moreover, the applicant has suppressed the fact that they are receiving royalty from M/s. Pilkhani. In these circumstances, they are liable to pay Service Tax. Shri Jain also drew our attention to the CBEC circular dated 27.10.08 and submits that the appellant has given their license for use/have taken their Brand name to M/s. Pilkhani, therefore the learned Commissioner has correctly confirmed the demand of Service Tax under the category of Intellectual Property services as per clause 2 of CBEC Circular dated 27.10.08.

6. Heard the parties. Considered the submissions.

7. In this case, we find that the appellant has entered into two agreements dated 19.8.2000, one for manufacture and sale and another for usership with M/s. Pilkhani. For proper appropriation of facts of the case. The terms of agreement are reproduced as under:—

Agreement for Manufacture and Sale.

"2. The sale of IMFL under this agreement shall be by Pilkhani through BDA and shall come into force with effect from 19th August, 2000 and shall subject to the provisions for earlier determination/termination herein contained continue initially for a period of four years. After

expiration of the initial terms of four year this agreement may be renewed for such further period upon such terms and conditions as may be mutually agreed upon. Provided, however that notice of intention to renew this agreement shall be received by the other party 3 months prior to the expiration of this Agreement.

3. Pilkhani will be free to bottle its own brands including CSD Rum and as long as the requirement of BDA is complied in full under this agreement Pilkhani can also enter into other separate arrangement with any other party/parties but with separate blending and bottling facilities.

5. BDA will provide a sample of spirit normally used by BDA in the manufacture of its products conforming to the specifications as appearing in Annexure 1 and shall manufacture/procure and distill spirit which shall conform to such sample within tolerances as given by BDA.

6. Quality Observer:

(a) BDA will have absolute right to post its representatives at the Distillery for the following purposes viz:

- i) To check the quality of spirit used in manufacturing of BDA's brands by Pilkhani so that the same is in line with the requirement of BDA.
- ii) To test and record the quality of such spirit, batch or batches quality of which is acceptable to BDA.
- iii) To check and approve the quality of finished product prior to dispatch.

(b) If the quality of the spirit manufactured/procured by Pilkhani is not found acceptable by BDA's Representatives, Pilkhani undertakes not to use such spirit for the manufacture of IMFL brands for them. Pilkhani undertakes to use the spirit of quality only as per the specifications and tolerances given by BDA and that the opinion of BDA's Representative will be binding in so far as the quality of spirit is concerned.

(c) If the quality of the finished product manufactured by Pilkhani is not found acceptable or not conforming to quality requirements by BDA's representatives then and in that event, BDA shall have the right to reject the same.

(d) In case of any reason, whatsoever, the Representatives of BDA are not allowed to enter the distillery or perform the duties as specified above. BDA has the absolute authority to terminate this Agreement without any notice and Pilkhani will immediately cease to produce all IMFL brands authorized for production under this Agreement.

(e) Notwithstanding anything contained herein, the risk property or interest in possession of and title or ownership to spirit manufactured by Pilkhani always remain with Pilkhani.

7. Pilkhani will provide free of charge suitable office accommodation to the satisfaction of BDA for the Representatives of BDA to be posted at the said distillery.

10. Pilkhani shall obtain at its cost such licences as may be necessary from time to time for the manufacture, blending bottling, storage, sale and delivery of IMFL products. However, in case of sale in Uttar Pradesh bonded warehouse FL-2 license is required, the License Fee etc. will be borne by BDA Ltd.

11. The risk, property of interest in possession of land title or ownership to the IMFL shall pass from Pilkhani to the buyers only upon delivery of IMFL by Pilkhani to the common carrier from Pilkhani or from its Godown/Depot under operation, Pilkhani will not be responsible for any transit losses due to accident or any other reason the amount paid along with incidental expenses shall be the liability of the buyer itself.

However, the risk, property or interest in possession of and title or ownership to the IMFL manufactured by Pilkhani shall remain with Pilkhani when such IMFL is delivered to the common carrier for dispatches to its own depots located in and outside the State of Uttar Pradesh by way of stock transfer in compliance with state excise formalities.

12. All excise formalities required for the distillery shall be the responsibility of Pilkhani, BDA will obtain or cause to be obtained at its cost such excise permits/asses as may be necessary for the purpose of dispatches of IMFL products manufactured by Pilkhani under this agreement.

13. (a) Pilkhani shall obtain at its cost all raw materials required for the manufacture, distillation, blending and bottling of IMFL products, except such materials as agreed to be provided by BDA.

(b) BDA assures a minimum lifting of 3 lakh cases of IMFL per annum for which Pilkhani has assured BDA that their existing capacity is adequate to produce and supply such quantities.

(c) In case of any short fall in the lifting of the minimum quantity as mentioned in para 13(b) above BDA will pay to Pilkhani 50% of the bottling charges on such short fall.

14. IMFL manufactured by Pilkhani shall be bottled, sealed, labeled, packed etc. in the packing materials such as bottles, seals, capsules, labels, mono-cartons, corrugated boxes, etc. as may be specified by and procured from sources identified by BDA, since BDA has permitted Pilkhani the user of the trade mark owned by it.

15. The trade marks brand names and the get up in which the IMFL products will be sold, supplied and delivered by Pilkhani to the buyers, shall be the sole property of BDA (which Pilkhani hereby acknowledges), and Pilkhani neither had nor has any right, title, or interest therein and shall not at any time claim any right whatsoever, to the ownership and/or the use of the labels, brand name, trade marks and/or get up.

17. Pilkhani hereby agrees that it will keep a minimum stock of 15 days IMFL products requirement of BDA at any point of time. BDA shall endeavour to send to Pilkhani sufficient permit/passes in time to ensure that the stock level does not exceed this limit.

18. The prices at which Pilkhani will sell and deliver IMFL products under this agreement are detailed in a separate writing signed by the parties on the date of this agreement for each size and each brand. Such separate writing shall be and shall always be deemed to be part of this Agreement. These prices are all inclusive ex-factory and include storage and other expenses including the cost of packing materials such as bottles, labels, seals, mono-cartone, corrugated boxes and wire netting expenses etc., incurred by Pilkhani including wastages thereon as per annexure. The prices are however, exclusive of sales tax, excise duty, bottling fees, export fees, octroi, transit insurance, excise escort charges and any other taxes, duties or fees as may be leviable at the relevant time including any additional levies of any nature whatsoever.

19. The price per case of ENA based and RS based brands of IMFL have been agreed to and are confirmed as provided in clause 18 hereof by a separate writing as on the date of this Agreement. These prices are subject to change from time to time as may be mutually agreed upon and will be evidenced from time to time by separate similar writings only relating to the change of prices between the parties. Such separate writing or writings relating to change of prices will without anything more to be done by and between the parties be and shall always be deemed to be a part of this agreement or a modification of this agreement from the date of such writing and this agreement shall stand modified from time to time to the extent of such writing or writings relating to change of prices only.

The cost element referable to the packaging material will be reviewed and revised from time to time on actual basis and the change in respect thereof shall also be incorporated as part of this agreement by separate writings as aforesaid from time to time and this agreement shall stand altered and/or amended or modified from the date of such writing relating to the cost of packaging materials only. However, the price, otherwise agreed to will remain firm for the period of six months from the date hereof.

22. Royalty is payable by Pilkhani to BDA for the permitted use of the said trade marks or brand names at the rate and in the manner as provided in clause 25(a), such royalty may vary from time to time depending on market conditions.

25. (a) BDA will be responsible for obtaining orders, excise permits/passes etc. from parties to whom the IMFL products are to be sold directly by Pilkhani (referred to as Direct indentors). The indent for the purchase of IMFL products shall be placed on Pilkhani by such Direct indentors.

Pilkhani, on the instructions of BDA will, after completing the excise and other formalities, dispatch the IMFL products to the Direct indentors and will bill the Direct indentors at the rate approved by BDA from time to time after deducting any discounts or rebates authorized by BDA. BDA will be responsible to and shall arrange for the collection of sale proceeds and declaration forms required for Sales Tax.

The payment shall be made by the Direct indentors by way of cheque or demand draft drawn in the name of Pilkhani. Pilkhani after retaining the value of each product at the rate agreed from time to time in accordance with clauses 18 and 19 of this agreement by separate writing and the amounts representing the statutory dues such as Sales Tax, Excise duties, fees etc. will pay to BDA the balance amount (which represents royalty) due and payable to BDA within seven days from money being received in their accounts. However, BDA will not withdraw any amount as royalty or otherwise till the investment in the working capital of the Pilkhani is completely repaid.

(b) Pilkhani will invest upto the maximum of Rs. 50.00 lacs towards working capital to carry out bottling arrangements. Any investment over and above this amount will have to be invested by BDA. The amount invested by Pilkhani will carry additional interest of 24% calculated on daily average basis. This facility of finance will be reviewed from time to time at the discretion of Pilkhani."

Usership Agreement

- A. The Proprietors have been carrying on business as manufacturers of and dealers in all kinds of wines, spirits and liquor as also the goods set out in the Schedule "A" (hereinafter called "the said trade mark").
 - B. The users have entered into a Manufacturing Agreement with the Proprietors dated 19th August, 2000 (hereinafter called the Manufacturing Agreement) whereunder the users will be undertaking the manufacture of contract products at the distillery as per the specification to be provided by the proprietors will be undertaking the sale of the contract product so manufactured to the proprietors or as per the directions of the proprietors.
 - C. In terms of the Manufacturing Agreement including for the consideration mentioned herein, the Proprietors have agreed to grant to the users and users are desirous of having a License to the said trade marks for the contract products upon the terms hereinafter contained and not otherwise.
5. Royalty is payable by the Users to the Proprietors for the permitted use of the said trade marks in the mode and manner as specified in the Manufacturing Agreement."

From the tenor of the agreements, we find that the appellant is a brand owner of the IMFL and was having own arrangement with M/s. Pilkhani for manufacture of IMFL at their distillery as per the specification to be provided and will be undertaking the sale of the IMFL so manufactured. As the appellants were not having any manufacturing license, the appellant have allowed M/s. Pilkhani to manufacture as license holder and who can sell the same, therefore the arrangement between the parties is like that M/s. Pilkhani shall manufacture the IMFL and sell the manufactured IMFL as per the direction of the appellant on the price fixed by the appellant. Therefore, sale proceeds of the goods shall be relevant to the said account and then out of the said amount M/s. Pilkhani shall retain the cost of manufacture of the products and statutory dues such as sales tax, excise duty

etc. and the balance amount shall be remitted to them. Apart from the tax and price payable to the Government were to be paid by the manufacturer to the Government directly and balance amount shall be given to the appellant who shall not withdraw any amount till release of the cost of the job work expenses incurred by M/s. Pilkhani. From these facts and from the tenor of the agreement, it is clear that the appellants are brand owners and engaged in the activity of manufacture of alcoholic beverage. The cost of raw material and other expenses were reimbursed to M/s. Pilkhani. State Levy such as State Excise duty and other tax were reimbursed to M/s. Pilkhani and alcoholic beverages were sold as per the direction of the appellant. Therefore on analyzing the agreements between the appellant and M/s. Pilkhani, we observe as under:—

M/s. Pilkhani is receiving consideration for job work charges indicating manufacturing activity. Merely the clause of royalty mentioned in the agreement does not mean that the appellant has given the right to use their brand name to M/s. Pilkhani for their use.

Same view has been taken by the Hon'ble Apex Court in the case of Panipat Woollen and General Mills Co. Ltd. [1976 3 SCR 186] wherein the Hon'ble Apex Court has held as under:—

"It is well settled that the Court in order to construe an agreement has to look to the substance or the essence of it rather than to its form. A party cannot escape the consequences of law merely by describing an agreement in a particular form though in essence and in substance it may be a different transaction."

Further, the Larger Bench of this Tribunal in the case of Pagariya Auto Center v. CCE, Aurangabad [2014 (33) STR 506 (LB)] has also observed as under:—

20. On a consideration of the apparent conflict of opinion in the decisions mentioned in the order of reference and the other decisions which were cited at bar, it is clear that no uniform principle emerges as would guide determination of whether a particular transaction involving an interface between an automobile, dealer and bank or financial institution would per se amount to BAS. The identification of the transaction and its appropriate classification as the taxable BAS or otherwise must clearly depend upon a careful analysis of the relevant transactional documents. Only such scrutiny and analysis would ensure rational classification of the transaction.

Further, we find that the appellant has relied on CBEC Circular dated 27.10.2008 wherein the issue has been examined. For better appreciation of the issue, the said circular is reproduced herein as under:—

1. Brief Background

Issues relating to taxable services provided during the course of production of alcoholic beverages (such as Indian Made Foreign Liquors, Branded Country liquors and similar products) are matters of dispute for a considerable period. In this regard, a draft Circular F. No. 249/1/2006-CX.9, dated November, 2006 [2006 (4) STR C7] (on applicability of service tax on taxable services provided in certain cases during the course of production of alcoholic beverages) was placed on

the official website for eliciting responses from the stakeholders. The responses received from various stakeholders were carefully examined. It was noticed that in certain cases such alcoholic beverages are produced by the distillers who also own the brandnames affixed on such beverages. Such beverages are cleared on payment of State Excise Duty and there are no known disputes as regards the liability to pay service tax. In other cases, the owners of the brand name and the manufacturers may be two different entities and issues have been raised regarding provision of taxable services in such situations. There are several types of arrangements between the brand owners and the maker of the alcoholic beverages, which are as follows.

2. The Brand Licensing Arrangement

2.1 Many alcoholic beverages bear brand names. The Brand Owners (herein after called the BO), which includes Indian subsidiaries of International brand owners, hold the intellectual property rights over such brand names. The Licencees (who holds the licence by the State government to manufacture such alcoholic beverages) manufactures alcoholic beverages under authority to use such brand name granted by the BO. The BO may also provide technical staff/assistance to maintain required quality. The alcoholic beverages, so manufactured are directly sold (after paying State excise duty) by licensee/manufacturer. Property, risk and reward of the products so manufactured rest with the licensee/manufacturer and not with the BO, who is paid an agreed sum for grant of permission to use such brand name and the technical know how. In such cases the BO provides taxable service, namely 'Intellectual Property Service' to the licensee/manufacturer. The tax is chargeable on the gross amount charged by the BO from the licensee/manufacturer.

3. Contract Manufacturing Arrangement

3.1 Under such arrangement the BO gets alcoholic beverages manufactured by the licensee/manufacturer, the latter holding the required State Licences for manufacture of the alcoholic beverages. In trade, such licencees/manufacturers are called the Contract Bottling Units or CBUs. The cost of raw materials (and in some cases, even capital goods) and other expenses are either paid by the BO or reimbursed by the BO. Statutory levies (i.e. State Excise Duty) are also reimbursed to the CBU by the BO. The alcoholic beverages are sold by or as per the directions of the BO and profit or loss on account of manufacturing and sale of alcoholic beverages is entirely on account of BO, who thus holds the property, risk and reward of the products. The CBU receives consideration (i.e. job charges) for undertaking the manufacturing activity on job work basis. There is no doubt that under such an arrangement, CBU is a service provider providing services to BO. A doubt has arisen, whether or not the CBU provides a taxable service namely the Business Auxiliary Service (BAS) to BO. This taxable service includes 'any service provided or to be provided in relation to production or processing of goods for, or on behalf of, the client' This taxable service however, by definition excludes 'any activity that amounts to "manufacture" within the meaning of

clause (f) of Section 2 of the Central Excise Act, 1944 from its ambit. The issue in dispute is whether such activity would be hit by the exclusion clause mentioned above.

3.2 In the draft circular dated November, 2006, it was mentioned that as alcoholic beverages are not covered under central excise law, the production of beverages would not fall within the meaning of manufacture within the meaning of clause (f) of Section 2 of the Central Excise Act. Thus, the exclusion clause would not apply to production of non-excisable goods, resulting in its coverage under Business Auxiliary Service (BAS). However, the matter was re-examined in detail by the Board after receipt of the responses and it has now been concluded that the exclusion would be applicable in the instant case for the following reasons:

(a) Plain reading of Section 3 of the Central Excise Act, 1944 shows that for levy and collection of central excise duty, the following conditions must be satisfied;

The process undertaken must amount to manufacture as defined under Section 2(f); and

The result of such process should be emergence of excisable goods, which as per Section 2(d) are the goods specified in the First and the Second schedule of the Central Excise Tariff Act, 1985 as being subjected to duty of excise.

Therefore, 'manufacture' and 'excisable goods' are two independent concepts and that it is not necessary that a process amounting to manufacture within the meaning of Section 2(f) should always result in emergence of an excisable goods and vice versa. Whether a process would amount to manufacture within the meaning of Section 2(f) has to be seen independently, based on the criteria evolved through various judgments of the Apex Court. There may be a case, when a process may amount to manufacture under Section 2(f) but it may not result in emergence of an excisable product. If that be so, then the exclusion clause under BAS, which refers only to the activity amounting to manufacture within the meaning of Section 2(f), would still apply to such processes, whether or not the resultant product are excisable goods. Such is the case of production of alcoholic beverages, which qualifies to be a process amounting to manufacture within the meaning of Section 2(f), when read with the relevant judicial pronouncements, because a new product, with a distinct name, character or use; and capable of being marketable, emerges; and

(b) In the instant case the exclusion provision under the definition of Business Auxiliary Service (under the Finance Act, 1994) makes a reference to a definition of the word 'manufacture' figuring under another Act (i.e. The Central Excise Act, 1944). It is a settled law that when a definition from an Act is transposed into another Act, it is as if the said definition is physically written into the borrowing Act without any reference to the context of such definition in the Act from which it is being borrowed. It is the words of that definition, which is imported into the borrowing Act and not the scope of the first Act and the context in which such definition is used in the first Act. Admittedly the scope of the two Acts would be distinct and if the definition is borrowed from the first Act into the second Act having different scope, the same would get disturbed/distorted if the context and

scope of the earlier Act is also imported. Thus just because Central Excise Act does not extend to the manufacture or production of alcoholic beverages meant for human consumption, it cannot be said that the term 'manufacture' used in Business Auxiliary Service would also not cover the process of making the said product, namely alcoholic beverages.

3.3 In view of the foregoing, it was decided that if the CBU undertakes complete process of manufacture of alcoholic beverage under the 'contract bottling arrangement' as described above then such activity would not fall under the taxable service, namely the BAS. However, in case the activity undertaken by the CBU falls short of the definition of manufacture (such as activity of 'packing' or 'labelling' alone) then such activity would fall within its ambit and would be charged to service tax."

8. On going through the above circular, we find that the arrangement between the appellant and Pilkhani is squarely covered under clause 3 of said Circular wherein the appellant gets IMFL manufactured by Pilkhani who is holding the State license of manufacture of alcoholic beverages. In particular M/s. Pilkhani is owner as contract bottling i.e. CBU. As per the agreement, cost of raw material and other expenses were either paid by the appellant or reimbursed by the appellant. The State levies such as excise levy or taxes were also reimbursed to Pilkhani by the appellant. The IMFL was sold by or as per the direction of the appellant on profit/loss on account of the manufacturing and sale of IMFL is entirely on account of appellant who holds the property risk and reward of the product. Pilkhani received consideration for undertaking the manufacture of job work done basis. In these circumstances, the appellant is not required to pay service tax at all.

9. The arrangement was further examined by CBEC and by TRU letter dated 30.10.2009 again it has been clarified as under-

"2. Under section 67 of the Finance Act, 1994, service tax is chargeable on the 'gross amount charged' by the service provider for providing taxable services. As per CIABC the gross value of sales, as per invoices, includes the following elements:—

- 1) Bottling/job charges paid to CBU
- 2) Distribution costs including freight, transit insurance etc. paid to CBU
- 3) Other reimbursable paid to the CBU
- 4) Cost of raw material paid to the CBU
- 5) Cost of packaging materials paid to the CBU
- 6) State excise duty and VAT paid to State Government
- 7) Surplus/profit retained by BO

It was their plea that if the entire amount charged by CBU is subject to service tax, it would amount to charging tax on goods. The CIABC, therefore, requested that the service tax should be charged on the

amount representing the charges for service alone. Accepting their plea, Notification No. 39/2009-ST dated 23.9.2009 was issued wherein exemption from service tax has been provided on the value which represents the value of inputs i.e. raw materials and packaging materials used in the manufacture of such alcoholic beverages.

3. The CIABC has now sought clarifications on the tax base on which the service tax would be chargeable after allowing the deduction provided in the notification. In short, they want to know as to how many of the above 7 elements would be includible in the value for the purpose of charging service tax.

4. For removal of doubts and with a view to avoid disputes on valuation, it is clarified that—

- (a) Service tax would be payable on the bottling/job charges, distribution costs and other reimbursable.
- (b) So far as inputs i.e. raw materials and packing materials are concerned, one of the conditions of exemption Notification No. 39/2009-S.T. is that there should be documentary proof specifically indicating the value of these inputs. Therefore, service tax on the value of raw materials and packaging materials would be exempt only when such charges are specifically mentioned in the invoice raised/documents maintained by the CBU.
- (c) As regards the statutory levies, namely, excise duty/VAT, they do not present any 'consideration' for rendering the service. Whether such amount is paid by BO or by CBU, they have no nexus with the provision of service. As such, these levies will not be included for charging service tax.
- (d) Similarly, the surplus/profit earned by the BO being in the nature of business profit (which falls within the purview of direct taxes), will not be chargeable to service tax.


10. On going through the said TRU Circular, we find that the arrangement is executed by the parties is as per para 2 of the said circular and in that circular it has been clarified that the surplus and profit earned by the manufacturing company or brand owner is not chargeable to service tax.

11. This issue again came up before this Tribunal in the case of Diago India Pvt. Ltd. (supra) wherein this Tribunal after examining the agreement has observed as under:

"9. The terms of the Agreement, CBUs to manufacture the products for and on behalf of the appellant at the plant of CBU using the appellant's equipment. The Agreement clearly states that the CBU has no right to use the intellectual property of the appellant and there is no transfer of any IPR to the CBU from the appellant. The CBU has no claim whatsoever on the rights of the appellant. The nature of transaction between the appellant and CBU indicates that the appellant to use the brand on his own account and there is no representational right given to the bottling unit for the brand name. The commercial interest of the bottling unit is to earn the consideration for bottling or manufacturing the alcoholic beverages. The appellant uses the bottling units for

producing the said beverages in their brand names for sale in profit. The said activity has been dealt with by the CBEC in their Circular No. 332/17/09 TRU dated 30.10.2009.

10. After going through the Board's Circular dated 30.10.2009 deals with the situation in this matter and the activity exactly undertaken by the appellant. In the light of the said Circular it was held that the brand owner/appellants are not required to pay service tax as the surplus/profit earned by the CBU being in the nature of profit. Therefore, as clarified by the CBEC through two Circulars, the appellants are not liable to pay service tax."

 12. This issue further came up before this tribunal in the case of Skol Breweries Ltd. (supra) wherein this tribunal has observed as under:

"6. After taking through the agreements, the appellant argues that FIPL is only a Contract Bottling Unit (CBU), manufacturing and supplying beer as per specifications and formulation including freight and escort to the appellant. Further, the sale is also being made to the appellant or to its Indenters as per the direction of the appellant. Thus, the appellant has neither provided any Franchise Service nor any Intellectual Property Right Service to FIPL and thus, the impugned demand of tax and penalty are fit to be set aside.

6.1 The appellant also draws our attention to Circular F. No. 249/1/2006-CX.4, dated 27-10-2006 which was issued in respect of production of alcoholic beverages on job-work basis and classification of Service Tax liability. Clause 2.1 of the Circular provided that the BrandOwners (BO) of the Alcoholic Beverages which includes Indian subsidiaries of International brand owners, hold the intellectual property rights over such brand names. The Licencee (who holds the licence by the State government to manufacture such alcoholic beverages) manufactures alcoholic beverages under authority to use such brand name granted by the BO. The BO may also provide technical staff/assistance to maintain required quality. The alcoholic beverages, so manufactured are directly sold (after paying State excise duty) by licensee/manufacture. Property, risk and reward of the products so manufactured rest with the licensee/manufacture and not with the BO, who is paid an agreed sum for grant of permission to use such brand name and the technical know-how. In such cases the BO provides taxable service, namely 'Intellectual Property Service' to the licensee/manufacture. The tax is chargeable on the gross amount charged by the BO from the licensee/manufacture.

6.2 The Circular further in para 3.1 recognizes Contract Manufacturing Arrangement where the BO gets alcoholic beverages manufactured by the licensee/manufacture, the latter holding the required State Licenses for manufacture of the alcoholic beverages. In trade, such licensees/manufactures are called the Contract Bottling Units or CBUs. The cost of raw materials (and in some cases, even capital goods) and other expenses are either paid by the BO or reimbursed by the BO. Statutory levies (i.e. State Excise Duty) are also reimbursed to the CBU by the BO. The alcoholic beverages are sold by or as per the directions of the BO and profit or loss on account of manufacturing and sale of alcoholic beverages is entirely on account of BO, who

thus holds the property, risk and reward of the products. The CBU receives consideration (i.e. job charges) for undertaking the manufacturing activity on job work basis. There is no doubt that under such an arrangement, CBU is a service provider providing services to BO. A doubt has arisen, whether or not the CBU provides a taxable service namely the Business Auxiliary Service (BAS) to BO. This taxable service includes 'any service provided or to be provided in relation to production or processing of goods for, or on behalf of, the client' This taxable service however, by definition excludes 'any activity that amounts to "manufacture" within the meaning of clause (f) of section 2 of the Central Excise Act, 1944' from its ambit. The issue in dispute is whether such activity would be hit by the exclusion clause mentioned above.

6.3 On examining the scope of manufacture in para 3.3 of the Circular, it is revealed that if the CBU undertakes complete process of manufacture of alcoholic beverage under the 'contract bottling arrangement' as described above then such activity would not fall under the taxable service, namely the BAS. However, in case the activity undertaken by the CBU falls short of the definition of manufacture (such as activity of 'packing' or 'labelling' alone) then such activity would fall within its ambit and would be charged to service tax.

6.4 Further, the appellant drew our attention to notification/clarification issued by CBE&C vide **F. No. 332/17/2009-TRU, dated 30-10-2009** on value of taxable services under the category of Business Auxiliary Services for manufacture of liquor on job-work basis. It is mentioned in the Circular that Service Tax has been imposed by Finance (No. 2) Act, 2009 under Business Auxiliary Services to include the manufacture of alcoholic beverages on job-work basis. In this connection, in the earlier Notification No. 39/2009-S.T., dated 23-9-2009, it was clarified that the Government exempts the taxable service specified in sub-clause (zzb) of Section 65(105), provided by a person (service provider) to any other person (service receiver) during the course of manufacture or processing of alcoholic beverages by the service provider, for or on behalf of the service receiver, from so much of value which is equivalent to the value of inputs, excluding capital goods, used for providing the said service, subject to the condition that no Cenvat credit has been taken under the provisions of Cenvat Credit Rules, 2004, there is documentary proof specifically indicating the value of such inputs, and where the service provider also manufactures or processes alcoholic beverages, on his or her own account or in a manner or under an arrangement other than as mentioned aforesaid, he or she shall maintain separate accounts of receipt, production, inventory, dispatches of goods as well as financial transactions relating thereto.

6.5 Further, the Circular dated 30-10-2009 clarified that:—

- (a) **Service tax would be payable on the bottling/job charges, distribution costs and other reimbursable.**
- (b) So far as inputs i.e. raw materials and packing materials are concerned, one of the conditions of exemption Notification No. 39/2009-S.T. is that there should be documentary proof specifically indicating the value of these inputs. Therefore, service tax on the value

of raw materials and packaging materials would be exempt only when such charges are specifically mentioned in the invoice raised/documents maintained by the CBU.

(c) As regards the statutory levies, namely, excise duty/VAT, they do not present any 'consideration' for rendering the service. Whether such amount is paid by BO or by CBU, they have no nexus with the provision of service. As such, these levies will not be included for charging service tax.

(d) Similarly, the surplus/profit earned by the BO being in the nature of business profit (which falls within the purview of direct taxes), will not be chargeable to service tax.

6.6 Thus, the appellant claims that in view of the amendment brought in 2009 w.e.f. 1-9-2009, the bringing into tax net, the activity of job-work provided by the Bottling Unit (service provider) to the service receiver-Brand Owners, there is no exigibility of Service Tax in the appellant's case prior to 1-9-2009. Further, reliance is placed on the ruling of Coordinate Bench of this Tribunal in the case of *Diageo India Pvt. Ltd. v. Commissioner of Central Excise, Thane-II-2013-TIOL-790-CESTAT-MUM : 2013 (32) S.T.R. 254 (Tri.-Bom.)* where in a similar arrangement between the parties, it was held that Brand Owner is not required to pay any Service Tax under the category of Franchise Service taking the notice of clarification vide Board's Circular dated 30-10-2009.

6.7 The appellant also drew our attention to the distinction between the user agreement, licensed user agreement, registered user agreement and a manufacturing agreement. As per the book of P. Narayanan, Sixth Edition-Ordinarily in a user agreement, licensed user agreement or a registered user agreement, the licensee gets the right to sell the goods manufactured under the agreement on its own. In a manufacturing agreement the owner of a trade mark gets the goods manufactured by a manufacturer on the basis of something like a job work and for the specific purpose authorizes the manufacturer to apply the mark on the goods, on condition that the whole of the goods so manufactured bearing the trade mark should be sold to the owner of the mark. The manufacturer is not given the right to sell the goods on his own. In such an agreement the owner of the trade mark is the actual user of the mark in a trade mark sense and obviously the benefit of such user goes to him. The name of the manufacturer may or may not appear on the labels. It would be advisable not to mention the name of the manufacturer on the goods or on the labels or in any trade literature. This may not be possible in the case of certain goods like drugs and cosmetics where the relevant statute imposes a condition that the name of the manufacturer should appear on the labels. In such cases to safeguard the ownership of the trade mark it should be clearly indicated on the labels and other material where the trade mark appears as to who is the owner of the trade mark and that the goods are manufactured solely for the owner of the mark. It is further advisable that the agreement for the manufacture should be entered into only after making an application for registration of the mark.

6.8 Thus, the appellant vehemently argues that that neither the provisions of Franchise Service are attracted nor the provisions of Intellectual Property Right are attracted.

7. The learned Addl. Commissioner (AR) appearing for the Revenue supports the Order-in-Original and the appellate order. Further, referring to the various clauses of the contract particular clause 2.1 and 3.2 where it is provided that local license fee/tax to be incurred under the agreement shall be borne by FIPL. Further, SKOL (appellant) shall not bear the cost of Annual Brewery Licence Fee. Thus, it is amply clear that essential element of contract of CBU is not satisfied. Further reference is made to clause 2.7 of the agreement which provides that FIPL should be solely responsible for manufacturing appropriate quality standards of Skol beer and packaging as per applicable law. In the event of any claims or complaints being made by any third party in relation to the quality of Skol Beer or packaging to Skol Beer manufactured and bottled by FIPL, FIPL, at its cost, shall arrange to collect such stocks and drain the same in the presence of Skol representative. In any event, FIPL shall indemnify Skol against all claims, proceedings, losses, damages, charges, expenses etc., if any, which may be made against or suffered by Skol with respect to the Skol Beer manufactured by FIPL. Further, FIPL shall also be liable to bear all costs, claims or losses arising on account of any inordinate delay or loss in production or deterioration in the quality of the Skol Beer manufactured by FIPL. Further, the appellant is entitled to collect an amount of Rs. 27/- per case of beer bottle out of the sale proceeds collected by FIPL. Thus, the risk of profit/losses is borne by FIPL. It is not a pure bottling arrangement between parties and thus, Service Tax is attracted as Franchise Service and/or Intellectual Property Right Service.

8. Having considered the rival submissions, we find that as per the agreement between the parties, the risk of manufacture and sale lies with the appellant in respect of the Foster Brandbeer got manufactured by it from FIPL. It is evident from the contract that FIPL is only responsible for bottling, packing and dispatch as per the specification, terms, formula etc. as laid down by the appellant. Further, FIPL is bound to charge the price from the notified Indenter of the appellant as fixed by the appellant. Only for the risks associated with the manufacturing process fastened on FIPL (CBU), it cannot be said that as FIPL is responsible for proper quality, quantity and timely production, they are providing Franchise Service and/or IPR Service. Further, taking notice of the definitions which are reproduced below:—

"47. 'franchise' means an agreement by which the franchisee is granted representational right to sell or manufacture goods or to provide service or undertake any process identified with franchisor, whether or not a trade mark, service mark, trade name or logo or any such symbol, as the case may be, is involved]

48. "franchisor" any person who enters in to franchise with a franchisee and includes any associates of franchisor or a person designated by franchisor to enter into franchise on his behalf and the term "franchisee" shall be construed accordingly."

From the aforementioned definitions, it is crystal clear that in the facts and circumstances, no services have been provided by the appellant to FIPL under the classification of "Franchise Service" and "IPR Service"

13. We are also in agreement with the case law relied upon by the appellant.
14. We also find that as per the clarifications issued by CBEC circulars discussed hereinabove, we are of the considered opinion that the appellant are the Brand Owner of IFML and M/s. Pitkhani is a job worker manufacturing IMFL on behalf of the appellant and the amount retained by the appellant is the business profit not liable to be taxed under the Finance Act, 1994 under the category of Intellectual Property service. Therefore on merits, we hold that appellant are not required to pay Service Tax under the category of Intellectual Property Right service.
15. As on merits we held that appellant is not liable to pay service tax under the category of IPRS and we also examined that the show cause notice has been issued to the appellant by invoking extended period of limitation as there is an issue whether the appellant is liable to pay service tax during the impugned period was in dispute and same has been clarified by CBEC Circular dated 27.10.2008 and Ministry of Finance letter dated 30.10.2009. In these circumstances, we hold that the extended period of limitation is also not invokable in the present case. With these observations, we hold that appellant succeeds on merit as well as on limitation. Therefore, we are not deciding the issue of jurisdiction of the adjudicating authority as contested by the appellant.
16. With these terms, impugned order is set aside. Appeal is allowed with consequential relief, if any.
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CBEC-20/06/23/2019-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
(GST Policy Wing)

New Delhi, the March, 2020

To

The Pr. Chief Commissioners / Chief Commissioners / Principal Commissioners / Commissioners of Central Tax (All)

The Principal Director Generals / Director Generals (All)

Madam / Sir,

Subject: Taxability of ‘economic surplus’ earned by brand owners of alcoholic liquor for human consumption and services provided by contract manufacturers to the brand owners – reg.

Various representations have been received from entities engaged in the manufacture of alcoholic liquor for human consumption on the captioned subject. The various activities/transactions in relation to manufacture of alcoholic liquor have been analyzed in light of the provisions of Central Goods and Services Tax Act, 2017 (hereinafter referred to as “the CGST Act”). In order to ensure uniformity in the implementation of the provisions of the law, the Board, in exercise of its powers conferred by sub-section (1) of section 168 of the CGST Act clarifies the issues involved in following paragraphs: -

2. Companies which are holder of registered brands in relation to IMFL (Indian Made Foreign Liquor) or alcoholic liquor for human consumption are commonly known in the industry as “Brand Owners (BO)”. BOs, who have the technical know-how for manufacture of alcoholic liquor, have exclusive right to exploit the brands, including by way of sale of alcoholic liquor under those brands. The whole process of procurement, manufacture and sale of alcoholic liquor is governed by each State’s Excise laws which vary across States. Certain State Excise laws mandate that manufacture and sale of alcoholic liquor, as well as the procurement of Extra Neutral Alcohol (“ENA”) required for the manufacture of alcoholic liquor can only be undertaken by the parties, who have been duly licensed by the State Excise authorities. In order to meet the requirements under State Excise laws, BOs approach various Contract Bottling Units (CBUs) or Third Party Manufacturing Units (TMUs) who hold the requisite licence under the State Excise laws to carry out the manufacture and bottling of IMFL and

procure ENA for the purpose. Broadly, there are two types of arrangements between the BO and CBU for manufacture and sale of alcoholic liquor, as follows:

- c) Transfer of right to TMUs for commercially exploiting brand of the BO in exchange for a consideration ('franchise fee' or any other name).
- d) Contract manufacturing by CBUs without any transfer of right to CBUs to commercially exploit the brand of BO.

3. In respect of the arrangement discussed at para 2(a) above, the BO is clearly engaged in the supply of a taxable service to the CBU which is in the nature of transfer of intellectual property rights (IPR) to the CBU in lieu of an agreed consideration. Thus, GST is payable on such supplies by the BO as supplier of service in the nature of "permitting the use or enjoyment of any intellectual property right" (S. No. 5(c) of Schedule II under section 7 of the CGST Act). This arrangement is not being discussed in this circular as the law is already settled in this regard and clarification has not been sought.

4. In context of the arrangement discussed at para 2(b), doubts have been raised regarding its taxability under GST. **Therefore, this Circular concerns only such cases where the BO does not transfer right of commercial exploitation of the brand to CBU and the risks and rewards relating to supply of alcoholic liquor under the brand name of BO remain vested with the BO.** Given the variation in Excise law provisions across States, different business models are being followed in different States. An '**illustrative list**' (not exhaustive list) of the prevalent business models is as follows:

- c) Lease/rent of licensed premises by CBU/TMU to BO:

The entity (CBU/TMU) has the licence from the State Government to manufacture alcoholic liquor. It leases/rents out the licensed premises as well as the license for manufacture to the BO. The owner of the licensed premises, besides renting out the licensed manufacturing facility, also manufactures alcoholic liquor for the BO. Raw material is purchased and supplied by the BO. The BO directly sells alcoholic liquor so manufactured. The prevalent practice is that TMU/CBU charges the BO 'rent' for renting of factory with licence and 'conversion charge' for converting raw material (ENA, flavors etc.) to liquor. The current practice is that CBU charges GST on both rent and conversion charges. In this model, the BO has beneficial ownership of all raw materials and the manufactured liquor. The property in and the risk and reward associated with the liquor manufactured by CBU vest with the BO. Essentially, the CBU manufactures alcoholic liquor on behalf of the BO.

It is clarified that in this model, GST is payable on both the rent and conversion charges paid by the BO to the CBU/ TMU.

- d) CBU/TMU manufactures and sells liquor on behalf of the BO:

- i. This is the most prevalent model. In many States, there is a State Beverages Corporation, which alone is authorized to sell alcoholic liquor. The State Corporation buys liquor from the licensed manufacturers. Then there are States where State Beverage Corporation does not exist but law requires liquor to be sold only by licensed manufacturers. In such States, the BO cannot sell liquor. As per this arrangement, BO enters into contractual agreement with the CBUs on a non-exclusive basis (BO can enter into multiple contracts with other CBUs as well). In this model, the brand owner enters into a contract with TMU under which TMU buys raw material from venders at prices specified by the brand owner. Purchase of raw material is financed/funded by brand owner. TMU sells liquor to customers specified by the brand owner. The sale price

is also decided by the BO. Sale proceeds go into a bank account of TMU, which is controlled by the BO, through authorized signatories solely and exclusively nominated by the brand owner. The BO funds the purchase of raw material and other expenses for manufacture, packaging, sale and distribution of liquor from the sale proceeds deposited in this bank account. In this model too, the property in and the risk and reward associated with the liquor manufactured by the CBU vests with the BO. Upon termination of the contract, CBU is obligated to cease and desist from using the trademark of the BO and dispose of the unsold stock at ex-brewery price as directed by BO. Further, CBU is also required to sell at cost the raw materials, labels, packing material etc. to the BO. The amount that remains after meeting the cost of the raw material, bottling charges and other reimbursements (including taxes borne by CBU) paid to the CBU from the total sale proceeds of alcoholic liquor, is retained by the BO, and the same is commonly known as ‘**economic surplus**’ or profit of the BO.

Economic Surplus of the BO = (Total Sale proceeds of the alcoholic liquor) – (Bottling charges + cost of raw materials + cost of packing materials + Taxes borne by the CBU + Other reimbursements paid to the CBU by BO)

- ii. Another variant of this model has been discussed in the Hon’ble Supreme Court order dated 30.11.2015 and in the case of M/s BDA Private Limited where the essential features of the contract are as discussed above but the TMU pays a certain amount of royalty to the brand owner. However, the most interesting and crucial point is that this payment of royalty by TMU to the brand owner is also financed/funded by the brand owner to the TMU from the sale proceeds of liquor sold by TMU on behalf of the brand owner and deposited in the bank account controlled exclusively by the nominees of the brand owner. Therefore, effectively there is no payment of royalty by TMU to the brand owner.

Hon’ble Supreme Court in the case of BDA Private Limited has held that in such cases BO does not give any right to the TMU to use his brand. TMU manufactures for BO. Hon’ble Supreme Court has upheld the following observations of CESTAT in this case,-

4 ... “Profit earned by brand owner of Indian Made foreign Liquor (IMFL) for getting its products manufactured on job work and sale by such worker cannot be taxed as royalty under Intellectual property service as job worker has not been given right to use assessee’s brand name. As per agreement, cost of raw material and other expenses either paid or reimbursed by assessee. Further State levies such as Excise or VAT reimbursed to job workers as IMFL sold by or as per direction of assessee. Profit/ loss on account of manufacturing and sale of IMFL entirely on assessee’s account holding property risk and reward of product. Job worker receiving consideration for undertaking manufacture on jobwork done basis.”

- iii. In this model, including its variants discussed above, raw material though purchased by and invoiced to the TMU is paid for or reimbursed by the brand owner. A person working on the raw material purchased at the direction of and paid for or reimbursed by another, cannot be said to be working on raw material belong to himself. The beneficial ownership of the raw material in such cases though purchased by the TMU lies with the brand owner. The brand owner has the lien on the raw material so purchased by the TMU. Therefore, it would be incorrect to say that the raw material belongs to TMU and not the brand owner or that the TMU processes the raw material belonging to himself and not to the brand owner.

- iv. The surplus that remains with the brand owner after meeting all expenses towards raw material, marketing, distribution costs and the royalty paid by CBU/TMU to brand owner is not a consideration that the brand owner receives from the . The fact is that sells liquor on behalf of the brand owner, the sale proceeds of the liquor belong to the brand owner and are deposited in bank account which is controlled by the brand owner. The amount that remains with the brand owner after meeting all the expenses involved in manufacture and sale of liquor by on his behalf belongs to him and is his profit.
- v. In view of the above, it is clarified that in this model, where the CBU/TMU undertakes manufacture of liquor for the brand owner, including the variants discussed above; the BO holds the property in and risks and rewards associated with the product manufactured by the TMU/CBU. TMU/CBU receives consideration for the service of undertaking manufacture for the brand owner. Therefore, surplus retained by BO is not taxable. Even in the service tax regime, it was clarified vide Letter F. No. 332/17/2009- TRU dated 30.10.2009 that ‘economic surplus’ is not taxable. However, the consideration received by TMU/CBU for undertaking manufacture of liquor for and on behalf of BO, in the form of bottling charges, conversion charges or in any other name or form is taxable.
- vi. It is further clarified that the said service supplied by CBU/ TMU to BO shall be classified as ‘manufacturing services on physical inputs (goods) owned by others’ under heading 9988 of scheme of classification of services annexed to the notification No. 11/ 2017- Central Tax (Rate) dated 28.06.2017 which currently attracts GST rate of 18% under Sl. No. 26(iv) of the said notification
5. It is reiterated that the business models discussed at para 4 are not exhaustive. For other business models, the taxability under GST may be decided on a case-to-case basis.
6. It is requested that suitable trade notices may be issued to publicize the contents of this Circular. Hindi version will follow.

(Yogendra Garg)
Principal Commissioner (GST)

Agenda Item 5A(ii): Challenges faced in apportionment of ITC in cases of business reorganization under section 18(3) of CGST Act read with rule 41(1) of CGST Rules:

Representations have been received from certain companies highlighting the challenges faced in the implementation of provisions under section 18(3) of CGST Act, 2017 read with rule 41(1) of CGST Rules which provides for apportionment of ITC on account of change in constitution of a registered person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities.

2. Sub-section (3) of section 18 provides as under:

“Where there is a change in the constitution of a registered person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, the said registered person shall be allowed to transfer the input tax credit which remains unutilised in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed.”

Further, proviso to rule 41(1) provides that the value of assets transferred to the transferee needs to be considered to calculate the value of transferable ITC. Sub-rule (1) of rule 41 provides as under:

*“(1) A registered person shall, in the event of sale, merger, de-merger, amalgamation, lease or transfer or change in the ownership of business for any reason, furnish the details of sale, merger, de-merger, amalgamation, lease or transfer of business, in **FORM GST ITC-02**, electronically on the common portal along with a request for transfer of unutilized input tax credit lying in his electronic credit ledger to the transferee:*

Provided that in the case of demerger, the input tax credit shall be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme.

Explanation:- For the purpose of this sub-rule, it is hereby clarified that the “value of assets” means the value of the entire assets of the business, whether or not input tax credit has been availed thereon.”

3. Sub-rule (1) of rule 41 does not clarify the manner of computation of value of assets for the purposes of apportioning input tax credit. Accordingly, clarification has been sought in respect of the following issues concerning business reorganization under GST:

- a) There is confusion whether the value of assets under rule 41(1) of CGST Rules should be considered at State level or at an entity level (all-India level).
- b) The apportionment formula based on the value of assets has been provided only for the scheme of demerger. It is not clear as to whether the allocation needs to be adopted for other forms of business reorganization that results in partial transfer of business assets along with liabilities.
- c) Whether the ratio of value of assets, as prescribed under proviso to rule 41 (1) of CGST Rules, shall be applied in respect of each of the heads of input tax credit viz. CGST/SGST/IGST/ Cess.
- d) Calculation of the amount of ITC that is to be transferred to the transferee under each tax head (IGST/CGST/SGST) while filing of **FORM GST ITC-02** by the transferor.
- e) In order to calculate the amount of transferable ITC under proviso to rule 41(1) of CGST, which date shall be relevant to determine the unutilized ITC balance of transferor?

f) Which date shall be relevant to calculate the ratio of value of assets, as prescribed in the proviso to rule 41 (1) of the CGST Rules, 2017?

4. In order to clarify the above mentioned issues, an Agenda was placed before the Law Committee in its meeting held on 07.11.2019. The Law Committee recommended issuance of a Circular on this issue. Accordingly, a draft Circular was prepared and placed before the Law Committee in its meeting held on 27.12.2019 wherein certain changes were recommended. Subsequently, the draft Circular was amended and placed before the Law Committee in its next meeting held on 20.01.2020. The draft Circular was approved by the Law Committee with certain modifications.

5. Accordingly, the said Circular has been amended (**Annexure-A**) and is placed before the GST Council for discussion and decision.

Annexure-A
Draft Circular

F.No. CBEC-20/06/13/2019-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes & Customs
GST Policy Wing

New Delhi, dated the March, 2020

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/ Commissioners of Central Tax (All) / The Principal Director Generals/ Director Generals (All)

Madam/Sir,

Sub: Clarification in respect of apportionment of input tax credit (ITC) in cases of business reorganization under section 18 (3) of CGST Act read with rule 41(1) of CGST Rules - reg.

Representations have been received from various taxpayers seeking clarification in respect of apportionment and transfer of ITC in the event of merger, demerger, amalgamation or change in the constitution/ownership of business. Certain doubts have been raised regarding the interpretation of sub-section (3) of section 18 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act) and sub-rule (1) of rule 41 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the CGST Rules) in the context of business reorganization.

2. According to sub-section (3) of section 18 of the CGST Act,

“Where there is a change in the constitution of a registered person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, the said registered person shall be allowed to transfer the input tax credit which remains unutilized in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed.”

Further, according to sub-rule (1) of rule 41 of the CGST Rules:

*“A registered person shall, in the event of sale, merger, de-merger, amalgamation, lease or transfer or change in the ownership of business for any reason, furnish the details of sale, merger, de-merger, amalgamation, lease or transfer of business, in **FORM GST ITC-02**, electronically on the common portal along with a request for transfer of unutilized input tax credit lying in his electronic credit ledger to the transferee:*

Provided that in the case of demerger, the input tax credit shall be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme.

Explanation:- For the purpose of this sub-rule, it is hereby clarified that the “value of assets” means the value of the entire assets of the business, whether or not input tax credit has been availed thereon.

3. The issues raised in various representations have been analyzed in the light of various legal provisions under GST. In order to ensure uniformity in the implementation of the provisions of the law, the Board, in exercise of its powers conferred by sub-section (1) of section 168 of the CGST Act clarifies the issues involved in the Table below.

S. No.	Issue / Question	Clarification
a.	(i) In case of demerger, proviso to rule 41 (1) of the CGST Rules provides that the input tax credit shall be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme. However, it is not clear as to whether the value of assets is to be considered at State level or at an entity level (across India).	Proviso to sub-rule (1) of rule 41 of the CGST Rules provides for apportionment of the input tax credit in the ratio of the value of assets of the new units as specified in the demerger scheme. Further, the explanation to sub-rule (1) of rule 41 of the CGST Rules states that “value of assets” means the value of the entire assets of the business, whether or not input tax credit has been availed thereon. Under the provisions of the CGST Act, a person/ company (having same PAN) is required to obtain separate registration in different States and each such registration is considered a distinct person for the purpose of the Act. Accordingly, for the purpose of apportionment of ITC pursuant to a demerger under sub-rule (1) of rule 41 of the CGST Rules, the value of assets is to be taken at the State level (at the level of distinct person) and not at the entity (all-India) level.
	(ii) Is the transferor required to file FORM GST ITC – 02 in all States where it is registered?	No. The transferor is required to file FORM GST ITC-02 only in those States where both transferor and transferee are registered.
b.	The proviso to rule 41 (1) of the CGST Rules explicitly mentions ‘demerger’. Other forms of business reorganization where part of business is hived off or business is transferred as a going concern etc. have not been covered in the said rule. Wherever business reorganization results in partial transfer of business assets along with liabilities, whether the	Yes, the formula for apportionment of ITC, as prescribed under proviso to sub-rule (1) of rule 41 of the CGST Rules, shall be applicable for all forms of business re-organization that results in partial transfer of business assets along with liabilities.

	proviso to rule 41(1) of the CGST Rules, 2017 shall be applicable to calculate the amount of transferable ITC?													
c.	(i) Whether the ratio of value of assets, as prescribed under proviso to rule 41 (1) of the CGST Rules, shall be applied in respect of each of the heads of input tax credit viz. CGST/ SGST/ IGST/ Cess?	<p>No, the ratio of value of assets, as prescribed under proviso to sub-rule (1) of rule 41 of the CGST Rules, shall be applied to the total amount of unutilized input tax credit (ITC) of the transferor i.e. sum of CGST, SGST/UTGST and IGST credit. The said formula need not be applied separately in respect of each heads of ITC (CGST/SGST/IGST). Further, the said formula shall also be applicable for apportionment of Cess between the transferor and transferee.</p> <p>Illustration A: The ITC balances of transferor X in the State of Maharashtra under CGST, SGST and IGST heads are 5 lakh, 5 lakh and 10 lakh respectively. Pursuant to a scheme of demerger, X transfers 60% of its assets to transferee B. Accordingly, the amount of ITC to be transferred from A to B shall be 60% of 20 lakh (total sum of CGST, SGST and IGST credit) i.e. 12 lakh.</p>												
	(ii) How to determine the amount of ITC that is to be transferred to the transferee under each tax head (IGST/CGST/SGST) while filing of FORM GST ITC-02 by the transferor?	<p>The total amount of ITC to be transferred to the transferee (i.e. sum of CGST, SGST/UTGST and IGST credit) should not exceed the amount of ITC to be transferred, as determined under sub-rule (1) of rule 41 of the CGST Rules [refer 3 (c) (i) above]. However, the transferor shall be at liberty to determine the amount to be transferred under each tax head (IGST, CGST, SGST/UTGST) within this total amount, subject to the ITC balance available with the transferor under the concerned tax head. This is shown in the illustration below:</p> <table><tr><th>(1)</th><th>(2)</th><th>(3)</th><th>(4)</th><th>(5)</th><th>(6)</th></tr><tr><td>State</td><td>Asset Ratio of Transferee</td><td>Tax Heads</td><td>ITC balance of Transferor (pre-apportionment) as on the date of filing FORM GST ITC-02)</td><td>Total amount of ITC transferred to the Transferee under FORM GST ITC-02</td><td>ITC balance of Transferor (post-apportionment) after filing of FORM GST ITC-02)</td></tr></table>	(1)	(2)	(3)	(4)	(5)	(6)	State	Asset Ratio of Transferee	Tax Heads	ITC balance of Transferor (pre-apportionment) as on the date of filing FORM GST ITC-02)	Total amount of ITC transferred to the Transferee under FORM GST ITC-02	ITC balance of Transferor (post-apportionment) after filing of FORM GST ITC-02)
(1)	(2)	(3)	(4)	(5)	(6)									
State	Asset Ratio of Transferee	Tax Heads	ITC balance of Transferor (pre-apportionment) as on the date of filing FORM GST ITC-02)	Total amount of ITC transferred to the Transferee under FORM GST ITC-02	ITC balance of Transferor (post-apportionment) after filing of FORM GST ITC-02)									

							[Col (4) – Col (5)]
		Delhi	70%	CGST	10,00,000	10,00,000	0
				SGST	10,00,000	10,00,000	0
				IGST	30,00,000	15,00,000	15,00,000
				Total	50,00,000	35,00,000	15,00,000
		Haryana	40%	CGST	25,00,000	3,00,000	22,00,000
				SGST	25,00,000	5,00,000	20,00,000
				IGST	20,00,000	20,00,000	0
				Total	70,00,000	28,00,000	42,00,000
d.	(i) In order to calculate the amount of transferable ITC, the apportionment formula under proviso to rule 41(1) of the CGST Rules has to be applied to the unutilized ITC balance of the transferor. However, it is not clear as to which date shall be relevant to calculate the amount of unutilized ITC balance of transferor.	<p>According to sub-section (3) of section 18 of the CGST Act, “Where there is a change in the constitution of a registered person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, the said registered person shall be allowed to transfer the input tax credit which remains unutilized in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed.” Further, sub-rule (1) of rule 41 of the CGST Rules prescribes that the registered person shall file the details in FORM GST ITC-02 for transfer of unutilized input tax credit lying in his electronic credit ledger to the transferee.</p> <p>A conjoint reading of sub-section (3) of section 18 of the CGST Act along with sub-rule (1) of rule 41 of the CGST Rules would imply that the apportionment formula shall be applied on the ITC balance of the transferor as available in electronic credit ledger on the date of filing of FORM GST ITC – 02 by the transferor.</p>					

	<p>(ii) Which date shall be relevant to calculate the ratio of value of assets, as prescribed in the proviso to rule 41 (1) of the CGST Rules, 2017?</p>	<p>According to section 232 (6) of the Companies Act, 2013, <i>“The scheme under this section shall clearly indicate an <u>appointed date</u> from which it shall be effective and the scheme shall be deemed to be effective from such date and not at a date subsequent to the appointed date”</i>. The said legal provision appears to indicate that the “appointed date of demerger” is the date from which the scheme for demerger comes into force and it is specified in the respective scheme of demerger. Therefore, for the purpose of apportionment of ITC under rule sub-rule (1) of rule 41 of the CGST Rules, the ratio of the value of assets should be taken as on the “appointed date of demerger”.</p> <p>In other words, for the purpose of apportionment of ITC under sub-rule (1) of rule 41 of the CGST Rules, while the ratio of the value of assets should be taken as on the “appointed date of demerger”, the said ratio is to be applied on the ITC balance of the transferor on the date of filing FORM GST ITC - 02 to calculate the amount to transferable ITC.</p>
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4. Difficulty, if any, in implementation of the Circular may be brought to the notice of the Board. Hindi version would follow.

(Yogendra Garg)
Principal Commissioner

Agenda Item 5A(iii): Issue regarding waiver of penalty and interest on previous period due to removal of pre-import condition under Advance Authorisation scheme

During the meeting of Committee on exports (CoE) held on 18.07.2019, issue regarding giving retrospective effect to the concerned notification by deletion of pre-import condition to cover the period 13.10.2017 to 09.10.2019 was discussed. In view of the same a request has been made to exempt interest and penalty for the period 13.10.2017 to 09.10.2019.

2. Although CoE decided that the proposal giving retrospective effect to removal of pre-import condition for Advance Authorisation (AA) cannot be considered.

3. Further, Drawback division had submitted that since Hon'ble Supreme Court vide order dated 23.09.2019 had stayed the operation and implementation of judgement dated 04.02.2019 of the Hon'ble High Court of Gujrat at Ahmedabad for removing pre-import condition with retrospective effect. In view of the same, Drawback division had suggested that action regarding proposal to consider waiver of penalty and interest may not be appropriate at this stage and may be kept in abeyance.

4. The issue was deliberated by the Law Committee in its meeting held on 02.03.2020, wherein the Committee has recommended that the law does not provide for any waiver of interest. The only way is to waive the condition retrospectively. Further, since the issue is sub-judice and the period during which this condition is to apply is long (13.10.2017 to 09.10.2019), it would prudent to maintain status quo.

5. Furthermore, during a meeting held between Hon'ble Finance Minister and Hon'ble Commerce and Industry Minister, on the captioned issue, FM has directed that the above matter may be examined and placed before the GST Council. Thus, the same is placed before the GST Council for further deliberation and discussion.

Agenda Item 5A(iv): Levy of interest under the provisions of section 50 of the CGST Act, 2017 for delay in payment of tax

It has been observed that the issue of whether the interest on delayed payment of tax under GST is to be paid on the gross tax liability or the net tax liability, is getting widely litigated in various High Courts.

2. Conflicting decisions have been given by the various High courts on this issue. E.g. in the Telangana High Court in the case of M/s. Megha Engineering & Infrastructures Ltd. Vs the Commissioner of Central Tax, vide a detailed final order in Writ Petition No.44517 of **2018 holding that interest was payable on the gross amount of the goods and services tax (GST) liability.** However, in a **contrary** judgement in the Hon'ble Delhi High Court *interim order* in the case of M/s. Landmark Lifestyle Vs. Union of India & Ors. wherein Hon'ble Court has **granted stay from recovery of interest demanded on gross GST liability.** Similarly, the High Court of Madras in the case of M/s. Reflex Industries Limited held that **interest should be levied in net liability.**

3. In this regard reference is invited to section 100 of the Finance (No. 2) Act, 2019. The said section intends to amend the section 50 of the CGST Act, 2017 by insertion of a proviso to sub-section (1) of section 50 of the said act. The revised section reads as below:

“(1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council:

Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.”

4. Accordingly, in cases of delayed payment of taxes, interest may be charged only on the net cash liability (i.e. that portion of the tax that is paid by debiting the electronic cash ledger) except in cases where proceedings under section 73 or 74 have been initiated in respect of the said period. **However, it may be noted that the said provision has not been notified till date.** Prior to the said amendment, interest was to be paid by the taxpayers on the tax payable, irrespective of whether it was to be paid in cash or by utilization of input tax credit.

5. Moreover, the GST Council, in its 35th meeting held on 21st June, 2019, had not recommended to amend the provision of section 50 retrospectively and accordingly, the provisions of section 100 of the Finance (No. 2) Act, 2019, amending section 50 of the CGST Act, provide for amendment from a prospective date. It may also be noted that such interest is directly recoverable under sub-section (12) of Section 75 of the CGST Act. Further, a standard procedure for calculation of interest is required to be formulated as the amount of cash to be paid is decided only upon the filing of return, as the interest to be calculated is dependent on the amount of input tax credit that is being claimed in the return.

6. The matter was deliberated in the Law Committee in its meeting on 2nd March, 2020, and it was recommended that the amendment should be done prospectively only. Further, it was also

recommended to notify the said amendment only when all the States have passed their corresponding SGST Amendment Act.

7. Accordingly, the issue is placed before the GST Council for further decision on the following aspects:

- (a) Whether interest is to be recovered on the gross tax payable or on the net cash tax liability;
- (b) If the interest is to be recovered on the net cash tax liability,—
 - (i) whether it is to be from a prospective or retrospective date;
 - (ii) and if from a prospective date, whether the credit available as closing balance of the tax period will be taken or subsequent credit will also be allowed to be utilised.

Agenda Item 5A(v): Agenda note for GST Council regarding waiver of filing of FORM GSTR-1 by taxpayers who have availed the special composition scheme under notification No. 2/2019-Central Tax (Rate) dated 07.03.2019

The GST Council in its 32nd meeting held on 10th January, 2019 had recommended that a composition scheme shall be made available w.e.f. 01.04.2019, for suppliers of services (or mixed suppliers) with a tax rate of 6% (3% CGST + 3% SGST) having an annual turnover in preceding financial year upto Rs 50 lakhs. Accordingly, the same was implemented vide notification No. 2/2019-Central Tax (Rate) dated 07.03.2019 (hereinafter referred to as the said notification), as amended vide notification No. 9/2019-Central Tax (Rate) dated 29.03.2019. The amending notification dated 29.03.2019 specified, by way of Explanation, that all the provisions of the Central Goods and Services Tax Rules, 2017, as applicable to a person paying tax under section 10 of the said Act shall, *mutatis mutandis*, apply to a person paying tax under this notification; meaning thereby the registered person may not shift from a normal taxpayer to a person opting to pay tax under the said notification if not opted for from the beginning of the financial year.

2. Subsequently, Circular No. 97/16/2019-GST issued on 05.04.2019 was issued for clarification regarding exercise of option to pay tax under notification No. 2/2019-Central Tax (Rate) dated 07.03.2019. It was clarified, *inter-alia* that the registered person who wants to opt to pay tax by availing the benefit of the said notification shall file an intimation in **FORM GST CMP-02** latest by 30.04.2019. The date for filing the intimation was later extended to 31.07.2019 and then up to 30.09.2019. Thereafter, **FORM GST CMP-02** was made available on the common portal only w.e.f. 11.09.2019.

3. Thereafter, representations have been received from taxpayers regarding the difficulties being faced for opting to pay tax under the said notification. These taxpayers have availed the benefit of the notification No. 2/2019-Central Tax (Rate) dated 07.03.2019. Accordingly, they have not charged any tax from their recipients. Further, as the **FORM GST CMP-02** was not available on the common portal during the period 01.04.2019-11.09.2019, the said registered person has paid 6% GST on his outward supplies by filing returns in **FORM GSTR-3B** and has not filed the intimation in **FORM GST CMP-02**. Thereafter, validations build into the common portal are not allowing these taxpayers to now opt to pay tax under the said notification. The benefit can now only be claimed from the beginning of the next Financial Year.

4. Such taxpayers, who have opted to avail the benefit of the said notification and have not been able to opt for the same in the common portal, and who have also deposited the amount as per the requirement of the said notification by furnishing **FORM GSTR-3B** are facing hurdles related to filing of **FORM GSTR-1** in the common portal. The said rate slab of 6% (3% CGST + 3% SGST) is not available in the common portal while furnishing **FORM GSTR-1**. Moreover, it may be noted that the **FORM GSTR-2A** of the taxpayers is an indicator of the amount of the amount of ITC that may be availed by the taxpayers. Therefore, there is a concern that the details of the said invoices for such supplies under the special composition scheme, uploaded by the said taxpayers in the common portal in **FORM GSTR-1**, may be availed by the recipients as input tax credit, even if the recipients are not eligible to avail input tax credit in respect of such invoices.

5. In order to address the issue, it is proposed to create a special procedure for such taxpayers to continue payments in the **FORM GSTR-3B** for the financial year 2019-20 along with a waiver of the requirement of furnishing details of outward supplies in **FORM GSTR-1** for such taxpayers. This will ensure the appropriate payments are made and no ineligible input tax credit gets reflected in the **FORM**

GSR-2A of the recipients of such supplies. This would require issuance of notification under section 148 of the CGST Act, 2017 and corresponding notification under the respective SGST Acts of the States.

6. The matter was deliberated in the Law Committee in its meeting on 17th February, 2020, and recommended that such class of taxpayers may be exempted from filing of the **FORM GSTR-1** for the tax periods in the financial year 2019-20. The same would be implemented through a notification under section 148 of the CGST Act, 2017 (special procedure).

7. Accordingly, the issue is placed before the GST Council for approval.

Agenda Item 5A(vi): Filing of GSTR-9 (Annual Return) and GSTR-9C (Reconciliation Statement)

Various representations have been received by taxpayers regarding the IT challenges faced by them in filing their GSTR-9 (Annual Return) and GSTR-9C (Reconciliation Statement). Many taxpayers have reported that their GSTR-9 / 9C has not been generated or Table 8A etc. are being generated as blank. Considering these representations, the law committee reviewed the purpose and cost-benefit of the annual return & reconciliation statement (GSTR-9 and GSTR-9C) in its current form.

2. The GST Council in its 37th meeting had recommended for relaxation in filing of annual returns for MSMEs for FY 2017-18 and FY 2018-19 as under:

2.2 waiver of the requirement of filing FORM GSTR-9A for Composition Taxpayers for the said tax periods; and

2.3 filing of FORM GSTR-9 for those taxpayers who (are required to file the said return but) have aggregate turnover up to Rs. 2 crores made optional for the said tax periods.

2.4 These changes were made effective by 47/2019-Central Tax dt. 09-10-2019

3. Further, the GST council recommended that a Committee of Officers to be constituted to examine the simplification of Forms for Annual Return and reconciliation statement. On the recommendation of this committee, Annual Return / Reconciliation Statement were simplified and Notified vide 56/2019-Central Tax dt. 14-11-2019.

4. Current, filing of Annual Return / Reconciliation Statement:

Sl. No.	Category	Cumulative Figure as on 12 th Feb 2020
1.	Taxpayers required to file GSTR-9 (Aggregate Turnover > Rs. 2 Crore	12.42 lakhs
2.	Out of 1, taxpayers who have filed both GSTR-1 and 3B and thus eligible to file GSTR-9	9.98 lakhs (80.3%)
3.	Out of 2, who actually filed GSTR-9	9.11 lakhs (91.3%)
4.	Out of 3, taxpayers who filed GSTR-9C	8.42 lakhs (92.3%)

5. Number of extensions given to Annual Return / Reconciliation Statement: It is noteworthy that the due date for Annual Return and Reconciliation statement for FY 2017-18 has been extended 7 times.

6. Total Revenue collected from Annual Return and Reconciliation Statement for 2017-18:

PAYMENT MADE THROUGH DRC-03 AGAINST ANNUAL RETURN

SOURCE : DRC-03 – Annual Return

(RS. IN CRORE)

	CGST	SGST	IGST	CESS	TOTAL	FEES	INTEREST	OTHER	PENLATY
Liability	1105.90	1122.14	892.20	56.13	3176.36	0.00	575.76	0.31	0.49
Paid by cash	735.47	737.52	585.37	20.46	2078.82	0.00	575.76	0.31	0.49
Paid by ITC	370.43	384.61	306.83	35.67	1097.54	0.00	0.00	0.00	0.00

PAYMENT MADE THROUGH DRC-03 AGAINST RECONCILIATION STATEMENT (GSTR-9C)

SOURCE : DRC-03 against
RECONCILIATION STATEMENT

(RS. IN CRORE)

	CGST	SGST	IGST	CESS	TOTAL	FEES	INTEREST	OTHER	PENLATY
LIABILITY	135.31	135.95	96.67	24.87	392.79	0.00	81.16	0.04	0.09
Paid by Cash	98.50	93.17	67.68	1.62	260.97	0.00	81.16	0.04	0.09
Paid by ITC	36.81	42.78	28.99	23.25	131.83	0.00	0.00	0.00	0.00

- 6.2 It is seen that revenue of about Rs. 3176 Crores (Rs. 2079 Cr. in cash) additional tax and Rs. 575.76 Cr interest thereon got collected from Annual Return. Further, additional revenue from GSTR-9C, based on the Auditor's recommendations has been relatively low at Rs. 392 Cr. (Rs. 261 Cr. in cash) and Rs. 81.16 Cr as interest.
- 6.3 It may be noted that the cost of compliance for filing of Annual Return and Reconciliation has been high especially for smaller taxpayers. It is relevant that this process requires engagement of a tax professional (Chartered Accountant or Cost Accountant) who reportedly insist that they should be engaged for the entire compliance management process throughout the year thus pushing the cost of compliance, which has been one of the major complaints of the taxpayers in GST regime.

FOR GSTR-9 (FY 2017-18)

Exemption upto	DRC-03	Exempted (Upto 2 Cr)	Net	% of total contribution	After exemption (%)	Number of taxpayers	% of total taxpayer base
At 5 Cr	1140	580	560	15%	85%	6.87	7%
At 10 Cr	1552	580	972	26%	74%	3.78	3.85%
Total Revenue (All taxpayers)	4324	580	3744				

FOR GSTR-9-C (FY 2017-18)

Exemption upto	DRC-03	Exempted (Upto 2 Cr)	Net	% of total contribution	After exemption (%)	Number of taxpayers	% of total taxpayer base
At 5 Cr	113	47	66	13%	87%	6.87	7%
At 10 Cr	164	47	117	23%	77%	3.78	3.85%
Total Revenue (All taxpayers)	553	47	506				

- 6.4 It may be noted that since GST has incrementally stabilized in FY 2018-19, the expectation of additional revenue from Annual Return and Reconciliation Statement for 2018-19 will be relatively low.
- 6.5 The law committee observed that even if the turnover exemption is increased to Rs. 5 Cr for filing GSTR-9 and GSTR-9C for 2018-19, 85% of the tax paid by such taxpayers through DRC-03 will still be collected. Further, the compliance of filing these returns will reduce from 12,42,000 taxpayers to 6,87,000 taxpayers. Lower numbers will ensure that ease of filing improves on the common portal and extra compliance (and related costs) are not levied on smaller taxpayers.
- 6.6 The law committee also observed that after the relaxation in filing of the return vide Notification No. 56/2019-Central Tax dt. 14-11-2019, the requirement of most of the important data that was being collected through GSTR-9 and GSTR-9C has been waived. The basic purpose of the return is limited to payment of extra liability through FORM DRC-03. Therefore, FORM GSTR-9 and GSTR-9C in its current form is additional compliance for the taxpayer with little benefit.
- 6.7 In view of the hardship faced by the taxpayer and the above, the law committee recommended that for the year 2018-19, the requirement of filing GSTR-9 and GSTR-9C may be enhanced to taxpayers having aggregate turnover exceeding Rs. 5 Cr. However, certain States expressed their reservation with the decision.

7. As the utility for GSTR-9 and 9C has not been made available on the common portal till 29.02.2020 and even those taxpayers to whom the utility has been made available, many of the fields such as Table 8A are blank or not visible, the law committee recommended that the date of filing Annual Return (GSTR-9) / Reconciliation Statement (GSTR-9C) may be extended to 30.06.2020.

8. Notification No. 47/2019 dated 09.10.2019 has been issued exempting small taxpayers with turnover less than Rs. 2 Cr to file Annual Return / Reconciliation Statement. However, the same has not been blocked online. Therefore, even after 09.10.2019, many taxpayers with turnover less than Rs. 2 Cr have been filing their returns. Since, all such returns are deemed furnished on the due date (5th or 7th Jan 2020), the law committee recommended that GSTN may be requested to not apply late fee in cases for annual return / reconciliation return filed for 2017-18 and 2018-19.

9. The agenda note is placed before the GST Council for deliberation and approval of the recommendations of the Law Committee.

Agenda Item 5A(vii): Proposal for amendment in CGST Rules, 2017

Law Committee, in its various meetings had deliberated upon several issues and recommended changes in various provisions of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as “the CGST Rules”). In addition to the changes in the CGST Rules, changes in the FORMS have also been recommended by the Law Committee. In view of recommendations of the Law Committee, the changes are discussed below:

I. Amendment to rule 43:

Various doubts have been raised by the field formations regarding determination of reversal of input tax credit in respect of capital goods partly used for affecting taxable supplies and partly for exempt supplies under rule 43 (1)(c). The issue was deliberated by the Law Committee and the Law Committee has recommended amendment in rule 43 and has proposed that these changes **be implemented prospectively w.e.f. 01.04.2020**. Accordingly rule 43 of CGST Rules may be amended as follows (shown in red):

Rule 43	
43. Manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases.	
(1) ...	
(a) ...	
(b) ...	
(c)	<p>the amount of input tax in respect of capital goods not covered under clauses (a) and (b), denoted as ‘A’, shall be credited to the electronic credit ledger and the useful life of such goods shall be taken as five years from the date of the invoice for such goods:</p> <p>Provided that where any capital goods earlier covered under clause (a) is subsequently covered under this clause, input tax in respect of such capital good denoted as the value of ‘A’ shall be arrived at by reducing the input tax at the rate of five percentage points for every quarter or part thereof and the amount ‘A’ shall be credited to the electronic credit ledger subject to the condition that the ineligible credit attributable to the period during which such capital good was covered by clause (a), denoted as ‘T_{ie}’, shall be calculated at the rate of five percentage points for every quarter or part thereof and added to the output tax liability of the tax period in which such credit is claimed ;</p> <p>Provided further that the amount ‘T_{ie}’ shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax and declared in FORM GSTR-3B.</p> <p><i>Explanation.- An item of capital goods declared under clause (a) on its receipt shall not attract the provisions of sub-section (4) of section 18, if it is subsequently covered under this clause.</i></p>
(d)	<p>the aggregate of the amounts of ‘A’ credited to the electronic credit ledger under clause (c) in respect of common capital goods whose useful life remains during the tax period, to be denoted as ‘T_c’, shall be the common credit in respect of such capital goods for a tax period:</p>

	<p>Provided that where any capital goods earlier covered under clause (b) is subsequently covered under clause (c), the input tax credit claimed in respect of such capital good(s) the value of 'A' arrived at by reducing the input tax at the rate of five percentage points for every quarter or part thereof shall be added to arrive at the aggregate value 'Tc';</p>
(e)	<p>the amount of common input tax credit attributable to a tax period on common capital goods during their useful life, be denoted as 'Tm' and calculated as-</p> <p>Tm= Tc÷60</p> <p>Explanation:</p> <p>For the removal of doubt, it is clarified that useful life of any capital goods shall be considered as five years from the date of invoice and the said formula shall be applicable during the useful life of the said capital goods.</p>
	<p>(f) the amount of input tax credit, at the beginning of a tax period, on all common capital goods whose useful life remains during the tax period, be denoted as 'T_r' and shall be the aggregate of 'T_m' for all such capital goods;</p>
(g)	...
(2)

II. Amendment to rule 86:

2.1. Various representations have been received highlighting the difficulty in re-credit of ITC in the electronic credit ledger of the taxpayer on account other than those where the debit has been made from the credit ledger for claiming refund on account of zero-rated supplies/deemed export wherein the rejection of refund entails auto re-credit of rejected refund in credit ledger. One such example is excess payment of tax or tax wrongly paid. In these scenarios, the taxpayer discharges the liability through ITC or Cash or both. However, under the present refund system the whole excess paid tax is refunded to the taxpayer in cash as there is no provision under rules which allows tax authorities to re-credit the ITC in the electronic credit ledger of the taxpayer. This has resulted in easy monetisation of ITC by certain taxpayers by making excess payment of tax through ITC and then availing the refund in cash. Further, in certain cases the refund filed by the taxpayer on this account was rejected by the tax payers stating as the amount has been paid by ITC, it cannot be sanctioned in cash and as no option was available for re-credit of the said amount, resulting in lapsing of said ITC.

2.2. Therefore, to curb the misuse of the said provision, it is proposed to provide for a provision in CGST Rules to allow for re-credit of wrongly paid/excess tax paid through ITC in the electronic credit ledger. Further, it is proposed that the **FORM GST PMT-03** may be used for the purpose of re-credit of the amount debited from the credit ledger.

2.3 Accordingly it is proposed to amend rule 86 in the CGST Rules as follows (shown in red):

Rule 86

86A. Conditions of use of amount available in electronic credit ledger.-

...

(4A) Where a registered person has claimed refund of any amount paid as tax wrongly paid or paid in excess for which debit has been made from the electronic credit ledger, the said amount, if found admissible, shall be re-credited to the electronic credit ledger by the proper officer by an order made in **FORM GST PMT-03**.

III. Amendment to rule 89:

3.1 It is observed that there is possibility for taking undue benefit by inflating the value of the zero-rated supply of goods. As the intent of the refund is to offset the tax paid on the inward supplies, it is proposed that a ceiling may be fixed for the value of the export supply only for the purpose of calculation of refund.

3.2 In this regard, it is further submitted that this ceiling limit is only for the purpose of calculating the refund payable and in no way, it would alter the taxable value /FOB value declared by the exporter in any manner.

3.3 Accordingly it is proposed to amend rule 89 in the CGST Rules as follows (shown in red):

Rule 89	
89.	Application for refund of tax, interest, penalty, fees or any other amount.-
...	
(4)	In the case of zero-rated supply of goods or services or both without payment of tax under bond or letter of undertaking in accordance with the provisions of sub-section (3) of section 16 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), refund of input tax credit shall be granted as per the following formula –
	$\text{Refund Amount} = (\text{Turnover of zero-rated supply of goods} + \text{Turnover of zero-rated supply of services}) \times \text{Net ITC} \div \text{Adjusted Total Turnover}$
	Where, -
	(A) "Refund amount" means the maximum refund that is admissible;
	(B) "Net ITC" means input tax credit availed on inputs and input services during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both;
	(C) Turnover of zero-rated supply of goods" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, whichever is less, other than the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both;
...	

IV. Amendment to rule 92:

4.1 In view of the amendments proposed to be made to rule 86, it is proposed that the amount of refund sanctioned is proportionate to the amount debited in cash against the total amount paid for discharging tax liability for the relevant period.

4.2 Accordingly it is proposed to amend rule 92 in the CGST Rules as follows (shown in red):

Rule 92

92. Order sanctioning refund.-

(1)...

(1A)Where, upon examination of the application of refund of any amount paid as tax other than the refund of tax paid on zero-rated supplies/deemed export, the proper officer is satisfied that a refund under sub-section (5) of section 54 is due and payable to the applicant, he shall make an order in FORM RFD-06 sanctioning the amount of refund to be paid, in cash, proportionate to the amount debited in cash against the total amount paid for discharging tax liability for the relevant period, mentioning therein the amount adjusted against any outstanding demand under the Act or under any existing law and the balance amount refundable and for the remaining amount which have been debited from the electronic credit ledger for making payment of such tax, the proper officer shall issue FORM GST PMT-03 re-crediting the said amount as Input Tax Credit in electronic credit ledger.

(2) ...

(3) ...

(4) Where the proper officer is satisfied that the amount refundable under sub-rule (1) or sub-rule (1A) or sub-rule (2) is payable to the applicant under sub-section (8) of section 54, he shall make an order in FORM GST RFD-06 and issue a payment order in FORM GST RFD-05 for the amount of refund and the same shall be electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund [on the basis of a consolidated payment advice:

(5) Where the proper officer is satisfied that the amount refundable under sub-rule (1) or sub-rule (1A) or sub-rule (2) is not payable to the applicant under sub-section (8) of section 54, he shall make an order in FORM GST RFD-06 and issue a payment order in FORM GST RFD-05, for the amount of refund to be credited to the Consumer Welfare Fund.

V. Amendment to rule 96(10):

5.1. On perusal of sub-rule (10) of the Rule 96 of the CGST Rules 2017, it is observed that the registered person receiving imported/domestic capital goods under EPCG authorisation is allowed to export goods on payment of IGST and then claim refund of such tax paid. However, the registered person availing similar benefits on the imported / domestic inputs under EOU and Advance Authorization scheme are restricted from availing the refund under IGST route. The reason behind the said differentiation is that in case of imports of Capital Goods, it is not possible to have one to one correlation with the outward supplies whereas in case of import of inputs it is possible to have one to one correlation and it was felt that if the registered taxpayer availing benefit of exemption of IGST and compensation cess is allowed to claim refund of IGST paid on exports, it would result in monetisation of ITC not attributable to the export supplies as all the inputs utilised in manufacturing of export supplies have been procured without payment of IGST and Compensation Cess. Further, various references have been received from the field formations and trade/industry wherein clarification has been sought whether the exporter under Advance Authorization and EOU scheme can claim refund of IGST paid on exports when he has paid IGST and Compensation Cess while importing the inputs under Notification No. 78/2017-Customs dated 13.10.2017 and Notification No. 79/2017-Customs dated 13.10.2017.

5.2 Therefore, in view of the above, it is proposed that rule 96(10) of the CGST Rules may be amended by way of insertion of an explanation clarifying that where the registered person has paid IGST and compensation cess on the inputs, the said restriction would not be applicable on them.

5.3 Accordingly, sub-rule (10) of Rule 96 of CGST rules 2017 **may be amended retrospectively w.e.f. 23.10.2017** by inserting an explanation (shown in red):

Rule 96	
96.	Refund of integrated tax paid on goods or services exported out of India.-
(1) ...	
...	
(10)	The persons claiming refund of integrated tax paid on exports of goods or services should not have -
(a)	received supplies on which the benefit of the Government of India, Ministry of Finance notification No. 48/2017-Central Tax, dated the 18th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1305 (E), dated the 18th October, 2017 except so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods Scheme or notification No. 40/2017-Central Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1320 (E), dated the 23rd October, 2017 or notification No. 41/2017-Integrated Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321 (E), dated the 23rd October, 2017 has been availed; or
(b)	availed the benefit under notification No. 78/2017-Customs, dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1272(E), dated the 13th October, 2017 or notification No. 79/2017-Customs, dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1299 (E), dated the 13th October, 2017 except so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods Scheme.
	Explanation: For the purpose of said sub-rule, the benefit of the notifications mentioned therein would not be considered to have been availed only where the registered person has paid IGST and Compensation Cess on inputs and has availed exemption of only Basic Customs Duty (BCD) under the said notifications.

VI. Insertion of rule 96B:

6.1. Committee of Officers on Risk Based Management of Taxpayers under GST Regime (CoO) has been constituted by the GST Council Secretariat vide OM dated 15.07.2019. The term of reference of the CoO, inter-alia, includes to study, examine and suggest reasonable restrictions/interventions to be imposed on taxpayers based on risk parameters to regulate refunds. The 4th Meeting of the CoO was held on 16.01.2019 and has suggested various measures for the same.

6.2 The relevant extract of the record of discussion relating to the policy intervention for refund is as below:

“5.1. Subsequent to the discussions pertaining to refunds on account of inverted duty structure, the Committee deliberated upon two major issues related to exports i.e., (a). value of exports and (b). linkage of foreign remittance with eligibility for a refund. Pr. Commissioner, GST, in this regard, informed that if the value of exported products is inflated this would also lead to easy monetization and there is need for linkage to normal value (market value) of the such exported products. He further added that refund is to neutralise the input taxes which are linked to cost of manufacture/procurement and not the export transaction value or quantum of foreign remittance received. He proposed that therefore there is a need to fix a ceiling limit on the value of export, say a multiplier of a market value (or any other base value which may be finalized), for exported goods in order to check fraudulent refund claims. He further added that the issue may be deliberated upon at length in the Law Committee.”

6.3 In central excise regime, an advisory was issued to the field formation for verifying the BRCs post sanction of rebate on export of goods. Further, similar provision exists under Rule 18 of the Customs and Central Excise Duties Drawback Rules, 2017 which provides for the recovery for amount of drawback where foreign remittances are not realised under the said rules. Therefore, it is proposed to insert provision for submission of foreign exchange remittances in case of export of goods, post refund of unutilized Input Tax Credit or IGST. Accordingly, it is proposed to insert rule 96B in the CGST Rules as follows (shown in red):

Rule 96B
<p>96B. Recovery of refund of unutilized input tax credit or integrated tax paid on export of goods where export proceeds not realised. –</p> <p>(1) Where any refund of unutilized input tax credit on account of export of goods or of integrated tax paid on export of goods has been paid to an applicant but the sale proceeds in respect of such export goods have not been realized, in full or in part, in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), including any extension of such period, the person to whom the refund has been made shall deposit the amount so refunded, to the extent of non-realisation of sale proceeds, along with applicable interest within 30 days of the expiry of the said period or, as the case may be, the extended period, failing which the amount refunded shall be recovered in accordance with the provisions of section 73 or 74 of the Act, as the case may be, as is applicable for recovery of erroneous refund, along with interest under section 50.</p> <p>Provided that where sale proceeds, or any part thereof, in respect of such export goods are not realised by the applicant within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), but the Reserve Bank of India writes off the requirement of realisation of sale proceeds on merits, the refund paid to the applicant shall not be recovered.</p> <p>(2) Where the sale proceeds are realized by the applicant, in full or part, after the amount of refund has been recovered from him under sub-section (1) and the applicant produces evidence about such realization within a period of three months from the date of realization of sale proceeds, the amount so recovered shall be refunded by the proper officer, to the applicant to the extent of realization of sale proceeds, provided the sale proceeds have been realized within such extended period as permitted by the Reserve Bank of India.</p>

VII. Amendment to rule 141:

Section 67(8) as well as proviso of rule 147(7) empowers the proper officer for the disposal of goods of perishable or hazardous nature; while Rule 141(2) empowers the Commissioner for the disposal of seized goods or things perishable or hazardous in nature. This creates inconsistency between sec 67(8) and Rule 141(2) as the proper officer is generally subordinate to the Commissioner. Accordingly rule 141(2) of CGST Rules may be amended as follows (shown in red):

Rule 141
<p>141. Procedure in respect of seized goods.-(1) Where the goods or things seized are of perishable or hazardous nature, and if the taxable person pays an amount equivalent to the market price of such goods or things or the amount of tax, interest and penalty that is or may become payable by the taxable person, whichever is lower, such goods or, as the case may be, things shall be released forthwith, by an order in FORM GST INS-05, on proof of payment.</p> <p>(2) Where the taxable person fails to pay the amount referred to in sub-rule (1) in respect of the said goods or things, the Commissioner proper officer may dispose of such goods or things and the amount realized thereby shall be adjusted against the tax, interest, penalty, or any other amount payable in respect of such goods or things.</p>

VIII. Amendment to FORM GST-RFD-01:

8.1. In view of the proposed insertion of rule 96B above, which provides for recovery of refund of unutilized input tax credit or integrated tax paid on export of goods where export proceeds not realized, it is proposed to insert an undertaking in **FORM GST RFD-01**.

8.2. The proposed undertaking to be inserted in **FORM GST RFD-01** is as follows

(shown in red):

FORM GST RFD-01
<p><u>UNDERTAKING</u></p> <p><i>I hereby undertake to deposit to the Government the amount of refund sanctioned along with interest in case of non-receipt of foreign exchange remittances as per the proviso to Section 16 of the IGST Act 2017 read with Rule 96B of the CGST Rules 2017</i></p> <p>Signature-</p> <p>Name –</p> <p>Designation / Status</p>

2. The above proposal for amendments is placed before the GST Council for consideration and approval. The notification will be issued after consultation with Union Ministry of Law and Justice. States would also be required to made similar changes in rules or forms, as case may be.

Agenda Item 5A(viii): Proposed amendments in the CGST Act, 2017 and IGST Act, 2017

Various representations, suggestions received and other feedbacks brought to notice through social, electronic and print media regarding issues / difficulties in the GST regime faced by trade and industry. On examination and analysis of the above, it was felt that certain amendments in the GST laws may be carried out.

2. The Law Committee in its various meetings held on 02.03.2020, 17-18.02.2020 and 28.01.2020 and 20-21.01.2020 has recommended some of the amendments in the GST law. **The rationale and the proposed amendment is annexed to this Agenda Note.** The proposed amendments can broadly be classified under Revenue Augmentation measures, Trade facilitation and Simplification measures; and Enforcement measures.

3. Following sections are proposed to be amended.

Sl. No.	Sections to be amended	Purpose
1.	CGST - 16 (2)	Revenue Augmentation and Enforcement measures
2.	CGST - 35 / 44	Revenue Augmentation and Enforcement measures
3.	CGST - 75(12)	Revenue Augmentation and Enforcement measures
4.	CGST – 109 / 110	Trade facilitation measures
5.	CGST - 151	Revenue Augmentation and Enforcement measures
6.	CGST - 152	Revenue Augmentation and Enforcement measures
7.	CGST - 168	Consequential to amendment in section 151
8.	IGST - 16	Revenue Augmentation and Enforcement measures

4. The above proposals for amendment in the CGST Act, 2017, as recommended by the Law Committee is placed before the GST Council for approval. The exact wordings of the amendments shall be finalised in consultation with the Union Law Ministry. Similar amendments in law would have to be made in the respective SGST Acts as well.

Enclosed: Annexure A

LAW AMENDMENT PROPOSALS – CGST Act, 2017

Sl. No.	Section	Gist of issue	Proposal	Suggested formulation	Consequential changes
1.	16	<p>One of the key objectives of the GSTR-1/2/3 system was to provide for matching of invoices between the supplier and the recipient i.e. there shall be no credit existing in the system which has not been declared in the respective returns of the supplier and recipient as per section 16 (2) c and 16(2) d of the CGST Act 2017.</p> <p>2. Available data suggests that the percentage of filing of return in FORM GSTR-1 (details of outward supplies) is far lesser as compared to filing of return in FORM GSTR-3B, through which input tax credit is availed. Further, due to poor filing of FORM GSTR-1, there are large gaps between credit available under FORM GSTR-2A and self-assessed credit under FORM GSTR-3B.</p> <p>3. A number of cases have been booked by the Central / State authorities where high amount of input tax credit is pumped into the system through fake invoices and the same being availed by many taxpayers.</p>	<p>The Law Committee examined the matter and felt that credit may be allowed that reasonable restriction may be imposed on self-assessed input tax credit availed in FORM GSTR-3B on the basis of credit reflected in FORM GSTR-2A. Accordingly, the Law Committee recommended to amend the provisions of section 16(2)(a) to mandate that ITC on invoices or debit notes may be availed only when the details of such invoices are specified in the details of outward supplies by the supplier.</p>	<p>16.</p> <p>“(2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,—</p> <p>(a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed and the details of such invoices or debit note in respect of such supplies have been furnished by the supplier in the statement of outward supplies as specified under section 37;”</p>	

		<p>4. It may be noted that in the 38th GSTC meeting, a one-time amnesty for filing of FORM GSTR-1 was given in order to encourage taxpayers to file their missing FORM GSTR-1s.</p> <p>5. It is proposed that reasonable restriction may be imposed on self-assessed input tax credit availed in FORM GSTR-3B on the basis of credit reflected in FORM GSTR-2A. Further, Rule 36(4) was notified which stated that credit availed in GSTR3B cannot exceed the credit reflected in GSTR-2A by 20%, from the months of October onwards; and which was further reduced to 10% from December 2019 onwards.</p> <p>6. Section 16 of the CGST Act provides for conditions and restrictions subject to which the input tax credit shall be credited to the electronic credit ledger. It would be logical to complete this linkage of outward supplies declared by the supplier with the tax liability, by also limiting the credit availed in FORM GSTR-3B to that reflected in the GSTR2A of the recipient, subject to the additional amount available under rule 36(4).</p>			
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2.	35 / 44	<p>Currently, there is a requirement (under section 35 of the CGST Act), for taxpayers beyond a turnover limit to get his accounts audited and submit a reconciliation certificate by a chartered accountant or a cost accountant. It is felt that the said requirement may not be imposed on all taxpayers above a prescribed turnover limit, but may be imposed selectively, based on risk parameters.</p> <p>Moreover, under provisions of section 66 of the CGST Act, the Commissioner is empowered to get a special audit conducted for a particular assessee. Therefore, it is felt that the said provision may not be necessary in future.</p>	<p>Accordingly, the Law Committee has recommended</p> <ol style="list-style-type: none"> 1. Omission of sub-section (5) of section 35 2. Omission of sub-section (2) of section 44 3. Insertion of section 44A to empower the Commissioner to seek reconciliation statement in specific cases as prescribed. 	<p>35.</p> <p>(5) Every registered person whose turnover exceeds the prescribed limit shall get his accounts audited by a chartered accountant or a cost accountant and shall submit a copy of the audited annual accounts, the reconciliation statement under sub-section (2) of section 44 and such other documents in such form and manner as may be prescribed.</p>	<p>44. (1) Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return for every financial year electronically in such form and manner as may be prescribed on or before the thirty-first day of December following the end of such financial year.</p> <p>Provided that the Commissioner may, on the recommendations of the Council, by notification, exempt any class of registered persons from filing the returns under this sub-section;</p> <p>(2) Every registered person who is required to get his accounts audited in accordance with the provisions of sub-section (5) of section 35</p>
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					<p>shall furnish, electronically, the annual return under sub-section (1) along with a copy of the audited annual accounts and a reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement, and such other particulars as may be prescribed.</p> <p>44A. The Commissioner or any officer authorised by him, by way of a general or a specific order, may for reasons to be recorded in writing, direct a registered person, in writing to furnish a reconciliation statement reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement, and such other particulars as</p>
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					<p>may be specified in that order.</p> <p>Provided that nothing contained in this sub-section shall apply to any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.</p>
3.	75(12)	<p>It has been observed that the red flag reports suggest that for a number of GSTINs, the GSTR-1 details are considerably larger than GSTR-3B. Furthermore, a lot of cases have been noticed where GSTR-1 has been filed without filing the corresponding GSTR-3B.</p> <p>2. A perusal of the present sub-section (12) of section 75 appears to restrict recovery under section 79 to only those cases where the returns are filed under section 39 in FORM GSTR-3B. However, it is felt that</p>	<p>Accordingly, the Law Committee has recommended making an explanatory amendment in <u>sub-section (12) of section 75 of the CGST Act, 2017</u>.</p>	<p>75.</p> <p>.</p> <p>.</p> <p>(12)</p> <p>Notwithstanding anything contained in section 73 or section 74, where any amount of self-assessed tax in accordance with a return furnished under section 39 remains unpaid, either wholly or partly, or any amount of interest payable on such tax remains unpaid, the same shall be recovered under the provisions of section 79.</p> <p>Explanation.- For the purpose of this sub-section, the expression "self-assessed tax" shall include the tax payable</p>	

	<p>the statement of the outward supplies is the building block on which outward liability of a taxpayer is based, and is therefore most certainly his outward liability. Being a self-declared outward liability, tax appears to be collectible on the supplies declared in the statement of outward supplies under section 37.</p> <p>3. In this regard, reference is also invited to the judgement of the Madhya Pradesh High Court at Indore Bench in <i>Kabeer Reality Private Limited vs Union of India (Writ no 15645/2019)</i>, wherein it has been held that FORM GSTR-1 liability can be recovered under section 79.</p> <p>4. It is felt that the above judgement captures the intent of law, which is also evident from the provisions of sub-section (5) of section 43A, which are proposed to be notified along with the new return system. Section 43A reads as under:</p> <p style="padding-left: 40px;"><i>Section 43A: Procedure for furnishing return and availing input tax credit (1) Notwithstandi ng anything contained in sub-section</i></p>		<p>in respect of the details of such outward supplies furnished under section 37, the tax on which has not been paid, and the same shall be recovered under the provisions of section 79.</p>	
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		<p><i>(2) of section 16, section 37 or section 38, every registered person shall in the returns furnished under sub-section (1) of section 39 verify, validate, modify or delete the details of supplies furnished by the suppliers.</i></p> <p><i>(2) Notwithstanding anything contained in section 41, section 42 or section 43, the procedure for availing of input tax credit by the recipient and verification thereof shall be such as may be prescribed.</i></p> <p><i>(3) The procedure for furnishing the details of outward supplies by the supplier on the common portal, for the purposes of availing input tax credit by the recipient shall be such as may be prescribed.</i></p>		
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		<p>(4) The procedure for availing input tax credit in respect of outward supplies not furnished under sub-section (3) shall be such as may be prescribed and such procedure may include the maximum amount of the input tax credit which can be so availed, not exceeding twenty per cent. of the input tax credit available, on the basis of details furnished by the suppliers under the said sub-section.</p> <p>(5) The amount of tax specified in the outward supplies for which the details have been furnished by the supplier under sub-section (3) <u>shall be deemed to be the tax payable by him under the provisions of the Act.</u></p>		
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		<p>5. However, there is still a confusion regarding the current provisions of the CGST Act, as to whether the applicable tax amount as per the self-declared statement of outward supplies under section 37 is recoverable, if tax on the same has not been paid in the return under section 39.</p>			
4.	109 / 110	<p>The Madras High Court in its judgement in Revenue Bar Association Vs Union of India has ruled that the constitution of GST Appellate Tribunal (GSTAT) is unconstitutional.</p> <p>2. The issues that were deliberated are as below: (i) whether the exclusion of advocates from being considered for appointment as a Judicial Member in GST Appellate Tribunal, is violative of Article 14 of the Constitution of India.</p> <p>(ii) Whether Section 110 (b)(iii) which makes a member of the Indian Legal Service, eligible to be appointed as a Judicial Member of the appellate tribunal, contrary to the law laid down by the Hon'ble Supreme Court in Union of India Vs. R.Gandhi reported in 2010(11) SCC 1.</p> <p>(iii) whether the composition of the National Bench, Regional Benches, State Bench and Area</p>	<p>Accordingly, the Law Committee has deliberated on the matter and recommended making necessary amendments in <u>section 109 and 110 of the CGST Act, 2017.</u></p>	<p>109. Constitution of Appellate Tribunal and Benches thereof</p> <p>(1) The Government shall, on the recommendations of the Council, by notification, constitute with effect from such date as may be specified therein, an Appellate Tribunal known as the Goods and Services Tax Appellate Tribunal for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority. /</p> <p>(2) The powers of the Appellate Tribunal shall be exercisable by the National Bench and Benches thereof (hereafter in this Chapter referred to as "Regional Benches"), State Bench and Benches thereof (hereafter in this Chapter referred to as "Area Benches").</p> <p>(3) The National Bench of the Appellate Tribunal shall be situated at New Delhi which shall be presided</p>	

		<p>Benches of the GST Appellate Tribunal, which consists of one Judicial Member, one Technical Member (Centre) and one Technical Member (State), by which the administrative members outnumber the judicial member is violative of Articles 14 and 50 of the Constitution of India and the judgments of the Hon'ble Supreme Court of India.</p> <p>3. The judgement was examined in detail by the Department of Revenue and accordingly amendments in the provisions of Sections 109 and 110 of the Central Goods and Services Tax (CGST) Act 2017 have been suggested.</p>		<p>over by the President and shall consist of one a Technical Member (Centre) or and one Technical Member (State).</p> <p>(4) The Government shall, on the recommendations of the Council, by notification, constitute such number of Regional Benches as may be required and such Regional Benches shall consist of a Judicial Member and a one Technical Member (Centre) or and one Technical Member (State).</p> <p>(5) The National Bench or Regional Benches of the Appellate Tribunal shall have jurisdiction to hear appeals against the orders passed by the Appellate Authority or the Revisional Authority in the cases where one of the issues involved relates to the place of supply.</p> <p>(6) The Government shall, by notification, specify for each State or Union territory a Bench of the Appellate Tribunal (hereafter in this Chapter, referred to as "State Bench") for exercising the powers of the Appellate Tribunal within the concerned State or Union territory:</p> <p>Provided that the Government shall, on receipt of a request from any State Government, constitute such number of Area Benches in that</p>	
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				<p>State, as may be recommended by the Council:</p> <p>Provided</p> <p>further that the Government may, on receipt of a request from any State, or on its own motion for a Union territory, notify the Appellate Tribunal in a State to act as the Appellate Tribunal for any other State or Union territory, as may be recommended by the Council, subject to such terms and conditions as may be prescribed.</p> <p>(7) The State Bench or Area Benches shall have jurisdiction to hear appeals against the orders passed by the Appellate Authority or the Revisional Authority in the cases involving matters other than those referred to in sub-section (5).</p> <p>(8) The President and the State President shall, by general or special order, distribute the business or transfer cases among Regional Benches or, as the case may be, Area Benches in a State.</p> <p>(9) Each State Bench and Area Benches of the Appellate Tribunal shall consist of a Judicial Member and a one Technical Member (Centre) or and one Technical Member (State) and the State Government may designate the senior most Judicial Member in</p>	
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				<p>a State as the State President.</p> <p>(10) In the absence of a Member in any Bench due to vacancy or otherwise, any appeal may, with the approval of the President or, as the case may be, the State President, be heard by a Bench of two Members:</p> <p>Provided that any appeal wWhere the tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined in any order appealed against, does not exceed five lakh rupees and which does not involve any question of law may, with the approval of the President and subject to such conditions as may be prescribed on the recommendations of the Council, be heard by a bench consisting of a single member.</p> <p>(11) If the Members of the National Bench, Regional Benches, State Bench or Area Benches a bench differ in opinion on any point or points, it shall be decided according to the opinion of the majority, if there is a majority, but if the Members are equally divided, they shall state the point or points on which they differ, and the case shall be referred by the President or as the case may be, State President for hearing on such point or points to one or more of the other Members of the National</p>	
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				<p>Bench, ——— Regional Benches, State Bench or Area Benches and such point or points shall be decided according to the opinion of the majority of Members who have heard the case, including those who first heard it.</p> <p>(12) The Government, ——— in consultation with the President may, for the administrative convenience, transfer Members from one bench to the other. —</p> <p style="padding-left: 40px;">(a) any Judicial Member or a Member Technical (State) from one Bench ——— to another Bench, whether National ——— or Regional; or</p> <p style="padding-left: 40px;">(b) any Member Technical (Centre) from one Bench to another Bench, whether National, Regional, State or Area.</p> <p>(13) The ——— State Government, ——— in consultation with the State President may, for the ——— administrative convenience, transfer a Judicial Member or a Member ——— Technical (State) from one Bench to another Bench within the State.</p> <p>(14) No act or proceedings of the</p>	
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				<p>Appellate Tribunal shall be questioned or shall be invalid merely on the ground of the existence of any vacancy or defect in the constitution of the Appellate Tribunal.</p> <p>110. President and Members of Appellate Tribunal, their qualification, appointment, conditions of service, etc</p> <p>(1) A person shall not be qualified for appointment as—</p> <p style="padding-left: 40px;">(a) the President, unless he has been a Judge of the Supreme Court or is or has been the Chief Justice of a High Court; or is or has been a Judge of a High Court for a period not less than five years;</p> <p style="padding-left: 40px;">(b) a Judicial Member, unless he –</p> <p style="padding-left: 80px;">(i)</p> <p style="padding-left: 120px;">has been a Judge of the High Court; or</p> <p style="padding-left: 80px;">(ii)</p> <p style="padding-left: 120px;">is or has been a District Judge qualifie</p>	
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				<p>d to be appoint ed as a Judge of a High Court; or (iii) _____ is or has been a Member of Indian Legal Service and has held a post not less than Additio nal Secretar y for three years;</p> <p>(c) a Technical Member (Centre) unless he is or has been a member of Indian Revenue (Customs and Central Excise) Service, Group A, and has completed at least fifteen twenty years of service in Group A;</p> <p>(d) a Technical Member (State) unless he is or has been an officer of the State Government not below the rank</p>	
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				<p>of Additional Commissioner of Value Added Tax or the State goods and services tax or such rank as may be notified by the concerned State Government on the recommendations of the Council and has completed twenty-five years of service with at least three years of experience in the administration of an existing law or the State Goods and Services Tax Act or in the field of finance and taxation.</p> <p>(2) The President and the Judicial Members of the National Bench and the Regional Benches shall be appointed by the Government after consultation with the Chief Justice of India or his nominee:</p> <p>(2) The President, Judicial Members, the Technical Member (Centre) and Technical Member (State) shall be appointed by the Government on the recommendations of a Selection Committee consisting of such persons and in such</p>	
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				<p>manner as may be prescribed:</p> <p>Provided that in the event of the occurrence of any vacancy in the office of the President by reason of his death, resignation or otherwise, the senior most Member of the National Bench shall act as the President until the date on which a new President, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office:</p> <p>Provided further that where the President is unable to discharge his functions owing to absence, illness or any other cause, the senior most Member of the National Bench shall discharge the functions of the President until the date on which the President resumes his duties.</p> <p>(3) The Technical Member (Centre) and Technical Member (State) of the National Bench and Regional Benches shall be appointed by the Government on the recommendations of a Selection Committee consisting of such persons and in such manner as may be prescribed.</p> <p>(4) The Judicial Member of the State Bench or Area Benches shall be appointed by the State Government after consultation with the Chief Justice of the High</p>	
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				<p>Court of the State or his nominee.</p> <p>(5) The Technical Member (Centre) of the State Bench or Area Benches shall be appointed by the Central Government and Technical Member (State) of the State Bench or Area Benches shall be appointed by the State Government in such manner as may be prescribed.</p> <p>(6) No appointment of the Members of the Appellate Tribunal shall be invalid merely by the reason of any vacancy or defect in the constitution of the Selection Committee.</p> <p>(7) Before appointing any person as the President or Members of the Appellate Tribunal, the Central Government or, as the case may be, the State Government, shall satisfy itself that such person does not have any financial or other interests which are likely to prejudicially affect his functions as such President or Member.</p> <p>(8) The salary, allowances and other terms and conditions of service of the President, State President and the Members of the Appellate Tribunal shall be such as may be prescribed:</p> <p>Provided that neither salary and allowances nor other terms and conditions of</p>	
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				<p>service of the President, State President or Members of the Appellate Tribunal shall be varied to their disadvantage after their appointment.</p> <p>(9) The President of the Appellate Tribunal shall hold office for a term of three years from the date on which he enters upon his office, or until he attains the age of seventy years, whichever is earlier and shall be eligible for re-appointment</p> <p>(10) The Judicial Member of the Appellate Tribunal and the State President shall hold office for a term of three years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier and shall be eligible for re-appointment.</p> <p>(11) The Technical Member (Centre) or Technical Member (State) of the Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier and shall be eligible for re-appointment.</p> <p>(12) The President, State President or any Member may, by notice in writing under his hand addressed to the Central Government or, as the case may be, the State</p>	
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				<p>Government resign from his office:</p> <p>Provided that the President, State President or Member shall continue to hold office until the expiry of three months from the date of receipt of such notice by the Central Government, or, as the case may be, the State Government or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.</p> <p>(13) The Central Government may, on the recommendation of the Selection Committee, after consultation with the Chief Justice of India, in case of the President, Judicial Members and Technical Members of the National Bench, Regional Benches or Technical Members (Centre) of the State Bench or Area Benches, and the State Government may, after consultation with the Chief Justice of High Court, in case of the State President, Judicial Members, Technical Members (State) of the State Bench or Area Benches, may remove from the office such the President or a Member, who—</p> <p>(a) has been adjudged an insolvent; or</p> <p>(b) has been convicted of an offence</p>	
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				<p>which, in the opinion of the such Government involves moral turpitude; or</p> <p>(c) has become physically or mentally incapable of acting as such President, State President or Member; or</p> <p>(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as such President, State President or Member; or</p> <p>(e) has so abused his position as to render his continuance in office prejudicial to the public interest:</p> <p>Provided that the President, State President or the Member shall not be removed on any of the grounds specified in clauses (d) and (e), unless he has been informed of the charges against him and has been given an opportunity of being heard.</p> <p>(14) Without prejudice to the provisions of sub-section (13),-</p> <p>(a) the President or a</p>	
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				<p>Judicial and Technical Member of the National Bench or Regional Benches, Technical Member (Centre) of the State Bench or Area Benches shall not be removed from their office except by an order made by the Central Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court nominated by the Chief Justice of India on a reference made to him by the Central Government and of which the President or the said Member had been given an opportunity of being heard;</p> <p>(b) the Judicial Member or Technical Member (State) of the State Bench or Area Benches shall not be removed from their office except by an order made by the State Government on the ground of</p>	
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				<p>proved misbehaviour or incapacity after an inquiry made by a Judge of the concerned High Court nominated by the Chief Justice of the concerned High Court on a reference made to him by the State Government and of which the said Member had been given an opportunity of being heard.</p> <p>(15) The Central Government, on the recommendations of the Selection Committee with the concurrence of the Chief Justice of India, may suspend from office, the President or a Judicial or Technical Members in respect of whom proceedings have been initiated under sub-section (13) of the National Bench or the Regional Benches or the Technical Member (Centre) of the State Bench or Area Benches reference has been made to the Judge of the Supreme Court under sub-section (14).</p> <p>(16) The State Government, with the concurrence of the Chief Justice of the High Court, may suspend from office, a Judicial Member or Technical Member (State) of the State Bench or Area Benches in respect of whom a reference has</p>	
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				<p>been made to the Judge of the High Court under sub-section (14).</p> <p>(17) Subject to the provisions of article 220 of the Constitution, the President, State President or other Members, on ceasing to hold their office, shall not be eligible to appear, act or plead before the National Bench and the Regional Benches or the State Bench and the Area Benches thereof where he was the President or, as the case may be, a Member.</p>	
5.	151	<p>Section 151 empowers the Commissioner to collect statistics. This would be used on a case to case basis and accordingly, FORM /return may not be prescribed for the same.</p> <p>For the efficacy of the collection of statistics, it may be ensured that information may be sought as per requirements on a case to case basis.</p>	1. Sub-section (2) of section 151 may be amended.	<p>151. Power to collect statistics call for information (1) The Commissioner, or an officer authorised by him, may, by order if he considers that it is necessary so to do, by notification, direct that statistics may be collected direct any person to furnish to him any information relating to any matter dealt with by or in connection with this Act, within such time, in such form and manner as may be specified in the said order.</p> <p>(2) Upon such notification being issued, the Commissioner, or any person authorised by him in this behalf, may call upon the concerned persons to furnish such information or returns, in such form and manner as may be prescribed, relating to any matter in respect of which</p>	<p>Consequential amendment in section 168 required (in red colour):</p> <p>168. Power to issue instructions or directions.-</p> <p>(1)...</p> <p>(2) The Commissioner specified in clause (91) of section 2, sub-section (3) of section 5, clause (b) of sub-section (9) of section 25, sub-sections (3) and (4) of section 35, sub-section (1) of section 37, sub-section (2) of section 38, sub-section (6) of section 39, sub-section (5) of section 66, sub-section (1) of section 143, except the second proviso</p>

				statistics is to be collected.	to sub-section (1) of section 143, sub-section (1) of section 151 , clause (1) of sub-section (3) of section 158 and section 167 shall mean a Commissioner or Joint Secretary posted in the Board and such Commissioner or Joint Secretary shall exercise the powers specified in the said sections with the approval of the Board.
6.	152	It is felt that the tax authorities may seek information under section 150 and 151 for various purposes, including for investigation, audit or preventive purposes. It may be noted that in some cases, some action may get initiated after processing of this information. Presently there is a restriction under sub-section (1) of section 151 that such information may not be used for any proceedings under this Act. Accordingly, this restriction may be removed from law. Further, such information may also be allowed to be seen by the tax authorities	1. Omitting of the condition that “no such information shall be used for the purpose of any proceedings under this Act” from sub-section (1) of section 152 2. Amendment in sub-section (2) to allow tax authority involved in the proceedings to have access to such information.	152. Bar on disclosure of information (1) No information of any individual return or part thereof with respect to any matter given for the purposes of section 150 or section 151 shall, without the previous consent in writing of the concerned person or his authorised representative, be published in such manner so as to enable such particulars to be identified as referring to a particular person and no such information shall be used for the purpose of any proceedings under this Act without giving an opportunity of being heard to the person concerned. (2) Except for the purposes of prosecution	

		engaged in the said proceedings		under this Act or any other law for the time being in force, and for the purpose of any proceedings under this Act, no person who is not engaged in the collection of statistics under this Act or compilation or computerisation thereof for the purposes of this Act, shall be permitted to see or have access to any information or any individual return referred to in section 151.	
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LAW AMENDMENT PROPOSALS – IGST Act, 2017

Sl. No.	Section	Gist of issue	Proposal	Suggested formulation	Consequential changes
1.	16	<p>Various instances, especially in export of few specific commodities of frauds have come to notice, wherein refunds on payment of IGST have been availed using fraudulent credit. It may be noted that section 16 of the IGST Act, 2017 provides that a person making zero-rated supplies can avail two modes of refund (LUT / IGST), and this appears to be the real reason creating distortions.</p> <p>2. Further, it has been observed that internationally, zero-rated supplies are taxed at zero-rate and credit of inputs in respect of such supplies are refunded. The refund of IGST paid on export is not available internationally, and it is felt that the process can also be implemented under the GST laws in India. This is expected to remove distortions and bring uniformity.</p> <p>3. Further, in erstwhile indirect taxation laws the practise was to zero-rate the supplies made to</p>	<p>The Law Committee examined the matter and felt that the government should be empowered to certain classes of supplies as export on payment of IGST and refund of input taxes thereon. Accordingly, the Law Committee recommended to amend the provisions of the IGST Act to make the export of goods and services the default route for exports and to take an enabling power under section 16 to empower the Commissioner to notify the specific supplies of goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, that may be made eligible for supply on payment of integrated tax. Moreover, the Law Committee proposed to amend the clause (b) of sub-section (1) of section 16 of IGST Act 2017 by inserting the words “for authorized operations”</p>	<p>16. (1) “zero rated supply” means any of the following supplies of goods or services or both, namely:—</p> <p>(a) export of goods or services or both; or</p> <p>(b) supply of goods or services or both for authorized operations to a Special Economic Zone developer or a Special Economic Zone unit.</p> <p>(2) Subject to the provisions of sub-section (5) of section 17 of the Central Goods and Services Tax Act, credit of input tax may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply.</p> <p>(3) A registered person making zero rated supply shall be eligible to claim refund under either of the following options; namely:—</p> <p>(a) he may on supply of goods or services or both under bond or Letter of Undertaking, subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax and, claim refund of unutilised input tax credit; or</p> <p>(b) he may supply goods or services or</p>	

	<p>SEZ Unit/Developer meant for authorized operations and all other supplies to SEZ Unit/Developer were taxed at normal rate. However, it is observed that the under sub-section (1) of Section 16 of IGST, all the supplies made to SEZ Unit/Developer have been classified as zero-rated supplies. Thus, the said provision is not in consonance with the intent of the law.</p> <p>4. In addition to the above, linking of foreign exchange remittance with refund is being envisaged, in lines with the earlier central excise regime. In the central excise regime, an advisory was issued to the field formation for verifying the BRCs post sanction of rebate on export of goods. Further, similar provision exists under Rule 18 of the Customs and Central Excise Duties Drawback Rules, 2017 which provides for the recovery for amount of drawback in cases</p>	<p>The Law Committee further recommended insertion of provision for submission of foreign exchange remittances in case of export of goods, post refund of unutilized Input Tax Credit or IGST with the time period prescribed under Foreign Exchange Management Act (FEMA), 1999.</p>	<p>both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim refund of such tax paid on goods or services or both supplied, in accordance with the provisions of section 54 of the Central Goods and Services Tax Act the rules made thereunder.</p> <p>Provided that the registered person making zero rated supply of goods, in case of non-realisation of sale proceeds, shall be liable to deposit the refund paid under the provisions of sub-section (3) along with the applicable interest under Section 50 within 30 days after expiry of time limit prescribed under Foreign Exchange Management Act 1999 for receipt of foreign exchange remittances.</p> <p>(3A) The Government may, on the recommendations of the Council, and subject to such conditions, safeguards and procedures as may be prescribed, notify a class of suppliers or class of supplies of goods, or services, or both where the supplies in the course of export may be</p>	
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		where foreign remittances are not realised under the said rules.		made on payment of integrated tax and the supplier shall, subject to such conditions and restrictions as may be specified in the said notification, be eligible to claim refund of the integrated tax paid on such supplies of goods or services or both.	
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Agenda Item 5A(ix): Scheme of ‘Know Your Supplier’

Reference is invited to rule 36(4) of the CGST Rules, 2017 wherein restriction in availment of input tax credit (ITC) has been imposed on the recipient. As per the rule, a registered person can avail ITC not exceeding 110% of the supply reflected in his FORM GSTR-2A. In other words, the suppliers of the registered person must furnish their FORM GSTR-1 on time in order for availment of ITC by this registered person subject to ten percent flexibility provided by the rule. In this context, there is a felt need to enable every registered person to have some basic information about the suppliers with whom they propose to conduct business. This would help them to identify the probable non-compliant suppliers and take business decision accordingly. The relevant provisions which provides for a compliance rating for registered persons as contained in Section 149 of the CGST Act, 2017 read as follows: -

149. (1) Every registered person may be assigned a goods and services tax compliance rating score by the Government based on his record of compliance with the provisions of this Act.

(2) The goods and services tax compliance rating score may be determined on the basis of such parameters as may be prescribed.

(3) The goods and services tax compliance rating score may be updated at periodic intervals and intimated to the registered person and also placed in the public domain in such manner as may be prescribed.

2. In this context, it is for consideration that instead of giving a ‘number’ as compliance rating score, merely the performance of the supplier on chosen relevant parameters is displayed to any registered person. Law Committee in its meeting held on 02.03.2020 proposed that in order to enable ‘Know your Supplier’ scheme a new rule may be inserted in the CGST Rules, 2017 providing for display of following parameters in respect of a given GSTIN: -

- (a) Month and Year of registration Under GST
- (b) Whether a Composition dealer or normal dealer
- (c) Aggregate Turnover (Slab) (0 to 40 lakhs, 40 lakhs to 1.5 crores, 1.5 crores to 5 crores, 5 Cr to 25, 25 and above)
- (d) Percentage of tax payment in cash (Slab) (% cash set-off i.e. percentage of liability discharged through cash, in totality; 0 to 2%, 2 to 5%, 5 to 10%, 10 to 20%, 20% and above)
- (e) Details of **last twenty returns** furnished (AS AVAILABLE ON PORTAL- **to be increased from ten to twenty**)
- (f) e-way bill blocking history
- (g) Gross Total Incomes (slab same as point no. (c) above)

Further, based on the feasibility as per GSTN analysis, following parameters may be included: -

- (h) Number of months or quarters, as the case may be, for which FORM GSTR-1 not submitted
- (i) Number of months in which FORM GSTR-3B not submitted on time
- (j) Any default in furnishing FORM GSTR-3B for more than three months
- (k) Any default in furnishing FORM GSTR-1 for more than three months or two quarters, as the case may be.

3. Accordingly, the agenda is placed before the Council for approval.

Agenda item 5A(x): Notifying NPCI, Transunion CIBIL Ltd. and Association of Mutual fund of India under section 150(1)(p) and Banking Information return under Section 150(1)(e)

Reference is invited to the Section 150(1)(p) of the CGST Act, 2017 wherein power is provided to seek information from any specified person. The said sub-section reads as follows: -

“150. (1) Any person, being—

(a)....

(b)....

.....

(p) any other person as may be specified, on the recommendations of the Council, by the Government,

who is responsible for maintaining record of registration or statement of accounts or any periodic return or document containing details of payment of tax and other details of transaction of goods or services or both or transactions related to a bank account or consumption of electricity or transaction of purchase, sale or exchange of goods or property or right or interest in a property under any law for the time being in force, shall furnish an information return of the same in respect of such periods, within such time, in such form and manner and to such authority or agency as may be prescribed.”

Law Committee in its meeting held on 20.01.2020 recommended that information using power provided in the said sub-section may be sought from the following three agencies: -

- (i) National payment corporation of India (NPCI)*
- (ii) TRANSUNION CIBIL LTD and*
- (iii) Association of Mutual Funds of India (AMFI);*

Accordingly, it is requested that GST Council may approve the proposal of notifying above mentioned three agencies under section 150(1) (p) of the CGST Act, 2017.

2. Reference is also invited to deliberation in the 2nd National Conference held on 07.01.2020 on seeking information return from Banks under Section 150(1) (e). It was deliberated that the data may be helpful in identifying risky taxpayers as well as in recovery under existing tax laws or GST Acts. A format for seeking such information was deliberated by the members present in the conference. The same is enclosed as **Annexure I**. Accordingly, it is requested that GST Council may approve the proposal of seeking Information Return from Bank in the said enclosed format.

3. Accordingly, the issues mentioned above viz. ‘notifying of agencies under Section 150(1)(p)’ and ‘seeking Bank Information Return under Section 150(1)(e)’ are placed before the GST Council for approval please.

Information Return for Bank
(Section 150(1)(e) of CGST Act, 2017)

Name of the Bank:

Month:

PAN :

*Details of all accounts linked to PAN to be provided

1. Details of Accounts held linked to PAN concerned:

Sr. No.	Account Number	IFS Code	Name of the Account Holder (company / firm/ person):	Address	Aadhar Number (if available on records)	Name of authorized signatory(ies)	Mobile number (linked to the Account)	Email id linked to the account	Phone number if any
(1)	(2)	(3)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.									
2.									
3.									

Type of Account (Saving/ Current) (10)	Date of opening the account (11)	IFSC Code (12)	Details of KYC documents*	
			Document Type (13)	Document No. (14)

- Copy of the KYC documents to be provided/ uploaded with the return

2.Details of transactions in the Primary account(s)-as provided by GSTN during the month (details of the month to be provided)**

S . N o . (1)	Ban k Acc ount Nu mbe r (2)	Cash transactions more than Rs. 50,000/- from the account during the month				Transactions to and from other accounts from the account more than Rs. 10,00,000/-during the month				Details of top 10 recipient bank accounts from the account during the month (13)	Details of top 10 payer bank accounts to the account during the month (14)
		Num ber of Cas h Wit hdra wls (5)	Am ount of Cas h Wit hdra wls (6)	Nu mbe r of cash depo sits (7)	Amo unt of cash depo sits (8)	Numb er of transa ctions of transf er to other accou nts (9)	Total Amou nt in transa ctions of transf er to other accou nts (10)	Numbe r of transact ions of transfer from other account s (11)	Total Amoun t in transact ions of transfer from other account s (12)		

3. Details of transactions in the account during the month (details of the month to be provided)**

S. N o. (1)	Bank Account Number (2)	Total transactions during the month		Cash transactions more than Rs. 50,000/- from the account during the month				Detail s of top 10 recipient bank accounts from the account during the month (13)	Detail s of top 10 payer bank accounts to the account during the month (14)
		Number of transactions (3)	Amount in transactions (4)	Number of Cash Withdrawals (5)	Amount of Cash Withdrawals (6)	Num ber of cash deposits (7)	Amo unt of cash deposits (8)		

**The bank statements for all the bank accounts of the company/ firm/ person for the month to be provided/ uploaded with the return

It is certified that all the information provided above is correct as per the records of the Bank.

()
Signature of the Authorized person of the Bank
Name:.....
Designation:
Phone Number.....
e-mail id:.....

Agenda Item 5A(xi): Proposal for Notification / Rule change for enabling AADHAAR based authentication in GST

In the Finance Bill, 2019, the section 25 was of the CGST Act, 2017 was amended to insert AADHAAR based authentication for existing taxpayers and new registrations in the GST Law.

Section 25 (6A) Every registered person shall undergo authentication, or furnish proof of possession of Aadhaar number, in such form and manner and within such time as may be prescribed:

Provided that if an Aadhaar number is not assigned to the registered person, such person shall be offered alternate and viable means of identification in such manner as Government may, on the recommendations of the Council, prescribe:

Provided further that in case of failure to undergo authentication or furnish proof of possession of Aadhaar number or furnish alternate and viable means of identification, registration allotted to such person shall be deemed to be invalid and the other provisions of this Act shall apply as if such person does not have a registration.

(6B) On and from the date of notification, every individual shall, in order to be eligible for grant of registration, undergo authentication, or furnish proof of possession of Aadhaar number, in such manner as the Government may, on the recommendations of the Council, specify in the said notification:

Provided that if an Aadhaar number is not assigned to an individual, such individual shall be offered alternate and viable means of identification in such manner as the Government may, on the recommendations of the Council, specify in the said notification.

(6C) On and from the date of notification, every person, other than an individual, shall, in order to be eligible for grant of registration, undergo authentication, or furnish proof of possession of Aadhaar number of the Karta, Managing Director, whole time Director, such number of partners, Members of Managing Committee of Association, Board of Trustees, authorised representative, authorised signatory and such other class of persons, in such manner, as the Government may, on the recommendations of the Council, specify in the said notification:

Provided that where such person or class of persons have not been assigned the Aadhaar Number, such person or class of persons shall be offered alternate and viable means of identification in such manner as the Government may, on the recommendations of the Council, specify in the said notification.

(6D) The provisions of sub-section (6A) or sub-section (6B) or sub-section (6C) shall not apply to such person or class of persons or any State or Union territory or part thereof, as the Government may, on the recommendations of the Council, specify by notification.

Explanation.—For the purposes of this section, the expression “Aadhaar number” shall have the same meaning as assigned to it in clause (a) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (18 of 2016)

2. This section was made effective from 1st January 2020. Further, the GST Council in its 37th meeting held in Goa, approved the following presentation made by GSTN, for operationalizing AADHAAR authentication in GST.

Category of persons are covered under Aadhaar Authentication in Phase-1

- Authorized signatory for all types, Proprietor, Managing/Authorized partner (in case of partnership) and Karta in case of HUF.
- For the categories of taxpayers, who are not covered in first phase, the e-KYC authentication will be implemented in second phase,

Aadhaar will not be required in case of

- the person who is not resident/citizen of India,

For existing registrant persons of the above category covered in Phase-1, a screen will be provided for e-KYC authentication from Aadhaar

Where Aadhaar is provided

- To maintain privacy of promoters, GST System shall send “link” to the concerned persons at their e-mail and mobile to enter Aadhaar and OTP, if the promoter is not willing to share Aadhaar with Auth Signatory.
- On successful authentication, demographic data of the persons shall be fetched from Aadhaar to GST System,
- Registration process thereafter, will remain the same as it is today

In cases where promoters decline to provide Aadhaar details:

- Site survey will be done and identification documents will be verified.
- In such cases, 3 working days upper cap will not be applicable (no deemed registration).

3. The law committee in its meeting held between 20th and 21st January 2020, approved the amendment of the CGST Rules, 2017 for operationalizing AADHAAR based authentication. The Law Committee noted that that refund to existing registered persons may be granted only after authentication as specified above. The draft approved by the Law Committee was vetted by the Ministry of Law and Justice and is placed as **Annexure A**.
4. The Law Committee further opined that notification under Section 6B and 6C of the CGST Act, 2017 shall be issued specifying the date from which AADHAAR authentication for these categories shall be made applicable. Further, since AADHAAR authentication has not been made applicable to all taxpayers, a notification under Section 6D shall also be issued exempting categories of persons registered under section 51, 52, OIDAR, non-resident taxable person, Company, Association of persons, anybody of Individuals or a Society, or a Trust from the provisions of Aadhar authentication. The draft approved by the Law Committee was vetted by the Ministry of Law and Justice and is placed as **Annexure B**.

Draft Rules for AADHAAR authentication in GST**Insertion of sub-rule 4A to rule 8**

(4) Using the reference number generated under sub-rule (3), the applicant shall electronically submit an application in **Part B** of **FORM GST REG-01**, duly signed or verified through electronic verification code, along with the documents specified in the said Form at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

(4A) The applicant shall, while submitting an application under sub-rule (4), undergo authentication of Aadhaar number for grant of registration.

Insertion of proviso to Rule 9(1)

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

“Provided that where a person, other than those notified under sub-section (6D) of section 25, fails to undergo authentication of Aadhaar number as specified in sub-rule (4A) of rule 8, then the registration shall be granted only after physical verification of the principle place of business in the presence of the said person, not later than sixty days from the date of application, in the manner provided under rule 25 and the provisions of sub-rule (5) shall not be applicable in such cases.”.

Amendment of Rules 25

Physical verification of business premises in certain cases.-Where the proper officer is satisfied that the physical verification of the place of business of a ~~registered~~ person is required **before or** after the grant of registration, he may get such verification **of the premises, in the presence of the said person,**done and the verification report along with the other documents, including photographs, shall be uploaded in **FORM GST REG-30** on the common portal within a period of fifteen working days following the date of such verification.

Insertion of new Rule 25A :

25A. Aadhaar authentication for registered person:- Every registered person who has been issued a certificate of registration under rule 10 shall, before filing of any refund application or within thirty days of the order issued by the Commissioner in the Board, on the recommendations of the Council, undergo authentication of the Aadhaar number of the proprietor, in the case of proprietorship firm, or of the partner or managing partner, in the case of a partnership firm, or of the karta, in the case of a Hindu Undivided Family, or of the Managing Director or whole time Director, in the case of a company, or of any of the Members of the Managing Committee of any Association of persons or any body of Individuals or a Society, or of the Trustee in the Board of Trustees, in the case of a Trust and of the authorised signatory:

Provided that till the time Aadhaar number is assigned to the person required to furnish Aadhaar number, such person shall continue as a registered person, subject to the production of the following identification documents, namely: –

(a) if he has enrolled, his Aadhaar Enrolment ID slip or a copy of his request made for Aadhaar enrolment; and

(b) any of the following documents, namely:

(i) Voter identity card issued by the Election Commission of India; or

(ii) Ration Card; or

(iii) Passport; or

(iv) Driving license issued by the Licensing Authority under the Motor Vehicles Act, 1988 (59 of 1988);

Provided further that where the document referred to in clause(a) of the first proviso has been furnished, the Aadhaar number shall be furnished within ninety days of the date of furnishing of the said document, failing which proceedings under rule 22 may be initiated.”

Draft Notification for AADHAAR authentication in GST

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

**Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs
Notification No. __/2020 – Central Tax**

New Delhi, the __ February, 2020

G.S.R....(E).- In exercise of the powers conferred by sub-section (6B) of section 25 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby notifies the date of coming into force of this notification as the date, from which an individual shall undergo authentication, of Aadhaar number, as specified in rule 8 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), in order to be eligible for registration:

Provided that if Aadhaar number is not assigned to the said individual, he shall be offered alternate and viable means of identification in the manner specified in rule 9 of the said rules.

2. This notification shall come into effect from the __th day of February, 2020.

[F. No. __]

()
Under Secretary to the Government of India

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

Government of India

Ministry of Finance

(Department of Revenue)

Central Board of Indirect Taxes and Customs

Notification No. __/2020 – Central Tax

New Delhi, the __ February, 2020

G.S.R....(E).- In exercise of the powers conferred by sub-section (6C) of section 25 of the Central Goods and Services Tax Act, 2017 (12 of 2017) , the Central Government, on the recommendations of the Council, hereby notifies the date of coming into force of this notification as the date, from which the -

- (a) authorised signatory of all types;
- (b) Managing and Authorised partners of a partnership firm; and
- (c) Karta of an Hindu undivided family,

shall undergo authentication of possession of Aadhaar number, as specified in rule 8 of the Central Goods and Services Tax Rules, 2017(hereinafter referred to as the said rules), in order to be eligible for registration under GST:

Provided that if Aadhaar number is not assigned to the said persons, they shall be offered alternate and viable means of identification in the manner specified in rule 9 of the said rules.

2. This notification shall come into effect from the __th day of February, 2020.

[F. No. __]

(__)

Under Secretary to the Government of India

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

Government of India

Ministry of Finance

(Department of Revenue)

Central Board of Indirect Taxes and Customs

Notification No. __/2020 – Central Tax

New Delhi, the __ February, 2020

G.S.R....(E).- In exercise of the powers conferred by sub-section (6D) of section 25 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby notifies the persons other than the following class of persons, namely:–

- (a) Individual;
- (b) authorised signatory of all types;
- (c) Managing and Authorised partner;
- (d) Karta of an Hindu undivided family; and
- (e) not a citizen of India,

to whom the provisions of sub-section (6B) or sub-section (6C) shall not apply.

2. This notification shall come into effect from the __th day of February, 2020.

[F. No. __]

(__)

Under Secretary to the Government of India

Agenda Item 5A(xii): Clarification in respect of appeal in regard to non-constitution of Appellate Tribunal

Various representations have been received wherein the issue has been decided against the registered person by the adjudicating authority or refund application has been rejected by the appropriate authority and appeal against the said order is pending before the appellate authority. It has been gathered that the appellate process is being kept pending by several appellate authorities on the grounds that the appellate tribunal has been not constituted and that till such time no remedy is available against their Order-in-Appeal, such appeals cannot be disposed. Doubts have been raised across the field formations in respect of the appropriate procedure to be followed in absence of appellate tribunal for appeal to be made under section 112 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”).

2. In this regard, rule 109A of Central Goods and Services Tax Rules, 2017 may kindly be referred as per which if the order has been passed by Deputy or Assistant Commissioner or Superintendent, appeal has to be made to the appellate authority appointed who would not be an officer below the rank of Joint Commissioner. Further, if the order has been passed by Additional or Joint Commissioner, appeal has to be made to the Commissioner (Appeal) appointed for the said function. Further appeal against the order passed by appellate authority under Section 107 of the CGST Act lies with appellate tribunal and any person aggrieved by an order passed against him under section 107 or section 108 (order of the revisionary authority) of CGST Act can appeal to the Appellate Tribunal against such order within three months from the date on which the order sought to be appealed against is communicated to the person referring the appeal.

3. Since the appellate tribunals have not been constituted yet in view of the order by Madras High Court in case of Revenue Bar Assn. v. Union of India. As such the appeal against the order of the first appellate authority cannot be filed within three months (six months for the appeal by the Government) from the date on which the order sought to be appealed against is communicated.

4. In order to remove difficulty arising in giving effect to the above provision of the Act, the Government, on the recommendations of the Council has issued **the Central Goods and Services Tax (Ninth Removal of Difficulties) Order, 2019 dated 03.12.2019**. It has been clarified that appeal to tribunal can be made within three months from the date of communication of order or date on which the President or the State President, as the case may be, of the Appellate Tribunal enters office, whichever is later. Hence, there will be no difficulty faced by the aggrieved registered person or the Government as appeal to the tribunal in terms of section 112 of the CGST Act would not get time barred and will be valid if filed within three months (six months in case of appeal by the Government) from the date on which President or the State President enters office. The appellate authority while passing order may mention in the preamble that appeal may be made to the appellate tribunal within three months from the President or the State President enters office.

5. In order to ensure uniformity across field formations and to avoid confusion in this respect Law Committee in its meeting held on 02.03.2020 recommended that a Circular may be issued for all appellate authorities. Accordingly, a draft Circular in this respect (Annexure A) is placed before the GST Council for approval.

CBEC-20/16/15/2018-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the February, 2020

To,

The Pr. Chief Commissioners / Chief Commissioners / Principal Commissioners / Commissioners of Central Tax (All)

The Principal Director Generals / Director Generals (All)

Madam/Sir,

Subject: Clarification in respect of appeal in regard to non-constitution of Appellate Tribunal – reg.

Various representations have been received wherein the issue has been decided against the registered person by the adjudicating authority or refund application has been rejected by the appropriate authority and appeal against the said order is pending before the appellate authority. It has been gathered that the appellate process is being kept pending by several appellate authorities on the grounds that the appellate tribunal has been not constituted and that till such time no remedy is available against their Order-in-Appeal, such appeals cannot be disposed. Doubts have been raised across the field formations in respect of the appropriate procedure to be followed in absence of appellate tribunal for appeal to be made under section 112 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”).

2. The matter has been examined in detail. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby issues the following clarifications and guidelines.

3.1 Appeal against an adjudicating authority is to be made as per the provisions of Section 107 of the CGST Act. The sub-section (1) of the section reads as follows: -

“107. (1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.”

3.2 Relevant rules have been prescribed for implementation of the above Section. The relevant rule for the same is rule 109A of Central Goods and Services Tax Rules, 2017 which reads as follows

“109A. Appointment of Appellate Authority.- (1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act may appeal to –

(a) the Commissioner (Appeals) where such decision or order is passed by the Additional or Joint Commissioner;

(b) any officer not below the rank of Joint Commissioner (Appeals) where such decision or order is passed by the Deputy or Assistant Commissioner or Superintendent,

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

3.3 Hence, if the order has been passed by Deputy or Assistant Commissioner or Superintendent, appeal has to be made to the appellate authority appointed who would not be an officer below the rank of Joint Commissioner. Further, if the order has been passed by Additional or Joint Commissioner, appeal has to be made to the Commissioner (Appeal) appointed for the same.

4. 1 The appeal against the order passed by appellate authority under Section 107 of the CGST Act lies with appellate tribunal. Relevant provisions for the same is mentioned in the Section 112 of the CGST Act which reads as follows: -

“112 (1) Any person aggrieved by an order passed against him under section 107 or section 108 of this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act may appeal to the Appellate Tribunal against such order within three months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal.”

4.2 The appellate tribunal has not been constituted in view of the order by Madras High Court in case of Revenue Bar Assn. v. Union of India and therefore the appeal cannot be filed within three months from the date on which the order sought to be appealed against is communicated. In order to remove difficulty arising in giving effect to the above provision of the Act, the Government, on the

recommendations of the Council, has issued **the Central Goods and Services Tax (Ninth Removal of Difficulties) Order, 2019 dated 03.12.2019**. It has been provided through the said Order that the appeal to tribunal can be made within three months (six months in case of appeals by the Government) from the date of communication of order or date on which the President or the State President, as the case may be, of the Appellate Tribunal enters office, **whichever is later**.

4.3 Hence, as of now, the prescribed time limit to make application to appellate tribunal will be counted from the date on which President or the State President enters office. The appellate authority while passing order may mention in the preamble that appeal may be made to the appellate tribunal whenever it is constituted and within three months from the President or the State President enters office. Accordingly, it is advised that the appellate authorities may dispose all pending appeals expeditiously without waiting for the constitution of the appellate tribunal.

5. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

6. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Yogendra Garg)
Principal Commissioner (GST)

Agenda Item 5A(xiii): Exemption for certain class of registered persons from having e-invoicing along with extension of dates for implementation of e-invoicing

Vide Notification No.70/2019-Central Tax dated 13th December, 2019 a class of registered person whose aggregate turnover in a financial year exceeds one hundred crore rupees, has been notified as a class of taxpayers who shall prepare invoice in terms of sub-rule (4) of rule 48 of the CGST Rules, 2017 in respect of B2B supply of goods or services or both from 01st April, 2020.

2. The implementation of the said notification has incurred few hiccups. They are listed below along with the proposal for solution to the said issues:

2.1. The e-invoice schema provided by GSTN was notified vide Notification no. 02/2020-Central Tax dated 01st January, 2020. However, during the Law Committee meeting held on 17th and 18th February, 2020, GSTN has informed there are certain issues regarding that schema, therefore, scheme need to be amended. Hence the new schema for e-invoicing is also need to be notified. Law Committee has recommended the new schema of e-invoices.

2.2. Certain class of taxpayers like an insurance or a banking company, a financial institutions, non-banking financial institution, GTA, passenger transportation service providers as IRCTC referred in sub rule (2), (3), (4) and (4A) of rule 54 of CGST Rules, 2017 may find it very unfeasible and difficult to generate an Invoice Reference Number, as mandated under sub-rule(4) of rule 48 of CGST Rules 2017 due to the nature and the frequency of the invoice or a document issued in lieu of the invoice.

2.3. Sub-rule (4) of rule 48 of CGST rules provides that invoice shall be issued only after obtaining Invoice Reference Number. However, this rule doesn't cover debit note, credit note, export invoice, self-invoice in case of RCM supplies under section 31(3)(f) of CGST Act, 2017, invoice issued by an ISD and other documents. During the Law Committee meeting this issue was discussed and committee has recommended the amendment of rule 48 of CGST rules, 2017 to this effect.

2.4. Further During the discussion in Core group meeting, held on 10th February, 2020 GSTN has expressed inability to launch the e-invoice scheme for all taxpayers having aggregate turnover exceeding 100 Cr. from 01st April, 2020 on account of hardware capacity constraints. GSTN has proposed to roll out e-invoicing in a staggered manner for the taxpayers based on their aggregate turnover. This plausible solution may have less constraint on the hardware. GSTN proposed that initially e-invoicing may be introduced for the taxpayers whose aggregate turnover in preceding financial year exceeds five hundred crore rupees only. Subsequently, after the successful roll out of first phase, this e-invoicing may be made mandatory for taxpayers whose aggregate turnover in a financial year exceeds one hundred crore rupees.

2.5. The above issues were discussed in Law Committee in its meeting held on 2nd March, 2020, in view of the above Committee has recommended for deferring the date of implementation of e-invoice along with exemptions to aforesaid suppliers and invoices. Further, as the new rule provisions are proposed for the deferment for 6 month, it is proposed that e-invoicing also may be deferred by 6 months, and hence date of implementation of e-invoicing may be extended till 01st October, 2020 for the taxpayers whose aggregate turnover in a financial year exceeds one hundred crore rupees only.

3. In view of the above, on account of e-invoicing following proposals are proposed:
- a. Certain class of taxpayers like an insurance company or a banking company, a financial institution, non-banking financial institution, GTA, passenger transportation service providers as IRCTC referred in sub rule (2), (3), (4) and (4A) of rule 54 of CGST Rules, 2017 may be exempted from e-invoicing;
 - b. Amendment of rule 48 to include credit note, debit note, export invoice, ISD, self-invoice under section 31(3)(f) of CGST Act, 2017 in case of RCM supplies etc for the purpose of IRN;
 - c. Date of implementation of e-invoicing may be extended to 1st October, 2020 for the taxpayers whose aggregate turnover in a financial year exceeds one hundred crore rupees only.
4. Therefore, Notification No.70/2019 dated 13th December, 2019 may be amended. Accordingly, amended draft notification (**Annexure-A**) is placed before GST Council for its approval.

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section(i)]

Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
Notification No. XX/2020– Central Tax

New Delhi, the ...March, 2020

G.S.R.(E).— In exercise of the powers conferred by sub-rule (4) of rule 48 of the Central Goods and Services Tax Rules, 2017(hereinafter referred as said rules), the Government on the recommendations of the Council, and in supersession of the notification of the Government of India in the Ministry of Finance, Department of Revenue No. 70/2019 – Central Tax, dated the 13th December, 2019 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 926 (E), dated the 13th December, 2019, except as respects things done or omitted to be done before such supersession, hereby notifies registered person, other than those referred to in sub-rules (2), (3), (4) and (4A) of rule 54 of said rules, whose aggregate turnover in a financial year exceeds **one hundred crore** rupees, as a class of registered person who shall prepare **invoice and other prescribed documents**, in terms of sub-rule (4) of rule 48 of the said rules in respect of supply of goods or services or both to a registered person.

2. This notification shall come into force from the 01st October, 2020.

[F. No. -GST]

(XXXXXXXXXXXX)
Under Secretary to the Government of India

Agenda Item 5A(xiv): Exemption for certain class of registered persons from capturing dynamic QR code along with deferment of implementation of QR Code

Vide Notification No. 72/2019-Central Tax dated 13.12.2019 every registered person whose aggregate turnover exceeds ₹500 Crores in a financial year, is mandatorily required to capture a Quick Response ('QR') code on every tax invoice issued to unregistered customers i.e. for B2C supplies, along with other mandatory fields required on such tax invoices with effect from 1st April, 2020.

2. The implementation of the said notification has incurred few hiccups. They are listed below along with the proposal for solution to the said issues:

2.1. Certain class of taxpayers like an insurance or a banking company, a financial institutions, non-banking financial institution, GTA, passenger transportation service providers and various other taxpayers referred in sub rule (2), (3), (4) and (4A) of rule 54 of CGST Rules, 2017 who have been authorized to issue a document in lieu of invoice, may find it very unfeasible and difficult to capture dynamic QR code on their B2C invoices or on other document issued in lieu of invoice.

2.2. Further, National Payment Corporation of India (NPCI) was required to come up with detailed guidelines for QR code generation. NPCI was also mandated to create awareness among the trade about the implementation of QR code in B2C invoices. It has been brought to the notice that NPCI hasn't conducted any workshops/ awareness program in the trade on the said issue. In view of the above, it is also proposed that an invitation to NPCI for the upcoming meeting of GST Council may be sent to attend the meeting on the issue, so that they can present their roadmap for introducing the QR code for B2C invoices.

2.3. The above issues were placed before Law Committee in its meeting held on 2nd March, 2020, wherein committee has recommended for deferring the date of implementation of QR code along with exemptions to aforesaid taxpayers from the requirement of having QR Code. Law Committee also recommended for exemption of OIDAR from capturing dynamic QR code on their invoices.

3. In view of the above discussion, the following are proposed:

- a) Exemption from the requirement of QR Code referred in sub rule (2), (3), (4) and (4A) of rule 54 of CGST Rules, 2017
- b) An invitation to NPCI for the upcoming meeting of GST Council, so that they can present their roadmap for introducing the QR code for B2C invoices.
- c) Exemption of OIDAR from capturing dynamic QR code on their invoices.
- d) Deferring the date of implementation of QR code on B2C invoices to **1st October, 2020** now instead of 1st April, 2020

4. Therefore, the agenda for requisite amendment of Notification No.70/2019 dated 13th December, 2019 (Annexure A) in order to implement the proposals at para 3 above is placed before GST Council for its approval.

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section(i)]

**Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
Notification No. XX/2020– Central Tax**

New Delhi, the ...March, 2020

G.S.R.(E).— In exercise of the powers conferred under sixth proviso to rule 46 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), the Government, on the recommendations of the Council, and in supersession of the notification of the Government of India in the Ministry of Finance, Department of Revenue No. 72/2019 – Central Tax, dated the 13th December, 2019 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.....(E), dated the 13th December, 2019, except as respects things done or omitted to be done before such supersession, hereby notifies that an invoice issued by a registered person, whose aggregate turnover in a financial year exceeds five hundred crore rupees, other than registered person referred to in sub-rules (2), (3), (4) and (4A) of rule 54 of said rules, and registered person referred under section 14 of the Integrated Goods and Services Tax Act, 2017, to an unregistered person (hereinafter referred to as B2C invoice), shall have Dynamic Quick Response code (QR):

(i)

(ii) Provided further that where such registered person makes a Dynamic Quick Response (QR) code available to the recipient through a digital display, such B2C invoice issued by such registered person containing cross-reference of the payment using a Dynamic Quick Response (QR) code, shall be deemed to be having Quick Response (QR) code.

2. This notification shall come into force from the 1st day of October, 2020.

[F. No. -GST]

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Under Secretary to the Government of India

Agenda Item 5A(xv): Agenda note for GST Council regarding extension of date of GSTR 3B filing for the month of Jan, 2020 till 31st March 2020

It may be recalled that the Union Territory of Ladakh has been created under Jammu and Kashmir Reorganisation Act, 2019 and a separate State Code “38” has been assigned to it in the common portal. Accordingly, existing GSTINs in the erstwhile State of J&K having State Code “01” located in Ladakh have been assigned new GSTINs having State Code “38” with effect from 1st Jan, 2020.

2. It was informed by GSTN that the data migration activity took time and first batch was processed successfully on 7th Feb, 2020 and 14th Feb, 2020. In these two phases, only 1768 GSTINs were processed. Remaining 1305 GSTINs of normal taxpayers and GSTINs of deductors could not be processed due to failure of Batch. These GSTINs could be processed successfully on 28th Feb, 2020. Subsequent to processing of all GSTINs, return filing functionality for GSTR- 3B has been enabled on 29th Feb, 2020.

3. As the due date for return filing for the tax period of Jan, 2020 is already over, the extension of the due dates for the filing of returns is required to be given for the taxpayers of Ladakh to avoid levy of late fee. The date may be extended to 20th March, 2020. Similar extension will be required for **FORM GSTR-1** and **FORM GSTR-7**.

4. The matter was deliberated in the Law Committee in its meeting on 2nd March, 2020, and it was recommended that the due dates may be extended, as requested by GSTN. Implementation of the decision would require issuance of notifications for extension of due dates for **FORM GSTR-1**, **FORM GSTR-3B** and **FORM GSTR-7** for the month of **January, 2020**.

5. Accordingly, the issue is placed before the GST Council for approval.

Agenda Item 5A(xvi): Agenda note for GST Council regarding continuation of the existing system of furnishing FORM GSTR-1 and FORM GSTR-3B till the month of September, 2020

Reference is invited to notification Nos. 44-46/2019-Central Tax, all dated 09.10.2019, vide which the due dates for furnishing of details of outwards supplies under section 37 in **FORM GSTR-1** has been extended and the return in **FORM GSTR-3B** has been prescribed for the period October, 2019 to March, 2020. Subsequently, notification Nos. 07/2020-Central Tax, dated 03.02.2020 was issued to stagger the date of filing of return in **FORM GSTR-3B** for taxpayers having an aggregate turnover of up to rupees five Crore in the previous financial year to the 22nd and the 24th of the succeeding month for the months of January to March, 2020. The Law Committee, in its meeting held on 2nd March, 2020, has deliberated on the issues arising out of the perceived delay in the implementation of the new return system and accordingly, has recommended that the present return system of GSTR-1 / 3B may be extended for 6 more months.

2. It is pertinent to mention here that, as per the provisions of sub-rule (5) of rule 61 of the CGST Rules, 2017, the due date of **FORM GSTR-1** is required to be extended for prescribing the furnishing of **FORM GSTR-3B**. Accordingly, in order to prescribe the return under section 39 in **FORM GSTR-3B**, the following notifications are required to be issued under the CGST Act:

- **FORM GSTR-3B** may continue to be filed monthly by all tax payers for the months April, 2020 onwards on or before the 20th of the month succeeding such month or in such staggered manner as notified. Draft notification is enclosed as **Annexure A**.
- The due date for furnishing of details of outwards supplies in **FORM GSTR-1** under section 37 may be extended to 11th of succeeding month or such other date as may be recommended for all the taxpayers or for specific class of taxpayers.

3. Accordingly, the issue is placed before the GST Council for further deliberation.

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs

Notification No. __/2019 – Central Tax

New Delhi, the __ March, 2020

G.S.R...(E).- In exercise of the powers conferred by section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act) read with sub-rule (5) of rule 61 of the Central Goods and Services Tax Rules, 2017 (hereafter in this notification referred to as the said rules), the Commissioner, on the recommendations of the Council, hereby specifies that the return in **FORM GSTR-3B** of the said rules for each of the months from April, 2020 to September, 2020 shall be furnished electronically through the common portal, on or before the twentieth day of the month succeeding such month:

Provided that, for taxpayers having an aggregate turnover of up to rupees five Crore in the previous financial year, whose principal place of business is in the States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana or Andhra Pradesh or the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep, the return in **FORM GSTR-3B** of the said rules for the months of April, 2020 to September, 2020 shall be furnished electronically through the common portal, on or before the twenty-second day of the month succeeding such month:

Provided further that, for taxpayers having an aggregate turnover of up to rupees five Crore in the previous financial year, whose principal place of business is in the States of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha or the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi, the return in **FORM GSTR-3B** of the said rules for the months of April, 2020 to September, 2020 shall be furnished electronically through the common portal, on or before the twenty-fourth day of the month succeeding such month.

2. Payment of taxes for discharge of tax liability as per FORM GSTR-3B. – Every registered person furnishing the return in **FORM GSTR-3B** of the said rules shall, subject to the provisions of section 49 of the said Act, discharge his liability towards tax, interest, penalty, fees or any other amount payable under the said Act by debiting the electronic cash ledger or electronic credit ledger, as the case may be, not later than the last date, as specified in the first paragraph, on which he is required to furnish the said return.

[F. No. 20/06 __/__/2020-GST]

(_____)
Under Secretary to the Government of India

Agenda Item 5A(xvii): Transition Plan in view of merger of Union Territories of Dadra & Nagar Haveli and Daman & Diu

The Ministry of Home Affairs (MHA), Government of India (GoI) proposed merger of the existing UTs of Daman & Diu (hereinafter referred to as DD) and Dadra & Nagar Haveli (hereinafter referred to as DNH) into a single Union Territory. Accordingly, the Dadra and Nagar Haveli and Daman and Diu (Merger of Union Territories) Act, 2019, was passed by both houses of Parliament of India and assented to by the President of India on 09.12.2019 and was notified as Act No. 44 of 2019. Further, vide Notification No. 01/2020 dated 24th January, 2020, Govt. of India notified the appointed date for merger of the UT of DNH and UT of DD as 26th January, 2020.

2. Following are the changes that are required in view of the merger of UTs:

- (a) Migration of old GSTINs which are getting merged with new UT code 26,
- (b) Payment, Cash Ledger, Settlement Ledger, Return Dashboard and other changes,
- (c) Back Office related changes under Scrutiny, Assessment, Refund, Appeal, Adjudication, Enforcement, Recovery, BO login etc.
- (d) Offline Templates/ Utilities related changes,
- (e) Changes on account of other Stakeholders like Accounting Authorities, Banks, Pr. CCA etc.

3. In view of the above, it is proposed that a special procedure is required to be formulated and the same has to be notified under section 148 of the Act to address the aforesaid difficulties faced by the taxpayers of merged UT of DNH & DD. A proposed special procedure has been drawn up in lines with the special procedure formulated earlier for the reorganization of Jammu and Kashmir, and the same is placed below:

- There shall be a transition date to be decided in consultation with GSTN - tentatively 01.04.2020. The state code of DNH shall continue to remain the state code for the combined UT of DDDNH. The period between 26.01.2020 to the transition date shall be called the intervening period.
- Tax period for January will be 01.01.2020 to 26.01.2020
- Tax period for February will be 27.01.2020 to 29.02.2020
- On the transition date, all the registrations in the erstwhile UT of Daman and Diu be functionally limited to undertake compliance only till the month of March, 2020.
- Taxpayers who want to get registered separately in DD (i.e. those who want to have multiple registrations in the new UT or those who did not have registration in the erstwhile UT of DNH) are required to take a registration under the new code (which shall be the code of erstwhile DNH). Those having registration in both the UTs before the transition date may choose not to take a registration under DDDNH
- All new registrations in the intervening period to be given in the UT code of DDDNH
- In the intervening period, all transactions from erstwhile UT of DD to DNH, and vice-versa shall be leviable to CGST/UTGST. However, such transactions were earlier leviable to IGST, and in the absence of GSTIN under a separate code, the system would not allow showing of CGST/UTGST. Therefore, irrespective of what is charged on the invoices, while filing the returns, tax is to be paid in the correct head.
- For those in erstwhile choosing to take a new registration in DDDNH, after filing of the return for Jan, 2020, the ITC balance shall be passed on to the new registration (automatically in the backend system).

- For those having separate registrations in both the erstwhile UTs of DD and DNH, upon intimation to the jurisdictional officers of both the erstwhile UTs, and upon filing of the return for the period of January, 2020 for the erstwhile UT of DD, the balance in the electronic credit ledger shall be allowed to be moved to the registration in erstwhile DNH.
5. In order to address the issue, it is proposed to create a special procedure for such taxpayers in consultation with all the various stakeholders. The matter was deliberated in the Law Committee in its meeting on 02.03.2020, and the Law Committee recommended that the system may be devised by GSTN in consultation with all the stake holders. Implementation of the special procedure would require issuance of notification under section 148 of the CGST Act, 2017 and corresponding notification under the respective SGST Acts of the States.
6. Accordingly, the Agenda Note has been prepared along with a draft notification to implement the special procedure (**Annexure - A**).
7. Accordingly, the issue is placed before the GST Council for approval.

To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

**Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs**

Notification No. xx/2019 – Central Tax

New Delhi, the xxth February, 2020

G.S.R.....(E). - In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), read with sub-section (2) of section 23 of the said Act, the Government, on the recommendations of the Council, hereby notifies those persons whose principal place of business or place of business lies in the erstwhile Union territory of Daman and Diu or in the erstwhile Union territory of Dadra and Nagar Haveli till the 26th day of January, 2020; and lies in merged Union territory of Daman and Diu and Dadra and Nagar Haveli from the 27th day of January, 2020 onwards, as the class of persons who shall follow the following special procedure till the **31st day of March, 2020** (hereinafter referred to as the transition date), as mentioned below.

2. The said registered person shall,:-

- (i) ascertain the tax period as per sub-clause (106) of section 2 of the said Act for the purposes of any of the provisions of the said Act for the month of January, 2020 and February, 2020 as below:
 - (a) January, 2020: 1st January, 2020 to 26th January, 2020;
 - (b) February, 2020: 27th January, 2020 to 29th February, 2020;
- (ii) irrespective of the particulars of tax charged in the invoices, or in other like documents, raised from 27th January, 2020 till the transition date, pay the appropriate applicable tax in the return under section 39 of the said Act;
- (iii) taxpayers who have registered Goods and Services Tax Identification Number (GSTIN) in the erstwhile Union territory of Daman and Diu and the erstwhile Union territory of Dadra and Nagar Haveli till the 26th day of January, 2019 shall have an option to transfer the balance of input tax credit (ITC) after the filing of the return for January, 2020, from the registered Goods and Services Tax Identification Number (GSTIN) in the erstwhile Union territory of Daman and Diu to the registered GSTIN in the new Union territory of Daman and Diu and Dadra and Nagar Haveli by following the procedure as below:
 - (a) the said class of persons shall intimate the jurisdictional tax officer of the transferor and the transferee regarding the transfer of ITC, within one month of obtaining new registration;
 - (b) the ITC shall be transferred on the basis of the balance in the electronic credit ledger upon filing of the return in the erstwhile Union territory of Daman and Diu, for the tax period immediately before the transition date;
 - (c) the transfer of ITC shall be carried out through the return under section 39 of the said Act for the tax period immediately before the transition date and the transferor GSTIN would be debiting the said ITC from its electronic credit ledger in Table 4(B)(2) of **FORM GSTR-3B** and the transferee GSTIN would be crediting the equal amount of ITC in its electronic credit ledger in Table 4(A)(5) of **FORM GSTR-3B**.

3. The balance of Union territory taxes in electronic credit ledger of the said class of persons, whose principal place of business lies in the Union territory of Daman and Diu from the 26th day of January, 2020, shall be transferred as balance of Union territory tax in the electronic credit ledger.

4. The provisions of clause (i) of section 24 of the said Act shall not apply on the said class of persons making inter-State supplies between the erstwhile Union territories of Daman and Diu and the erstwhile Union territories of Daman and Diu from the 27th day of January, 2020, till the transition date.

[F. No. 20/06__/_/2020-GST]

(_____)
Under Secretary to the Government of India

Agenda Item 5A(xviii) Deferring e-Wallet scheme and extending duty exemption for exporters.

GST Council in its 22nd Meeting held on 06.10.2017 had approved proposals to prevent cash blockage of exporters due to upfront payment of GST on inputs, raw materials etc. One component of the solution was to exempt upto 31.03.2018 the IGST and Compensation Cess payable on the imports made by the holders of Advance Authorization holders (AA)/ Export Promotion Capital Goods (EPCG) licenses and EOUs. It was also decided that the long term permanent solution was to implement an 'e-Wallet' scheme so that exporters could pay the GST by using the 'amounts' in their e-Wallets. An 'e-Wallet Group' chaired by Chairman, GSTN and including officers of the Central and State Governments was constituted on 16.12.2017 to recommend an e-Wallet scheme. While work was going on the proposed e-Wallet scheme, the aforementioned exemptions were extended from time to time and are presently available upto 31.03.2020.

2. The e-Wallet group has identified various inter-dependencies between the e-wallet scheme and new return system which is to be introduced w.e.f. 01.04.2020. Once implemented, the Returns will take time to stabilize. An additional system burden by way of superimposition of e-wallet architecture on the same may lead to further destabilization of the new return implementation. Thus, the proposed e-Wallet scheme would need to be deferred till then. At the same time, tax exemptions on imports under AA/EPCG and EOU scheme are expiring on 31.03.2020, which is causing uncertainty to exporters. In this background the present agenda note is placed before the GST Council for deliberation and approval of following proposals:

- (a) Extension of the time to finalize the e-Wallet scheme upto 31.03.2021, and
- (b) Extension of the present exemptions from IGST and Cess on the imports made under the AA/EPCG/EOU schemes upto 31.03.2021.

Agenda Item 5B: Deliberations of the Law Committee in the matter of the representation by Construction Federation of India on the orders of the Hon'ble High Court of Delhi

On the basis of the Order dated 31.5.19 of the Hon'ble High Court of Delhi (enclosed as **Annexure A**) in Writ Petition No. 6536 of 2019 by M/s Hindustan Construction Company Limited, the Law Committee in its meeting held on 20th – 21st January 2020 has deliberated on the contents of the representation dated 06.11.18 of Construction Federation of India. The recommendations of the Law Committee are placed before the Council (enclosed as **Annexure B**).

2. The Hon'ble High Court of Delhi has directed that representation dated 06.11.18 made by Construction Federation of India may be considered by the GST Council and a decision be taken thereon. The Hon'ble High Court of Delhi has directed that a copy of the decision of the GST Council be placed before the Court on the next date of the Court.

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 6536/2019

HINDUSTAN CONSTRUCTION COMPANY LIMITED..... Petitioner

Through: Mr. A.R. Madhav Rao with Mr.
Onkar Sharma, Mr. Toshin Bishnoi,
Mr. Harsh Makhija and Mr. Shashank
Shekhar, Advocates.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Amit Bansal and Mr. Aman
Rewaria for R-2 and R-3.

Counsel for respondent No.1 (name
not given)

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE ASHA MENON

ORDER

31.05.2019

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CM APPL 27690/2019 & 27691/2019(exemption)

1. Allowed subject to just exceptions.

W.P.(C) 6536/2019 & CM APPL 27689/2019(stay)

2. Notice. Mr. Amit Bansal, learned counsel for respondents accepts notice for Respondents 2 and 3.

3. In the meanwhile, the representation made by the Construction Federation of India to the GST Council on 6th November, 2018 to be considered by the GST Council and a decision be taken thereon. It may be noted that points 5 and 6 of the said representation form the subject matter of the present

petition. A copy of the decision of the GST Council be placed before the Court on the next date.

4. List the matter before the Registrar on 3rd September, 2019 for completion of pleadings.

5. List before Court on 13th November, 2019.

6. *Dasti*.

S. MURALIDHAR, J.

ASHA MENON, J.

MAY 31, 2019
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- 1. Issue:** - Restricting reversal of Input Tax Credit with interest in case of non-payment within 180 days only for MSME Vendors (Section 16(2) of CGST Act)

Decision of the Law Committee: - The matter was reconsidered in detail and it was felt that this restriction should be maintained in its present form and should not be relaxed for any particular class of taxpayers.
- 2. Issue:** - Inter-state movement of construction equipment other than on the wheels from one branch to another to be treated as non-supply in lines with Circular no. 21/21/2017- GST dated 22.11.2017. CFI has represented that equipment like concrete mix plant, cable cranes, crawler cranes, generators, transformers, tunnel-boring machines, piling rigs, etc. are also construction equipments but have been overlooked as they are not equipments on wheels. It has been represented that these equipments are required to be moved from one state to another for executing projects and that these equipments need to be treated at par with rigs, tools and spares and all goods on wheels (like cranes). They have also enclosed a detailed list of such equipments along with their representation.

Decision of the Law Committee: - Law Committee was of the view that the previous decision was taken in the context of “goods” which are largely in the nature of mode of conveyances and all capital equipments are not of this nature. It was further felt that it is difficult to distinguish capital equipments from other goods that may be moved by such construction companies and trying to create an artificial distinction may lead to disputes as also misuse potential. Therefore, this proposal may not be agreed to.
- 3. Issue:** - CFI has requested to allow refund of input tax credit of input services also in case of inverted duty structure by making amendments in section 54(3)(ii) of CGST Act, 2017 and rule 89(5) of CGST Rules, 2017.

Decision of the Law Committee: - The matter was reconsidered in detail and it was felt that this restriction should be maintained in its present form since the refund concept and its details built in the GST Law was the outcome of a conscious decision taken after due deliberations in the Council.
- 4. Issue:** - Request has been made to notify effective date for applicability to sub-contractors retrospectively from 22.08.2017 instead of 25.01.2018 for the notification no. 20/2012-Integrated Tax (Rate) dated 22.01.2018 wherein rate was reduced to 12% for composite supply of works contract.

Decision of the Law Committee: - It has been the consistent stand of the Council that no retrospective amendments in rates may be made, except in the rarest of rare circumstances.
- 5. Issue:** - Request has been made that GST may not to be payable on Advance received for supply of Services. Request has been made that the provisions should be made similar to that applicable for Goods (notification no. 66/2017-Central Tax dated 15.11.2017) in order to maintain equity, avoid financial burden and unwarranted disputes. Alternatively, request has been that the recipient may be allowed to take ITC against receipt voucher.

Decision of the Law Committee: - The matter was deliberated in all its aspects and it was felt that the concept of tax on advance payment is among the best practices in GST internationally

and it should not be abandoned. It was further observed that payment was an important landmark at least in the case of services which testifies to the actual supply of the service.

6. **Issue:** - To allow JVs formed by construction companies to treat advances received from project authorities as 'transaction in money' and not liable to GST.

Decision of the Law Committee: - From the facts available to the Committee it was felt that in the instant case there is a supply of services by the different members of the JV to the JV and vice versa since the members and the JV are distinct legal entities. Therefore, the impugned further distribution of advance is not a transaction in money but is to be treated at par with receipt of advance in the normal case of business of supply of services.

7. **Issue:** - To include adequate provisions in the IGST Act so that the benefit of zero rated supply be extended to sub-contractors providing supply of goods/services to SEZ Units/ Developers, and to enable sub-contractor to supply goods/services without payment of GST, the LUT issued in favour of the principal contractor be allowed to be utilized by sub-contractor for the exemption goods/services.

Decision of the Law Committee: - In terms of the proviso to the section 16 of the IGST Act, only supplies to SEZ units and developers are zero rated and such zero rating does not extend to their contractors/sub-contractors.

Agenda Item 6: Creation of the State and Area Benches of the Goods and Services Tax Appellate Tribunal (GSTAT) for the State of Uttar Pradesh

The Chapter XVIII of the CGST Act, 2017 provides for the Appeal and Review Mechanism for dispute resolution under the GST Regime. Section 109 of this Chapter under CGST Act empowers the Central Government to constitute, on the recommendation of Council, by notification, with effect from such date as may be specified therein, an Appellate Tribunal known as the Goods and Services Tax Appellate Tribunal for hearing appeals against orders passed by the Appellate Authority or by the Revisional Authority. The law envisages constitution of National Bench/Regional Benches and the State Bench/Area Benches.

2. Sub section (6) of section 109 of the CGST Act reads as under:

(6) The Government shall, by notification, specify for each State or Union territory except for the State of Jammu and Kashmir, a Bench of the appellate Tribunal (hereafter in this Chapter, referred to as "State Bench") for exercising the powers of the Appellate Tribunal within the concerned State or Union territory:

Provided that for the State of Jammu and Kashmir, the State Bench of the Goods and Services Tax Appellate Tribunal constituted under this Act shall be the State Appellate Tribunal constituted under the Jammu and Kashmir Goods and Services Tax Act, 2017:

Provided further that the Government shall on receipt of a request from any State Government, constitute such number of Area Benches in that State, as may be recommended by the Council:

Provided also that the Government shall, on receipt of a request from any State, or on its own motion for a Union territory, notify the Appellate Tribunal in a State to act as the Appellate Tribunal for any other State or Union territory, as may be recommended by the Council, subject to such terms and conditions as may be prescribed.

3. While the proposal of states and UTs for creation of State and Area Benches of Goods and Services Tax Appellate Tribunal was considered in the 35th and 37th meeting of the GST Council, the proposal for the State of Uttar Pradesh could not be considered as the Hon'ble High Court of Allahabad, Lucknow Bench had quashed the proposal of State Government for setting up of State Bench in Allahabad and 4 Area benches in Ghaziabad, Lucknow, Varanasi and Agra. The Department of Revenue has proposed to file SLP against the said judgment of the Allahabad high Court, Lucknow Bench.

4. Hon'ble High Court of Allahabad vide its judgement dated 16.01,2020 in Writ Tax No. 942 of 2018 has inter-alia directed that the issue of creation of GSTAT Benches for the state of Uttar Pradesh be taken up by the Central Government as well as the GST Council, as expeditiously as possible.

5. Accordingly, proposal for creating State Bench of Good and Services Tax Appellate Tribunal for the State of Uttar Pradesh in Allahabad and 4 Area Benches in Ghaziabad, Lucknow, Varanasi and Agra is placed before GST Council for consideration.

Enclosed: Annexure A (for reference)

The details of GSTAT benches at National/Regional and State/Area level

The GST Council has considered and recommended creation of GSTAT benches at National/Regional and State/Area level in its different meetings, which are briefed as below:

I. 28th meeting of the GST Council on 21.07.2018:

- (i) Constitution of Goods and Services Tax Appellate Tribunal (GSTAT); and
- (ii) Creation of National Bench of GST Appellate Tribunal at New Delhi and three Regional Benches at Mumbai, Chennai and Kolkata.
- (iii) Union Cabinet approved creation of National Bench of the GST Appellate Tribunal at New Delhi. Subsequently, National Bench at New Delhi was notified vide Notification No. **S.O. 1359(E)**—[No. 1/2019, [F.No. A.50050/99/2018-Ad.1C(CESTAT)]] dated 13-03-2019 issued by Department of Revenue.
- (iv) The Rules for the GSTAT, namely, The Goods and Services Tax Appellate Tribunal (Appointment and Conditions of Service of President and Members) Rules, 2019 were notified by Central Government vide notification No. G.S.R. 584(E)- [F.No. A.50050/99/2018-Ad.1C(CESTAT)] dated 21.08.2019.

II. 35th meeting of the GST Council on 21.06.2019:

- (i) Creation of State/Area bench as per requests received from States.
- (ii) Constitution of Jammu & Kashmir GST Appellate Tribunal in terms of proviso to Section 109(6) of the CGST Act, 2017.

The State and Area bench as per above recommendations, notified vide Notification No. **S.O. 3009(E)**— [F.No. A.50050/150/2018-Ad.1C(CESTAT)] dated 21-08-2019 issued by Department of Revenue, as under:

Sl. No.	Name of States/Union Territory	Location for State Bench	Location for Area Bench
1.	Andhra Pradesh	Vijayawada	Vishakhapatnam and Tirupati
2.	Assam	Guwahati	No bench
3.	Bihar	Patna	-do-
4.	Chhattisgarh	Atal Nagar Raipur	-do-
5.	Delhi	New Delhi	-do-
6.	Goa	Panaji	-do-
7.	Gujarat	Ahmedabad	Surat and Rajkot
8.	Haryana	Hisar	No bench
9.	Himachal Pradesh	Shimla	-do-
10.	Jharkhand	Ranchi	-do-
11.	Karnataka	Bengaluru	-do-
12.	Kerala	Thiruvananthapuram	-do-

13.	Maharashtra	Mumbai	Pune and Nagpur
14.	Odisha	Cuttack	No bench
15.	Puducherry	Pondicherry	-do-
16.	Punjab	Chandigarh	-do-
17.	Tamil Nadu	Chennai	-do-
18.	Telangana	Hyderabad	-do-
19.	Tripura	Agartala	-do-
20.	Uttarakhand	Dehradun	No bench
21.	West Bengal	Kolkata	Two Area Benches at Kolkata
22.	Arunachal Pradesh	Common State Bench of GSTAT at Guwahati, Assam	
23.	Manipur		
24.	Nagaland		
25.	Sikkim		
UTs (without legislature)			
26.	Andaman & Nicobar	State Bench of West Bengal (Kolkata)	
27.	Dadra & Nagar Haveli	State Bench of Maharashtra (Mumbai)	
28.	Daman & Diu	State Bench of Maharashtra (Mumbai)	
29.	Lakshadweep	State Bench of Kerala (Ernakulam)	
30.	Chandigarh	State Bench of Punjab (Chandigarh)	

III. 37th meeting of the GST Council on 20.09.2019:

Creation of State/Area bench for following States as per requests received from States:

Sl. No.	Name of States/ Union Territory	Location for State Bench	Location for Area Bench
1.	Meghalaya	Shillong	No bench
2.	Mizoram	Aizawl	-do-
3.	Rajasthan	Jaipur	Jodhpur
4.	Karnataka		Two Area benches at Bengaluru

IV. 38th meeting of the GST Council on 18.12.2019:

Creation of State/Area bench for following States as per requests received from States:

Sl. No.	Name of States/ Union Territory	Location for State Bench
1.	Madhya Pradesh	Indore
2.	Meghalaya	Guwahati* (*request from the Govt. of Meghalaya to club State Bench of Assam at Guwahati instead of earlier proposal at Shillong)
3.	Punjab	Ludhiana* (* the Govt. of Punjab has requested to change the State Bench of Punjab to Ludhiana instead of Chandigarh)

Agenda Item 7: Quarterly Report of the NAA (National Anti-profiteering Authority) for the quarter October to December 2019 for the information of the Council

In terms of provisions of clause (iv) of Rule 127 of the CGST Rules 2017, National Anti-Profiteering Authority (NAA) is required to furnish a performance report to the GST Council by 10th of the closing of each quarter. Anti-profiteering provisions are contained under Section 171 of the CGST Act, 2017 which empowers NAA to determine as to whether benefit of reduced rate of tax or the Input Tax Credit (ITC) has been passed on to the recipient by way of commensurate reduction in the prices and in case of failure, NAA may order reduction in prices, commensurate benefit to recipient, impose penalty and cancel registration, in suitable cases.

2. Anti-profiteering mechanism under GST is a multi-tier mechanism. The methodology of examination of the complaints to determine profiteering is as under:

- i. State Level Screening Committee (SLSC) examines State level complaint and recommends to the Standing Committee (SC);
- ii. SC, in addition to complaints recommended by SLSC, also receives complaint directly in respect of suppliers having pan India or presence in more than one State/UT;
- iii. SC examines and sends recommendation to the DG, Anti-profiteering (DGAP).
- iv. DGAP then completes investigation, within a period of 3 months, and furnishes a report of its findings to NAA.
- v. Based on the report from DGAP, NAA determines all aspects relating to profiteering, passes its order regarding reduction in prices; return of amount to recipient; imposition of penalty; and cancellation of registration.

3. Accordingly, the performance report of anti-profiteering at various levels for the 3rd quarter ending December, 2019 of Financial Year 2019-20 at various levels, is as under:

3.1. Performance of **National Anti-Profiteering Authority:**

Opening Balance	No. of Investigation Reports received from DGAP during the quarter	Disposal of Cases (during Quarter)				Closing Balance
		Total Disposal during quarter	No. of cases Where Profiteering established	No. of cases Where Profiteering not established	No. of cases referred back to DGAP	
84	36	46	31	02	13	74

3.2. Performance of **DG (Anti-profiteering):**

Opening Balance (No. of cases)	Receipt	Category of cases received					Disposal	Mode of disposal of cases		Closing Balance (No. of cases)
		Construction Services	FMC G	Restaurant Services	Cinema	Others		Report to NAA confirming profiteering	Report to NAA for closure action	
61	55	41	4	3	6	1	25	24	1	91

3.2 Performance report of the **Standing Committee** on Anti-profiteering:

Opening Balance (No. of cases)	Receipt	Disposal	Closing Balance (No. of cases)
40	232	155	117

3.3 Performance report from the **State Level Screening Committee**:

Opening Balance (No. of cases)	Receipt	Disposal		Closing Balance (No. of cases)
		Cases referred to Standing Committee	Cases Rejected	
81	226	177	67	63

Note: A detailed performance of each State Level Screening Committee is enclosed at **Annexure “A”**.

4. During this quarter, Outreach Programmes and Zonal review meetings have been convened by the Chairman and the Technical Members of NAA as follows:

- I. Chandigarh on 1st November, 2019
- II. Mumbai on 2nd November, 2019
- III. Guwahati on 14th November, 2019
- IV. Shillong on 16th & 17th November, 2019
- V. Kolkata on 18th November, 2019

5. Accordingly, the 3rd quarterly report of the National Anti-profiteering Authority for the period from October to December 2019 is placed before the GST Council.

Performance Report from the State Level Screening Committee -Quarter October - December 2019							
S.No.	States	October to December, 2019					
		R/NR	OB	R	Disposal		CB
					SC	R	
1	Andhra Pradesh	✓	7	4	4	3	4
2	Arunachal Pradesh	✓	0	0	0	0	0
3	Assam	✓	0	0	0	0	0
4	Bihar	✓	3	3	1	5	0
5	Chhattisgarh	✓	0	0	0	0	0
6	Goa	✓	0	0	0	0	0
7	Gujarat	✓	6	2	2	0	6
8	Haryana	✓	0	44	39	5	0
9	Himachal Pradesh	X					
10	Jammu and Kashmir	✓	0	0	0	0	0
11	Jharkhand	✓	4	1	2	3	0
12	Karnataka	✓	7	28	28	5	2
13	Kerala	X					
14	Madhya Pradesh	✓	18	8	0	22	4
15	Maharashtra	✓	9	28	34	0	3
16	Manipur	✓	0	0	0	0	0
17	Meghalaya	✓	0	0	0	0	0
18	Mizoram	✓	0	0	0	0	0
19	Nagaland	✓	0	0	0	0	0
20	NCT of Delhi	✓	10	33	17	19	7
21	Odisha	X					
22	Puducherry	✓	0	0	0	0	0
23	Punjab	X					
24	Rajasthan	✓	5	4	7	1	1
25	Sikkim	✓	0	0	0	0	0
26	Tamil Nadu	✓	4	0	0	0	4
27	Telangana	✓	0	25	7	4	14
28	Tripura	✓	0	0	0	0	0
29	Uttar Pradesh	✓	4	45	36	0	13
30	Uttarakhand	✓	4	1	0	0	5
31	West Bengal	X					
		26	81	226	177	67	63

	Active SLSCs (where receipt & disposal being done timely)
	Inactive SLSCs (where disposal not commensurate with receipts)
	States giving NIL receipts & disposal
	States from where reports are not received

Agenda Item 8: Deemed ratification of notifications, Circulars and Orders by the GST Council

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 the 38th meeting held on 18th December, 2019, the GST Council had ratified all the notifications, Circulars, and Orders issued before the 14th December, 2019.

2. In this respect, the following notifications, Circulars and Orders issued after 14th December, 2019 till 8th March, 2020 under the GST laws by the Central Government, as available on www.cbic.gov.in, are placed before the Council for information and ratification: -

Act/Rules	Type	Notification/Circular/Order Nos.	Description/Remarks
CGST Act/CGST Rules	Central Tax	1. Notification No. 73/2019 - Central Tax dated 23.12.2019	Seeks to extend the last date for filing of FORM GSTR-3B for the month of November, 2019 by three days from 20.12.2019 till 23.12.2019
		2. Notification No. 74/2019 - Central Tax dated 26.12.2019	Seeks to waive late fees for non- filing of FORM GSTR-1 from July, 2017 to November, 2019
		3. Notification No. 75/2019 - Central Tax dated 26.12.2019	Seeks to carry out changes in the CGST Rules, 2017
		4. Notification No. 76/2019-Central Tax dated 26.12.2019	Seeks to extend the due date for furnishing of return in FORM GSTR-1 for registered persons in Assam, Manipur or Tripura having aggregate turnover more than 1.5 crore rupees for the month of November, 2019
		5. Notification No. 77/2019 - Central Tax dated 26.12.2019	Seeks to extend the due date for furnishing of return in FORM GSTR-3B for registered persons in Assam, Manipur, Meghalaya or Tripura for the month of November, 2019
		6. Notification No. 78/2019 - Central Tax dated 26.12.2019	Seeks to extend the due date for furnishing of return in FORM GSTR-7 for registered persons in Assam, Manipur or Tripura for the month of November, 2019
		7. Notification No. 01/2020-Central Tax dated 01.01.2020	Seeks to bring into force certain provisions of the Finance (No. 2) Act, 2019 to amend the CGST Act, 2017.

		8. Notification No. 02/2020-Central Tax dated 01.01.2020	Seeks to carry out changes in the CGST Rules, 2017.
		9. Notification No. 03/2020-Central Tax dated 01.01.2020	Seeks to amend the notification No. 62/2019 – Central Tax dated 26.11.2019 to amend the transition plan for the Union Territories of Jammu & Kashmir and Ladakh
		10. Notification No. 04/2020 - Central Tax dated 10.01.2020	Seeks to extend the one-time amnesty scheme to file all FORM GSTR-1 from July 2017 to November, 2019 till 17 th January, 2020.
		11. Notification No. 05/2020 - Central Tax dated 13.01.2020	Seeks to appoint Revisional Authority under CGST Act, 2017.
		12. Notification No. 06/2020-Central Tax dated 03.02.2020	Seeks to extend the last date for furnishing of annual return/reconciliation statement in FORM GSTR-9/FORM GSTR-9C for the period from 01.07.2017 to 31.03.2018.
		13. Notification No. 07/2020-Central Tax dated 03.02.2020	Notification issued to prescribe due dates for filing of return in FORM GSTR-3B in a staggered manner.
		14. Notification No. 08/2020 - Central Tax dated 02.03.2020	Seeks to amend the CGST Rules, 2017 to prescribe the value of Lottery
	Central Tax (Rate)	1. Notification No. 27/2019 - Central Tax (Rate) dated 30.12.2019	Seeks to further amend notification No. 01/2017 -Central Tax (Rate) to change the rate of GST on goods as per recommendations of the GST Council in its 38 th meeting.
		2. Notification No. 28/2019 - Central Tax (Rate) dated 31.12.2019	To amend notification No. 12/ 2017 - Central Tax (Rate) so as to exempt certain services as recommended by GST Council in its 38 th meeting held on 18.12.2019.
		3. Notification No. 29/2019 - Central Tax (Rate) dated 31.12.019	To amend notification No. 13/ 2017 - Central Tax (Rate) so as to notify certain services under reverse charge mechanism (RCM) as recommended by GST Council in its 38 th meeting held on 18.12.2019.

		4. Notification No. 01/2020 - Central Tax (Rate) dated 21.02.2020	Seeks to amend notification No. 1/2017- Central Tax (Rate) dated 28.06.2017 so as to notify rate of GST on supply of lottery.
UTGST Act	Union Territory Tax (Rate)	1. Notification No. 27/2019 - Union Territory Tax (Rate), dated 30.12.2019	Seeks to further amend notification No. 01/2017- Union Territory Tax (Rate) to change the rate of GST on goods as per recommendations of the GST Council in its 38 th meeting.
		2. Notification No. 28/2019 - Union Territory Tax (Rate), dated 30.12.2019	To amend notification No. 12/2017- Union Territory Tax (Rate) so as to exempt certain services as recommended by GST Council in its 38 th meeting held on 18.12.2019.
		3. Notification No. 29/2019 - Union Territory Tax (Rate), dated 30.12.2019	To amend notification No. 13/2017-Union Territory Tax (Rate) so as to notify certain services under reverse charge mechanism (RCM) as recommended by GST Council in its 38 th meeting held on 18.12.2019.
		4. Notification No. 01/2020 - Union Territory Tax (Rate) dated 21.02.2020	Seeks to amend notification No. 1/2017-Union Territory Tax (Rate) dated 28.06.2017 so as to notify rate of GST on supply of lottery.
IGST Act	Integrated Tax	1. Notification No. 01/2020 - Integrated Tax dated 01.01.2020	Seeks to bring into force certain provisions of the Finance (No. 2) Act, 2019 to amend the IGST Act, 2017
	Integrated Tax (Rate)	1. Notification No. 26/2019 - Integrated Tax (Rate) dated 30.12.2019	Seeks to further amend notification No. 01/2017- Integrated Tax (Rate) to change the rate of GST on goods as per recommendations of the GST Council in its 38 th meeting.
		2. Notification No. 27/2019 - Integrated Tax (Rate) dated 31.12.2019	To amend notification No. 9/2017- Integrated Tax (Rate) so as to exempt certain services as recommended by GST Council in its 38 th meeting held on 18.12.2019.
		3. Notification No. 28/2019 - Integrated Tax (Rate) dated 31.12.2019	To amend notification No. 10/2017 - Integrated Tax (Rate) so as to notify certain services under reverse charge mechanism (RCM) as recommended by GST Council in its 38 th meeting held on 18.12.2019.
		4. Notification No. 01/2020 - Integrated	Seeks to amend notification No. 1/2017 - Integrated Tax (Rate) dated 28.06.2017 so as to notify rate of GST on supply of lottery.

		Tax (Rate) dated 21.02.2020	
Circulars	Under CGST Act, 2017	1. Circular No. 128/47/2019 dated 23.12.2019	Generation and quoting of Document Identification Number (DIN) on any communication issued by the officers of the CBIC to tax payers and other concerned persons.
		2. Circular No. 129/48/2019 dated 24.12.2019	Standard Operating Procedure to be followed in case of non-filers of returns
		3. Circular No. 130/49/2019 dated 31.12.2019	Reverse Charge Mechanism (RCM) on renting of motor vehicles.
		4. Circular No. 131/1/2020 dated 23.01.2020	Standard Operating Procedure (SOP) to be followed by exporters
Removal of Difficulty Order	Under CGST Act, 2017	1. Order No. 10/2019 - Central Tax dated 26.12.2019	Seeks to extend the last date for furnishing of annual return/reconciliation statement in FORM GSTR-9/FORM GSTR-9C for F.Y. 2017-18 till 31.01.2020
Order	Under CGST Act, 2017	1. Order No. 01/2020- GST dated 07.02.2020	Extension of time limit for submitting the declaration in FORM GST TRAN-1 under rule 117 (1A) of the Central Goods and Service Tax Rules, 2017 in certain cases

3. The GST Council may grant deemed ratification to the notifications, Circulars and Orders as detailed above.

Agenda Item 9: Decisions of the GIC Implementation Committee (GIC) for information of the GST Council

The GST Implementation Committee (GIC) took certain decisions between 19th December 2019 and 13th March 2020. Due to the urgency involved, decisions were taken after obtaining approval by circulation amongst GIC members. The details of the decisions taken are given below:

Decision by Circulation – 23rd December 2019

2 The proposal before the GIC related to the extension of the last date for filing **FORM GSTR-3B** for month of November, 2019 from 20th December, 2019 to 23rd December 2019.

2.1 It was noticed from media and news reports that the economic activity including **FORM GSTR-3B** filing had got impacted in several States on account of blockage of internet services in view of the prevailing law and order situation.

2.2. It was also informed by CEO GSTN, that several taxpayers from different States, where internet services had been disrupted on 19th & 20th December, 2019 (primarily Rajasthan, Assam and Uttar Pradesh), had been calling up GSTN Helpdesk and enquired about extension of due date for **FORM GSTR-3B** for the month of November 2019.

2.3 In view of the above, it was felt that the due date for filing return in **FORM GSTR-3B** for the month of **November, 2019** for all taxpayers may be extended to 23rd December, 2019. Further, due to the urgency of the situation, the due date was already extended on the common portal to 23.12.2019 on 21.12.2019 (Saturday).

2.4. Accordingly, the agenda note was placed before the GIC for *post-facto* approval of the above proposal by the GIC. The GIC approved the proposal to extend the due date for filing of FORM GSTR-3B for the month of November 2019. Accordingly, implementing Notification No. 73/2019–Central Tax dated 23.12.19 was issued.

Decision by Circulation – 30th December 2019

Agenda Item 1 – Issuance of notification to implement the transition plan for J&K under GST: Amendments in notification No. 62/2019– Central Tax dated 26th November, 2019

3. The proposal before the GIC was issuance of notification to implement the transition plan for J&K under GST by amending notification No. 62/2019– Central Tax dated 26.11.19. It was mentioned in the agenda that on the recommendation of the Council, notification No. 62/2019 – Central Tax dated 26th November, 2019 was issued. The said notification specified a special procedure to be followed by taxpayers in the erstwhile State of J&K and UT of Ladakh till the transition date (i.e. 31.12.2019). In the said transition plan notification, it was specified that the registration to be taken by the taxpayers shall be completed by 31.12.2019 and the compliance for November, 2019 shall be under the new registrations.

3.1. However, in a meeting held on 16.12.19, it was brought to notice by GSTN that the registrations under the new State Code would be granted only from 01.01.2020; and meanwhile few of the taxpayers with principal place of business in Ladakh (for whom a new State Code was to be generated) have already filed returns for the month of November, 2019 under the earlier registration code.

3.2. Therefore, a situation had occurred wherein few of the taxpayers who should ideally have filed their returns for the months of November, 2019 under the new registration codes (GSTINs) had filed under the old GSTINs, apparently in the absence of readiness of portal to allot new registration code.

3.3. Accordingly, necessary amendment in the notification No. 62/2019 – Central Tax dated the 26th November, 2019 would be required to ensure that effective date of registration for the class of taxpayer under the said notification may be made as 01.01.2020. This would mean that the return for the months of November, 2019 and December, 2019 would only be filed under the earlier GSTINs under SGST J&K. Accordingly, certain amendments in the notification No. 62/2019 – Central Tax dated the 26th November, 2019 were proposed.

3.4. The GIC approved the proposal to amend the notification No. 62/2019-Central Tax dated 26.11.19. Accordingly, implementing Notification No. 03/2020 – Central Tax dated 01.01.20 was issued.

Agenda Item 2 – Proposal for amendment in CGST Rules, 2017

4. It was mentioned in the agenda that Law Committee in its meeting held on 11th and 12th December, 2019, deliberated upon several issues and recommended changes in various provisions of the Central Goods and Services Tax Rules, 2017. In addition to the changes in the CGST Rules, changes in the FORMS were also recommended by the Law Committee. These are summarized as below:

- a. Amendment to Rule 117
- b. Amendment of FORM GST REG-01
- c. Amendment of FORM GSTR-3A
- d. Insertion of FORM GST INV-01

4.1. The GIC approved the proposal to amend the CGST Rules, 2017. It was also decided that the States would also be required to make similar changes in rules or forms, as the case may be. Accordingly, the implementing Notification No. 02/2020 – Central Tax dated 01.01.2020 was issued.

Decision by Circulation – 10 January 2020

5 The proposal before the GIC related to extension of amnesty from late fees on GSTR-1 for July 2017 to November 2019 from 10.01.2020 to 17.01.2020.

5.1 The Council in the 38th GST Council Meeting decided to provide an amnesty from late fee on GSTR-1 for the period from July, 2017 to November, 2019, if filed by 10.01.2020. The response was very encouraging and over 8 lakh GSTR-1s got filed on 09.01.2020 itself. Still over 3 Crore GSTR1s were to be filed (down from 4.24 Crore as on 01.12.2020). Accordingly, with a view to encourage taxpayers to file GSTR-1s and this reduce unmatched credit it was proposed to extend the date from 10.01.2020 to 17.01.2020.

5.2 Accordingly, the agenda note was placed before the GIC for approval. The GIC approved the proposal regarding extension of amnesty from late fees on GSTR-1 for July 2017 to November 2019 from 10.01.2020 to 17.01.2020. Thus, implementing Notification No. 04/2020- Central Tax dated 10th January 2020 was issued.

Decision by Circulation – 14 January 2020

Agenda Item 1 - Amendment to IGST Act, UTGST Act and GST (Compensation to States) Act, consequential to amendment in Section 172 of the CGST Act

6. It was mentioned that Agenda Note No. 6 (ii) placed before the GST Council in its 38th Meeting held on 18.12.2019, inter-alia, amendment to section 172 of the CGST Act, 2017(Removal of difficulties), as recommended by the Law Committee, was approved by the Council. In the said amendment, it was proposed to substitute the word “three” by “five” in the proviso to sub-section (1) of Section 172.

6.1. As a consequence, similar amendments were also required to be made in the corresponding proviso of section 25 of IGST Act, 26 of UTGST Act and 14 of GST (Compensation to States) Act. It was further brought to attention that the sections in each Act are independently applicable exclusively to the provisions of respective Acts, but all the Acts are simultaneously applicable in the respective jurisdictions of the centre and the States. Accordingly, the increase in time for issuance of removal of difficulties order is required to be synchronised with Section 172 of CGST Act in the corresponding sections in each of these allied Acts.

6.2. Accordingly, it was proposed that the word “three” may be substituted with “five” in Section 25(1) of IGST Act, Section 26(1) of UTGST Act and Section 14(1) of GST (Compensation to States) Act.

6.3. The GIC approved the proposal to substitute the word ‘three’ with ‘five’ in section 25(1) of IGST Act, Section 26(1) of UTGST Act and Section 14(1) of GST (Compensation to States) Act.

Agenda Item 2 - Amendment in the CGST Act and the UTGST Act, consequential to passing of Dadra and Nagar Haveli and Daman and Diu (Merger of Union Territories) Act, 2019

7. It was mentioned in the agenda that Union Cabinet had approved the merger of the existing UTs of Daman and Diu and Dadra and Nagar Haveli into a single Union Territory. Accordingly, the Dadra and Nagar Haveli and Daman and Diu (Merger of Union Territories), Bill, 2019, was passed by both Houses of Parliament of India and assented to by the President of India on **09.12.2019** and was notified as Act No. 44 of 2019

7.1. The Government of India, Ministry of Home Affairs *vide* notification No. S.O. 4542 dated 19.12.2019, had appointed **26th January, 2020** as the date on which the provisions of the Dadra and Nagar Haveli and Daman and Diu (Merger of Union Territories) Act, 2019 will come into force.

7.2. In view of the above, various amendments in the CGST Act, 2017 and the UTGST Act, 2017 were required to be carried out. The details of the amendments are as given below:

CGST Act, 2017: Amendment of Section 2	(11 4) “Union territory” means the territory of— (a) the Andaman and Nicobar Islands; (b) Lakshadweep; (c) Dadra and Nagar Haveli and Daman and Diu; (d) Daman and Diu; (e) Chandigarh; and (f) other territory.
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	<i>Explanation.</i> —For the purposes of this Act, each of the territories specified in sub-clauses (a) to (f) shall be considered to be a separate Union territory;
UTGST Act, 2017: Amendment of Section 1	In sub-section (2) of Section 1 of the Union Territory Goods and Services Tax Act, 2017 (No. 14 of 2017) (hereinafter referred to as “the Principal Act” for the sake of brevity), for the words “Dadra and Nagar Haveli, Daman and Diu” the words “Dadra and Nagar Haveli and Daman and Diu” shall be substituted.
UTGST Act, 2017: Amendment of Section 2	(1) In sub-section (8) clause (iii) of the Principal Act, after the words “Dadra and Nagar Haveli”, the words “and Daman and Diu” shall be inserted; (2) The sub-section (8) clause (iv) of the Principal Act, the words “Daman and Diu” shall be omitted.

7.3. The GIC approved the proposals relating to amendments in the section 2(114) of the CGST Act, 2017, and sections 1 and 2(8) of the UTGST Act, 2017

Decision by Circulation – 23 January 2020

The proposal before the GIC related to staggering of due dates for filing of returns in FORM GSTR-3B.

8.1 There were reports in social media regarding difficulties faced by the taxpayers in filing their returns during the period immediately before the due date. In the past also, such issues had cropped up and to address the same, due date had been extended by 2-3 days on a few occasions. The issue was discussed in detail with the GSTN Officials and considering the difficulties faced by trade and industry in filing of returns, it was felt that the GST taxpayers be allowed to file their **FORM GSTR-3B** returns in a staggered manner, to improve their filing experience.

8.2 In this regard, reference was invited to provisions of sub-section (5) of section 39 of the Central Goods and Services Tax Act, 2017 (CGST Act, 2017), which are as under:

“Every registered non-resident taxable person shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, within twenty days after the end of a calendar month or within seven days after the last day of the period of registration specified under sub-section(1) of section 27, whichever is earlier.”.

As per the said provision, the due date for filing of returns in **FORM GSTR-3B** for every month is the 20th day of the next calendar month. However, it was noted that the taxpayers are free to file their monthly returns anytime during the period 11th of the next month to the 20th of that month. Further, if the taxpayers do not file their returns within the specified timelines, the provisions of late fees and interest become applicable.

8.3 Further, sub-section (6) of section 39 provides that

“the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the returns under this section for such class of registered persons as may be specified therein:

Provided that any extension of time limit notified by the Commissioner of State tax or Union territory tax shall be deemed to be notified by the Commissioner.”.

8.4 As such, different due dates could be provided for different classes of registered persons by exercising powers under provisions of Section 39(6). As per the decision in the 37th Meeting of the GST Council, the new return system was proposed to be implemented from the month of April, 2020 and accordingly, the present GSTR-1/GSTR-3B system was expected to continue till the month of March, 2020. Accordingly, Notification No.44/2019 – Central Tax, dated the 09th October, 2019 had been issued to specify the filing of returns in **FORM GSTR-3B** under the present GSTR-1/GSTR-3B.

8.5 In terms of discussions with GSTN and keeping the revenue concerns the proposal was detailed as below:

- (i) the due date for filing of GSTR-3B for the taxpayers having aggregate annual turnover exceeding Rs. 5 crore in the previous financial year be maintained as 20th of the month
- (ii) For the taxpayers having an aggregate turnover of up to Rs. 5 Crore in previous financial year, having principal place of business in 15 States and Union Territories viz. Chhattisgarh, Madhya Pradesh, Gujarat, Daman and Diu, Dadra and Nagar Haveli, Maharashtra, Karnataka, Goa, Lakshadweep, Kerala, Tamil Nadu, Puducherry, Andaman and Nicobar Islands, Telangana and Andhra Pradesh, the due date for filing GSTR-3B returns be extended by two days to 22nd of the succeeding month. *(This category would have around 49 lakh GSTR-3B filers)*
- (iii) For the taxpayers having an aggregate turnover of up to Rs. 5 Crore in previous financial year, having principal place of business in the 22 States and Union Territories viz. Jammu and Kashmir, Ladakh, Himachal Pradesh, Punjab, Chandigarh, Uttarakhand, Haryana, Delhi, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand and Odisha, the due date for filing GSTR-3B returns be extended by four days to 24th of the succeeding month. *(This category would have around 46 lakh GSTR-3B filers).*

8.6. Accordingly, the agenda note was placed before the GIC for approval. The GIC approved the proposal to stagger due dates for filing of returns in FORM GSTR-3B. Accordingly, implementing Notification No. 07/2020- Central Tax dated 3rd February 2020 was issued.

Decision by Circulation – 01 February 2020

The proposal before the GIC related to extension of due dates for filing of Annual returns / Reconciliation Statement in FORM GSTR-9 / GSTR-9C for Financial Year 2017-18 in staggered manner because of technical glitches.

9.1 There were reports in social media regarding difficulties faced by the taxpayers in filing their annual returns during the period immediately before the due date of filing of Annual Return / Reconciliation Statement for Financial Year 2017-18 in FORM GSTR-9 / GSTR-9C. In the past also, issues regarding difficulties in filing of returns around the last date had been cropping up, and to address the same, due date was extended on a few occasions. The due date for filing of Annual Return / Reconciliation Statement in FORM GSTR-9 / GSTR-9C for Financial Year 2017-18 was last extended to 31st January, 2020. The issue was discussed in detail with the GSTN Officials and considering the difficulties faced by trade and industry in filing of returns, it was felt that if the GST taxpayers were

allowed to file their Annual Return / Reconciliation Statement in FORM GSTR-9 / GSTR-9C for Financial Year 2017-18 in a staggered manner for taxpayers located in a group of States/Union Territories, their filing experience may improve.

9.2 As such, different due dates could be provided for different classes of registered persons by exercising powers under provisions of sub-section (1) of section 44. In terms of discussions with GSTN and keeping the revenue concerns the proposal for the extension of due dates and staggering was detailed as below:

- i. Group 1: Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Puducherry, Telangana, Andhra Pradesh - 3rd February 2020;
- ii. Group 2: Jammu and Kashmir, Ladakh, Himachal Pradesh, Punjab, Chandigarh, Uttarakhand, Haryana, Delhi, Rajasthan, Gujarat - 5th February 2020;
- iii. Group 3: Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Andaman & Nicobar Islands, Jharkhand, Odisha, Chhattisgarh, Dadra and Nagar Haveli and Daman and Diu, Lakshadweep, Madhya Pradesh, Uttar Pradesh - 7th February 2020.

9.3 Accordingly, the agenda note was placed before the GIC for approval. The GIC approved the proposal to extend due dates for filing of Annual returns / Reconciliation Statement in FORM GSTR-9 / GSTR-9C for Financial Year 2017-18 in staggered manner. Accordingly, implementing Notification No. 06/2020- Central Tax dated 3rd February 2020 was issued.

Decision by Circulation – 12 February 2020

The proposal before the GIC related to issuance of notification to exempt requirement of furnishing reconciliation Statement for some companies (foreign airlines) exempted under Companies Act.

10.1 Law Committee in its meeting held on 20th & 21st January, 2020 deliberated on the representation made by International Air Transport Association (IATA) to exempt the foreign airlines from the requirement of furnishing reconciliation statement on lines similar to exemption given under Companies Act, 2013.

10.2 Section 381 of the Companies Act, 2013 has provisions for the ‘Account of Foreign Company’ which reads as follows: -

“381. (1) Every foreign company shall, in every calendar year, —

(a) make out a balance sheet and profit and loss account in such form, containing such particulars and including or having annexed or attached thereto such documents as may be prescribed; and

(b) deliver a copy of those documents to the Registrar:

Provided that the Central Government may, by notification, direct that, in the case of any foreign company or class of foreign companies, the requirements of clause

(a) shall not apply, or shall apply subject to such exceptions and modifications as may be specified in that notification.

(2) If any such document as is mentioned in sub-section (1) is not in the English language, there shall be annexed to it a certified translation thereof in the English language.

(3) Every foreign company shall send to the Registrar along with the documents required to be delivered to him under sub-section (1), a copy of a list in the prescribed form of all places of business established by the company in India as at the date with reference to which the balance sheet referred to in sub-section (1) is made out.”

10.3 It was seen from the above provision that the proviso of sub-section (1) empowered the Central Government that, in the case of any foreign company or class of foreign companies, the requirement of profit and loss account statement and balance sheet may be exempted or the requirement may apply subject to such exceptions and modifications as may be notified.

10.4 Further, Government had provided some exemption vide S.O. 2463(E) dated 19.07.2016 to the foreign airlines. As per the notification, requirement of profit and loss account statement and balance sheet had been exempted, if a company submitted to the appropriate Registrar of Companies in India, inter alia -

(i) in respect of its Indian Business operations, a statement of receipts and payments for the financial year, duly authenticated by a practicing Chartered Accountant in India or a firm or a Limited Liability Partnership of practicing Chartered Accountants in India.

10.5 Law Committee deliberated on the agenda to provide exemption from requirement of furnishing Reconciliation Statement in **FORM GSTR-9C** for all those companies which get exemption under proviso of sub-section (1) of section 381 of the Companies Act, 2013 and instead submit documents laid out in the exemption vide S.O. 2463(E) dated 19.07.2016 to the foreign airlines.

10.6 Law Committee in the said meeting made the following recommendations -

“Accepted the request made in the representation made by International Air Transport Association (IATA) to exempt the foreign airlines from the requirement of furnishing reconciliation statement subject to the condition that they have complied with the requirements of sub-rule (2) of rule 4 of the Companies (Registration of Foreign Companies) Rules, 2014 and the following document are furnished by such entities: -

In respect of its Indian Business operations, a statement of receipts and payments for the financial year, duly authenticated by a practicing Chartered Accountant in India or a firm or a Limited Liability Partnership of practicing Chartered Accountants in India.”

10.7 Accordingly, recommendations of Law Committee were placed before the GIC for approval. The GIC approved the proposal to exempt requirement of furnishing reconciliation Statement for some companies (foreign airlines) exempted under Companies Act.

Decision by Circulation – 21 February 2020

The proposal before the GIC related to amendment in Rule 31A of the CGST Rules to prescribe the value of supply in case of lottery.

11.1 In the Agenda note reference was invited to the discussion in the 38th GST Council Meeting held on 18.12.2019 wherein the issue of GST rate on lottery was decided. The Council decided to levy a uniform rate of GST@28% on lottery. The existing dual rate of GST on lottery i.e. GST@12% on lottery run by State Government and GST@28% on lottery authorized by State Government would be replaced by a uniform rate of GST@28% on lottery. The Council also decided to notify uniform rate of GST on lottery w.e.f 01.03.2020.

11.2 Consequent to the above decision, Rule 31A of CGST Rules needed amendment, so as to remove the existing provisions relating to valuation of lottery on two types of lottery i.e. lottery run by State Government and lottery authorized by State Government.

11.3 The Law Committee in its meeting on 17th and 18th February, 2020 deliberated and approved the proposed amendments in Rule 31A. In order to implement the decisions of 38th GST Council on GST rates of lottery by 01.03.2020, it was proposed to issue a notification for amendment in the CGST Rules, 2017.

11.4 Accordingly, the agenda note was placed before the GIC for approval. The GIC approved the proposal regarding amendment in Rule 31A of the CGST Rules to prescribe the value of supply in case of lottery. Accordingly, implementing Notification No. 08/2020- Central Tax dated 3rd March 2020 was issued.

12. The decisions of the GIC are placed before the Council for information.



Agenda for 39th GST Council Meeting

14 March 2020

Volume – 2



GST Council Secretariat

Room No.275, North Block, New Delhi

Dated: 20th February 2020

Notice for the 39th Meeting of the GST Council scheduled on 14th March 2020

The undersigned is directed to refer to the subject cited above and to say that the 39th Meeting of the GST Council will be held on 14th March 2020 at Hall No.2-3, Vigyan Bhawan, New Delhi. The schedule of the meeting is as follows:

- Saturday, 14th March, 2020 : 11:00 AM onwards
2. In addition, an Officers' Meeting will be held on 13th March, 2020 at Hall No.2-3, Vigyan Bhawan, New Delhi as follows:
- Friday, 13th March, 2020 : 12:30 PM onwards
3. The agenda items for the 39th 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. Ajay Bhushan Pandey)

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

Tel: 011 23092653

Copy to:

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

Agenda Items for the 39th Meeting of the GST Council on 14th March 2020

1. Confirmation of the Minutes of 38th GST Council Meeting held on 18th December 2019
2. Update by Infosys (through GSTN)
3. Review of Revenue Position
4. Issues recommended by the Fitment Committee for the consideration of the GST Council (Recommendations by the Committee of Officers on Revenue Augmentation)
5. Issues recommended by the Law Committee for the consideration of the GST Council
 - A. Issues recommended by the Law Committee for the consideration of the GST Council
 - i. Taxability of 'economic surplus' earned by brand owners of alcoholic liquor for human consumption
 - ii. Challenges faced in apportionment of ITC in cases of business reorganization under section 18 (3) of CGST Act read with rule 41(1) of CGST Rules
 - iii. Issue regarding waiver of penalty and interest on previous period due to removal of pre-import condition under Advance Authorization scheme
 - iv. Levy of interest under the provisions of section 50 of the CGST Act, 2017 for delay in payment of tax
 - v. Proposal for waiver of filing of FORM GSTR-1 by taxpayers who have availed the special composition scheme under notification No. 2/2019-Central Tax (Rate) dated 07.03.2019.
 - vi. Filing of GSTR-9 (Annual Return) and GSTR-9C (Reconciliation Statement)
 - vii. Proposals for amendment in the CGST Rules, 2017
 - viii. Proposals for amendment in the CGST Act, 2017 and the IGST Act, 2017
 - ix. Scheme of 'Know Your Supplier'
 - x. Notifying NPCI, Transunion CIBIL Ltd. and Association of Mutual fund of India under section 150(1)(p) and Banking Information return under Section 150(1)(e)
 - xi. Proposal for Notification / Rule change for enabling AADHAAR based authentication in GST
 - xii. Clarification in respect of appeal in regard to non-constitution of Appellate Tribunal
 - xiii. Exemption for certain class of registered persons from having e-invoicing along with extension of dates for implementation of e-invoicing
 - xiv. Exemption for certain class of registered persons from capturing dynamic QR code along with deferment of implementation of QR Code
 - xv. Agenda note for GST Council regarding extension of date of GSTR 3B filing for the month of Jan, 2020 till 31st March 2020
 - xvi. Agenda note for GST Council regarding continuation of the existing system of furnishing FORM GSTR-1 and FORM GSTR-3B till the month of September, 2020

- xvii. Transition Plan in view of merger of Union Territories of Dadra & Nagar Haveli and Daman & Diu
- xviii. Deferring e-Wallet scheme and extending duty exemption for exporters
- B. Deliberations of the Law Committee in the matter of the representation by Construction Federation of India on the orders of the Hon'ble High Court of Delhi
- 6. Creation of State and Area Benches of the Goods and Services Tax Appellate Tribunal (GSTAT) for the State of Uttar Pradesh
- 7. Quarterly Report of the NAA for the quarter October to December 2019 for the information of the GST Council
- 8. Deemed ratification by the GST Council of Notifications, Circulars and Orders issued by the Central Government
- 9. Decisions of the GST Implementation Committee (GIC) for information of the Council
- 10. Decisions/Recommendations of the IT Grievance Redressal Committee for information of the Council
- 11. Any other agenda item with the permission of the Chairperson
- 12. Date of the next meeting of the GST Council

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Discussion on Agenda Items

Agenda Item 10: Decisions/recommendations of the 9th and 10th IT Grievance Redressal Committee for information of the Council

9th IT GRC Meeting – 02nd December 2019

Ninth meeting of the IT grievance Redressal Committee (IT-GRC) was held on 02nd December 2019 to resolve grievance of the taxpayers arising out of technical and non-technical issues. (Minutes of the Meeting attached as **Annexure X** of this agenda Item).

1.2. Total **279 cases of TRAN-1/TRAN-2/TRAN-3** had been examined by GSTN (**Agenda 1**) and presented before the committee. Out of these, 256 cases were sent by Nodal officers and 23 were court cases. All above cases had been categorized broadly reason-wise in two major categories as 'A' and 'B' by GSTN team. **Category 'A'** included cases in which the taxpayer could not apparently file TRAN 1/TRAN 2/TRAN 3 because of technical glitches and **Category 'B'** included cases where no technical issues were found from the system logs in filing TRAN 1/TRAN 2/TRAN 3.

1.3. In pursuance of decision in 32nd GST Council Meeting, regarding extended scope of ITGRC, GST Council Secretariat had received another **28 cases** in response to extended scope of ITGRC and analysis of these cases was also presented before the committee (**Agenda 2**).

1.4. In accordance with the mechanism/process approved in 8th ITGRC that ITGRC would take up the non-technical cases identified as 'Category A cases' in Annexure 3 of 6th ITGRC and Agenda 3 of the 8th ITGRC. Out of these Category A cases of 6th and 8th ITGRC, three cases which appeared in subcategory A1 of the Annexure 3 of 6th ITGRC were placed before the committee as table agenda. Additionally, the case of M/s Shiv Vanijya was also received just before the scheduled time of the 9th ITGRC Meeting. Hence, it was also included in the table agenda (**Agenda 3**).

1.5. As per Hon'ble High Court of Delhi order dated 28.11.2019 in WPC 9575/2017 and CM No 38987/2017 filed by Sales Tax Bar Association (STBA), Constitution of Public Grievance Committees (PGC) at local and Commissionerate level had to be done. Hon'ble High Court had directed to file affidavit in two weeks in this regard. Hence, CEO GSTN had placed the table agenda for the same (**Agenda 4**).

1.6. After detailed discussion, the 9th ITGRC decided and recommended as under: -

1.7. Recommendation for Agenda 1:

In respect of TRAN-1 cases:

- i. **To Allow** 25 cases of TRAN-1 pertaining to Subcategories A1 and A3 of technical glitch as per Annexures indicated in column No. 3 and 4 of Table 2 of Minutes for filing of TRAN 1/TRAN 2 in accordance with the Law Committee recommendations regarding consequential benefits related to filing of TRAN 1 and TRAN 2.
- ii. **To Allow GSTN to withdraw** 07 cases of Subcategory A2 and A4 as mentioned in Table 2 of Minutes without any decision and directed GSTN to present the same in the next ITGRC Meeting.

- iii. **Not to Allow** remaining 63 cases of TRAN-1 pertaining to Category 'B' as per Annexures indicated in column No. 3 and 4 of Table-3 of Minutes in absence of any evidence of technical/system errors in these cases, as was decided in similar cases in past eight IT-GRC meetings.

In respect of TRAN-2 cases:

- i. **To allow** 47 cases of TRAN-2 pertaining to Subcategories A1 and A3 of technical glitch as per Annexures indicated in column No. 3 and 4 of Table 4 of Minutes; for filing of TRAN 2 in accordance with the Law Committee recommendations regarding consequential benefits related to filing of TRAN- 2.
- ii. **To allow GSTN to withdraw** 02 cases of Subcategory A2 as mentioned in Table 4 of Minutes without any decision and directed GSTN to present the same in the next ITGRC Meeting.
- iii. **Not to Allow** remaining 113 cases of TRAN-2 pertaining to Category 'B' as per Annexures indicated in column No. 3 and 4 of Table-5 of Minutes in absence of any evidence of technical/system errors in these cases, as was decided in similar cases in past eight IT-GRC meetings.
- iv. **To allow** GSTN to **withdraw 04 cases** (which were approved earlier in 2nd ITGRC) so as to re-examine in detail and present in next ITGRC with detailed comments.

In respect of TRAN-3 cases:

- i. **Not to allow** 18 cases of TRAN-3 listed as per Annexure-4 of the Minutes to avoid any unwanted tinkering with the GST portal.

Decision for Agenda 2

- i. **To Allow** reopening of portal for 08 cases of Subcategory A1 (Annexure 5 to the Minutes) as per Extended Scope of ITGRC decided in 32nd GST Council Meeting and subsequently the mechanism/process approved in 8th ITGRC.
- ii. **Not to allow** re-opening of portal for Category **A2 (04 cases), A3 (01 case), A4 (05 case) (total 10 cases)** as the criteria's laid down by 32nd GST Council Meeting were not fulfilled. However, jurisdictional Commissioners of States/CBIC could resubmit appropriate cases to ITGRC after correcting the deficiencies as discussed or take any other remedial steps as per law.
- iii. Cases of Category **B2 (03 cases) and D (01 cases) (total 04 cases)**, having reported technical error or were not fulfilling parameters as recommended by 32nd GST Council were **recommended for forwarding to GSTN** for further analysis in terms of circular dated 03.04.2018 and placing before the next meeting of ITGRC, if found fit.
- iv. Cases at **Category B3 (04 cases)** had been presented in the 1st to 8th ITGRC and recommended by ITGRC, hence **no action required**.
- v. Cases at **Category C (02 cases)** had been presented in the 1st to 8th ITGRC but not recommended by ITGRC and now again forwarded by CGST/SGST **tax authorities without recommendation**, hence Committee **directed that State/CBIC tax authorities be asked to re-examine these cases, if required, and forward, only if they fulfil, the parameters/conditions as decided in 32nd GST Council Meeting.**

Decision for Agenda 3:

- i. **Allowed** reopening of portal for 04 cases of Agenda 3 also as per extended scope of ITGRC decided in 32nd GST Council Meeting and subsequently the mechanism/process approved in 8th ITGRC.

Decision for Agenda 4:

- i. Recommend that GST Policy Wing and GSTN may jointly prepare a suitable agenda and place before the ensuing GST Council to comply the order of Hon'ble Court.

10th IT GRC Meeting – 22nd January 2020

Tenth meeting of the IT grievance Redressal Committee (IT-GRC) was held in Kalpvriksha, North Block, New Delhi on 22nd January 2020 to resolve grievance of the taxpayers arising out of technical and non-technical issues. (Minutes of the Meeting attached as **Annexure Y** of this agenda Item).

2.1. Total 63 **cases of TRAN-1 (18 Cases) /TRAN-2 (45 Cases)** had been examined by GSTN (**Agenda 1**) and presented before the committee. Out of these, 50 cases were sent by Nodal officers and 13 were court cases. All above cases had been categorized broadly reason-wise in two major categories as 'A' and 'B' by GSTN team. **Category 'A'** included cases in which the taxpayer could not apparently file TRAN 1/TRAN 2 because of technical glitches and **Category 'B'** included cases where no technical issues were found from the system logs in filing TRAN 1/TRAN 2.

2.2. In pursuance of decision in 32nd GST Council Meeting, regarding extended scope of ITGRC, GST Council Secretariat had received another **04 cases** in response to extended scope of ITGRC and analysis of these cases was also presented before the committee (**Agenda 2**).

2.3. After detailed discussion, the 10th ITGRC decided and recommended as under: -

Recommendation for Agenda 1; Pertaining to technical glitches in filing TRAN-1 & TRAN-2 cases.

In respect of TRAN-1 (18 Cases); the ITGRC recommended

- i. **To allow 08 cases** of TRAN-1 pertaining to Subcategories A1, A2 and A4 of technical glitch as per Annexures indicated in column No. 3 and 4 of Table 2 of Minutes for filing of TRAN 1/TRAN 2 in accordance with the Law Committee recommendations regarding consequential benefits related to filing of TRAN 1 and TRAN 2.
- ii. **Not to allow remaining 10 cases** of TRAN-1 pertaining to Category 'B' (Subcategories B1, B2 and B5) as per Annexures indicated in column No. 3 and 4 of Table-3 of Minutes in absence of any evidence of technical/system errors in these cases, as was decided in similar cases in past nine IT-GRC meetings.

In respect of TRAN-2 (45 Cases); the ITGRC recommended

- i. **To allow 03 cases** of TRAN-2 pertaining to Subcategories A2 and A3 of technical glitch as per Annexures indicated in column No. 3 and 4 of Table 4 of Minutes for filing of TRAN 2 in accordance with the Law Committee recommendations regarding consequential benefits related to filing of TRAN 2.
- ii. **Not to allow remaining 42 cases** of TRAN-2 pertaining to Category 'B' (Sub-categories B3, B5, B7, B9, B10) as per Annexures indicated in column No. 3 and 4 of Table-5 of Minutes in absence of any evidence of technical/system errors in these cases, as was decided in similar cases in past nine IT-GRC meetings.

Decision for Agenda 2 (04 cases); ITGRC recommended

i. **To allow reopening of portal for 02 cases** of Subcategory A1 (Annexure 6) as per Extended Scope of ITGRC decided in 32nd GST Council Meeting and subsequently the mechanism/process approved in 8th ITGRC.

ii. **To defer the 01 case of Subcategory A2** (Annexure 6) and it was recommended to send back to jurisdictional Commissionerate, CBIC and GSTN for resubmission with proper and full details along with the views of CBIC. It was also suggested by the committee that other cases of similar nature may also be sent back to jurisdictional Commissionerates/States for proper details and similar verifications as discussed at para 17.2.2 of Minutes.

iii. **To defer the 01 case of Subcategory A4** (Annexure 6) and it was recommended to send it back to the jurisdictional Commissionerate/State for proper and full details of High Court order as required under the extended scope of ITGRC or take any other remedial steps as per law.

Other Issues:

3. It was also informed by SVP, GSTN to the committee that the TRAN 1 and TRAN 2 cases received up to 31st March 2019 by the GSTN Nodal Officer had been disposed of now. The court cases however, continued to be received. Another 22 cases of TRAN-1 and 05 cases of TRAN-2 received from the Nodal officer before 31st March, 2019 were not processed by GSTN due to certain issues involved in them. These cases either had apparent non-technical issues and were therefore returned to the concerned Nodal officers or were received with Invalid GSTIN / without following SOP etc. Committee took note of above cases and expressed that these cases may be re-submitted before the committee if received with proper details through Nodal officers.

4. Further, it was also appraised by the SVP, GSTN that GSTN had presented the technical analysis of the Cases received from the Nodal officers up to 31st March 2019. Cases received after that date have not been analysed and examined by GSTN. As regard the Court cases, after technical analysis they are put up before the ITGRC as per the directions from the Courts. The list of approved and not approved cases of the 9 ITGRC meetings have been shared with the tax administrations of Center and State. On this issue committee discussed the relevant provisions and informed GSTN that legally, these cases could not be returned back and may have to be examined by GSTN and suitably placed before the next ITGRC meeting. It was also decided that for fresh cases, Nodal officers should compile the details in the prescribed format and send the collated cases through mail to a dedicated email of GSTN as soon as possible but not later than 15th February 2020 so that the same can be put up before the ITGRC.

5. The decisions/recommendations as per attached Minutes of the 9th and 10th ITGRC are placed for information of the Council.

Minutes of the 9th Meeting of IT Grievance Redressal Committee (ITGRC) held on 02nd December 2019 at GST Council Secretariat, Jeevan Bharti Building, New Delhi

The 9th Meeting of the IT Grievance Redressal Committee (ITGRC) was held in GST Council Secretariat, Jeevan Bharti Building, New Delhi on 02nd December 2019. The list of officers who attended the meeting is attached as **Annexure-6**.

Agenda Note 1: TRAN 1/TRAN 2/TRAN 3 Cases as per Circular No. 39/132018 dated 03.04.2018:

2. Shri Vashistha Chaudhary, SVP (Services), GSTN appraised the background that a total number of around 2655 cases of TRAN-1 and 213 cases of TRAN-2 had been received from the Nodal officers of Center and States till 31.03.2019 at GSTN, excluding court cases on this issue. Further, a few cases, which were received from Nodal officer containing all the relevant information but were not in the format prescribed in SOP (issued by GSTN in April 2018), had also been included in the agenda. The details of cases discussed in previous meetings were as follows.

Table 1: Details of TRAN 1/TRAN 2/TRAN 3 cases presented before IT-GRC through GSTN

S. No.	Meeting Reference	No. of TRAN-1/TRAN 2 Cases received			Cases examined and approved	Cases examined and not approved	Cases Withdrawn by GSTN
		Nodal Officer	Court Cases	Total			
1	2	3	4	5 (3+4)	6	7	8
1	1st IT-GRC on 22.06.2018	161	9	170	122	48	NIL
2	2nd IT-GRC on 21.08.2018	262	78	340	213	127	NIL
3	3rd IT-GRC on 26.10.2018	252	16	268	70	198	NIL
4	4 th IT-GRC on 12.02.2019	408	53	461	165	296	NIL
5	5 th IT-GRC on 05.03.2019	203	21	224	80	144	NIL
6	6 th IT-GRC on 27.05.2019	594	88	682	172	510	NIL
7	7 th IT-GRC on 11.06.2019	236	13	249	98	151	NIL
8	8 th IT-GRC on 13.08.2019	442	49	491	137	352	02
9	9 th IT-GRC on 02.12.2019	256	23	279	To be discussed		
10	Sub Total			3164			

Note: In 9th ITGRC, 95 cases presented were pertaining to TRAN-1, 166 cases pertained to TRAN-2 and 18 cases pertained to TRAN-3 (Total 279 Cases)

3. The SVP (Services) explained that in previous eight ITGRC Meetings total 2885 TRAN-1/TRAN-2 cases including cases where Writ Petitions were filed in various High Courts, were presented

to ITGRC. Out of which, a total of 1057 cases had been considered and approved up to Eighth ITGRC. Further, another 258 TRAN-2 cases had also been approved by ITGRC during these meetings. The filing of TRAN 1/TRAN-2 in these approved cases had been enabled by GSTN at GST Common Portal. The taxpayers who had been enabled for filing TRAN-1/TRAN-2 had been informed through e-mails for filing their TRAN-1/TRAN-2 as the case may be. Further, reminders had been given to the taxpayers who had either not attempted to file their TRAN-1/TRAN-2 or had merely submitted their applications after receiving communication from GSTN. The taxpayers who had still not filed their TRAN-1/TRAN-2 even after reminders, had been contacted telephonically by the officers of GSTN and guided appropriately for filing the same.

4. Now, another **279 cases (95 cases of TRAN-1, 166 cases of TRAN-2 and 18 cases of TRAN-3)** had been examined and presented before 9th ITGRC. Out of these, 256 cases were sent by the Nodal officers of Center/States while 23 cases arose out of writ petitions filed before various High Courts/orders (interim or final). The list of TRAN-1 cases received from Nodal officers was at **Annexure 1** of the Agenda and the list of TRAN-1 Court Cases was at **Annexure 3** of the Agenda. List of TRAN-2 cases received from Nodal officers was at **Annexure 2** of the Agenda and the list of TRAN-3 cases received from Nodal officers was at **Annexure 4** of the Agenda. GSTN had examined all above cases and analyzed the system logs of all cases and categorized them into ‘**Category A**’ which had technical issues and ‘**Category B**’ which did not have technical issues. It was also informed that total **379** Writ Petitions pertaining to TRAN-1/ TRAN-2 had been received by GSTN as on 05.11.2019. Few cases were received from Nodal officers and also from the Counsels/Legal Department as Writ Petition. Therefore, the present figures of court cases and the figures furnished in the proposal of different ITGRC may vary. Further, court cases pertaining to TRAN-1 are still being received at GSTN and are being investigated and referred to ITGRC. In 9th ITGRC, 23 Court cases pertaining to TRAN-1 were presented in Annexure 3 of the Agenda while 21 more cases were under examination and would be presented in subsequent ITGRC Meetings.

Analysis of TRAN 1 Cases (72 from Nodal Officer + 23 Writ Petition; Total 95 Cases):

5. The SVP, GSTN, thereafter elaborated the nature of technical issues experienced by the taxpayers in filing TRAN-1 along with reasons, under **Category ‘A’**, which consisted of following 04 sub-categories out of the different sub-categories reported in earlier ITGRC and number of cases pertaining to each subcategory were as per **column 3 and 4 of Table 2** below:

- **Sub Category A1: Cases where the taxpayer received the error as “Processed with Error”:** The taxpayer could not claim transitional credit as the line items requiring declarations of earlier existing law registration numbers were processed with error since the taxpayer had not added them in his registration details.
- **Sub Category A2: Cases where, TRAN-1 not attempted as per logs - due to Registration/Migration Issue and Registration got after TRAN1 due date:** The taxpayers were not able to migrate due to technical issues before 27.12.2017.
- **Sub Category A3: Taxpayer had submitted TRAN-1, only filing needs to be enabled:** Taxpayer had submitted TRAN 1 but not filed with appropriate signature (DSC/EVC). Request for enabling filing with signature as GSTR 3B was not getting filed. This includes cases which are currently in composition or registration is cancelled.
- **Sub Category A4: Migration User- because of technical error on account of validation, the taxpayer completed migration and got registration after 27.12.2017 and hence couldn’t file TRAN-1:** As per GST Portal, the taxpayer could not migrate due to technical

glitches (validation error). The taxpayer activated his Part A and also completed part B but could not migrate because of a validation error.

5.1 The details of cases covered under these sub-categories of Category A is reflected in the **Annexure 1 and Annexure 2 of the Minutes** with details as in Table 2 below.

Table-2: TRAN-1 Cases reported as having Technical Glitch

Sub Category	Sub Category Description	Cases received from Nodal Officers	Court Cases
1	2	3	4
A-1	Processed with Error	10 (S. No 01 to 10 of Annexure 1)	05 Cases (S. No 01 to 05 of Annexure 2)
A-2	Cases where, TRAN-1 not attempted as per logs - due to Registration/Migration Issue and Registration got after TRAN1 due date	04 (S. No 11 to 14 of Annexure 1)	01 (S. No 06 of Annexure 2)
A3	Taxpayer had submitted TRAN-1, only filing needs to be enabled	10 (S. No 15 to 24 of Annexure 1)	NIL
A4	Migration User- because of technical error on account of validation, the taxpayer completed migration and got registration after 27.12.2017 and hence couldn't file TRAN-1	02 (S. No 25 to 26 of Annexure 1)	NIL
	Sub Total	26	06

5.2 In above Subcategories, it was observed by the Committee that cases at Sub-category A1 and A3 appeared to have faced technical glitch while filling the TRAN-1 and therefore could be considered for reopening the Portal in these cases. Further, the description of subcategory A2 and A4 seemed overlapping and it was not clear whether the Migration could not be done due to taxpayer's mistake or it was on account of having any technical difficulty. Moreover, if the taxpayer had faced the technical difficulty then also, whether was it appropriate to allow TRAN-1. The issue needed some more clarification from GSTN. Therefore, SVP GSTN proposed to withdraw 07 cases (06 forwarded by Nodal officer and 01 pertained to Court Case) of Subcategory A2 and A4 as mentioned in above Table 2 so that he could come up with the detailed analysis in the next meeting, clarifying whether the error were on account of the taxpayers or due to technical glitch at the Portal.

6. **Category 'B'** had cases where no technical issues had been observed in TRAN 1 filing. The SVP, GSTN further elaborated the cases under the Category 'B', where no technical issues were found on the basis of GST system logs, as explained below in 04 sub-categories and number of cases pertaining to each sub-category, mentioned in **column 3 & 4 of Table 3** below: -

- **Sub-Category B-1: Cases in which as per GST system log, there was no evidences of error or submission/filing of TRAN1.** As per GST system log, there were no evidences of error or submission/filing of TRAN1.

- **Sub-Category B-2: Cases in which TRAN 1 filing attempted for first time or revision was attempted but no error/no valid error reported.** As per GST System logs the taxpayer has tried for saving/submission for the first time or revision of TRAN 1 and there were no evidences of system error in logs.
- **Sub-Category B-3: Cases in which TRAN 1 was successfully filed as per logs with no valid error reported.** The taxpayer had successfully filed TRAN 1 and no technical errors had been found in the examined technical logs.
- **Sub-Category B-5: Cases in which TRAN-1 was filed once but credit was not received.** The taxpayer had filed TRAN-1 once successfully but no credit had been posted in ledger and no errors had been observed in system logs.

6.1 The details of cases covered under these sub-categories of Category B is reflected in the **Annexure 1 and Annexure 2 of these Minutes** with details as in Table 3 below.

Table-3: TRAN-1 Cases Reported as Not having Technical Glitch

Sub Category	Sub Category Description	Cases received from Nodal Officers	Writ Petition Cases
1	2	3	4
B-1	As per GST system log, there are no evidences of error or submission/filing of TRAN 1.	20 (S. No 27 to 46 of Annexure 1)	13 (S. No 07 to 19 of Annexure 2)
B-2	TRAN-1 filing attempted for first time or revision and No error /No valid error reported.	05 (S. No 47 to 51 of Annexure 1)	02 (S. No 20 to 21 of Annexure 2)
B-3	Successfully Filed as Per Logs with No Valid Error reported	16 (S. No 52 to 67 of Annexure 1)	01 (S. No 22 of Annexure 2)
B-5	Cases in which TRAN-1 was filed once but credit was not received.	05 (S. No 68 to 72 of Annexure 1)	NIL
B-Other	Other Specific Category for Vishvakarma Paper and Boards Ltd. GSTIN 05AACCV8073F1ZA; Taxpayer says they received error but as per GST System logs no technical glitches in submission/filing of TRAN-1 found.	NIL	01 (S. No 23 of Annexure 2)
	Sub Total	46	17

6.2. After going through the above cases, it was observed by the Committee that cases at Category B were cases where no technical issues were found as reported by SVP, GSTN on the basis of GST system logs. As, no technical issues had been observed in TRAN 1 filing in above Category B cases,

Committee decided not to allow reopening of the Portal for these cases, as also decided in earlier eight ITGRC Meetings.

6.3 Further, in view of the representation dated 28.03.2019 of the M/s Vishvakarma Papers and Boards Ltd (Sl No 23 of Annexure 2 of the minutes) the analysis of system logs was placed by the SVP GSTN before the ITGRC to decide on the fresh representation in view of Hon'ble Uttarakhand High Court order and the representation of the taxpayer containing submissions of attempt to file TRAN-1 on specific dates. As per system logs the taxpayer had logged onto GST Portal on 20.09.2019. However, he had not saved or even tried saving any data in Tran-1 on or before the due date of TRAN-1 i.e. 27.12.2017. As per logs user had not tried to open TRAN-1 and neither 'submitted' nor 'filed' the form. No logs of 'save' were there and ITC ledger was also not updated. It was therefore concluded that as per GST system logs, no technical issues was found in the case of M/s Vishvakarma Papers and Boards Ltd. The detailed activity done by the taxpayer on the GST portal were also presented by SVP, GSTN as under:

First GSTR-3B filing date was 24.08.2017 and first GSTR-1 filing date was 06/09/2017 (filed on 03/09/2017 and updated on 06/09/2017). GSTR-2 and GSTR-3B filing between 01/07/2017 to 27/12/2017 as per activity of this GSTIN of Vishvakarma Papers was as under:

- a. GSTR-2 of July 2017 was filed on 26.10.2017
- b. GSTR-3B of July 2017 was filed on 24.08.2017.
- c. GSTR-3B of August 2017 was filed on 18.10.2017
- d. GSTR-3B of September 2017 was filed on 20.10. 2017
- e. GSTR-3B of October 2017 was filed on 17.11.2017 and
- f. Finally, GSTR-3B of November 2017 was filed on 17.12.2017

The SVP, GSTN stated that as inferred from the system logs, no technical issues in saving / filing of TRAN-1 had been identified. Hence, it was observed by the ITGRC that in the case of M/s Vishvakarma Papers and Boards Ltd. (GSTIN 05AACCV8073F1ZA) no technical glitches in submission/filing of TRAN-1 were found in System logs. In fact, they had not even tried to file the TRAN-1 before the due date on GST common Portal, hence the submission that the taxpayer had been facing technical glitches while filing TRAN-1 did not seem to be supported by the facts. Therefore, the Committee decided not to allow the re-opening of Form TRAN-1 on Portal for the petitioner/applicant. Accordingly, representation dated 28.03.2019 might be disposed of by the competent authority.

7. Considering the above submissions, Committee discussed the cases of technical glitch of Category 'A' and after further elaboration and discussion, 25 cases of TRAN-1 pertaining to subcategories A1 and A3 of technical glitch as per Annexure, indicated in column No. 3 and 4 of Table 2 above were considered for allowing filing of TRAN 1/TRAN 2 in accordance with the Law Committee recommendations regarding consequential benefits related to filing of TRAN 1 and TRAN 2. Committee also allowed GSTN to withdraw 07 cases of Subcategory A2 and A4 as mentioned in Table 2 above without any decision and directed GSTN to present the same after review in the next ITGRC Meeting.

7.1 The Committee also decided to recommend not to allow remaining 63 cases of TRAN-1 pertaining to Category 'B' as per Annexures indicated in column No. 3 and 4 of Table-3 above in absence of any evidence of technical/system errors in these cases.

Analysis of TRAN 2 Cases (166 from Nodal Officer; Total 166 Cases):

8. In addition to above TRAN-1 cases, 166 cases of TRAN-2 were also presented before the committee. The SVP, GSTN elaborated nature of technical issues experienced by the taxpayers in filing TRAN-2 along with reasons, under **Category ‘A’**, which consisted of following 03 sub-category and number of cases pertaining to each subcategory were as per **column 3 and 4 of Table 4** below. The details of cases covered under these sub-categories of Category A is reflected in the **Annexure 3 of the Minutes** with details as in Table 4 below.

Table-4: TRAN-2 Cases reported as having Technical Glitch

Sub Category	Sub Category Description	From Nodal Officers	Court Cases
1	2	3	4
A1	TRAN-1 filed and error in TRAN-2. As per Logs TRAN-1 filed successfully. Error recorded in database but no corresponding error reported in logs	38 (S. No 01 to 38 of Annexure 3)	NIL
A2	TRAN-1 filed and TRAN-2 in submitted with no errors - to be enabled for filing. As per Logs TRAN-1 filed successfully. As per logs user neither submitted nor filed the form. No logs of save as well	02 (S. No 39 to 40 of Annexure 3)	NIL
A3	TRAN-1 approved cases and enabled for filing of TRAN-2. TRAN-1 Approved cases and enabled for filing of TRAN-2.	09 (S. No 41 to 49 of Annexure 3)	NIL
	Sub Total	49	NIL

8.1 In above Sub-categories, it was observed by the Committee that cases at Subcategories A1 and A3 appeared to be having clear technical glitch while filling the TRAN-2 and so they could be considered for reopening the Portal. Further, it was observed by the Committee that description of subcategory A2 was not clear as it stated that, TRAN-1 was filed and TRAN-2 was also submitted with no errors. If so, then what was the error as it was not clear from description of the category in terms of logs. The description seemed contradictory as it stated that TRAN-1 was filed successfully and user neither submitted nor filed/saved the form as per logs. Thus, the description was not clear. Hence, SVP, GSTN, proposed to withdraw 02 cases of subcategory A2 as mentioned in table 4 above for presenting before next ITGRC with detailed analysis.

9. In **Category ‘B’** cases, no technical issues had been observed in TRAN- 2 filing. The SVP, GSTN further elaborated the cases under the Category ‘B’, no technical issues were found in the GST system logs, as explained below in 12 sub-categories and number of cases pertaining to each sub-category mentioned in **column 3 & 4 of Table 5** below. He further stated that in the Agenda, 4 cases have been erroneously brought by GSTN, which were actually considered in 2nd ITGRC already. Hence, rest of the cases be approved for not opening the GSTN Portal while those 4 cases be allowed to be withdrawn. The details of cases covered under these sub-categories of Category B is reflected in the

Annexure 3 of the Minutes with details as in Table 5, which were not recommended for opening of Portal, were as below:

Table-5: TRAN-2 Cases reported as Not having Technical Glitch

Sub Category	Sub Category Description	From Nodal Officers	Court Cases
1	2	3	4
B1	TRAN-1 approved case, TRAN-2 filed successfully without any error reported. TRAN-1 approved case. TRAN-1 filed, post filing of TRAN-1, TRAN-2 for respective 6 months has also been filed	01 (S. No 50 of Annexure 3)	NIL
B2	TRAN-1 disapprove case, not allowed for reopening for TRAN-2. TRAN-1 disapproved case. As per Logs TRAN-1 filed successfully Taxpayer was eligible for filing TRAN-2 but as per logs user neither submitted nor filed the form. No logs of save as well	01 (S. No 51 of Annexure 3)	NIL
B3	TRAN-1 filed and TRAN-2 successfully filed with no errors. As per Logs TRAN-1 filed successfully. As per logs taxpayer filed TRAN-2 without any error	10 (S. No 52 to 61 of Annexure 3)	NIL
B4	TRAN-1 filed and TRAN-2 successfully filed with no errors (ITC ledger not updated). As per Logs, TRAN-1 filed successfully and taxpayer filed TRAN-2 without any error. ITC ledger not updated	02 (S. No 62 to 63 of Annexure 3)	NIL
B5	TRAN-1 filed and TRAN-2 not attempted and no error in logs. As per Logs TRAN-1 filed successfully. User neither submitted nor filed the form. No logs of save as well. ITC ledger also not updated	42 (S. No 64 to 105 of Annexure 3)	NIL
B6	TRAN-1 filed with declaration in table 7(a) or 7(d), TRAN-2 tried post end date. As per Logs TRAN-1 filed successfully along with revision. Taxpayer has filed TRAN-2 for 3 months then for subsequent period it was tried post last date of TRAN-2 i.e. 30/06/2018	02 (S. No 106 to 107 of Annexure 3)	NIL
B7	TRAN-1 filed with no declaration in table 7(a) section 7b or 7(d) hence not eligible for TRAN-2. As per Logs, TRAN-1 Filed with No Declaration in Table 7(a) Section 7B or Table 7(d). Hence Not Eligible For TRAN-2.	25 (S. No 108 to 132 of Annexure 3)	NIL
B8	TRAN-1 filed, eligible for TRAN-2 but there are no evidences of error or submission/filing of TRAN-2. As per log TRAN-1 Filed, Eligible For TRAN-2 But There are No Evidences of Error or Submission/Filing Of TRAN-2. No logs of save as well	05 (S. No 133 to 137 of Annexure 3)	NIL
B9	TRAN-1 filed, eligible for TRAN-2. TRAN-2 fresh/revision attempted with no error or no valid error reported. As per Logs TRAN-1 filed successfully. Eligible for TRAN-2. TRAN-2	01 (S. No 138 of Annexure 3)	NIL

	fresh/revision attempted with no error or no valid error reported in logs.		
B10	TRAN-1 not filed hence not eligible for filing TRAN-2. As per logs Tran-1 attempted, error reported related to invalid registration gets corrected and save attempt got processed but filing not attempted of TRAN-1. As taxpayer has not filed TRAN-1 hence, not eligible for filing of TRAN-2	01 (S. No 139 of Annexure 3)	NIL
B11	TRAN-2 fresh/revision attempted with no error or no valid error reported. As per Logs TRAN-1 filed successfully. TRAN-2 fresh/revision attempted with no error or no valid error reported.	NIL	NIL
B12	Mistake committed by taxpayer. Cases where the Taxpayers have admitted to have made mistake, inadvertently or due to misunderstanding, in reporting correct values in TRAN 1/TRAN-2. Since the admitted mistakes/errors are apparent from the perusal of the details of reported cases no technical analysis has been done in these cases as it is not required.	23(S. No 140 to 162 of Annexure 3)	NIL
	Sub Total	113	NIL

Following 04 cases were allowed to be withdrawn (which were approved earlier in 2nd ITGRC) to re-examine in detail and present in next ITGRC with detailed comments:

01	06BDEPS2535J1ZF	SATPAL SONI	Haryana	Proprietorship	Nodal Officer IT Issues Haryana	State	gsttihry@gmail.com
02	09AAHCP4977D1Z2	PLS AUTOMOBILES SERVICES PVT LTD	Uttar Pradesh	Private Limited Company	Sh. Nidhish Singhal, Deputy Commissioner, CGST & Central Excise Commissionerate, Greater Noida	Centre	nidhish.singhal@icegate.gov.in
03	29AAFCS1764F1Z8	SHIVAHARI PAHRAM ACEVTICALS PVT LTD	Karnataka	Private Limited Company	K. S. Basavaraj, Joint Commissioner of Commercial Taxes, Bengaluru	State	basavaraj.sagar@ka.gov.in
04	29AAJCA0072C1Z1	WIPRO ENTERPRISES PRIVATE LIMITED	Karnataka	Private Limited Company	K. S. Basavaraj, Joint Commissioner of Commercial Taxes, Bengaluru	State	basavaraj.sagar@ka.gov.in

9.1 After going through the above cases, it was observed by the Committee that cases at Category B were those where no technical issues were found on the basis of GST system logs. As, no technical issues had been observed in TRAN-2 filing in above Category B cases, Committee decided to not to allow reopening of the Portal for these cases.

10. Considering the above submissions, Committee discussed the cases of technical glitch of Category 'A' and after further elaboration and discussion, 47 cases of TRAN-2 pertaining to Sub-categories A1 and A3 of technical glitch as indicated in column No. 3 and 4 of Table 4 above were considered for allowing filing of TRAN 2 in accordance with the Law Committee recommendations regarding consequential benefits related to filing of TRAN 2.

10.1 Committee also allowed GSTN to withdraw 02 cases of Sub-category A2 as mentioned in Table 4 above without any decision and directed GSTN to present the same in the next ITGRC Meeting.

10.2 The Committee had also decided not to allow remaining 113 cases of TRAN-2 pertaining to Category 'B' as per Annexures indicated in column No. 3 and 4 of Table-5 above in absence of any evidence of technical/system errors in these cases.

10.3 Following 04 cases were allowed to be withdrawn (which were approved earlier in 2nd ITGRC) to re-examine in detail and present in next ITGRC with detailed comments:

01	06BDEPS2535J1ZF	SATPAL SONI	Haryana	Proprietorship	Nodal Officer IT Issues Haryana	State	gsttihry@gmail.com
02	09AAHCP4977D1Z2	PLS AUTOMOBILES SERVICE S PVT LTD	Uttar Pradesh	Private Limited Company	Sh. Nidhish Singhal, Deputy Commissioner, CGST & Central Excise Commissionerate, Greater Noida	Centre	nidhish.singhal@icegate.gov.in
03	29AAFCS1764F1Z8	SHIVAHARI PAHRAM ACEVTICALS PVT LTD	Karnataka	Private Limited Company	K. S. Basavaraj, Joint Commissioner of Commercial Taxes, Bengaluru	State	basavaraj.sagar@ka.gov.in
04	29AAJCA0072C1Z1	WIPRO ENTERPRISES PRIVATE LIMITED	Karnataka	Private Limited Company	K. S. Basavaraj, Joint Commissioner of Commercial Taxes, Bengaluru	State	basavaraj.sagar@ka.gov.in

Analysis of TRAN 3 Cases (18 from Nodal Officer; Total 18 Cases):

11. In addition to above TRAN-1 and TRAN-2 cases, 18 cases of TRAN-3 were also presented before the Committee. These cases of TRAN-3 to be filed on Portal in terms of Notification no. 21/2017–Central Excise (NT) dated 30.06.2017 had been received from Nodal Officers through mails/letter upto 31.03.2019. Details of these cases are given in the Annexure-4 of the minutes. It was informed by the SVP (Services), GSTN that the manufacturer issuing the Credit Transfer Documents (CTD) and the dealer availing credit on CTD were required to file table 1 and table 2 of TRAN-3, respectively. However, it was not clear whether taxpayer had declared the requisite credit while filing TRAN-1 or not.

11.1 It was observed by the Committee that the GST TRAN-3 was a statement which contained the details of credit transfer document which was issued by a manufacturer as a proof of his Excise Duty payment on goods, which were manufactured and transacted before the date of GST implementation. The issue was discussed and it was observed that from the record it was not clear whether taxpayer had declared the requisite credit while filing TRAN-1 or not. As it was involved only upload of a record of documents and not impacted any taxpayer adversely, as no credit was blocked due to this, the committee was of the view that opening of the portal for enabling TRAN-3 filing, would not serve any purpose for taxpayers as there is no ITC involved.

11.2 Therefore, the Committee decided not to allow these 18 cases of TRAN-3 **listed as per Annexure-4 to the instant Minutes** to avoid any unwanted tinkering with the GST portal.

12. Decision on Agenda 1:

12.1 TRAN-1:

i. Considering the above submissions, Committee discussed the cases of technical glitch of Category ‘A’ and after further elaboration and discussion, 25 cases of TRAN-1 pertaining Subcategories A1 and A3 of technical glitch as per Annexures indicated in column No. 3 and 4 of Table 2 above were considered for allowing filing of TRAN 1/TRAN 2 in accordance with the Law Committee recommendations regarding consequential benefits related to filing of TRAN 1 and TRAN 2.

ii. Committee had also allowed GSTN to withdraw 07 cases of Subcategory A2 and A4 as mentioned in Table 2 above without any decision and directed GSTN to present the same in the next ITGRC Meeting.

iii. The Committee also decided not to allow remaining 63 cases of TRAN-1 pertaining to Category ‘B’ as per Annexures indicated in column No. 3 and 4 of Table-3 above in absence of any evidence of technical/system errors in these cases, as was decided in similar cases in past eight IT-GRC meetings.

12.2 TRAN-2

i. Considering the above submissions, Committee discussed the cases of technical glitch of Category ‘A’ and after further elaboration and discussion, 47 cases of TRAN-2 pertaining to Subcategories A1 and A3 of technical glitch as per Annexures indicated in column No. 3 and 4 of Table 4 above were considered for allowing filing of TRAN 2 in accordance with the Law Committee recommendations regarding consequential benefits related to filing of TRAN 2.

ii. Committee had also allowed GSTN to withdraw 02 cases of Subcategory A2 as mentioned in Table 4 above without any decision and directed GSTN to present the same in the next ITGRC Meeting.

iii. The Committee also decided not to allow remaining 113 cases of TRAN-2 pertaining to Category 'B' as per Annexures indicated in column No. 3 and 4 of Table-5 above in absence of any evidence of technical/system errors in these cases, as was decided in similar cases in past eight IT-GRC meetings.

iv. Following 04 cases were allowed to be withdrawn which were approved earlier in 2nd

ITGRC to re-examine in detail and present in next ITGRC with detailed comments:

01	06BDEPS25 35J1ZF	SATPAL SONI	Haryana	Proprietorship	Nodal Officer IT Issues Haryana	State	gsttihry@gmail.com
02	09AAHCP49 77D1Z2	PLS AUTOMOBILES SERVICES PVT LTD	Uttar Pradesh	Private Limited Company	Sh. Nidhish Singhal, Deputy Commissioner, CGST & Central Excise Commissionerate, Greater Noida	Centre	nidhish.singhal@icegate.gov.in
03	29AAFC17 64F1Z8	SHIVAHARI PAHRAM ACEVTICALS PVT LTD	Karnataka	Private Limited Company	K. S. Basavaraj, Joint Commissioner of Commercial Taxes, Bengaluru	State	basavaraj.sagar@ka.gov.in
04	29AAJCA00 72C1Z1	WIPRO ENTERPRISES PRIVATE LIMITED	Karnataka	Private Limited Company	K. S. Basavaraj, Joint Commissioner of Commercial Taxes, Bengaluru	State	basavaraj.sagar@ka.gov.in

12.3 TRAN-3

i. The Committee decided not to allow 18 cases of TRAN-3 listed as per Annexure-4 to the instant Minutes to avoid any unwanted tinkering with the GST portal.

Agenda 2: Cases Received as per Extended Scope of ITGRC in view of 32nd GST Council Decision.

13. Shri Dheeraj Rastogi, Joint Secretary, GST Council informed to the Committee that in 32nd GST Council Meeting, agenda item 8 pertained to allowing IT-Grievance Redressal Committee (ITGRC) to consider non-technical issues (errors apparent on the face of record). After discussion in the GST Council, it was agreed to expand the mandate of the ITGRC and that *"the ITGRC shall consider on merits, the specific cases as covered under the orders of the Hon'ble High Court of Madras and by any other Hon'ble High Court as sent by any State or Central authority, to the GST Council Secretariat by 31st January, 2019. The ITGRC shall consider the listed cases (as informed by States / Centre before 31st January, 2019) where the following conditions were satisfied:*

- i. *TRAN-1, including revision thereof, has been filed on or before 27th December, 2017 and there is an error apparent on the face of the record (such cases of error apparent on the face of the*

record will not cover instances where there is a mistake like wrong entry of an amount e.g. Rs.10,000/- entered for Rs.1,00,000/-); and

- ii. *The case has been recommended to the ITGRC through GSTN by the concerned jurisdictional Commissioner or an officer authorised by him in this behalf (in case of credit of Central taxes/duties, by the Central authorities and in the case of credit of State taxes, the State authorities, notwithstanding the fact that the taxpayer is allotted to the Central or the State authority)."*

14. Accordingly, an OM dated 19.02.2019 was written to all States and CBIC to forward list of eligible cases. Thereafter, GST Council Secretariat had received a total of 179 cases *vis a vis* extended scope of ITGRC in 32nd GST Council Meeting and analysis of all these cases was presented in 6th ITGRC and no case was allowed by the Committee. Further, another 22 cases received as per extended scope of ITGRC were analysed and presented in 8th ITGRC wherein, Committee agreed to defer the agenda item covering these cases. Thereafter, few more cases were received as per extended scope of ITGRC and total 28 cases received as per extended scope of ITGRC (including the 22 cases of 8th ITGRC deferred by ITGRC) were analysed and presented before the Committee. These cases were placed before ITGRC as part of Agenda 2 before the Committee, which are now reproduced at **Annexure 5 to the instant Minutes.**

15. In 8th ITGRC Meeting various emerging issues before IT Grievance Redressal Committee were discussed and it emerged that for cases involving non-technical glitches, the process of examination by ITGRC might be redesigned and a pragmatic approach was required on the issue of allowing GST TRAN- 1/GST TRAN 2 for those taxpayers who were covered under the 32nd GST Council decision; having High Court decision and had filed the TRAN-1 before due date i.e. 27.12.2017 but not received the transitional credit due to non-technical issue. The mechanism specifying various aspects was recommended by the 8th ITGRC Meeting and competent authority had approved the same. The mechanism/process was having following aspects reproduced below:

- a. The process would be applicable to the taxpayers who have satisfied the criteria and represented before the nodal officer/Jurisdictional Commissioner for non-technical glitches as per 32nd GST Council decision.
- b. Definition of the non-technical error may include cases where TRAN-1/TRAN-2 has been filed before due date i.e.27.12.2017 but credit not received to taxpayer including the scenario where the credit was entered in wrong column.
- c. The jurisdictional Commissioners of the State/Centre should get the claim of the taxpayer checked including the verification of credit and ascertain the amount of credit (CGST/SGST) that was claimed in the various tables of GST TRAN 1/GST TRAN 2. Wherever required a certificate from counterpart tax authorities may also be obtained regarding genuineness of claimed credit.
- d. After being satisfied about the genuineness of the claim, the details should be sent to GSTN with proper recommendation and specific High Court order copy as per 32nd GST Council decision to enable filing of TRAN-1/TRAN-2. The mode as well as format for such directions and the requisite certificate be finalised by GSTN in order to maintain the audit trail and generate report, if required.
- e. If deemed necessary, post audit of the taxpayers could be carried out by tax authorities in a time-bound manner, who would claim transitional credit above a particular threshold.
- f. In light of above, ITGRC could revisit the 'Category A' cases identified as non-technical cases placed in Annexure 3 of 6th ITGRC and Agenda 3 of the 8th ITGRC, taking inputs as required from GSTN.

16. From SGST, CGST and GSTN; GST Council Secretariat had received a total of 28 (**as per Annexure 5**) cases *vis a vis* extended scope of ITGRC in 32nd GST Council Meeting and analysis of all these cases as per above criteria was presented as under:

Table-6: Analysis of Cases Received as per Extended Scope of ITGRC

Category		Description	No of Cases
A	Sub Category	Cases reported on account of Non-Technical error	
	A1	Recommended by jurisdictional tax authority with HC Order and having scenario where the credit was entered in wrong column. (i) In 06 cases, stock wrongly reported at 7(d) in place of 7(a), (ii) In 01 case, uploaded details in column 5 of table 5a instead of column 6 of table 5a (iii) In 01 case, uploaded details in Table 7(d) instead of 7(c) of TRAN-1 (also filed COCP in Hon'ble HC of Kerala),	08 (S. No 01 to 08 of Annexure 5)
	A2	Recommended by jurisdictional tax authority with HC Order but having scenario other than wrong column entry (i) In 01 case, taxpayer did not get the 50% credit of Capital goods (ii) In 01 case, taxpayer had failed to indicate the amount of credit to be transitioned. Hence, closing balance of Cenvat credit in their ER-1 and ST-3 returns last filed were not transferred to their ledger. (iii) In 01 case, TRAN 1 filed but the taxpayer did not file TRAN-2, by oversight. (iv) In 01 case, filed TRAN 1 on 09.11.2017 but CENVAT Credit of 7.51 Cr not reflecting in TRAN-1	04 (S. No 09 to 12 of Annexure 5)
	A3	Case of non-technical error [Mistakenly Transferred the balance service tax credit available with them to the GST Number of their Input Service Distributor (ISD) registration on the belief that this credit could be distributed to their various GSTNs subsequently. HC has ordered to allow filing of rectified TRAN-1 before 30.12.2019. Commissioner has forwarded the case to ascertain whether the case is fit to be considered as non-technical issue without any recommendations.	01 (S. No 13 of Annexure 5)
	A4	Cases of non-technical error recommended by jurisdictional tax authority but Hon'ble High Court order details neither mentioned nor attached/No final order yet.	05 (S. No 14 to 18 of Annexure 5)
Sub Total			18
B	Sub Category	Cases reported involving Technical error that should have been referred to ITGRC through GSTN.	
	B2	Cases of Technical error which are not recommended by jurisdictional tax authority, but Hon'ble Court has directed Nodal Officer to forward to IT Redressal Committee to decide the same.	03 (S. No 19 to 21 of Annexure 5)
	B3	Cases of Technical error already presented before 1 st to 7 th ITGRC and also recommended by ITGRC.	04 (S. No 22 to 25 of Annexure 5)

Total			07
C	--	Cases already presented before 1 st to 7 th ITGRC but not recommended by ITGRC and now as per 32 nd GST Council decision also forwarded without recommendation by jurisdictional tax authority.	02(S. No 26 to 27 of Annexure 5)
D	--	Cases forwarded by jurisdictional tax authority without recommendation. Parameters as recommended by 32 nd GST Council decision not followed.	01 (S. No 28 of Annexure 5)
Total (A+B+C+D)			28

17. In view of extended scope of ITGRC in 32nd GST Council Meeting and subsequently the mechanism/process approved in 8th ITGRC above 28 Cases as **per Annexure 5 of the instant Minutes** were discussed in the Committee. It was observed that 'Category A' involved cases of non-technical error which were received from jurisdictional officers of States/Centre. In the above table based on the availability of recommendation of jurisdictional tax authority, Hon'ble High Court Order and error type, Category-A was also divided in four subcategories as A1, A2, A3 and A4.

18. Considering the above submissions, Committee had further discussed subcategory wise cases in view of the mechanism/process approved in 8th ITGRC as under.

Category A1 (08 Cases)

18.1 In subcategory A1 cases were of non-technical error which were having error of entry of credit in wrong column of TRAN-1. They had not only filed TRAN-1 by due date, but were having Hon'ble High Court orders and recommendation from jurisdictional officers also. Therefore, they seemed to be squarely covered by the criteria specified in 8th ITGRC. It was further, observed that out of four subcategories of category A of table 6 only this subcategory i.e. subcategory A1 fulfilled the criteria as approved in 32nd GST Council and subsequently the mechanism/process approved in 8th ITGRC as in these cases the error was apparent from records. Hence, these cases were covered by extended scope of ITGRC in 32nd GST Council decision and subsequent mechanism/process approved in 8th ITGRC.

Category A2 (04 Cases)

18.2 Subcategory A2 had 04 cases where the fact that the error was not related to **wrong column entry, which was not included in the mechanism specified in 8th ITGRC** and case wise details were as under.

i. **M/s AT&S India Limited, GSTIN 29AAECA2930J1ZO, WP No 22368/2019**: The issue was that Taxpayer had filed the TRAN-1 on 11.12.2017 but they did not get the 50% of Capital goods credit for the period April 2017 to June 2017 in their credit ledger as, the Taxpayer had mentioned Zero in column 11 of Table 6 of GST TRAN-1 form. The committee observed that they should have mentioned the credit which was pending to be transitioned and it seemed to be a human error. Therefore, the Committee observed that the case was not as per the mechanism/process approved in 8th ITGRC for non-technical cases.

ii. **M/s Yokogawa Inida Ltd. GSTIN 29AAACY0840P1ZV WP 15854/2019**: The issue was that the assessee had filed form GST TRAN-1 on 12.12.2017 i.e. before due date but the credit relating to the closing balance of Cenvat credit of Rs. 4,31,32,066/- in their ER-1 and ST-3 returns last filed were not transferred to their ledger. Under the column "Cenvat Credit admissible as ITC" **they had failed to indicate the amount of credit to be transitioned, due to which the credit pertaining to their closing balance was not credited to their electronic credit ledger.** Taxpayer had tried to rectify the error by attempting to revise the TRAN-1 filed before 28.12.2017 but all their all attempts got unsuccessful.

Taxpayer was seeking opportunity to revise the TRAN-1 already filed. In this case also, the Committee observed that there seemed to be human error in not claiming the credit and the case was not as per the mechanism/process approved in 8th ITGRC for non-technical cases.

- iii. **M/s Horology Impex Co. GSTIN 33AAHFH2933G1ZN, W.P. No. 34089/2018**: Taxpayer filed TRAN-1 on 19.12.2017 availing credit of Rs. 81,93,837/- under 7A stock with documents head of TRAN-1. Taxpayer has also shown stock of value of Rs 12,43,13,920/- under 7B Stock without documents in TRAN-1. They had further, stated that they were entitled for a transitional credit of Rs. 62.29 Lakhs, which was not transferred to their Electronic Credit Ledger since they did not file TRAN-2, by oversight. In view of the fact that there was an oversight of the taxpayer, the Committee observed that the case was not as per the mechanism/process approved in 8th ITGRC for non-technical cases
- iv. **M/s Macleods Pharmaceuticals Ltd GSTIN- 02AAACM4100C1ZL, CWP 1551/2018**: Filed TRAN 1 on 09.11.2017 but as per taxpayer the CENVAT Credit of 7.51 Cr did not reflect in TRAN-1. It was mentioned in the letter of jurisdictional tax authority letter that GSTN vide mail dated 06.08.2018 had communicated to the Commissionerate that TRAN-1 was successfully submitted on 26.10.2017 and 27.11.2017 but as per logs taxpayer had filed 0 (zero) in the disputed field instead of 7.51 Cr and no logs of error evidencing any technical glitch faced by taxpayer were found. Therefore, the Committee observed that the case was not as per the mechanism/process approved in 8th ITGRC for non-technical cases

After the discussion and deliberation committee found that these cases did not seem to be qualified within the parameters recommended for considering reopening of the portal as per extended scope of ITGRC in 32nd GST Council and subsequently the mechanism/process approved in 8th ITGRC.

Category A3 (01 Case)

18.3 Category A3 had 01 case which was forwarded with no recommendations by the jurisdictional tax authority. The case in this subcategory was also having error which was not related to mechanism/process approved in 8th ITGRC and also no recommendation was received from the jurisdictional officer. Hence, the case did not seem to be qualified within the parameters recommended for considering reopening of the portal as per extended scope of ITGRC in 32nd GST Council and subsequently the mechanism/process approved in 8th ITGRC. Hence, it was directed that the case be referred back to the jurisdictional officer to conduct a proper verification and come out with clear recommendation so that the case could be further considered by ITGRC, if required.

Category A4 (05 Cases)

18.4 The cases mentioned at subcategory A4 were recommended by the jurisdictional tax authority but **Hon'ble High Court order details were neither mentioned nor attached with the recommendation**, hence they did not fulfil the criteria as approved in 32nd GST Council. Hence, these cases did not seem to be qualified for the recommendation of considering reopening of the portal as per extended scope of ITGRC in 32nd GST Council decision.

Category B, C and D (Cases reported as having other than non-technical issue)

18.5 Further, Committee discussed cases of category B, C and D in detail and observed that these cases had error/issue other than non-technical ones which was not as per decision of 32nd GST Council. Hence, cases at **Category B (07 cases), C (02 cases), D (01 case) (Total 10 cases)** did not appear to be eligible for consideration as part of extended scope of ITGRC and could be considered within normal

scope of ITGRC following the route of Nodal Officer for consideration of ITGRC in view of recommendations of GSTN. Further, many of them have been forwarded without recommendation or not observing the criteria as recommended by 32nd GST Council. Therefore-

- i. Cases of, **B2 (03 cases) and D (01 cases) Total 04 cases**, having technical error and/or not fulfilling parameters as recommended by 32nd GST Council were considered for forwarding to GSTN for further analysis and placing before the next meeting of ITGRC as per circular 03.04.2018.
- ii. Cases at **Category B3 (04 cases)** had been presented in the 1st to 8th ITGRC and recommended by ITGRC but forwarded with the recommendation of the commissioner. Since these were of technical error nature, hence no further action required.
- iii. Cases at **Category C (02 cases)** had been presented in the 1st to 8th ITGRC but not recommended by ITGRC and now again forwarded by CGST/SGST tax authorities without recommendation, hence Committee had directed State/CBIC tax authorities to re-examine these cases and forward properly, only if they fulfil the parameters/conditions as laid down in 32nd GST Council Meeting.

19. Decision for Agenda 2

- vi. Allowed reopening of portal for 08 cases of Subcategory A1 (Annexure 5) as per Extended Scope of ITGRC decided in 32nd GST Council Meeting and subsequently the mechanism/process approved in 8th ITGRC.
- vii. Not to allow re-opening of portal for **Category A2 (04 cases), A3 (01 case), A4 (05 case) (total 10 cases)** as the criteria's laid down by 32nd GST Council Meeting were not fulfilled. However, jurisdictional Commissioners of States/CBIC could resubmit appropriate cases to ITGRC after correcting the deficiencies as discussed or take any other remedial steps as per law.
- viii. Cases of **Category B2 (03 cases) and D (01 cases) (total 04 cases)**, having reported technical error or were not fulfilling parameters as recommended by 32nd GST Council were recommended for forwarding to GSTN for further analysis in terms of circular dated 03.04.2018 and placing before the next meeting of ITGRC, if found fit.
- ix. Cases at **Category B3 (04 cases)** had been presented in the 1st to 8th ITGRC and recommended by ITGRC, hence no action required.
- x. Cases at **Category C (02 cases)** had been presented in the 1st to 8th ITGRC but not recommended by ITGRC and now again forwarded by CGST/SGST tax authorities without recommendation, hence Committee had directed State/CBIC tax authorities to re-examine these cases, if required, and forward, only if they fulfil, the parameters/conditions as decided in 32nd GST Council Meeting.

Agenda 3: Cases Received as per Extended Scope of ITGRC in view of 32nd GST Council Decision and subsequently the mechanism/process approved in 8th ITGRC.

20. The member from Tamil Nadu stated that no case had been considered by the ITGRC in the expanded scope for Non-IT glitch issues in previous Meetings. The intention of the extension of the scope to Non-IT glitches was to avoid unnecessary litigation before the Courts of Law where the taxpayers were getting orders directing the GSTN to open TRAN-1. However, this had not been achieved so far and therefore the following suggestion was made for consideration before the 9th ITGRC:

- i. The cases referred by Tamil Nadu which was the very basis for widening the scope of ITGRC may be reconsidered and approved.

- ii. Even after lapse of two years transitional credit issues had not settle down. The taxpayers were filing representations regularly requesting that the clerical error in filing up the TRAN-1 may be considered and they be granted transitional credit in such cases and also many High Courts had ordered that the TRAN-1 portal may be opened up in many such transitional issues. Hence it was suggested that the taxpayers who for any reason could not claim transitional credit, be allowed to file the claim afresh in a new format may be called as TRAN-4 subject to condition that the genuineness of the claim has to be pre-verified by the concerned jurisdictional officer, like if Central Excise, the Central authorities and if VAT and Entry Tax, the State authorities and if it was found to be in order only then such transitional claim be allowed to be available to the Taxpayer.

21. Considering the above submissions and the mechanism/process approved in 8th ITGRC was having the provision that ITGRC could revisit the 'Category A' cases identified as non-technical cases placed in Annexure 3 of 6th ITGRC and Agenda 3 of the 8th ITGRC, taking inputs as required from GSTN. Accordingly, three cases namely M/s. Balu Iron and Steel Company, Coimbatore, M/s. MSR Iron and Steel India Pvt Ltd, Coimbatore and M/s. Ramesh Iron and Steel Company, Coimbatore appeared in subcategory A1 of the Annexure 3 of 6th ITGRC were placed before the committee as table agenda. Additionally, the case of M/s Shiv Vanijya was also received just before the scheduled time of the 9th ITGRC Meeting and added in the table agenda i.e. Agenda 3 as per following details.

S. No	State/ CGST	GSTIN/ Title of the Case/ WP No. and Date	Brief Issue/ Directions of Hon'ble High Court	Recommendations of Officer of the State /Centre
1	Chennai,CGST Mail 31.03.2019	33AAMFB6860B1ZO M/s. Balu Iron and Steel Company, Coimbatore, 21321 to 21323 of 2018 dated 21.08.2018 of Madras High Court	TRAN-1 filed on 28.08.2017. Data relating to input held in stock was wrongly declared in 7(d) instead of 7(a) and hence credit is not transitioned. Nodal Officer in consultation with the GSTN shall take note of the grievances expressed by the petitioner and Grievance Committee to take appropriate decision in the matter expeditiously.	Recommended for reopening of TRAN-1.
2	Chennai,CGST Mail 31.03.2019	33AAGCM0518C1Z4 M/s. MSR Iron and Steel India Pvt Ltd, Coimbatore, 21321 of 2018 dated 21.08.2018 of Madras High Court	TRAN-1 filed on 28.08.2017. Data relating to input held in stock was wrongly declared in 7(d) instead of 7(a) and hence credit is not transitioned. Nodal Officer in consultation with the GSTN shall take note of the grievances expressed by the petitioner and	Recommended for reopening of TRAN-1.

			Grievance Committee to take appropriate decision in the matter expeditiously.	
3	Chennai,CGST Mail 31.03.2019	33AAECR3728H1ZH M/s. Ramesh Iron and Steel Company, Coimbatore., 21321 to 21323 of 2018 dated 21.08.2018 of Madras High Court	TRAN-1 filed on 28.08.2017. Data relating to input held in stock was wrongly declared in 7(d) instead of 7(a) and hence credit is not transitioned., Nodal Officer in consultation with the GSTN shall take note of the grievances expressed by the petitioner and Grievance Committee to take appropriate decision in the matter expeditiously.	Recommended for reopening of TRAN-1.
4	CGST Ranchi	20ABOPA7784J1ZH M/s Shiv Vanijya WP 4540/2018	TRAN-1 filed and Data relating to ITC wrongly declared in 7(a) instead of 7(d). Order: ITGRC to decide the claim of this petitioner on the basis of representation submitted by petitioner.	Recommended for reopening of TRAN-1.

22. Committee had discussed these four cases in view of the discussion held on Agenda 2 above. These four cases were also of non-technical glitch received as per the extended scope of ITGRC decided in 32nd GST Council Meeting and subsequently the mechanism/process approved in 8th ITGRC. It was observed that these cases involved similar nature of error same as discussed in subcategory A1 of Agenda 2 above. These cases were of non-technical error which were having error of entry of credit in wrong column of TRAN-1. They had filed TRAN-1 by due date, having Hon'ble High Court orders and recommendation from jurisdictional tax authority. They were also fulfilled the criteria as approved in 32nd GST Council and subsequently the mechanism/process approved in 8th ITGRC. Therefore, the mechanism specified in 8th ITGRC was applicable to them. Hence, these cases seemed to be qualified within the parameters recommended for considering reopening of the portal as per extended scope of ITGRC in 32nd GST Council decision and subsequently the mechanism/process approved in 8th ITGRC.

23. Decision for Agenda 3:

Committee allowed reopening of portal for above 04 cases of Agenda 3 also as per Extended Scope of ITGRC decided in 32nd GST Council Meeting and subsequently the mechanism/process approved in 8th ITGRC.

Agenda 4: Constitution of Public Grievance Committees (PGC) at local and Commissionerate level:

24. CEO, GSTN had placed this agenda with the approval of the Committee that as per Hon'ble High Court of Delhi order dated 28.11.2019 in WPC 9575/2017 and CM No 38987/2017 filed by Sales Tax Bar Association (STBA), Constitution of Public Grievance Committees (PGC) at local and Commissionerate level has to be done. Hon'ble High Court had directed to file affidavit in two weeks in this regard. Therefore, it was requested by him that Committee could recommend to forward an Agenda regarding constitution of PGC's before the GST Council.

25. Decision for Agenda 4:

Committee discussed the issue and agreed to recommend that GST Policy Wing and GSTN may jointly prepare a suitable agenda and place before the ensuing GST Council to comply the order of Hon'ble Court.

TRAN 1 Cases sent by Nodal Officers of Centre/States

	Category	Detailed Description	Count of Taxpayer
A1	Processed with error.	The taxpayer could not claim transitional credit as the line items requiring declarations of earlier existing law registration were processed with error since the taxpayer had not added them in his registration details.	10
A2	TRAN-1 not attempted as per logs - due to Registration Issue and Return filed after TRAN1 due date.	The taxpayers were not able to migrate due to technical issues. These taxpayers have applied afresh after 27th Dec 2017 and were allotted the same GSTIN as their Provisional ID later.	04
A3	Taxpayer has submitted TRAN1, only Filing needs to be enabled.	Taxpayer has submitted TRAN 1 but not filed with appropriate signature (DSC/EVC). Request for enabling filing with signature as GSTR 3B is not getting filed. This includes cases which are currently in composition or registration is cancelled.	10
A4	Migration User - Got Registration post TRAN-1 end date.	The taxpayer is a migrated taxpayer and has taken registration on 29th September 2018 with effective date of registration as 1st July 2017.	02
B1	As per GST system log, there are no evidences of error or submission/filing of TRAN1.	As per GST System Logs there is no evidence that the taxpayer has tried for Saving / Submitting / Filing TRAN1	20
B2	TRAN-1 Fresh/Revision Attempted with No error/ No valid error reported.	As per GST System Logs, the taxpayer has tried for Saving / Submitting /Filing fresh or Revision and there are no evidences of system errors in the log.	05
B3	TRAN-1 Successfully Filed as Per Logs with No Valid Error reported.	The taxpayer has successfully filed TRAN1 and no technical error has been found.	16
B5	TRAN-1 filed once but credit not received.	Cases where the taxpayer has filed TRAN1 once but no credit has been posted. No technical issues has been observed in the logs.	05
	Total		72

Category A1: Cases where the taxpayer received the error ‘Processed with error. The taxpayer could not claim transitional credit as the line items requiring declarations of earlier existing law registration were processed with error since the taxpayer had not added them in his registration details

S. No.	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constitution of business	Nodal Officer / Jurisdiction Name	Centre/State	E-Mail ID
1	04AAACV5195J1Z4	VALCO INDUSTRIES LIMITED	Chandigarh	Public Limited Company	Kumar Gaurav Dhawan, Additonal Commissioner, CGST Commissionerate, Chandigarh	Centre	Letter
2	06AADFF8926D1ZJ	FIVE STAR ENGINEERING SERVICE	Haryana	Partnership	Nodal Officer IT issues, Haryana	State	gsttihry@gmail.com
3	29AAECM6862D1ZA	MENZIES AVIATION BOBBA (BANGALORE) PRIVATE LIMITED	Karnataka	Private Limited Company	Shri Suresh Kumar, Principal Commissioner of Central Tax, Bengaluru North Commissionerate, Bangalore	Centre	commr-cexblr4@nic.in
4	27AAAFF8495N1ZP	FIBER OPTIK	Maharashtra	Partnership	Dr. Sunil Bodhgire Nodal Officer, Deputy Commissioner State Government, Mumbai	State	gstit.state@mahagst.gov.in
5	27AAACR5043H1ZI	RAMPRA STEEL INDUSTRIES	Maharashtra	Private Limited Company	Miss Kalyaneshwari Patil, Deputy Commissioner of State Tax, Mumbai	State	gstit.state@mahagst.gov.in
6	27AABCP8750G1Z9	PREM POWER CONSTRUCTION	Maharashtra	Private Limited Company	Sanjay Rathi, Commissioner,	Centre	Letter

		TION PRIVATE LIMITED.					
7	27AAACL43 78F1ZG	LAMIFABS & PAPERS PRIVATE LIMITED	Maharas htra	Private Limited Company	K. V. S. Singh, Commissioner, CGST Commissionerat e, Aurangabad	Centr e	Letter
8	07AAACV9 890N1ZG	VANSH ELECTROM ECHANICA L DEVICES PRIVATE LIMITED	New Delhi	Private Limited Company	Ravindra Singh, Assistant Commissioner, CGST Commissionerat e, New Delhi	Centr e	ccu- cexdel@nic.in
9	08AANCS65 00K1Z1	SIDDHI VINAYAK CHEMEX INDIA PRIVATE LIMITED	Rajastha n	Private Limited Company	Raj Kumar, Joint Commissioner (IT), Commercial Taxes Department, Jaipur	State	dc- it@rajasthan.g ov.in
10	**09AAACI 4625C1ZX	ITI LTD (ITI LTD- RAEBARE LI UNIT)	Uttar Pradesh	Public Limited Compan y	K. S. Basavaraj, Joint Commissioner of Commercial Taxes, Bengaluru	State	ctdgstit.grieva nce@ka.gov.i n

****Received from Nodal Officer (Comm. Taxes), Bengaluru but unit is located in Lucknow Commissionerate.**

Category A2: TRAN 1 not attempted as per logs - due to Registration Issue and Return filed after TRAN1 due date :The taxpayers **were not able to migrate due to technical issues**. These taxpayers have applied fresh after 27th Dec 2017 and were allotted the same migrated/Provisional GSTIN.

S. No .	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constitut ion of business	Nodal Officer / Jurisdiction Name	Cent re/St ate	E-Mail ID
11	07AAICM7866P2ZG	MIX INDIA BULK HANDLING PRIVATE LIMITED	Delhi	Private Limited Company	Superintendent, Tech GST-Okhla, Delhi-South	Centr e	gstokhla@gmail.com
12	07AABCI8325A1ZZ	M/s IRVINE TECHNOLOGIES PVT LTD	Delhi	Private Limited Company	Sh. Nagendra Yadav, Joint Commissioner, Central Government, New Delhi	Centr e	ccu-cexdel@nic.in
13	24AFIPM3663A1ZS	INDRANIBEN PANIRBHAI MUDALIAR	Gujarat	Proprietorship	S. M. Saxena, Joint Commissioner, State Government, Ahmedabad, Gujarat	State	jcegov-ct@gujarat.gov.in
14	33AADCR8355H1Z9	EXXARO TILES PRIVATE LIMITED	Tamil Nadu	Private Limited Company	K. M. Ravichandaran, Commissioner, CGST & Central Excise Commissionerate, Chennai South	Centr e	comp.chennainorth@gov.in

Category A3: Cases where the Taxpayer has submitted TRAN1, only Filing needs to be enabled: Taxpayer has submitted TRAN 1 but not filed with appropriate signature (DSC/EVC). Request for enabling filing with signature as GSTR 3B is not getting filed. This includes cases which are currently in composition or registration is cancelled.

S. N o.	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constitut ion of business	Nodal Officer / Jurisdiction Name	Cent re/St ate	E-Mail ID
15	24ARVPD0678F1ZO	PRITESH KUMAR MAHENDRA BHAI DAVE (SHAKTI STUDIO)	Gujarat	Proprietorship	S. M. Saxena, Joint Commissioner, State Government, Gujarat	State	jcegov-ct@gujarat.gov.in
16	24AAWFS9686G1Z8	S. S. TRADERS	Gujarat	Partnership	M. S. Jani, Deputy Commissioner of State Tax, Rajkot	State	dc22-ct@gujarat.gov.in
17	24AKAPM8427H1Z7	VIJAYBHAI KANHAIYALAL MISTRY (MEENURAJ SOFA LINING)	Gujarat	Proprietorship	Kamleshkumar L. Hadula, Deputy Commissioner Of State Tax, Ahmedabad	State	dc5-ahd2-gstn@gujarat.gov.in
18	29BJMPA1983Q1ZG	ASHOK KUMAR (HEERA ELECTRICALS & HARDWARE)	Karnataka	Proprietorship	K. S. Basavaraj, Joint Commissioner of Commercial Taxes, Bengaluru	State	basavaraj.sagar@ka.gov.in
19	23CMFPK1594N1ZP	MANISH KUMAR KOTHARI (PERFECT PIPE EVAM FITTING)	Madhya Pradesh	Proprietorship	Neerav Kumar Mallick, Commissioner, CGST & Central Excise Commissionerate, Indore, Madhya Pradesh	Centre	ashokbhandari04@gmail.com
20	27AXIPS2431E1ZJ	FOUZAN MOHAMMED SIDDIQUE	Maharashtra	Self Employed	Miss Kalyaneshwari Patil, Deputy Commissioner	State	gstt.state@mahagst.gov.in

					of State Tax, Mumbai		
21	33AAEFJ221 5L1ZM	JEGADEESAN COMPUTER CENTR	Tamil Nadu	Partnership	S. Ramaswamy, Joint Commissioner, Centre Government, Tamilnadu	State	jccs@ctd.tn.gov.in
22	09AATFS93 68L1ZX	SHANTI AGENCIES	Uttar Pradesh	Partnership	Joint Commissioner (I.T.), Commercial Taxes, Head Quarter, Lucknow, Uttar Pradesh	State	ctithqlu- up@nic.in
23	09AICPV082 6D1ZD	HIMANI TRADERS (VINIT)	Uttar Pradesh	Proprietorship	Joint Commissioner (I.T.), Commercial Taxes, Head Quarter, Lucknow	State	ctithqlu- up@nic.in
24	19AADFH27 19J1ZA	HAIT INDUSTRIES	West Bengal	Partnership	Sima Sarkar, Senior Joint Commissioner, Commercial Taxes, West Bengal	State	sima.sarkar@ wbcomtax.gov. in

Category A4 : Cases where the taxpayer received the error Migration User – ‘Got New Registration post TRAN-1 end date’.

S. N o.	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constitut ion of business	Nodal Officer / Jurisdiction Name	Cent re/St ate	E-Mail ID
25	13AAACI9321H1ZV	INFINITY INFOMATIC PRIVATE LIMITED	Nagaland	Private Limited Company	Wochamo Odyuo, Addl. Commissioner of Taxes, Dimapur, Nagaland	State	wochamo@rediffmail.com
26	33AABCH5055Q1ZB	Heurtey Petrochem India Private Limited	Tamil Nadu	Private Limited Company	S. Ramasamy, Joint Commissioner of State Tax, Tamilnadu	State	jccs@ctd.tn.gov.in

Category B1: Cases in which as per GST system log, there are no evidences of error or submission/filing of TRAN1. As per GST System Logs, the taxpayer has neither tried for Saving / Submitting or Filing TRAN1.

S. N o.	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constituti on of business	Nodal Officer / Jurisdiction Name	Cent re/St ate	E-Mail ID
27	10CAGPS4523Q1ZF	PRITI SINGH (SHIVANSH ENTERPRIS ES)	Bihar	Proprietors hip	Mukesh Kumar, Assistant Commissioner State-Tax, Patna	State	mukesh.kumar1982@gov.in
28	10AALFG3083A1Z1	GARDENIA NEWTECH DEVELOPE RS LLP	Bihar	Limited Liability Partnership	Nitin Anand, Commissioner, CGST & Central Excise Commissionera te, Ranchi Zone, Patna	Centr e	nitinanand.irs@gov.in
29	10AABCI9694J1ZB	IMPERIAL AGRO PRIVATE LIMITED	Bihar	Private Limited Company	Sh. Nitin Anand, Commissioner, CGST & Central Excise Commissionera te, Patna	Centr e	nitinanand.irs@gov.in
30	04ADEPN7409H1ZN	LAKSHMI NARYAN (SURYA TYRES & TRADERS)	Chandigar h	Proprietors hip	R. L. CHUGH, Proper Officer, Ward-2, Chandigarh	State	etosalestaxward2@gmail.com
31	07AAKFD6795M1ZM	DEVRAJ RANGWAL A IMPEX LLP	Delhi	Limited Liability Partnership	Prashant Kumar Prasad, GSTO, Government of NCT of Delhi, Department of Trade & Taxes Delhi	State	pk.prasad70@gov.in
32	24AASCS6611A1ZJ	SHREE CHANDRA VATI ALUMSTO	Gujarat	Private Limited Company	Smt. Stela Christian, Deputy Commissioner	State	dc7-gnr-gstn@gujarat.gov.in

		DOORS PRIVATE LIMITED			of State Tax, Gandhinagar		
33	24AADCG434 5E1ZZ	FREUDENB ERG GALA HOUSEHOL D PRODUCT PRIVATE LIMITED	Gujarat	Private Limited Company	S. M. Saxena, Joint Commissioner of State Tax, Ahmedabad	State	jcegov- ct@gujarat. gov.in
34	24ADIPK1749 D1ZT	VIJAYKUM AR KANANI	Gujarat	Proprietors hip	S. M. Saxena, Joint Commissioner, State Govt, Gujarat	State	jcegov- ct@gujarat. gov.in
35	29AACCB535 1J1ZK	BASAI STEELS AND POWER PRIVATE LIMITED	Karnataka	Private Limited Company	K. S. Basavaraj, Joint Commissioner of Commercial Taxes, Bengaluru	State	basavaraj.sa gar@ka.gov. in
36	27AGWPK369 8Q1Z0	BALEWADI TECHPARK PVT.LTD (NAVJEETS INGH MANMOHA NSINGH KOCHHAR) (UTTAM CATERERS)	Maharasht ra	N/A	Dr. Sunil Bodhgire Nodal Officer, Deputy Commissioner State Government,M umbai	State	gstit.state@ mahagst.gov .in
37	27AADCV235 6E1ZF	VINAYAKA SEEDS PRIVATE LIMITED	Maharasht ra	Private Limited Company	D. P. S. Kushwah, Additional Commissioner, CGST & Central Excise Commissionera te, Nagpur	Centr e	Letter
38	27BKTPS9058 Q1ZN	ADARSH HARDWAR E STORES	Maharasht ra	Proprietors hip	Miss Kalyaneshwari Patil, Deputy Commissioner of State Tax, Mumbai	State	gstit.state@ mahagst.gov .in

39	27AACCB5957A1ZV	BURO SYS FURNITURE PRIVATE LIMITED	Maharashtra	Private Limited Company	Vipul Gupta, Joint Commissioner, CGST & Central Excise Commissionerate, Churchgate, Mumbai	Centre	Letter
40	27AAGCP0376D1ZK	PRL INFRACON STRUCTURES AND DEVELOPERS PRIVATE LIMITED	Maharashtra	Private Limited Company	Miss Kalyaneshwari Patil, Deputy Commissioner of State Tax, Mumbai	State	gsttit.state@mahagst.gov.in
41	27AAACZ0929J1Z4	ZAWARE CREATIVE ENTERPRISES PRIVATE LIMITED	Maharashtra	Private Limited Company	Vandana K. Jain, Commissioner, CGST Commissionerate, Pune	Centre	santosh.vatsa@nic.in
42	21AAAFV6943P1ZS	VIJAYA AUTO SALES	Odisha	Partnership	Sri J. Sateesh Chandar, Joint Commissioner, CGST & Central Excise Commissionerate, Bhubaneswar	Centre	sateesh.chandardar@gov.in
43	21AADFV2201R1ZA	VIJAY MOTORS	Odisha	Partnership	Sri J. Sateesh Chandar, Joint Commissioner, CGST & Central Excise Commissionerate, Bhubaneswar	Centre	sateesh.chandardar@gov.in
44	33AWJPS2919K1Z5	Sri amman steel (VELLAICHAMY SANGAIAH)	Tamil Nadu	Proprietorship	S. Ramaswamy, Joint Commissioner, Tamilnadu	State	jccs@ctd.tn.gov.in
45	09ACWPA0115G1ZV	PAWAN KUMAR AGARWAL	Uttar Pradesh	Proprietorship	Joint Commissioner (I.T.),	State	ctithqlu-up@nic.in

					Commercial Taxes, Head Quarter, Lucknow		
46	05ABOPD3153E1Z2	M/S SIMPLEX CONTROL EQUIPMEN TS COMPANY	Uttarakha nd	Proprietors hip	Anurag Mishra, Deputy Commissioner of State Taxes, Uttarakhand	State	anuragmishr a75@gmail. com

Category B2: Cases where TRAN 1 Fresh/Revision Attempted with No error or No valid error reported: As per GST System Logs, the taxpayer has tried for Saving / Submitting/Filing Revision and there are no evidences of system errors in the log.

S. No.	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constitution of business	Nodal Officer / Jurisdiction Name	Centre/State	E-Mail ID
47	30AABCB8394G1ZS	BAGH BAHAR APPLIANCE S PRIVATE LIMITED	Goa	Private Limited Company	Shri K. Anpazhakan, Commissioner, CGST Commissionerate, Goa	Centre	santosh.vatsa@nic.in
48	27AABCV5773H1Z0	VISHWAKARMA ALUMINIUM HOUSE PRIVATE LIMITED	Maharashtra	Private Limited Company	Shri P. H. Lal, Assistant Commissioner, CGST Commissionerate, Mumbai West	Centre	div7tech.cgstmw@gmail.com
49	27BLUPS1283H1ZG	LOKESH SHAH (SHASHI ENTERPRISE)	Maharashtra	Proprietorship	Amit Kumar Sharma, Deputy Commissioner, Central Government, Mumbai	Centre	amit.irs@gov.in
50	27AACFM2148K1Z8	MOTICHAND RAOJI GANDHI	Maharashtra	Partnership	Miss Kalyaneshwari Patil, Deputy Commissioner of State Tax, Mumbai	State	gstt.state@mahagst.gov.in
51	09AAACS4457Q1ZO	Vodafone Idea Limited (VODAFONE MOBILE SERVICES LIMITED)	Uttar Pradesh	Public Limited Company	Joint Commissioner (I.T.), Commercial Taxes, Head Quarter, Lucknow, Uttar Pradesh	State	ctithqlu-up@nic.in

Category B3: Cases where the taxpayer has Successfully Filed TRAN-1 as Per Logs with No Valid Error reported: The taxpayer has successfully filed TRAN1 and no technical errors has been found.

S. No.	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constitution of business	Nodal Officer / Jurisdiction Name	Centre/State	E-Mail ID
52	07AABCM9244N1Z0	CERA SANITARY WARE LIMITED	Delhi	Public Limited Company	Assistant Commissioner, O/o the Principal Chief Commissioner, CGST & CX, Delhi Zone	Centre	ccu-cexdel@nic.in
53	07AABCT2439G2ZG	M/s TOPSEL PRIVATE LIMITED	Delhi	Private Limited Company	Assistant Commissioner, O/o the Principal Chief Commissioner, CGST & CX, Delhi Zone	Centre	ccu-cexdel@nic.in
54	24AANFG1056H1ZJ	GAYATRI ELECTRONICS	Gujarat	Partnership	S. M. Saxena, Joint Commissioner, State Government, Ahmedabad, Gujarat	State	jcegov-ct@gujarat.gov.in
55	01AABCM9244N1ZC	CERA SANITARY WARE LIMITED	Jammu & Kashmir	Public Limited Company	Sandeep Kumar, Programmer, Coordinator Jammu Division, State Admin GST, STC, J&K GST, Nodal Officer GST/BAS	State	sandeep.prog123@gmail.com
56	29BBWPM4835P1ZG	FAKRUDDIN SAB MAHABOOB BASHA (HINDUSTAN)	Karnataka	Proprietorship	K. S. Basavaraj, Joint Commissioner of Commercial	State	basavaraj.sagar@ka.gov.in

		N PLYWOOD AND HARDWAR ES)			Taxes, Bengaluru		
57	27CMYPS868 4J1ZL	SHABNAM BANO SHAMSHA D ALI SHAIKH (ALI TRADERS)	Maharas htra	Proprietor ship	Miss Kalyaneshwari Patil, Deputy Commissioner of State Tax, Mumbai	State	gstit.state@ mahagst.gov .in
58	27AABCF253 3P1ZF	FRIZO INDIA PRIVATE LIMITED	Maharas htra	Private Limited Company	Miss Kalyaneshwari Patil, Deputy Commissioner of State Tax, Mumbai	State	gstit.state@ mahagst.gov .in
59	27AAHFK046 1E1ZM	KAMDHEN U BUILDER & DEVELOPE RS	Maharas htra	Partnershi p	Sanjay Mahendru, Commissioner, CGST Commissionerat e, Belapur Navi Mumbai	Centr e	Mahendra.P atil@icegate .gov.in
60	27AADCS922 1P1ZT	M/s SSB Alloys & Steel Pvt. Ltd.	Maharas htra	Private Limited Company	Pritee Chaudhary, Additional Commissioner, CGST Commissionerat e, Mumbai	Centr e	compccxm1 @gmail.com
61	21AABCJ283 5N1ZM	JAI HANUMAN UDYOG LIMITED	Odisha	Public Limited Company	J. Sateesh Chandar, Joint Commissioner, CGST & Central Excise Commissionerat e, Bhubaneswar Zone	Centr e	sateesh.chan dar@gov.in
62	21AAFFM765 3N1ZZ	MANGILAL L RUNGTA	Odisha	Partnershi p	S. S. Bisht, Central Government, Assam	Centr e	Letter
63	21AAEPL842 9N2ZF	VIJAY LAL	Odisha	Proprietor ship	Sri J. Sateesh Chandar, Joint Commissioner,	Centr e	sateesh.chan dar@gov.in

					CGST & Central Excise Commissionerate, Bhubaneswar		
64	33AAKPP1874B1ZV	DEJUSHETTY PADMANA BHAN (PADMANA BHAN DEJUSHETTY)	Tamil Nadu	Proprietorship	K. M. Ravichandaran, Commissioner, CGST & Central Excise Commissionerate, Chennai South	Centre	comp.chennaiorth@gov.in
65	33AAGCA3118E1ZA	ARIHANT BUILD MART PVT. LTD.	Tamil Nadu	Private Limited Company	S. Ramaswamy, Joint Commissioner, Tamilnadu	State	jccs@ctd.tn.gov.in
66	36AAFCK5942D1ZL	KAVERI INFRAPROJECTS PRIVATE LIMITED	Telangana	Private Limited Company	Shri. Raghu Kiran B, Joint Commissioner, CGST & Central Excise Commissionerate, Hyderabad	Centre	cgst.mdlco mmtecomp@gov.in
67	19ANKPP6848C1ZK	MANINDRA PARUI (M M ENTERPRISE)	West Bengal	Proprietorship	Sima Sarkar, Senior Joint Commissioner, Commercial Taxes, West Bengal	State	sima.sarkar@wbcomtax.gov.in

Category B5: Cases where TRAN-1 is filed once but credit not received. In these cases the taxpayer has filed TRAN1 once but no credit has been posted. No technical issues has been observed in the logs.

S. No.	GSTIN/ Provisional Id	Legal Name	State	Constitution of business	Nodal Officer / Jurisdiction Name	Centre/State	E-Mail ID
68	04AAACH5598K1Z9	M/s HLL LIFECARE LIMITED	Chandigarh	Public Sector Undertaking	Kumar Gaurav Dhawan, Additional Commissioner, CGST Commissionerate, Chandigarh	Centre	Letter
69	30AABFP9573C1ZH	PIONEER ENTERPRISES	Goa	Partnership	Central Government, Goa	Centre	stdiv2@gmail.com
70	24AAACO2313B1ZC	UNIFRAX INDIA PRIVATE LIMITED	Gujarat	Private Limited Company	Sunil Kumar Singh, Commissioner, CGST & C.Ex, Gandhinagar	Centre	commr-cexamd3@nic.in
71	27AAACO0469J1ZC	Okay Paper Products Pvt Ltd (OKAY PAPER PRODUCTS PRIVATE LIMITED)	Maharashtra	Private Limited Company	Miss Kalyaneshwari Patil, Deputy Commissioner of State Tax, Mumbai	State	gstit.state@mahagst.gov.in
72	09AQVPS0690P1ZM	M/s Firozabad Tent House (GORY SHANKER SHARMA)	Uttar Pradesh	Proprietorship	Vivek Kumar Jain, Joint Commissioner, CGST & Central Excise Commissionerate, Lucknow	Centre	ccu-cexlko@nic.in

Annexure 2

TRAN-1 Writ Petition Cases

Category No.	Category	Detailed Description	Count of Taxpayer
A-1	Processed with error	Cases where the taxpayer received the error 'Processed with error.' As per GST system logs the taxpayer has attempted to submit first time/fresh or revise TRAN1 but could not file because of errors.	5
A-2	Cases where TRAN-1 not attempted as per logs due to Registration Issue and Return filed after TRAN1 due date	The tax payer was not able to migrate due to technical issues. These tax payers have applied afresh after 27 th December, 2017 and were allotted the same GSTIN as their provisional ID later.	1
B-1	As per GST system log, there are no evidences of error or submission/filing of TRAN1.	As per GST system log, there are no evidences of error or submission/filing of TRAN1.	13
B-2	TRAN-1 Fresh/Revision Attempted with No error/ No valid error reported.	TRAN-1 Fresh/Revision Attempted with No error or No valid error reported	2
B-3	TRAN-1 Successfully Filed as Per Logs with no valid error reported	The taxpayer has successfully filed TRAN-1 and no technical errors has been found. Also no issue were found while posting of credit in the electronic credit ledger	1
Other Category	Vishvakarma Paper and Boards Ltd. GSTIN 05AACCV8073F1ZA,	Contempt Petition No. 584 of 2019, in Uttarakhand HC	1
	Total		23

Category A1: Cases where the taxpayer received the error ‘Processed with error.’ As per GST system logs the taxpayer has attempted to submit first time/fresh or revise TRAN-1 but could not file because of errors.

1. Writ Tax 401/2019-Vin Petro Chem Pvt. Ltd. v. UOI & Ors

GSTIN/ Provisional ID	State	Constitution of Business
09AABCV8382Q1ZC	Uttar Pradesh	Private Limited Company

Issue:- The Petitioner tried to upload TRAN-1 on last date i.e. 27.12.2017 but the same was not accepted by the portal due to technical glitch.

Status:- GSTN is a party in this matter. GSTN had only received a copy of order dated 30.03.2019 from the Joint Commissioner (I.T.), Commercial Taxes Head Quarters, Lucknow vide their e-mail dated 04.04.2019. Copy of the Writ Petition was received by GSTN on 18.09.2019 from Joint Commissioner (I.T.), Commercial Taxes, Head Quarters, Lucknow. The Hon’ble High Court vide order dated 30.03.2019 directed the Respondents to reopen the portal within two weeks from the date of order. The matter is pending before the Hon’ble High Court of Uttar Pradesh at Allahabad. Next date of hearing has not been updated on the Court’s website.

Note: This case was included in 8th ITGRC agenda, however, due to non-mention of specific problem faced by the Petitioner in absence of writ petition, this case was withdrawn from the 8th ITGRC meeting. Upon receipt of the copy of writ petition the issue was again examined and investigated in view of averments made in the writ petition.

2. Writ Tax 15717 / 2019 M/s I. T. I. Limited V/s UOI and Others

GSTIN/ Provisional ID	State	Constitution of Business
09AAACI4625C3ZV	Uttar Pradesh	Public Sector Undertaking

Issue: - The petitioner attempted to file TRAN-1 and claim credit several times in the month of December 2017, but the petitioner failed every time he attempted to select the TRAN-1 tab, as an error cropped up. The petitioner does not have any screenshot to demonstrate several attempts made by it. Subsequently, the Petitioner tried again to submit GST TRAN-1 on the last date i.e. 27.12.2017. However, it was not accepted by the portal due to technical glitch which continued throughout the day.

Status:- Copy of the Writ Petition was received by GSTN on 09.08.2019 from the counsel. GSTN is a party in the matter. Vide email dated 13.08.2019, GSTN informed the status of the case to the Counsel appearing for Respondents. **No effective order in available on court’s website.** The matter is pending before the High Court of Uttar Pradesh at Lucknow. Next date of hearing has not been updated on the Court’s website.

3. W.P. 6682/2019 M/s Fuso Glass India Private Limited V/s UOI and Others

GSTIN/ Provisional ID	State	Constitution of Business
36AABCM9798H1ZT	Telangana	Private Limited Company

Issue: The petitioner filed TRAN-1 on 06.11.2017 for its three locations before the last date and claimed an input tax credit of Rs.8,04,170 which was lying to its credit as on 30.06.2017. However, the GST Portal did not accept the same and showed "Validation Error". It showed the causes of validation error as date of birth does not match for authorised signatory, Aadhaar Details does not match and date of birth does not match for promoter. By the time the validation errors were rectified, the due date for filing of TRAN-1 was over.

Status:- GSTN is a party in the matter. Vide e-mail dated 01.10.2019 status of the case has been appraised to the Commissioner of Commercial Taxes Telangana, Hyderabad. **No effective order is available on Court's website.** Next date of hearing has also not been updated on Court's website

4. W.P. 9833 / 2019- Kottoor Mathew Jose Mathew v. UOI & Ors.

GSTIN/ Provisional ID	State	Constitution of Business
32AEHPM9073L1Z3	Kerala	Proprietorship

Issue:- The Petitioner filed TRAN-1. Subsequently the Petitioner tried to revise the same but could not do so on account of technical glitches.

Status:- The High Court vide order dated 29.03.2019 ordered respondent no. 6 (Nodal Officer, Office of Commissioner CGST & CE, Thiruvananthapuram) to consider the request of the tax payer in resolving the glitches in GST Portal and pass orders as may be correct both to adhere to time scheduled and /or alternatively provide alternative method to the petitioner for filing return. GSTN is a party in this matter.

Further investigation by GSTN:- An email dated 10.7.2019 was sent to the Petitioner requesting for the following information:-

- i. GSTIN
- ii. Exact technical glitch faced by you while filing TRAN-1
- iii. Nature of error noticed
- iv. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

The Petitioner was requested to provide the details by 12.7.2019. The Petitioner vide email dated 12.07.2019 provided that they were unable to upload details while filing TRAN-1 due to technical glitches. The Petitioner vide email dated 27.12.2017 has provided the details. On analysis of the details provided, it was found that the taxpayer faced technical errors in saving records. Therefore, the taxpayer should be considered as he has encountered errors while saving the records.

5. W.P. 9886/2019 M/S A. P. Trading Co. v/s UOI and Others

GSTIN/ Provisional ID	State	Constitution of Business
07ABBPS5633F1ZP	Delhi	Proprietorship

Issue: The Petitioner repeatedly tried to file TRAN-1 since the TRAN-1 Form was made available on the portal. However, the petitioner could not furnish the details on account of failure of the system to accept the information on the common portal. Every time an attempt was made to save the uploaded data the Petitioner would get logged out from the common portal. The Petitioner made several efforts to log in to the portal repeatedly but it was shown that there was a “Network Error” or the “Site Can’t” be reached.

Status: GSTN is a party in this matter. GSTN received advance copy of the Writ Petition from the Petitioners Counsel on 09.09.2019. GSTN has neither received court’s notice nor any intimation from the concerned Commissionerate. **There is no effective order passed by the High Court of Delhi.** The matter is pending and the next date of hearing is 21.11.2019.

Further Investigation by GSTN: An email dated 31.10.2019 was sent to the Petitioner requesting for the following information:-

- i. GSTIN
- ii. Exact technical glitch faced by you while filing TRAN-1
- iii. Nature of error noticed
- iv. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

The Petitioner was requested to provide the details by 02.11.2019. The Petitioner replied vide email dated 02.11.2019 providing the requested information. On analysis of the details provided by the Taxpayer, it was found that as per the screen shot provided by the taxpayer, he was not able to connect to the GST System to file TRAN-1 and thus the taxpayer was not able to login into GST System to file TRAN-1. Therefore, it may be considered that the taxpayer faced technical issues while logging into GST system.

Category A-2: Cases where, TRAN-1 not attempted as per logs - due to Registration/Migration Issue and Registration got after TRAN1 due date

6. W.P. 7454 / 2019 M/S Anupam Motors V/s UOI and Others

GSTIN/ Provisional ID	State	Constitution of Business
08AAUFA1145N1Z1	Rajasthan	Partnership

Issue:- The petitioner was unable to file TRAN-1 on GST Portal due to various technical glitches within the stipulated time as envisaged under GST Law.

Status:- GSTN is a party in the matter. Vide e-mail 19.07.2019 status of the case has been apprised to the Jodhpur Commissionerate in terms of CBIC’s Circular dated 03.04.2018. The Hon’ble Court vide order dated 30.05.2019, directed the Respondents to provisionally entertain the GST TRAN-1 and other

returns of the petitioner either by way of opening the portal or manually. The matter is pending before the Hon'ble Rajasthan High Court at Jodhpur. Next date of hearing has not been updated on website.

Category-B1:- As per GST system log, there are no evidences of error or submission/filing of TRAN1.

7. W.P. 6460 / 2019 - M/S Kabel Tradelink Pvt Ltd V/s UOI and Other

GSTIN/ Provisional ID	State	Constitution of Business
08AADCK5530D1ZU	Rajasthan	Private Limited Company

Issue:-The Petitioner could not file TRAN-1 due to technical glitches. No screen shot was taken by the Petitioner of the error.

Status:- The abovementioned details have been received from Petitioner's nodal officer. The Writ Petition has not been received by GSTN. Vide email dated 05.09.2019, status of the Case was informed to the Jaipur Commissionerate. The Court vide order dated 14.05.2019 has directed the respondents to provisionally entertain the GST TRAN-1 and other returns of the Petitioner either by way of opening the portal electronically or manually.

Further investigation by GSTN:- An email dated 10.7.2019 was sent to the Petitioner requesting for the following information:-

- i. GSTIN
- ii. Exact technical glitch faced by you while filing TRAN-1
- iii. Nature of error noticed
- iv. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

The Petitioner was requested to provide the details by 12.7.2019. The Petitioner responded to the said email vide email dated 10.07.2019. The Petitioner has provided that the Petitioner would get logged out automatically without saving data. They received the error "Looks like we are having Server Issues", "Oops! We are unable to process your request.", "System Error occurred". No screen shots were taken by the Petitioner. The Petitioner has also sent letter dated 29.12.2017 to Superintendent, Rajasthan Goods and Services Tax Department.

8. W.P. 4332/2019-Asian Polymers V/s UOI and Others

GSTIN/ Provisional ID	State	Constitution of Business
07AAKPM6775A1ZL	Delhi	Proprietorship

Issue: That the petitioner was continuously trying to upload its claim of input tax form GST TRAN-1 in the month of December. However, the petitioner was not able to do so on account of failure of the system to accept the information on the common portal.

Status: GSTN is a party in this matter. GSTN's vide email dated 14.06.2019 apprised the status of case to the GST Delhi North Commissionerate in terms of CBIC's Circular dated 03.04.2018. **No effective order has been passed in this case.** The matter is pending before the Hon'ble Delhi High court and next date of hearing is 21.11.2019.

Further investigation by GSTN:- An email dated 27.09.2019 was sent to the Petitioner requesting for the following information:-

- i. GSTIN
- ii. Exact technical glitch faced by you while filing TRAN-1
- iii. Nature of error noticed
- iv. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

The Petitioner was requested to provide the details by 01.10.2019. No response was received from the Petitioner.

9. W.P. 6585 / 2019 - M/s Pawan Steel Tubes V/s UOI and Others

GSTIN/ Provisional ID	State	Constitution of Business
08AABFP4554B1ZJ	Rajasthan	Partnership

Issue: The Petitioner has stated at the time of finalization of the audit of the books of accounts, he came to know that the stock statement in form GST TRAN-1 for the un-availed CENVAT credit couldn't be filed due to some technical inadvertent mistakes occurred with the clerical staff in the office of the counsel while uploading the details on common portal. Petitioner further stated that as per provisions contained in rule 117, the petitioner through their consultant tried to upload the information /details on the common portal in form GST TRAN-1 **but due to glitches of IT system** of respondent no 3, the clerical staff couldn't get uploaded the form on common portal of respondent no 3 within time limit up to 27.12.2017. Thereafter, at the time of finalization of the audit of the books of account, this fact came to the knowledge of the petitioner but by that time limitation has been expired.

Status: GSTN is a party in this matter. The Hon'ble court vide order dated 01.05.2019 directed the Respondents to provisionally entertain TRAN-1 and other return of the Petitioner either by way of opening the portal or manually. Vide letter dated 11.09.2019 status of the case has been apprised to the Commissioner, Jaipur (Rajasthan). The matter is pending before the High Court of Rajasthan at Jaipur.

Further Investigation by GSTN: An email dated 22.08.2019 was sent to the Petitioner requesting for the following information:-

- i. GSTIN
- ii. Exact technical glitch faced by you while filing TRAN-1
- iii. Nature of error noticed
- iv. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

The Petitioner was requested to provide the details by 24.08.2019. However, no response was received from the Petitioner.

10. W.P. 12804 / 2018 - M/s Ajmer Diesels & Tractors V/s UOI and Others

GSTIN/ Provisional ID	State	Constitution of Business
08AACFA0461B1Z7	Rajasthan	Partnership

Issue: The petitioner stated that he was trying to carry forward the unavailed CENVAT credit since 25.12.2017 by submitting declaration form GST TRAN-1 but due to system error the required form GST TRAN-1 could not be uploaded. Since, the TRAN-1 is not filed, petitioner is unable to file TRAN-2.

Status: GSTN is not a party in this matter. Vide e-mail dated 28.06.2019 GSTN has issued comments apprising the status of case in terms of CBIC's circular dated 03.04.2018. The Hon'ble High Court vide order dated 25.09.2019 directed the Respondents to provisionally entertain TRAN-1 and other return of the Petitioner either by way of opening the portal or manually. The matter is pending before the Hon'ble High Court of Rajasthan at Jodhpur and next date of hearing is 20.11.2019.

Further Investigation by GSTN: An email dated 22.08.2019 was sent to the Petitioner requesting for the following information:-

- i. GSTIN
- ii. Exact technical glitch faced by you while filing TRAN-1
- iii. Nature of error noticed
- iv. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

The Petitioner was requested to provide the details by 24.08.2019. No response was received from the Petitioner.

11. W.P. 6528 / 2019 - M/s R.R. MINERAL V/s UOI and Others

GSTIN/ Provisional ID	State	Constitution of Business
08AEIPB4724N1ZC	Rajasthan	Proprietorship

Issue: The petitioner through their consultant tried to upload the information /details on the common portal in form GST TRAN-1 but due to glitches of IT system, the clerical staff couldn't upload the form on common portal within time limit up to 27.12.2017. Thereafter, at the time of finalization of the audit of the books of account, this fact came to the knowledge of the petitioner but by that time limitation has been expired.

Status: GSTN is a party in this matter. The Hon'ble Court vide order dated 30.04.2019 directed the Respondents to provisionally entertain TRAN-1 and other return of the Petitioner either by way of opening the portal or manually. GSTN vide e-mail dated 10.10.2019 issued comments apprising the status of case to the Commissioner, Jaipur (Rajasthan). The matter is pending before the Hon'ble High Court of Rajasthan at Jaipur and the next date of hearing is not updated on Court's website.

Further Investigation by GSTN: An email dated 22.08.2019 was sent to the Petitioner requesting for the following information:-

- i. GSTIN
- ii. Exact technical glitch faced by you while filing TRAN-1
- iii. Nature of error noticed
- iv. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

The Petitioner was requested to provide the details by 24.08.2019. No response was received from the Petitioner.

12. W.P. 13129 / 2019 - M/S Kalin Engineering Industries V/s UOI and Others

GSTIN/ Provisional ID	State	Constitution of Business
33AAIFK0636N1Z8	Tamil Nadu	Partnership

Issue: The petitioner made continuous efforts to upload the GST TRAN-1 for availing the ITC on the closing stock held as on appointed date 30.06.2017. The petitioners filled in all the data offline which was uploaded in GSTN portal. However, when petitioners were trying to submit GST TRAN-1 declaration, they were not able to complete their submission as the GST website was automatically jumping, showing error message and sometime no response. The petitioners were and have been making continuous efforts to submit the TRAN-1 declaration but due to the technical snag in the system, the petitioners were not able to upload the details and submit the TRAN-1 declaration.

Status: GSTN is a party in this matter. GSTN vide letter dated 08.07.2019 has issued comments apprising the status of case to the Additional Commissioner, CGST, Tiruchallappalli. The Madurai Bench of the Hon'ble High Court of Madras vide final order dated 03.09.2019 pleased to disposed of the matter with direction to the Joint Commissioner, Trichy to consider the representation dated 01.04.2019 of the petitioner and pass order on its own merits by taking note of technical snags.

Further Investigation by GSTN: An email dated 22.08.2019 was sent to the Petitioner requesting for the following information:-

- i. GSTIN
- ii. Exact technical glitch faced by you while filing TRAN-1
- iii. Nature of error noticed
- iv. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

The Petitioner was requested to provide the details by 24.08.2019. The petitioner responded vide e-mail dated 30.08.2019 stating that the mistake has happened only due to poor internet connectivity & lack of knowledge about GST roll out. Petitioner stated that he did not expect that this kind of problem would occur, if he failed to file TRAN -1 within the stipulated time. He further stated that he failed to take any screen shot of the Error also.

13. W.P. 4691 / 2018 M/S Ambika Industries V/s UOI and Others

GSTIN/ Provisional ID	State	Constitution of Business
08ABFPG4795A1ZS	Rajasthan	Proprietorship

Issue: The petitioner tried to carry forward the unveiled CENVAT Credit by submitting declaration FORM TRAN-1 but due to system error, the required FORM TRAN-1 could not be uploaded.

Status: GSTN is not a party in this matter. GSTN vide e-mail dated 16.07.2019 issued comments apprising the status of case to the Joint Commissioner (I.T.), Commercial Taxes Department, Rajasthan (Jaipur). The High Court of Rajasthan at Jodhpur vide order dated 09.04.2018 directed the Respondents to provisionally entertain the GST TRAN-1 and other returns of the petitioner either by way of opening the portal or manually. The matter is pending before the court, next date of hearing is 06.12.2019.

Further Investigation by GSTN: An email dated 12.09.2019 was sent to the Petitioner requesting for the following information:-

- i. GSTIN
- ii. Exact technical glitch faced by you while filing TRAN-1
- iii. Nature of error noticed
- iv. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

The Petitioner was requested to provide the details by 14.09.2019. On 12.09.2019 GSTN has received further request for the clarification from the e-mail ID "ds252320@yahoo.com" regarding name of the case with GSTIN. GSTN has forwarded the requested details again vide e-mail dated 17.09.2019 with request to respond by 19.09.2019. However, no response has been received in this matter.

14. W.P. 4315 / 2019 M/S Shree Motors V/s UOI and Others

GSTIN/ Provisional ID	State	Constitution of Business
08ADYPC1492K2ZZ	Rajasthan	Proprietorship

Issue: The petitioner submitted that since GST law was new to the petitioner as well as to other professional and due to various technical glitches/ system errors, petitioner failed to file GST TRAN-1 on the common portal within the time.

Status: GSTN is a party in this matter. GSTN vide e-mail dated 05.09.2019 issued comments apprising the status of case to the Jodhpur Commissionerate. The Hon'ble High Court of Rajasthan at Jodhpur vide order dated 27.03.2019 directed the Respondents to provisionally entertain the GST TRAN-1 and other returns of the petitioner either by way of opening the portal or manually. The matter is pending and the next date of hearing is 06.12.2019

Further Investigation by GSTN: An email dated 12.09.2019 was sent to the Petitioner requesting for the following information:-

- i. GSTIN
- ii. Exact technical glitch faced by you while filing TRAN-1
- iii. Nature of error noticed
- iv. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

The Petitioner was requested to provide the details by 14.09.2019. However, the said information has not been received in this matter.

15. W.P. 6855 / 2019 PNR Industries Limited V/S UOI and Others

GSTIN/ Provisional ID	State	Constitution of Business
24AAHCP3258P1ZX	Gujarat	Public Limited Company

Issue: The petitioner attempted to file FORM GST TRAN-1 on multiple occasions on 27.12.2017. However, there were system problem on the portal which prevented the petitioner from filing its FORM GST TRAN-1 despite multiple attempts. At the same time GST council site was showing the message of "Time limit for filing TRAN-1 extended up to 31st December, 2017". When the petitioner attempted to file on 28.12.2017, the online portal no longer provided the option for filing of the FORM GST TRAN-1. Despite the fact that the message was displayed on GST Council website.

Status: GSTN is not a party in this matter. GSTN vide e-mail dated 31.07.2019 issued comments apprising the status of case to the Joint Commissioner, CGST Commissionerate, Surat. The matter is pending before the Hon'ble High Court of Gujarat and the next date of hearing is 27.11.2019. **There is no effective order available on the Court's website.**

Further Investigation by GSTN: An email dated 30.10.2019 was sent to the Petitioner requesting for the following information:-

- i. GSTIN
 - ii. Exact technical glitch faced by you while filing TRAN-1
 - iii. Nature of error noticed
 - iv. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.
- The Petitioner was requested to provide the details by 01.11.2019. However, no response has been received in this matter.

16. W.P. 6663 / 2019 M/s R. P. Info Systems Limited v/s UOI

GSTIN/ Provisional ID	State	Constitution of Business
19AADCRCR0949R1ZM	West Bengal	Public Limited Company

Issue: The petitioner tried to file GST TRAN-1, however, failed to do so due to a technical glitch wherein upon trying to file GST TRAN-1 an error message was shown reading as "wrong division code" and also mentioning that the jurisdictional office is at Bally-I division, Howrah Commissionerate and not BBD Bag division, Kolkata North Commissionerate.

Status: GSTN is not a party in this matter. GSTN vide e-mail dated 14.08.2019 issued comments apprising the status of case to the Legal Section of CGST Commissionerate, Kolkata North South. **There is no effective order available on the website of the Hon'ble High Court of Calcutta.** The next date of hearing is also not updated on Court's website.

Further Investigation by GSTN: An email dated 25.09.2019 was sent to the Petitioner requesting for the following information:-

- i. GSTIN
- ii. Exact technical glitch faced by you while filing TRAN-1
- iii. Nature of error noticed
- iv. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

The Petitioner was requested to provide the details by 27.09.2019. The Petitioner replied vide email dated 27.09.2019 stating that their counsel attending to petition was on leave and outside Kolkata and on his return after 15th October 2019 they would provide the requested details immediately thereafter. However, no further response has been received in this matter.

17. W.P. 8970/ 2019 The Tyre Plaza V/s UOI and Others

GSTIN/ Provisional ID	State	Constitution of Business
07AERPG8790E1Z1	Delhi	Proprietorship

Issue: The Petitioner on 26.12.2017 made various attempts to access the common portal in order to submit GST TRAN-1. However, the petitioner could not submit the same due to non-responsive common portal. On 27.12.2017, the petitioner again attempted to file TRAN-1 but due to non-responsive common portal could not file the same and no log could have been created due to inability of the petitioner to access the common portal.

Status: GSTN is a party in this matter. The Hon'ble High Court of Delhi disposed off the matter vide Final Order dated 20.08.2019 directing the Responds to enable the Petitioner to refile GST TRAN-1 by way of opening the portal failing which they would accept the GST TRAN-1 filed manually.

Further Investigation by GSTN: An email dated 25.09.2019 was sent to the Petitioner requesting for the following information:-

- i. GSTIN
- ii. Exact technical glitch faced by you while filing TRAN-1
- iii. Nature of error noticed
- iv. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

The Petitioner was requested to provide the details by 27.09.2019. The Petitioner replied vide email dated 27.09.2019 forwarding the copy of order dated 20.08.2019 stating that they have filed TRAN - 1 in terms of Writ Petition filed before Hon'ble High Court of Delhi allowed vide order dated 20.08.2019. The details requested were not provided.

18. W.P. 11307 / 2019 M/s Vemulapally Bros V/s UOI and Others

GSTIN/ Provisional ID	State	Constitution of Business
36AABFV3565C1ZB	Telangana	Partnership

Issue: The petitioner purchased spare parts in the usual course of its business from other states. The petitioner has made a representation dated 21.02.2018 to the Commissioner, CGST stating that the petitioner was unable to file the form TRAN-1 electronically due to technical issues encountered in the GSTN website during the last day of filing.

Status: GSTN is a party in this matter. GSTN vide e-mail dated 22.08.2019 issued comments apprising the status of case to the Commissioner, Medchal CGST & CE Commissionerate. The matter is pending before the Hon'ble High Court of Telengana and the next date of hearing is not updated on the Court's website. **There is no effective order available on the Court's website as on date.**

Further Investigation by GSTN: An email dated 28.10.2019 was sent to the Petitioner requesting for the following information:-

- i. GSTIN
- ii. Exact technical glitch faced by you while filing TRAN-1
- iii. Nature of error noticed
- iv. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

The Petitioner was requested to provide the details by 30.10.2019. However, no response has been received from the Petitioner in this matter.

19. W.P. 15780 / 2019 M/s Radical Bio Organics Ltd. V/s UOI and Others

GSTIN/ Provisional ID	State	Constitution of Business
36AAECR6026Q1ZV	Telengana	Limited Company

Issue: The petitioner had purchased raw extra neutral alcohol / ethyl alcohol and other sprits in the usual course of business from the other states. The petitioner claimed the input of the accumulated credit in GSTR-3B return filed in March 2018. That the Assistant Commissioner, Medhchal Commissionerate had issued an email notice to the petitioner dated 26.08.2018 in which the he sought clarification regarding the difference in the amount as per GSTR-3B and the GSTR-2A return. The petitioner vide letter dated 04.09.2018 represented that the petitioner could not file the TRAN-1 return due to technical glitches during filing TRAN-1. Therefore, petitioner had considered the CENVAT of excise duty and input balance of VAT of Rs. 2,72,33,664/- and Rs. 11,45,759/- respectively and the same was considered in GSTR-3B as ITC in CGST and SGST tax heads.

Status: GSTN is a party in this matter. GSTN vide e-mail dated 23.08.2019 issued comments apprising the status of case to the Commissioner, Medchal CGST & CE Commissionerate. The matter is pending before the Hon'ble High Court of Telengana and the next date of hearing is not updated on the Court's website. **There is no effective order available on the Court's website as on date.**

Further Investigation by GSTN: An email dated 28.10.2019 was sent to the Petitioner requesting for the following information:-

- i. GSTIN
- ii. Exact technical glitch faced by you while filing TRAN-1
- iii. Nature of error noticed
- iv. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

The Petitioner was requested to provide the details by 30.10.2019. The Petitioner replied vide email dated 30.10.2019 that due to busy work involved in Tax audits and Income Tax Returns for the FY 2018-19, they could not share the details. They requested an extension of 7 working days and stated that they would share the relevant information after 31st October 2019. However, no further response has been received from the Petitioner in this matter.

Category B2: Tran-1 Fresh/Revision Attempted with No error or No valid error reported .(Cases in which filing of TRAN 1 were attempted for the first time or revision was attempted, but no error/no valid error reported)

20. W.P. 6500/2019- M/s Novelty Gold v. UOI & Ors.

GSTIN/ Provisional ID	State	Constitution of Business
21AAMFN0741P1Z4	Orissa	Partnership

Issues: The Petitioner could not file GST TRAN-1 after several attempts due to technical problems in common portal. They have last tried on 27.12.2017 to file it but could not file due to technical problem. However, an amount of ITC of VAT credit Rs.20,15,475.00 has been saved.

Status: GSTN is a party in this case. GSTN has received the representation of petitioner through the office of the Commissioner of Commercial Taxes & GST, Cuttack along with copy of order dated 29.03.2019. The Hon'ble Court of Orissa vide order dated 29.03.2019 disposed off the matter with a direction to opposite parties specifically Commissioner of Commercial taxes and GST Orissa to dispose off the representation of petitioner on its own merit within a period of four weeks from the date of receipt of certified copy of order.

Further Investigation by GSTN: An email dated 25.09.2019 was sent to the Petitioner requesting for the following information:-

This is in reference to the writ petition filed by you for filing of TRAN-1. Please provide us with the following details:

- i. GSTIN
- ii. Exact technical glitch faced by you while filing TRAN-1
- iii. Nature of error noticed
- iv. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

The Petitioner was requested to provide the details by 27.09.2019. Petitioner replied vide e-mail dated 27.09.2019 forwarding the requested information with screen shot of GST portal.

21. W.P. 4645 / 2019 M/S Amar Auto Agency V/s UOI and Others

GSTIN/ Provisional ID	State	Constitution of Business
08ABDFA5195N1ZY	Rajasthan	Partnership

Issue: The petitioner tried to carry forward the unavailed CENVAT credit and VAT by submitting FORM TRAN-1. The petitioner entered the details as required for submitting TRAN-1 on the website of GST by using login ID and password and save the same for submission but the same was not submitted on the website. On the evening of 27.12.2017 GST council website showed the news that the due date of filing the declaration under FORM TRAN-1 has been extended by 4 days till 31.12.2017. The

petitioner as per the assurance published on the official website of the Respondent, time and again tried to submit GST TRAN-1 on 28.12.2017 as well as 29.12.2017 but to the utter surprised and sock of the petitioner, the TRAN-1 of the petitioner was neither uploaded nor filed on the official website of the Respondents.

Status: GSTN is a party. GSTN vide e-mail dated 24.07.2019 issued comments apprising status of the case to the Joint Commissioner (I.T.), Commercial Taxes Department, Rajasthan (Jaipur). The High Court vide order dated 27.03.2019 directed the respondents to provisionally entertain the GST TRAN-1 and other returns of the petitioner either by way of opening the portal or manually. The matter is pending before the Jodhpur Bench of the Hon'ble High Court of Rajasthan and next date of hearing is not available on court's website.

Further Investigation by GSTN: An email dated 12.09.2019 was sent to the Petitioner requesting for the following information:-

- i. GSTIN
- ii. Exact technical glitch faced by you while filing TRAN-1
- iii. Nature of error noticed
- iv. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

The Petitioner was requested to provide the details by 14.09.2019. GSTN has received further request for the clarification from the e-mail ID "ds252320@yahoo.com" regarding name of the case with GST Number. GSTN has forwarded the requested details again vide e-mail dated 17.09.2019 with request to respond by 19.09.2019. However, no response has been received in this matter.

Category B3: TRAN-1 Successfully Filed as Per Logs with no valid error reported

22. W.P.11761/2019 Chandras Chemical Enterprises Pvt. Ltd. Vs. UOI and Ors.

GSTIN/ Provisional ID	State	Constitution of Business
19AABCC3229K1ZM	West Bengal	Private Limited Company

Issue: The petitioner filed and claimed a credit of Rs. 29,47,139/- by filing Form GST TRAN-1. However, it could not claim with respect to some goods in transit in terms of section 140(5) of the CGST Act. It had imported some raw materials and had also filed into-bond bill of entry and ex-bond bill of entry in pre GST regime. However, on scrutiny of consignment notes, the goods could be cleared only during GST regime i.e. after 1st July, 2017 on payment of duties calculated as per ex bond bill of entry. It could not, however, claim transitional credit of CVD & SAD amounting to Rs.25,47,976/- and Rs.9,21,501/- in FORM GST TRAN-1 due to technical error in the GSTN portal because it was repeatedly showing validation error against the aforesaid bill of entries.

Status: GSTN is a party in this matter. GSTN vide e-mail dated 01.08.2018 has informed about the status of the case to the Kolkata CGST North South Commissionerate. **There is no effective order available on the Hon'ble High Court's website.** Matter is pending before the Hon'ble High Court of Calcutta and next date is not available on the Court's website.

Further Investigation by GSTN: An email dated 09.10.2019 was sent to the Petitioner requesting for the following information:-

This is in reference to the writ petition filed by you for filing of TRAN-1. Please provide us with the following details:

- i. GSTIN
- ii. Exact technical glitch faced by you while filing TRAN-1
- iii. Nature of error noticed
- iv. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

The Petitioner was requested to provide the details by 11.10.2019. The **Petitioner replied vide e-mail dated 17.10.2019 stating that they** filed and claimed a credit of Rs. 29,47,139/- by filing Form GST Tran 1 in terms of Section 140(1) of the CGST Act. However, he could not claim credit with respect to some goods in transit in terms of Section 140(5) of the CGST Act. We had imported some raw materials and had also filed Into-Bond Bill of entry and ex-bond Bill of entry in the pre-GST regime. However, on scrutiny of consignment notes, the goods could be cleared only during the GST regime i.e. after 1st July'2017 on payment of duties calculated as per Ex bond Bill of Entry. We, however, could not claim transitional credit of CVD & SAD amounting to Rs. 25,47,976/- and Rs. 9,21,501/- in Form GST Tran 1 in terms of Section 140(5) of the CGST Act due to technical error in the GSTN portal because it was repeatedly showing validation error against the aforesaid Bills of Entries. Therefore, the Form GST Tran 1 was filed by only claiming the credit under Section 140(1) of the CGST Act but without claiming the credit under Section 140(5) of the CGST Act. They pointed out they faced Validation error against the Bills of Entries. However, tax payer submitted that there is no Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

Other Category B-Other (O) B-O:

- 23. M/S Vishvakarma Papers and Boards Ltd.** GSTIN 05AACCV8073F1ZA, Contempt Petition No. 584 of 2019, is required to be consider by the Committee. This case was processed and presented before 6th ITGRC meeting under Category “B1” that is the cases where the taxpayer says they received error but as per GST System logs no technical glitches or submission/filing of TRAN-1 etc. found. However, since Contempt Petition has been filed, committee may look into the matter and take appropriate action.

TRAN 2: Cases sent by Nodal Officers of Centre/States

	Category	Detailed Description	Count of Taxpayers
A1	TRAN-1 FILED AND ERROR IN TRAN-2.	As per Logs Tran-1 filed successfully. Error recorded in database but no corresponding error reported in logs.	38
A2	TRAN-1 FILED AND TRAN-2 IN SUBMITTED WITH NO ERRORS - TO BE ENABLED FOR FILING.	As per Logs Tran-1 filed successfully. As per logs user neither submitted nor filed the form. No logs of save as well.	02
A3	TRAN-1 APPROVED CASES AND ENABLED FOR FILING OF TRAN-2.	TRAN-1 Approved cases and enabled for filing of TRAN-2.	09
B1	TRAN-1 APPROVED CASE, TRAN-2 FILED SUCCESSFULLY WITHOUT ANY ERROR REPORTED.	Tran-1 approved case. Tran-1 filed, post filing of Tran-1, Tran-2 for respective 6 months has also been filed.	01
B2	TRAN-1 DISAPPROVE CASE, NOT ALLOWED FOR REOPENING FOR TRAN-2.	Tran-1 disapproved case. As per Logs Tran-1 filed successfully Taxpayer was eligible for filing Tran-2 but As per logs user neither submitted nor filed the form. No logs of save as well.	01
B3	TRAN-1 FILED AND TRAN-2 SUCCESSFULLY FILED WITH NO ERRORS.	As per Logs Tran-1 filed successfully. As per logs taxpayer filed Tran-2 without any error.	10
B4	TRAN-1 FILED AND TRAN-2 SUCCESSFULLY FILED WITH NO ERRORS (ITC LEDGER NOT UPDATED).	As per Logs, Tran-1 filed successfully and taxpayer filed Tran-2 without any error. ITC ledger not updated.	02
B5	TRAN-1 FILED AND TRAN-2 NOT ATTEMPTED AND NO ERROR IN LOGS.	As per Logs Tran-1 filed successfully. User neither submitted nor filed the form. No logs of save as well. ITC ledger also not updated.	42
B6	TRAN-1 FILED WITH DELARATION IN TABLE 7(a) OR 7(d), TRAN-2 TRIED POST END DATE.	As per Logs Tran-1 filed successfully along with revision. Taxpayer has filed Tran-2 for 3 months then for subsequent period it was tried post last date of Tran-2 i.e. 30/06/2018	03

B7	TRAN-1 FILED WITH NO DECLARATION IN TABLE 7(a) SECTION 7B OR TABLE 7(d) HENCE NOT ELIGIBLE FOR TRAN-2.	As per Logs, Tran-1 Filed With No Declaration In Table 7(a) Section 7B or Table 7(d). Hence Not Eligible For Tran-2.	25
B8	TRAN-1 FILED, ELIGIBLE FOR TRAN-2 BUT THERE ARE NO EVIDENCES OF ERROR OR SUBMISSION/FILING OF TRAN-2.	As per log Tran-1 Filed, Eligible For Tran-2 But There are No Evidences Of Error Or Submission/Filing Of Tran-2. No logs of save as well.	05
B9	TRAN-1 FILED, ELIGIBLE FOR TRAN-2. TRAN-2 FRESH/REVISION ATTEMPTED WITH NO ERROR OR NO VALID ERROR REPORTED.	As per Logs Tran-1 filed successfully. Eligible for Tran-2. Tran-2 fresh/revision attempted with no error or no valid error reported in logs.	01
B10	TRAN-1 NOT FILED HENCE NOT ELIGIBLE FOR FILING TRAN-2.	As per logs Tran-1 attempted, error reported related to invalid registration gets corrected and save attempt got processed but filing not attempted of Tran-1. As taxpayer has not filed Tran-1 hence, not eligible for filing of Tran-2	01
B11	TRAN-2 FRESH/REVISION ATTEMPTED WITH NO ERROR OR NO VALID ERROR REPORTED.	As per Logs Tran-1 filed successfully. Tran-2 fresh/revision attempted with no error or no valid error reported.	01
B12	MISTAKE BY TAXPAYER	Cases where the Taxpayers have admitted to have made mistake, inadvertently or due to misunderstanding, in reporting correct values in TRAN 1/TRAN 2. Since the admitted mistakes/errors are apparent from the perusal of the details of reported cases no technical analysis has been done in these cases as it is not required.	25
	Total		166

CATEGORY A1: TRAN-1 FILED AND ERROR IN TRAN-2: As per Logs Tran-1 filed successfully. Error recorded in database but no corresponding error reported in logs.

S. No .	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constitution of business	Nodal Officer / Jurisdiction Name	Centre/State	E-Mail ID
1	10ACAPL9370N1ZH	ANAND KUMAR LOHIA	Bihar	Proprietorship	Sh. Nitin Anand, Commissioner, CGST & Central Excise Commissionerate, Patna	Centre	nitinanand.irs@gov.in
2	22AADCT5177B2ZN	TOUCHSTONE TELESERVICES PRIVATE LIMITED	Chhattisgarh	Private Limited Company	Deepak Giri, Deputy Commissioner, State Tax, Raipur	State	deepakgiri.cctd-cg@gov.in
3	07AAEPK4924D1Z0	LEKH RAJ KHURANA	Delhi	Proprietorship	Prashant Kumar Prasad, Nodal Officer-II, Trade & Taxes Department, Govt. of NCT of Delhi	State	pk.prasad70@gov.in
4	07AAAPK5454A1Z7	KULDEEP KHERA	Delhi	Proprietorship	Prashant Kumar Prasad, Nodal Officer-II, Trade & Taxes Department, Govt. of NCT of Delhi	State	pk.prasad70@gov.in
5	07AAMPB7427L1ZG	INDU BANSAL	Delhi	Proprietorship	Dushyant Kumar, GSTO (GST Cell) Trade & Taxes Department, Government of NCT of Delhi,	State	kuldeep.s71@gov.in

					State Government		
6	07AENPK54 68H1Z2	CHARU KAPOOR	Delhi	Proprietorship	Dushyant Kumar, GSTO (GST Cell) Trade & Taxes Department, Government of NCT of Delhi, State Government	Centre	kuldeep.s71@gov.in
7	07AFVPG86 11D1ZD	RAJ RANI GARG	Delhi	Proprietorship	Kuldeep Singh, Joint Commissioner, State Govt, New Delhi	State	kuldeep.s71@gov.in
8	07AAECA64 21C1Z7	AVS DÉCOR PRIVATE LIMITED	Delhi	Private Limited Company	Dushyant Kumar, GSTO (GST Cell) Trade & Taxes Department, Government of NCT of Delhi, State Government	State	kuldeep.s71@gov.in
9	07APMPK54 50R1Z5	AMIT ENTERPRISES	Delhi	Proprietorship	Assistant Commissioner, Palam Division, CGST Delhi South Commissionerate, New Delhi	Centre	palam.cgstdelouth@gov.in
10	07AABCI55 29C1ZV	IKON RETAIL PVT. LTD.	Delhi	Private Limited Company	Rajesh Madan, Assistant Commissioner, Government of NCT of Delhi, Delhi	State	rajesh.madan43@gov.in
11	24AAGFH76 72D1ZF	HEMANT TYRE SHOP	Gujarat	Partnership	S. M. Saxena, Joint Commissioner, State	State	jcegov-ct@gujarat.gov.in

					Government, Gujarat		
12	24AABFC66 04M1ZK	CHOKHAW ALA DISTRIBUT ORS	Gujarat	Partnersh ip	S. M. Saxena, Joint Commissioner, State Government, Gujarat	State	jcegov- ct@gujarat.gov .in
13	24ALQPS41 84C1ZV	JATINBHAI MANHARL AL SHAH	Gujarat	Proprieto rship	S. M. Saxena, Joint Commissioner, State Government, Gujarat	State	jcegov- ct@gujarat.gov .in
14	24AABCJ63 23K1ZN	JIGAR CARS	Gujarat	Private Limited Company	S. M. Saxena, Joint Commissioner, State Government, Gujarat	State	jcegov- ct@gujarat.gov .in
15	24AACFR17 45B1ZR	RAMESH CORPORAT ION	Gujarat	Partnersh ip	S. M. Saxena, Joint Commissioner, State Government, Gujarat	State	jcegov- ct@gujarat.gov .in
16	24ALGPP62 94E1ZX	MANISHAB EN MAYANKB HAI PATEL (SANTRAM MEDICAK AGENCY)	Gujarat	Proprieto rship	Shri S. S. Rathod, Deputy Commissioner of State Tax, Vadodara	State	dc10- ct@gujarat.gov .in
17	06ABIPJ505 1F1ZX	KRISHAN JAIN	Haryana	Proprieto rship	Nodal Officer IT Issues, Haryana	State	gsttihry@gmai l.com
18	29AAJCA71 42F1ZM	OAKNET HEALTHCA RE PRIVATE LIMITED	Karnatak a	Private Limited Company	K. S. Basavaraj, Joint Commissioner of Commercial Taxes, Bengaluru	State	basavaraj.sagar @ka.gov.in

19	29AAJFB10 72G2ZJ	BALAJI STEEL AND PIPES	Karnatak a	Partnersh ip	K. S. Basavaraj, Joint Commissioner of Commercial Taxes, Bengaluru	State	basavaraj.sagar @ka.gov.in
20	29AHWPS64 37L1Z5	MEGAWAT TS ELECTRIC (SUCHITRA MAHAVEE RCHAND SHIYAL)	Karnatak a	Proprieto rship	K. S. Basavaraj, Joint Commissioner of Commercial Taxes, Bengaluru	State	basavaraj.sagar @ka.gov.in
21	29AADFE36 47C1ZM	EMVOI PHARMA	Karnatak a	Partnersh ip	K. S. Basavaraj, Joint Commissioner of Commercial Taxes, Bengaluru	State	basavaraj.sagar @ka.gov.in
22	29APOPP46 42N1Z0	JAIN VIKAS PUSHPA	Karnatak a	Proprieto rship	G. V. Krishna Rao, Principal Commissioner, CGST Commissionerat e, Mysore	Centr e	techhqs- cexmys@gov.i n
23	29AAGFV70 61E1ZY	VIKAS TRADE LINKS	Karnatak a	Partnersh ip	G. Narayanaswamy , Commissioner, CGST Commissionerat e, Bengaluru South	Centr e	commr- cexblr1@nic.in
24	29AAVFS52 00R1ZA	STYLISH LIVING	Karnatak a	Partnersh ip	K. S. Basavaraj, Joint Commissioner of Commercial Taxes, Bengaluru	State	basavaraj.sagar @ka.gov.in
25	32BAWPK4 627C1ZQ	MEJO KUMBULU VELIL PUNOOS	Kerala	Proprieto rship	Sunil Kumar V., State Tax Officer, State	State	vksuni.ctd@ke rala.gov.in

					Government, Kerala		
26	27AAACT40 33H1ZK	VERTIV ENERGY PRIVATE LIMITED	Maharas htra	Private Limited Company	Sruti Vijayakumar, Assistant Commissioner, Central Government, Thane	Centr e	sruti.vijayaku mar@gov.in
27	27AACCO21 25P1Z9	ONLY RETAIL PVT LTD	Maharas htra	Private Limited Company	D. N. Shetty, Nodal Officer, CGST Commissionerat e, Mumbai East	Centr e	mumbaieastgst nissues@gmail .com
28	27AABCU07 72F1ZG	BEST UNITED INDIA COMFORTS PRIVATE LIMITED	Maharas htra	Private Limited Company	D. N. Shetty, Nodal Officer, CGST Commissionerat e, Mumbai East	Centr e	mumbaieastgst nissues@gmail .com
29	27AAACH1 671F1ZU	INTERVET INDIA PRIVATE LIMITED	Maharas htra	Private Limited Company	Miss Kalyanehswari Patil, Deputy Commissioner of State Tax, State Government, Maharashtra	State	gstit.state@ma hagst.gov.in
30	27AAJCA00 72C1Z5	WIPRO ENTERPRIS ES PVT LTD	Maharas htra	Private Limited Company	Dr. Sunil Bodhgire, Deputy Commissioner of State Tax & Principle Nodal Officer, State Government, Maharashtra	State	gstit.state@ma hagst.gov.in
31	27AAKFS78 47P1Z4	SURESH BROS	Maharas htra	Partnersh ip	Miss Kalyanehswari Patil, Deputy Commissioner of State Tax, State	State	gstit.state@ma hagst.gov.in

					Government, Maharashtra		
32	27AABFM6 144J1Z7	MUKUNDR AI BROS	Maharas htra	Partnersh ip	Miss Kalyanehswari Patil, Deputy Commissioner of State Tax, State Government, Maharashtra	State	gstit.state@ma hagst.gov.in
33	27ABKPB09 46P1ZC	TRIMURTI DYES AND CHEMICAL S (ANAND SHAMRAO BADAMIKA R)	Maharas htra	Proprieto rship	Vandana K. Jain, Commissioner, CGST Commissionerat e, Pune	Centr e	santosh.vatsa @nic.in
34	03ABAFA05 35B1ZI	ARORA INTERNATI ONAL	Punjab	Partnersh ip	Pawan Garg, State Government, Punjab	State	aetcgstpb@gm ail.com
35	03AAICP098 7G1ZD	PHILIPS LIGHTING INDIA LTD (SIGNIFY INNOVATI ONS INDIA LIMITED)	Punjab	Public Limited Company	Pawan Garg, State Government, Punjab	State	aetcgstpb@gm ail.com
36	33CBOPS83 57K1ZT	GYANCHA ND JAIN SUNIKUMA R JAIN	Tamil Nadu	Proprieto rship	S. Ramasamy, Joint Commissioner of State Tax, Tamilnadu	State	jccs@ctd.tn.go v.in
37	19AAHCM0 651P1Z0	SASTASUN DAR HEALTHBU DDY LIMITED	West Bengal	Public Limited Company	Ananth Kumar Sarkar, Central Government, Kolkata South	Centr e	kolsouth.gst@ gov.in
38	19AAGFK72 03B1ZO	KALYANI BROTHERS	West Bengal	Partnersh ip	Sima Sarkar, Senior Joint Commissioner, Commercial	State	sima.sarkar@ wbcomtax.gov. in

					Taxes, West Bengal		
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CATEGORY A2: TRAN-1 FILED AND TRAN-2 IN SUBMITTED WITH NO ERRORS - TO BE ENABLED FOR FILING: As per Logs Tran-1 filed successfully. As per logs User neither submitted nor filed the form. No logs of save as well.

S. No .	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constitution of business	Nodal Officer / Jurisdiction Name	Centre/State	E-Mail ID
39	07AABCT2439G2ZG	M/S TOPSEL PRIVATE LIMITED	Delhi	Private Limited Company	Assistant Commissioner, O/o the Principal Chief Commissioner, CGST & CX, Delhi Zone	Centre	ccu-cexdel@nic.in
40	01AFQPS7260F1ZB	VIKRAM SHARMA (M/S VEE KAY ELECTRONICS)	Jammu & Kashmir	Proprietorship	Sandeep Kumar, Programmer, Coordinator Jammu Division, State Admin GST, STC, J&K GST, Nodal Officer GST/BAS	State	sandeep.prog123@gmail.com

CATEGORY A3: TRAN-1 APPROVED CASES AND ENABLED FOR FILING OF TRAN-2.

S. No .	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constitut ion of business	Nodal Officer / Jurisdiction Name	Cent re/St ate	E-Mail ID
41	22AAACI6561R1Z7	IFB INDUSTRIES LTD	Chhattisgarh	Public Limited Company	Deepak Giri, Deputy Commissioner of State Tax, Raipur	State	deepakgiri.cctd-cg@gov.in
42	07AAAFP0001A1ZE	BATRA ART PRESS	Delhi	Partnership	Sidharth Goyal, Assistant Commissioner, Central Government	Centre	ccu-cexdel@nic.in
43	29AADCN2396L1ZW	NICHE BEAUTE SOLUTIONS PRIVATE LIMITED	Karnataka	Private Limited Company	K. S. Basavaraj, Joint Commissioner of Commercial Taxes, Bengaluru	State	basavaraj.sagar@ka.gov.in
44	27AABFS3031N1Z5	SHARAD BHAI SHAH J	Maharashtra	Partnership	Pritee Chaudhary, Central govt, Maharashtra	Centre	pritee.chaudhary@gov.in
45	27AACPG5090Q1ZA	ABDUL AZIZ GIGANI	Maharashtra	Proprietorship	Miss Kalyaneshwari Patil, Deputy Commissioner of State Tax, Mumbai	State	gstit.state@mahagst.gov.in
46	27AAACO5172E1ZL	ARYA OMNITALK WIRELESS SOLUTIONS PRIVATE LIMITED	Maharashtra	Private Limited Company	Miss Kalyaneshwari Patil, Deputy Commissioner of State Tax, Mumbai	State	gstit.state@mahagst.gov.in

47	03AAEFS745 2C1ZI	SURINDER ARORA ENTERPRIS ES	Punjab	Partnersh ip	Pawan Garg, Deputy Commissioner of State Tax, State Government, Punjab	State	aetcgstpb@gm ail.com
48	33AAACL762 4G1ZQ	LANSON MOTORS PRIVATE LTD.	Tamil Nadu	Private Limited Company	K. M. Ravichandran, Commissioner, CGST & Central Excise Commissionerat e, Chennai South	Centr e	comp.chennain orth@gov.in
49	09ACKPC715 9E1ZJ	SUNIL CHANDRA	Uttar Pradesh	Proprieto rship	Joint Commissioner (I.T.), Commercial Taxes, Head Quarter, Lucknow, Uttar Pradesh	State	ctithqlu- up@nic.in

CATEGORY B1: TRAN-1 APPROVED CASE, TRAN-2 FILED SUCCESFULLY WITHOUT ANY ERROR REPORTED: Tran-1 approved case. Tran-1 filed, post filing of Tran-1, Tran-2 for respective 6 months has also been filed.

S. N o.	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constitut ion of business	Nodal Officer / Jurisdiction Name	Cent re/St ate	E-Mail ID
50	33AAMCS9 16J1Z1	SANGEETHA MOBILES PRIVATE LIMITED	Tamil Nadu	Private Limited Company	S. Ramaswamy, Joint Commissioner, State Government, Tamilnadu	State	jccs@ctd.tn.go v.in

CATEGORY B2 : TRAN-1 DISAPPROVE CASE, NOT ALLOWED FOR REOPENING FOR TRAN-2: Tran-1 disapproved case. As per Logs Tran-1 filed successfully Taxpayer was eligible for filing Tran-2 but As per logs User neither submitted nor filed the form. No logs of save as well.

S. N o.	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constitution of business	Nodal Officer / Jurisdiction Name	Centre/State	E-Mail ID
51	24AABCM9244N1Z4	CERA SANITARYWARE LTD	Gujarat	Public Limited Company	Sh. K. R. Ninama SB, Deputy Commissioner, State Tax, Mahsana, Gujarat	State	jcegov-ct@gujarat.gov.in

CATEGORY B3: TRAN-1 FILED AND TRAN-2 SUCCESSFULLY FILED WITH NO ERRORS: As per Logs Tran-1 filed successfully. As per logs taxpayer filed Tran-2 without any error.

S. No.	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constitution of business	Nodal Officer / Jurisdiction Name	Centre/State	E-Mail ID
52	37AAACA5443N1ZH	APOLLO HOSPITALS ENTERPRISE LTD	Andhra Pradesh	Public Limited Company	M. Srihari Rao IRS, Commissioner, Central Government, Andhra Pradesh	Centre	srihari.rao@gov.in
53	07AALFV2738F1ZZ	VIKALP VENTURES	Delhi	Partnership	Dushyant Kumar, GSTO (GST Cell) Trade & Taxes Department, Government of NCT of Delhi, State Government	State	dushyant.kumar43@gov.in
54	07AAECG4937H1ZI	GO PLAST PRIVATE LIMITED	Delhi	Private Limited Company	Dushyant Kumar, GSTO (GST Cell) Trade & Taxes Department, Government of NCT of Delhi, State Government	State	dushyant.kumar43@gov.in
55	07AAAPJ3013E1ZH	SANJAY JAIN	Delhi	Proprietorship	Dushyant Kumar, GSTO (GST Cell) Trade & Taxes Department, Government of NCT of Delhi, State Government	State	dushyant.kumar43@gov.in
56	29AADCP5784E1Z3	PRAVEENS FAB CREATION INDIA PRIVATE LIMITED	Karnataka	Private Limited Company	K. S. Basavaraj, Joint Commissioner of Commercial Taxes, Bengaluru	State	basavaraj.sagar@ka.gov.in

57	27AIOPJ5004 B1ZN	JIGNESH SATISH JAIN	Maharashtra	Proprietorship	Miss Kalyanehsuari Patil, Deputy Commissioner of State Tax, State Government, Maharashtra	State	gstit.state@mahagst.gov.in
58	27AAACG441 4B1Z8	GLAXOSMITHKLIN PHARMACEUTICALS LIMITED	Maharashtra	Public Limited Company	Dr. Sunil Bodhgire Nodal Officer, Deputy Commissioner of State Government, Mumbai	State	gstit.state@mahagst.gov.in
59	27AAACN129 9D1ZK	NEON LABORATORIES LIMITED	Maharashtra	Public Limited Company	D. N. Shetty, Nodal Officer, CGST Commissionerate, Mumbai East	Centre	mumbaieastgstissues@gmail.com
60	27AAAPA954 7L1ZI	SUNDEEP JAGDISHC HANDRA AHUJA	Maharashtra	Proprietorship	Miss Kalyanehsuari Patil, Deputy Commissioner of State Tax, State Government, Maharashtra	State	gstit.state@mahagst.gov.in
61	27AAAFO625 6G1Z8	M/S OSWAL UDHYOG	Maharashtra	Partnership	Miss Kalyanehsuari Patil, Deputy Commissioner of State Tax, State Government, Maharashtra	State	gstit.state@mahagst.gov.in

CATEGORY B4: TRAN-1 FILED AND TRAN-2 SUCCESSFULLY FILED WITH NO ERRORS (ITC LEDGER NOT UPDATED): As per Logs, Tran-1 filed successfully and taxpayer filed Tran-2 without any error. ITC ledger not updated.

S. No.	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constituti on of business	Nodal Officer / Jurisdiction Name	Cent re/St ate	E-Mail ID
62	07ACMFS43 42R1ZC	SCREENO PLAST INDIA	Delhi	Partnershi p	Dushyant Kumar, GSTO (GST Cell) Trade & Taxes Department, Government of NCT of Delhi, State Government	State	dushyant.ku mar43@gov .in
63	24BBRPP77 74F1Z1	SHAHNAW AZ YASIN PENCHI	Gujarat	Proprietors hip	Kamleshkumar L. Hadula, Deputy Commissioner of State Tax, Ahmedabad	State	dc5-ahd2- gstn@gujara t.gov.in

CATEGORY B5: TRAN-1 FILED AND TRAN-2 NOT ATTEMPTED AND NO ERROR IN LOGS: As per Logs Tran-1 filed successfully. User neither submitted nor filed the form. No logs of save as well. ITC ledger also not updated.

S. No.	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constitution of business	Nodal Officer / Jurisdiction Name	Centre/State	E-Mail ID
64	07AAACI4265L1ZE	INTEX TECHNOLOGIES	Delhi	Public Limited Company	Kuldeep Jakhar Assistant Commissioner CGST, Delhi South Commissionerate	Centre	kuldeep.jakhar@gov.in
65	07AFNPA1280L1ZF	AGGARWAL PIPES (ATUL AGGARWAL)	Delhi	Proprietorship	Rajesh Madan, Assistant Commissioner, Government of NCT of Delhi, Delhi	State	rajesh.madan43@gov.in
66	24AABFN2419F1ZR	NEPTUNE PLASTIC CORPORATION (NEPTUNE HOUSE)	Gujarat	Partnership	S. M. Saxena, Joint Commissioner, State Government, Gujarat	State	jcegov-ct@gujarat.gov.in
67	24AACCT6023B1ZY	TANU MOTORS PRIVATE LIMITED	Gujarat	Private Limited Company	J. A. Khan, Principle Commissioner, CGST & Central Excise Commissionerate, Gandhinagar	Centre	commr-cexamd3@nic.in
68	24AAFFA7328A1Z0	AALAP ELECTRONICS	Gujarat	Partnership	S. M. Saxena, Joint Commissioner, State	State	jcegov-ct@gujarat.gov.in

					Government, Gujarat		
69	24AAAHF05 89F1ZL	FALGUN CHANDRA KANT CONTRACT OR HUF.	Gujarat	Hindu Undivided Family	S. M. Saxena, Joint Commissioner, State Government, Gujarat	State	jcegov- ct@gujarat.g ov.in
70	29ADDPR65 38G1Z6	SS SWITCHGE ARS (DUNICHA ND KHITRI RAJA)	Karnatak a	Proprietors hip	Basavaraj K. S., Joint Commissioner of Commercial Taxes, Karnataka	State	basavaraj.sa gar@gmail.c om
71	29AABFK61 85F1Z5	KAMADEN U ENTERPRIS ES	Karnatak a	Partnershi p	Basavaraj K. S., Joint Commissioner of Commercial Taxes, Karnataka	State	basavaraj.sa gar@gmail.c om
72	29ABMFS58 63N1Z4	SAI HANUMES H TRADING CO	Karnatak a	Partnershi p	Basavaraj K. S., Joint Commissioner of Commercial Taxes, Karnataka	State	basavaraj.sa gar@gmail.c om
73	29AAXPA40 71A1ZT	HANUMAN ELECTRICA L (SRINGERI ASWATHN ARAYANA)	Karnatak a	Proprietors hip	Basavaraj K. S., Joint Commissioner of Commercial Taxes, Karnataka	State	basavaraj.sa gar@gmail.c om
74	29AADFF99 41N1ZP	FILLS	Karnatak a	Partnershi p	Basavaraj K. S., Joint Commissioner of Commercial Taxes, Karnataka	State	basavaraj.sa gar@gmail.c om
75	29AHQPJ08 53R1ZG	PALANIYA PPAN JAYAMARU THAI	Karnatak a	Proprietors hip	Basavaraj K. S., Joint Commissioner of Commercial	State	basavaraj.sa gar@gmail.c om

					Taxes, Karnataka		
76	29AAAFD62 93L1ZZ	DWARAKA DISTRIBUT ORS	Karnatak a	Partnershi p	Basavaraj K. S., Joint Commissioner of Commercial Taxes, Karnataka	State	basavaraj.sa gar@gmail.c om
77	29ARHPP21 01P1ZH	MARUDHAI CHETTY PALANIYA PPAN	Karnatak a	Proprietors hip	Basavaraj K. S., Joint Commissioner of Commercial Taxes, Karnataka	State	basavaraj.sa gar@gmail.c om
78	29AAGFD30 50M1ZA	DWARAKA DISTRIBUT ORS R	Karnatak a	Partnershi p	Basavaraj K. S., Joint Commissioner of Commercial Taxes, Karnataka	State	basavaraj.sa gar@gmail.c om
79	29ADPPL32 71N1ZT	KARPAIAH LAKSHMA NAN	Karnatak a	Proprietors hip	Basavaraj K. S., Joint Commissioner of Commercial Taxes, Karnataka	State	basavaraj.sa gar@gmail.c om
80	29AAEFU84 91M1Z8	UDAYAA MARKETIN G	Karnatak a	Partnershi p	Basavaraj K. S., Joint Commissioner of Commercial Taxes, Karnataka	State	basavaraj.sa gar@gmail.c om
81	29ALRPS76 84Q1ZG	SUMITRA SHARMA	Karnatak a	Proprietors hip	Basavaraj K. S., Joint Commissioner of Commercial Taxes, Karnataka	State	basavaraj.sa gar@gmail.c om
82	29AJCPS984 7C1ZR	NEELAM SHARMA	Karnatak a	Proprietors hip	Basavaraj K. S., Joint Commissioner of Commercial	State	basavaraj.sa gar@gmail.c om

					Taxes, Karnataka		
83	29AGHPS50 12K1Z3	ESHWAR CHAND SHARMA	Karnatak a	Proprietors hip	Basavaraj K. S., Joint Commissioner of Commercial Taxes, Karnataka	State	basavaraj.sagar@gmail.com
84	27AABCF28 75J1ZE	FORGE CAST AND ALLOYS	Maharash tra	Private Limited Company	Vipul Gupta, Central Government, Maharashtra	Centr e	vipul.dce@gov.in
85	27AABCF69 75H1ZA	FASTLINK CONNECTI ONS PVT LTD	Maharash tra	Private Limited Company	Pritee Chaudhary, Central Government, Maharashtra	Centr e	pritee.chaudhary@gov.in
86	27ABFPT88 57N1ZL	SUPER PLYWOOD (VINOD KUMAR TATER)	Maharash tra	Proprietors hip	Sruti Vijayakumar, Assistant Commissioner, Central Government, Thane	Centr e	sruti.vijayakumar@gov.in
87	27AANFS16 57A1Z8	SWISS PARADISE	Maharash tra	Partnershi p	Miss Kalyanehwari Patil, Deputy Commissioner of State Tax, State Government, Maharashtra	State	gstt.state@mahagst.gov.in
88	27ACKPS99 20K1ZV	PLYWOOD STOCK (PAVANKU MAR BHERULAL SANCHETI)	Maharash tra	Proprietors hip	Miss Kalyanehwari Patil, Deputy Commissioner of State Tax, State Government, Maharashtra	State	gstt.state@mahagst.gov.in

89	27AMVPP31 40P1Z8	NATIONAL LAMINATE S (BHAGWAT TILAL MEETHALA L PATWARI)	Maharash tra	Proprietors hip	Miss Kalyaneshwari Patil, Deputy Commissioner of State Tax, State Government, Maharashtra	State	gstit.state@ mahagst.gov .in
90	27ABXPH72 42R1ZM	SHOE ARCADE (HARSHA ANIL HUKMANI)	Maharash tra	Proprietors hip	Miss Kalyaneshwari Patil, Deputy Commissioner of State Tax, State Government, Maharashtra	State	gstit.state@ mahagst.gov .in
91	27ABXPM48 87D1ZX	DARAYAS NARIMAN MAROLIA	Maharash tra	Proprietors hip	Miss Kalyaneshwari Patil, Deputy Commissioner of State Tax, State Government, Maharashtra	State	gstit.state@ mahagst.gov .in
92	27AECPK04 09H1ZW	SHREE NATIONAL PLYWOOD	Maharash tra	Proprietors hip	Dr. Sunil Bodhgire Nodal Officer, Deputy Commissioner of State Government, Mumbai	State	gstit.state@ mahagst.gov .in
93	27AACPD82 16F1Z2	PRITAM PLYWOOD (MANAKLA L BHAWARL ALJI DANGI)	Maharash tra	Proprietors hip	Dr. Sunil Bodhgire Nodal Officer, Deputy Commissioner of State Government, Mumbai	State	gstit.state@ mahagst.gov .in
94	27AABFB52 99F1ZD	BADAMIKA R AND SONS	Maharash tra	Partnershi p	Vandana K. Jain, Commissioner, CGST	Centr e	santosh.vats a@nic.in

					Commissioner ate, Pune		
95	27AAKFS97 62K1ZC	SUPREME STEEL INDUSTRIE S	Maharash tra	Partnershi p	Miss Kalyanehwari Patil, Deputy Commissioner of State Tax, State Government, Maharashtra	State	gstit.state@ mahagst.gov .in
96	27AEYPG68 71M1ZH	M/S. APG INDUSTRIE S / AMRUT SALES AGENCY (AMRUT PANCHAN GADA)	Maharash tra	Proprietors hip	Miss Kalyaneshwari Patil, Deputy Commissioner of State Tax, Mumbai	State	gstit.state@ mahagst.gov .in
97	27AADCS92 21P1ZT	M/S SSB ALLOYS & STEEL PVT. LTD.	Maharash tra	Private Limited Company	Pritee Chaudhary, Additional Commissioner, CGST Commissioner ate, Mumbai	Centr e	compccxm1 @gmail.com
98	33AAHFH29 33G1ZN	HOROLOG Y IMPEX CO	Tamil Nadu	Partnershi p	M. Sreedhar Reddy, Principal Commissioner of Gst & Central Excise, Chennai	Centr e	comp.chenn ainorth@go v.in
99	36AACCN32 49D1ZP	NAYAN HARDWAR E PRIVATE LIMITED	Telangan a	Private Limited Company	Radha Sindhya Linga, Assistant Commissioner, State Government	State	ac_gstn@tg ct.gov.in
100	36AAECE07 85H1ZL	ETNA HARDWAR E OPC	Telangan a	Private Limited Company	Radha Sindhya Linga, Assistant	State	ac_gstn@tg ct.gov.in

		PRIVATE LIMITED			Commissioner, State Government		
101	09AAHA7233D1ZR	M/S AGARWAL TRADERS	Uttar Pradesh	Hindu Undivided Family	Vivek Kumar Jain, Joint Commissioner, CGST & Central Excise Commissionerate, Lucknow	Centre	ccu-cexlko@nic.in
102	09AASFA0069R1ZO	ACE ELECTRONICS	Uttar Pradesh	Partnership	Joint Commissioner (I.T.), Commercial Taxes, Head Quarter, Lucknow	State	ctithqlu-up@nic.in
103	05AAYPK3104B1Z2	M/S ROSHAN TRADER	Uttarakhand	Proprietorship	Anurag Mishra, Deputy Commissioner of State Taxes, Uttarakhand	State	anuragmishra75@gmail.com
104	05ASZPK6578N1ZJ	M/S WHEEL WORLD	Uttarakhand	Proprietorship	Anurag Mishra, Deputy Commissioner of State Taxes, Uttarakhand	State	anuragmishra75@gmail.com
105	19AABCT2439G1ZC	M/S. TOPSEL PVT. LTD	West Bengal	Private Limited Company	Tarun Kumar Majumder, Assistant Commissioner, Central Govt, West Bengal	Centre	kolkatanorth.gst@gov.in

CATEGORY B6: TRAN-1 FILED WITH DELARATION IN TABLE 7(a) OR 7(d), TRAN-2 TRIED POST END DATE: As per Logs Tran-1 filed successfully along with revision. Taxpayer has filed Tran-2 for 3 months then for subsequent period it was tried post last date of Tran-2 i.e. 30/06/2018

S. No.	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constitution of business	Nodal Officer / Jurisdiction Name	Centre/State	E-Mail ID
106	06BDEPS2535J1ZF	SATPAL SONI	Haryana	Proprietorship	Nodal Officer IT Issues Haryana	State	gsttihry@gmail.com
107	03AABFP5813D1ZT	M/S PRABHAT MOTORS	Punjab	Partnership	Sunil Singh Katiyar, Commissioner, Central Government, Ludhiana, Punjab	Centre	sunils.katiyar@gov.in
108	19AAACB2484Q1Z5	BAJAJ ELECTRICALS LTD	West Bengal	Public Limited Company	Atanu Majumdar, Additional Commissioner of Commercial Taxes, West Bengal	State	majumder.ctax@wbcomtax.gov.in

CATEGORY B7: TRAN-1 FILED WITH NO DECLARATION IN TABLE 7(a) SECTION 7B OR 7(d) HENCE NOT ELIGIBLE FOR TRAN-2: As per Logs, Tran-1 Filed With No Declaration In Table 7(a) Section 7B or Table 7(d). Hence Not Eligible For Tran-2.

S. No.	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constituti on of business	Nodal Officer / Jurisdiction Name	Cent re/St ate	E-Mail ID
109	07AANCA4137E1ZT	ARVIND BEAUTY BRAND RETAILS	Delhi	Private Limited Company	Heeralal, Central Government, New Delhi	Centr e	gstdsouthmn@gmail.com
110	24AAACT2726R1Z1	THE ASSOCIATE D AUTO PARTS PRIVATE LIMITED	Gujarat	Private Limited Company	Deputy Commissioner of Commercial Tax, State Tax, Gujarat	State	dc1-ct@gujarat.gov.in
111	29AAACI3924J1ZG	GILLETTE INDIA LIMITED	Karnataka	Public Limited Company	G. Narayanaswamy, Commissioner, CGST Commissioner ate, Bengaluru South	Centr e / Court Case	commr-cexblr1@nic.in
112	23AAACI6561R2Z4	M/S IFB INDUSTRIES, BHOPAL	Madhya Pradesh	Public Limited Company	Neerav Kumar Mallick, Commissioner, CGST & Central Excise Commissioner ate, Indore, Madhya Pradesh	Centr e	technicalcex@gmail.com
113	27AACPZ9875E1ZZ	D.N.R.ALLOYS (NALIN KANTILAL ZAVERI)	Maharashtra	Proprietors hip	Pankaj Kumar, Central Government, Maharashtra	Centr e	Letter

114	27BEPPK01 35Q1Z0	SHREE NATIONAL PLYWOOD NX (ANSHANK SUNIL KACHHAR A)	Maharash tra	Proprietors hip	Dr. Sunil Bodhgire Nodal Officer, Deputy Commissioner of State Government, Mumbai	State	gstit.state@ mahagst.gov .in
115	27AWFPS52 59J1ZX	ADARSH PLYWOOD & TIMBER	Maharash tra	Proprietors hip	Dr. Sunil Bodhgire Nodal Officer, Deputy Commissioner of State Government, Mumbai	State	gstit.state@ mahagst.gov .in
116	27AATPJ137 7J1Z6	PLAZA FANCY HARDWAR E	Maharash tra	Proprietors hip	Dr. Sunil Bodhgire Nodal Officer, Deputy Commissioner of State Government, Mumbai	State	gstit.state@ mahagst.gov .in
117	27AAACH30 05M1ZR	HINDUSTA N COCA- COLA BEVERAGE S PRIVATE LIMITED	Maharash tra	Private Limited Company	Miss Kalyanehwari Patil, Deputy Commissioner of State Tax, State Government, Maharashtra	State	gstit.state@ mahagst.gov .in
118	27AFYPG12 52R1ZO	SHAILESH JAYWANTL AL GANDHI	Maharash tra	Proprietors hip	C. P. S. Chauhan, Deputy Commissioner, CGST Commissioner ate, Mumbai South	Centr e	mumbaisout h.dc.it@gov. in
119	27AASPV57 34E1Z5	M/S NITIN MARKETIN	Maharash tra	Proprietors hip	D. P. S. Kushwah, Additional Commissioner,	Centr e	Letter

		G SERVICES			CGST & Central Excise Commissioner ate, Nagpur		
120	27AAQFK34 05K1Z2	KARMA CONSTRUC TION	Maharash tra	Partnershi p	Miss Kalyanehwari Patil, Deputy Commissioner of State Tax, State Government, Maharashtra	State	gstit.state@ mahagst.gov .in
121	27AXKPJ60 23B1ZS	BHAVYA DEEP IMPEX (DEEPAKK UMAR HIRALAL JAIN)	Maharash tra	Proprietors hip	Miss Kalyanehwari Patil, Deputy Commissioner of State Tax, State Government, Maharashtra	State	gstit.state@ mahagst.gov .in
122	27AAVFA97 33D1Z3	ARIHANT LUBES	Maharash tra	Partnershi p	Miss Kalyanehwari Patil, Deputy Commissioner of State Tax, State Government, Maharashtra	State	gstit.state@ mahagst.gov .in
123	27AAGFN03 65H1ZB	NAVKAR TRADERS	Maharash tra	Partnershi p	S .K. Vimalanathan, Commissioner, CGST And Central Excise Commissioner ate, Mumbai	Centr e	amit.irs@go v.in
124	27AAFCK10 36L1ZI	KIRAN AUTO WHEELS PRIVATE LIMITED	Maharash tra	Private Limited Company	S .K. Vimalanathan, Commissioner, CGST And Central Excise Commissioner ate, Mumbai	Centr e	amit.irs@go v.in

125	27AAGFS79 84K1ZC	SHREE DEEPAK EXPORTS	Maharash tra	Partnershi p	Miss Kalyanehwari Patil, Deputy Commissioner of State Tax, State Government, Maharashtra	State	gstit.state@ mahagst.gov .in
126	27AAECC71 84L1Z6	CLASSIC TOUCH ELECTRICA LS PVT LTD	Maharash tra	Private Limited Company	C. P. S. Chauhan, Deputy Commissioner, CGST Commissioner ate, Mumbai South	Centr e	amit.irs@go v.in
127	27AAACF40 45K1ZN	M/S FOODWOR LD SUPERMAR KETS PRIVATE LIMITED (HEALTH & GLOW PRIVATE LIMITED)	Maharash tra	Private Limited Company	Archana Nayak, ICEGATE, Centre Government, Maharashtra	Centr e	archana.l.na yak@icegat e.gov.in
128	27AAACT27 26R1ZV	THE ASSOCIATE D AUTO PARTS PRIVATE LIMITED	Maharash tra	Private Limited Company	Dr. Sunil Bodhgire Nodal Officer, Deputy Commissioner of State Government, Mumbai	State	gstit.state@ mahagst.gov .in
129	08AAACP40 72C1ZR	PROCTER & GAMBLE HOME PRODUCTS PRIVATE LIMITED	Rajasthan	Private Limited Company	Arun Kumar, Commissioner, Central Government, Jaipur	Centr e	cexjaipu@ni c.in
130	33ADEPR96 79M1ZN	SADAGOPA N RANGANA	Tamil Nadu	Proprietors hip	S. Ramaswamy, Joint	State	jccs@ctd.tn. gov.in

		THAN(ALAMU AGENCIES)			Commissioner, State Government, Tamilnadu		
231	33AAECK5314Q1ZB	KSJ METAL IMPEX P LTD	Tamil Nadu	Private Limited Company	S. Ramaswamy, Joint Commissioner, State Government, Tamilnadu	State	jccs@ctd.tn.gov.in
132	05AFLPA0386F1ZT	M/S G.K. COMPUTERS	Uttarakhand	Proprietorship	Anurag Mishra, Deputy Commissioner of State Taxes, Uttarakhand	State	anuragmishra75@gmail.com
133	05AFFPJ5728N1Z5	M/S SHAKUN COMPUTERS	Uttarakhand	Proprietorship	Anurag Mishra, Deputy Commissioner of State Taxes, Uttarakhand	State	anuragmishra75@gmail.com

CATEGORY B8: TRAN-1 FILED, ELIGIBLE FOR TRAN-2 BUT THERE ARE NO EVIDENCES of ERROR OR SUBMISSION/FILING of TRAN-2: As per log Tran-1 Filed, Eligible For Tran-2 But There are No Evidences Of Error Or Submission/Filing Of TRAN-2. No logs of save as well.

S. No.	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constituti on of business	Nodal Officer / Jurisdiction Name	Cent re/St ate	E-Mail ID
134	24AABCR79 38L1ZY	RAVIRATN A MOTORS PRIVATE LIMITED	Gujarat	Private Limited Company	S. M. Saxena, Joint Commissioner, State Government, Gujarat	State	jcegov- ct@gujarat.g ov.in
135	01AABCM9 244N1ZC	CERA SANITARY WARE LIMITED	Jammu & Kashmir	Public Limited Company	Sandeep Kumar, Programmer, Coordinator Jammu Division, State Admin Gst, Stc, J&K Gst, Nodal Officer Gst/Bas	State	sandeep.pro g123@gmai l.com
136	19AABCJ74 03L1ZD	JINDAL UDYOG LTD	West Bengal	Public Limited Company	Tarun Majumder, Assistant Commissioner, Central Government, Kolkata	Centr e	kolkatanorth .gst@gov.in
137	19ACHPJ827 7B1ZF	M/S JINDAL DISTRIBUT OR (RAJESH JINDAL)	West Bengal	Proprietors hip	Tarun Majumder, Assistant Commissioner, Central Government, Kolkata	Centr e	kolkatanorth .gst@gov.in

138	19AAJCS971 9A1Z4	M/S SUJAL EXIM PVT. LTD (SUJAL EXIM (INDIA) PRIVATE LIMITED)	West Bengal	Private Limited Company	Tarun Majumder, Assistant Commissioner, Central Government, Kolkata	Centr e	kolkatanorth .gst@gov.in
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CATEGORY B9: TRAN-1 FILED, ELIGIBLE FOR TRAN-2. TRAN-2 FRESH/REVISION ATTEMPTED WITH NO ERROR OR NO VALID ERROR REPORTED: As per Logs Tran-1 filed successfully. Eligible for Tran-2. Tran-2 fresh/revision attempted with no error or no valid error reported in logs.

S. No.	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constituti on of business	Nodal Officer / Jurisdiction Name	Cent re/St ate	E-Mail ID
139	29ABUPP57 22H1Z1	PREMA	Karnatak a	Proprietors hip	G. V. Krishna Rao, Principal Commissioner, CGST Commissioner ate, Mysore	Centr e	techhqrs- cexmys@go v.in

CATEGORY B10: TRAN-1 NOT FILED HENCE NOT ELIGIBLE FOR FILING TRAN-2: As per logs tran-1 attempted, error reported related to invalid registration gets corrected and save attempt got processed but filing not attempted of Tran-1. As taxpayer has not filed Tran-1 hence, not eligible for filing of Tran-2

S. No.	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constituti on of business	Nodal Officer / Jurisdiction Name	Cent re/St ate	E-Mail ID
140	36BMPPK93 15J1ZI	SATHWICK POLYMERS (SHASHI KONDA)	Telangan a	Proprietors hip	Radha Sindhiya Linga, Assistant Commissioner, State Government, Hyderabad	State	ac_gstn@tg ct.gov.in

CATEGORY B11: TRAN-2 FRESH/REVISION ATTEMPTED WITH NO ERROR OR NO VALID ERROR REPORTED: As per Logs Tran-1 filed successfully. Tran-2 fresh/revision attempted with no error or no valid error reported.

S. No.	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constitution of business	Nodal Officer / Jurisdiction Name	Centre/State	E-Mail ID
141	09AAHCP4977D1Z2	PLS AUTOMOBILES SERVICES PVT LTD	Uttar Pradesh	Private Limited Company	Sh. Nidhish Singhal, Deputy Commissioner, CGST & Central Excise Commissionerate, Greater Noida	Centre	nidhish.singhal@icegate.gov.in

CATEGORY B12: Mistake by Taxpayer: Cases where the Taxpayers have admitted to have made mistake, inadvertently or due to misunderstanding, in reporting correct values in TRAN 1/TRAN 2. Since the admitted mistakes/errors are apparent from the perusal of the details of reported cases no technical analysis has been done in these cases as it is not required.

S. No.	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constitution of business	Nodal Officer / Jurisdiction Name	Centre/State	E-Mail ID
142	24AFJPP0163R1Z0	MEET ENTERPRISES (AMIT KIRITBHAI PATEL)	Gujarat	Proprietorship	S. M. Saxena, Joint Commissioner of State Govt, Gujarat	State	jcegov-ct@gujarat.gov.in
143	29AAACC7852K1Z9	COROMANDEL INTERNATIONAL	Karnataka	Public Limited Company	K. S. Basavaraj, Joint Commissioner of Commercial	State	basavaraj.sagar@ka.gov.in

					Taxes, Bengaluru		
144	29ABDFM40 06A1ZT	MEDAL CRAFT	Karnatak a	Partnershi p	K. S. Basavaraj, Joint Commissioner of Commercial Taxes, Bengaluru	State	basavaraj.sagar@ka.gov.in
145	29ACUPA21 81J1ZA	NARESH KUMAR AGARWAL	Karnatak a	Proprietors hip	K. S. Basavaraj, Joint Commissioner of Commercial Taxes, Bengaluru	State	basavaraj.sagar@ka.gov.in
146	29AANFR67 30K1ZK	RAJENDRA APPLIANCE S	Karnatak a	Partnershi p	K. S. Basavaraj, Joint Commissioner of Commercial Taxes, Bengaluru	State	basavaraj.sagar@ka.gov.in
147	29ADDPJ29 12Q1Z7	JAIN COMPUTER S & COMMUNI CATION (RAJNISH KUMAR JAIN)	Karnatak a	Proprietors hip	K. S. Basavaraj, Joint Commissioner of Commercial Taxes, Bengaluru	State	basavaraj.sagar@ka.gov.in
148	29AAJCM68 58Q1ZA	MD RETAIL INDIA PRIVATE LIMITED	Karnatak a	Private Limited Company	K. S. Basavaraj, Joint Commissioner of Commercial Taxes, Bengaluru	State	basavaraj.sagar@ka.gov.in
149	29AAIFS501 5M1ZS	SRINATH SANITARY WARES (MD RETAIL	Karnatak a	Private Limited Company	K. S. Basavaraj, Joint Commissioner of Commercial	State	basavaraj.sagar@ka.gov.in

		INDIA PRIVATE LIMITED)			Taxes, Bengaluru		
150	29ABWPM8 790J1ZF	MADANLA L	Karnatak a	Proprietors hip	K. S. Basavaraj, Joint Commissioner of Commercial Taxes, Bengaluru	State	basavaraj.sagar@ka.gov.in
151	29ADHPK64 27D1ZJ	DINESH KUMAR	Karnatak a	Proprietors hip	K. S. Basavaraj, Joint Commissioner of Commercial Taxes, Bengaluru	State	basavaraj.sagar@ka.gov.in
152	29AALFS83 34A1Z2	S & V AGENCIES	Karnatak a	Partnershi p	K. S. Basavaraj, Joint Commissioner of Commercial Taxes, Bengaluru	State	basavaraj.sagar@ka.gov.in
153	29AAFCS17 64F1Z8	SHIVAHARI PAHRAMA CEVTICALS PVT LTD	Karnatak a	Private Limited Company	K. S. Basavaraj, Joint Commissioner of Commercial Taxes, Bengaluru	State	basavaraj.sagar@ka.gov.in
154	29AAGCA87 28A1ZP	AUSHAD DISTRIBUT ORS PRIVATE LTD	Karnatak a	Private Limited Company	K. S. Basavaraj, Joint Commissioner of Commercial Taxes, Bengaluru	State	basavaraj.sagar@ka.gov.in
155	29AAGFH16 12K1ZE	HELIX MEDICARE	Karnatak a	Partnershi p	K. S. Basavaraj, Joint Commissioner of Commercial	State	basavaraj.sagar@ka.gov.in

					Taxes, Bengaluru		
156	29AACCL15 84D1ZK	LIVE YOUR SPORT RETAIL PRIVATE LIMITED	Karnatak a	Private Limited Company	K. S. Basavaraj, Joint Commissioner of Commercial Taxes, Bengaluru	State	basavaraj.sagar@ka.gov.in
157	29ABTPD04 59J1Z9	KARTHIK ENGINEERING AGENCIES (ARCOT MUTTHUK RISHNA DAMODHARAN)	Karnatak a	Proprietorship	K. S. Basavaraj, Joint Commissioner of Commercial Taxes, Bengaluru	State	basavaraj.sagar@ka.gov.in
158	29ATAPM72 56M1Z3	KARTHIK FASTENERS (ARCOT MUTHUKRISHNAN MAHENDRAN)	Karnatak a	Proprietorship	K. S. Basavaraj, Joint Commissioner of Commercial Taxes, Bengaluru	State	basavaraj.sagar@ka.gov.in
159	29AAJCA00 72C1Z1	WIPRO ENTERPRISES PRIVATE LIMITED	Karnatak a	Private Limited Company	K. S. Basavaraj, Joint Commissioner of Commercial Taxes, Bengaluru	State	basavaraj.sagar@ka.gov.in
160	27AAHFV80 84G1ZO	V S ENTERPRISES	Maharashtra	Partnership	Dr. Sunil Bodhgire Nodal Officer, Deputy Commissioner State Govt,Mumbai	State	gstit.state@mahagst.gov.in
161	27ALUPS33 04A1Z5	M/S BHARAT	Maharashtra	Proprietorship	Miss Kalyanehwari Ptai, Deputy Commissioner	State	gstit.state@mahagst.gov.in

		ENTERPRISES			of State Tax, Maharashtra		
162	27AAAFK6708M1Z2	KULDEEP GLASS AND ALUMINIUM	Maharashtra	Partnership	Miss Kalyaneshwari Ptail, Deputy Commissioner of State Tax, Maharashtra	State	gstit.state@mahagst.gov.in
163	08ADAPJ0279R1Z4	MONIR JAIN (BHARAT DIESEL & AUTOMOTIVES)	Rajasthan	Proprietorship	K. C. Samria, Deputy Commissioner, State Tax, Circle A Bhiwadi	State	dc-it@rajasthan.gov.in
164	33AAACC2474P1ZI	CARBORUNDUM UNIVERSAL LIMITED	Tamil Nadu	Public Limited Company	S. Ramaswamy, Joint Commissioner, State Govt, Tamilnadu	State	jccs@ctd.tn.gov.in
165	36AAACH7252A1Z0	ARVIND LIFESTYLE BRANDS LIMITED	Telangana	Public Limited Company	Shri. Raghu Kiran B, Joint Commissioner, CGST & Central Excise Commissionerate, Hyderabad	Centre	cgst.mdlco mmtecomp@gov.in
166	36AAYPA1643D1ZV	OMKARMAL DWARKADAS & CO (PROP: GANGADHAR AGARWAL)	Telangana	Proprietorship	Shri. Raghu Kiran B, Joint Commissioner, CGST & Central Excise Commissionerate, Hyderabad	Centre	cgst.mdlco mmtecomp@gov.in

TRAN 3 - Cases sent by Nodal officers of Centre/States

Sl. No.	GSTIN	Legal Name	State	COB	Nodal Jurisdiction details	State / Centre	E-Mail ID	Approval Status of TRAN-1 / TRAN-2
1	27AACFB9085G1ZA	BAFNA ELECTRICALS (BAFNA ELECTRONICS)	Maharashtra	Partnership	Dr. Sunil Bodhgire, Nodal Officer, Deputy Commissioner, State Govt, Mumbai	State	gstit.state@mahagst.gov.in	
2	30AAACI6561R1ZA	IFB INDUSTRIES LTD	Goa	Public Limited Company	Sarita S. Gadgil, Deputy Commissioner of State Taxes, Goa	State	acbic-ctax.goa@nic.in	
3	27ABIPD6856G1ZI	CHERRY CORPORATION (MANISH MADHUKAR DANDGAVALL)	Maharashtra	Proprietorship	Dr. Sunil Bodhgire, Nodal Officer, Deputy Commissioner of State Govt, Mumbai	State	bodhgiresunil@gmail.com	
4	36AAFCP8182N1ZP	PPS MOTORS PVT LTD	Telangana	Private Limited Company	Radha Sindhiya Linga, Assistant Commissioner, State Government, Hyderabad	State	tg_cto_gstin@tgct.gov.in	
5	36AAACO9626P1ZS	OLYMPUS MOTORS PRIVATE LIMITED	Telangana	Private Limited Company	D. P. Naidu, Commissioner, CGST Commissionerate, Hyderabad	Centre	cgst.seccommr@gov.in	
6	07AAACN1058N1ZC	NEW INDIA COLOUR COMPANY LIMITED	Delhi	Public Limited Company	Dushyant Kumar, Gsto (Gst Cell) Trade & Taxes Department, Govt. Of Nct of Delhi, State Govt	State	dushyant.kumar43@gov.in	

7	33AACCG2983 R1Z2	Gurudev Motors (GURUDEV MOTORS PRIVATE LIMITED)	Tamil Nadu	Private Limited Company	C. Suba Sankari, Assistant Commissioner, CGST & Central Excise Commissionerate, Chennai	Centre	C.Sankari@icegate.gov.in	TRAN-1 filing issue is not approved as per the decision of 2nd ITGRC being "TRAN-1 Filed twice, but credit not received."
8	36AAACA3428 K1ZS	AUTOMOTI VE MANUFACT URERS PRIVATE LIMITED	Telangana	Private Limited Company	Shri. Raghu Kiran B, Joint Commissioner, Central Government, Telangana	Centre	cgst.mdclcommteco.mp@gov.in	
9	29AAPFR3915G 1ZU	RENUKA AUTOMOTI VE	Karnataka	Partnershi p	Gosu Ramesh, Assistant Commissioner, CGST & Central Excise Commissionerate, Belagavi	Centre	commr-cexblgm@nic.in	
10	33AAACA4651 L1ZT	RENUKA AUTOMOTI VE (ASHOK LEYLAND LIMITED)	Tamil Nadu	Public Limited Company	Bijoy Kumar Kar, Commissioner, Central Government, Karnataka	Centre	commr-cexblgm@nic.in	
11	37AAFCP8182N 1ZN	PPS MOTORS PRIVATE LIMITED	Andhra Pradesh	Private Limited Company	C. R. Rajendran, Deputy Commissioner (ST), Chittoor Division	State	ac.ltu-ctr@apct.gov.in	TRAN-1 filing issue is not approved as per the decision of 6th ITGRC being "Category B3: Cases where the taxpayer has Successfully Filed as Per Logs with No Valid Error reported: The taxpayer has successfully

								filed TRAN1 and no technical errors has been found."
1 2	09AABCF8036 H1ZK	FOURWHEELS AUTO PRIVATE LIMITED	Uttar Pradesh	Private Limited Company	S. K. Sharma, Commissioner, Central Government, Kanpur	Centre	commr-cexkpr@nic.in	TRAN-1 issue is referred to 8th ITGRC for decision.
1 3	37AAGFC0351 G1ZT	CHOWDARY & CO TANUKU (CHOWDARY & CO)	Andhra Pradesh	Partnership	Shri. D. Ramesh, Joint Commissioner, Commercial Taxes Department, Vijayawada	State	ap-addl.it@apct.gov.in	
1 4	24AEUPP6304E 1ZF	RAMESH BAGWANDAS PUNJABI (SINDLAL TYRES SALES & SERVICES)	Gujarat	Proprietorship	Shri S. S. Rathod, Deputy Commissioner of State Tax, Vadodara	State	dc10-ct@gujarat.gov.in	TRAN-1 issue is referred to 8th ITGRC for decision.
1 5	27AAJFS2112E 1ZK	SHREE REFRIGERATION	Maharashtra	Partnership	K. V. S. Singh, Commissioner, CGST Commissionerate, Aurangabad	Centre	Letter	TRAN-1 issue is referred to 8th ITGRC for decision.
1 6	24ACZFS6158C 1ZO	SUN CORPORATIONS	Gujarat	Partnership	S. M. Saxena, Joint Commissioner of State Tax, Ahmedabad	State	jcegov-ct@gujarat.gov.in	
1 7	24ACLFS8867J1 ZB	SUN DIGITAL	Gujarat	Partnership	S. M. Saxena, Joint Commissioner of State Tax, Ahmedabad	State	jcegov-ct@gujarat.gov.in	
1 8	37AAACA3428 K1ZQ	AUTOMOTIVE MANUFACTURERS PRIVATE LIMITED	Andhra Pradesh	Private Limited Company	M. Srihari Rao IRS, Commissioner, CGST Commissionerate, Guntur	Centre	srihari.rao@gov.in	

Cases Received as per Extended Scope of ITGRC

Category		Description	No of Cases
A	Sub Category	Cases reported on account of Non-Technical error	
	A1	Recommended by jurisdictional tax authority with HC Order and having scenario where the credit was entered in wrong column. (iv) In 06 cases, stock wrongly reported at 7(d) in place of 7(a), (v) In 01 case, uploaded details in column 5 of table 5a instead of column 6 of table 5a (vi) In 01 case, uploaded details in Table 7(d) instead of 7(c) of TRAN-1(also filed COCP in Hon'ble HC of Kerala),	08
	A2	Recommended by jurisdictional tax authority with HC Order but having scenario other than wrong column entry (v) In 01 case, taxpayer did not get the 50% credit of Capital goods (vi) In 01 case, taxpayer had failed to indicate the amount of credit to be iv. transitioned. Hence, closing balance of Cenvat credit in their ER-1 and ST-3 v. returns last filed were not transferred to their ledger. (vii) In 01 case, TRAN 1 filed but the taxpayer did not file TRAN-2, by oversight. vi. In 01 case, filed TRAN 1 on 09.11.2017 but CENVAT Credit of 7.51 Cr not reflecting in TRAN-1	04
	A3	Case of non-technical error [Mistakenly Transferred the balance service tax credit available with them to the GST Number of their Input Service Distributor (ISD) registration on the belief that this credit could be distributed to their various GSTNs subsequently. HC has ordered to allow filing of rectified TRAN-1 before 30.12.2019. Commissioner has forwarded the case to ascertain whether the case is fit to be considered as non-technical issue without any recommendations.	01
	A4	Cases of non-technical error recommended by jurisdictional tax authority but Hon'ble High Court order details neither mentioned nor attached/No final order yet.	05
Sub Total			18
B	Sub Category	Cases reported involving Technical error that should have been referred to ITGRC through GSTN.	
	B2	Cases of Technical error which are not recommended by jurisdictional tax authority, but Hon'ble Court has directed Nodal Officer to forward to IT Redressal Committee to decide the same.	03
	B3	Cases of Technical error already presented before 1 st to 7 th ITGRC and also recommended by ITGRC.	04
Total			07
C	--	Cases already presented before 1 st to 7 th ITGRC but not recommended by ITGRC and now as per 32nd GST Council decision also forwarded without recommendation by jurisdictional tax authority.	02

D	--	Cases forwarded by jurisdictional tax authority without recommendation. Parameters as recommended by 32 nd GST Council decision not followed.	01
Total (A+B+C+D)			28

Category A: Cases reported on account of Non-Technical error

Category A1 (12 Cases): Recommended by jurisdictional tax authority.

- (i) In 06 cases, stock wrongly reported at 7(d) in place of 7(a),
- (ii) In 01 case, uploaded details in column 5 of table 5a instead of column 6 of table 5a
- (iii) In 01 case, uploaded details in Table 7(d) instead of 7(c) of TRAN-1(also filed COCP in Hon'ble HC of Kerala),

S. No	State/ CGST	GSTIN/ Title of the Case/ WP No. and Date	Brief Issue/ Directions of Hon'ble High Court	Recommendations of Officer of the State /Centre	Remarks
1	Received from GSTN, M/s. Srikanth Seeds, Pesticides	GSTIN: - 36AABHK9816K1 ZV, 27824/2018- Sri Katturi Mallesh, Sole Proprietor of M/s. Srikanth Seeds, Pesticides, Fertilizers & Grain Merchant	Filed TRAN-1 but uploaded details in Table 7(d) instead of uploading in table 7(a) and also missed some bills to claim ITC of CGST on closing stocks. Order: Writ petition is disposed of directing the Joint/Asst. Commissioner, State Tax to forward the representation of the petitioner dated: 06.07.2018 to the Chief Commissioner and further directing the Chief Commissioner to forward the said representation along with his report to the GST council. The GST Council shall take a call and pass appropriate orders in accordance with law within a period of eight weeks. There shall be no order as to costs.	Recommended	Placed in 6th ITGRC in category- A2 as per 32nd GST Council decision but not allowed by Committee because of lack of sufficient information on error involved in the case.
2	Received from GSTN, M/s. Ranjeeth Fertilizers	GSTIN: - 36AADHK3535K1 Z5, 27884/2018- M/s. Ranjeeth Fertilizers	Filed TRAN-1 but uploaded details in Table 7(d) instead of uploading in table 7(a) and also missed some bills to claim ITC of CGST on closing stocks. Order: Writ petition is disposed of directing the Join/Asst. Commissioner, State Tax to forward the representation of the petitioner dated: 06.07.2018 to the Chief Commissioner and further directing the Chief Commissioner to forward the said representation along with his report to the GST council. The GST Council shall take a call and pass appropriate orders in accordance with law within a period of eight weeks. There shall be no order as to costs.	Recommended	Placed in 6th ITGRC in category- A2 as per 32nd GST Council decision but not allowed by Committee because of lack of sufficient information on error involved in the case the case.

3	Received from GSTN, M/s. Ranjeeth Traders	GSTIN: - 36ACTPK0948C1 ZI, 27892/2018- Sri Kathuri Rupesh sole proprietor of M/s. Ranjeeth Traders Forwarded to GSTC Secretariat vide letter dated 11.03.2019.	Filed TRAN-1 but uploaded details in Table 7(d) instead of uploading in table 7(a) and also missed some bills to claim ITC of CGST on closing stocks. Order: Writ petition is disposed of directing the Join/Asst. Commissioner, State Tax to forward the representation of the petitioner dated: 06.07.2018 to the Chief Commissioner and further directing the Chief Commissioner to forward the said representation along with his report to the GST council. The GST Council shall take a call and pass appropriate orders in accordance with law within a period of eight weeks. There shall be no order as to costs.	Recommended	Placed in 6th ITGRC in category- A2 as per 32nd GST Council decision but not allowed by Committee because of lack of sufficient information on error involved in the case.
4	CGST, Bhubaneswar	M/s Field Motors Pvt. LTd, GSTIN- 21AAACF6343E1 Z7 WP 17282/2018	Taxpayer has reflected details of credit under column "7(d)-stock of goods" instead of column "7(a)- Duties and taxes on inputs" Order: Hon'ble High Court of Odisha vide its order dated 13.03.2019 has directed to reconsider the case of the petitioner. Also, a revised order dated 03.04.2019 of the Hon'ble H.C. was received which had specific direction for GST Council to reconsider the party's request taking in to consideration the ratio of 09 case laws mentioned in order.	Recommended	In 6th ITGRC the case was presented as per 32nd GST Council decision but not allowed being not recommended properly. Again, placed in 8 th ITGRC in A4 Category as that time not recommended. Now case has been recommended by Jurisdictional Commissioner hence placed in A1 Category.

5	CGST Delhi West, M/s Sikka Motors Pvt. Ltd.	GSTIN: 07AASCS5522N1 ZO, W. P. No. 8971/2019	<p>Filed TRAN-1 but uploaded details in Table 7(d) instead of uploading in table 7(a).</p> <p>Order: Writ Petition is disposed of directing respondents to immediately process the Petitioner's representation dated 28th March 2019 and either reflect the ITC claim of the Petitioner in the electronic ledger or communicate to the Petitioner the reason for its inability to do so on or before 13th September 2019.</p>	Recommended	Case has not been presented before ITGRC earlier.
6	CGST Delhi West, M/s Sushil Agencies	GSTIN: 07AANPK41559R 1ZV, W.P. No. 7984/2019	<p>Filed TRAN-1 but uploaded details in Table 7(d) instead of uploading in table 7(a).</p> <p>Order: Hon'ble High Court of Delhi in its order dtd. 28.05.2019 directed "In that view of the matter, the Respondents are directed to process the Petitioner's claim for the TRAN-1 credit if tendered manually within two weeks from today. If found eligible, the credit will be allowed to the Petitioner in accordance with law, without undue delay. A report in this regard be placed on record by the respondents by the next date.</p>	Recommended	The case was presented in B Category 4 (Sr. No. 50) cases: TRAN-1 filed but credit not received. There were no error logged in filing for TRAN-1 in 4 th ITGRC meeting held on 12.02.2019 and not allowed by the committee.
7	CGST Rajkot, M/s Jakap Metind Pvt.Ltd.	GSTIN: 24AAACJ5428L1Z I, Special Civil Application No. 19951/2019	<p>Issue: Did not mention details in column 6 of table 5a and instead uploaded details in column 5 of table 5a of the TRAN-1. Hence, the amount mentioned in column 5 of table 5a was not granted as transitional credit.</p> <p>Order (04.10.2019): Respondents to open the online portal so as to enable the Petitioner to again file the rectified Form GST TRAN-1 electronically or accept the manually filed form of GST TRAN-1 with corrections on or before the 30th November, 2019.</p>	Recommended	Till 8 th ITGRC the Case was presented before ITGRC.

8	SGST, Kerala	Ms. Hemalatha Ranka Prop of Raj Distributors, Ernakulam, Kerala 32AAEPA4171C1 ZK, WPC 18883/2018	<p>Filed TRAN-1 but uploaded details in Table 7(d) instead of uploading in table 7(c).</p> <p><u>Order:</u> HC vide order dated 14.06.2018 directed to take appropriate action to take credit of the input tax available at the time of Migration.</p>	Recommended	<p>The case was presented as per circular 03.04.2018 in 4th ITGRC held on 12.02.2019 in 'B4' category but not allowed by the Committee.</p> <p>Also filed COCP in Hon'ble HC of Kerala for not following the order dated 14.06.2018 in WP 18883/2018.</p> <p>As a special case this was accepted to allow amendment in the TRAN-1, by Revenue Secretary subject to the approval of GST Council.</p>
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Category A2 (04 Case):

- (i) In 01 case, taxpayer did not get the 50% credit of Capital goods
- (ii) In 01 case, taxpayer had failed to indicate the amount of credit to be transitioned. Hence, closing balance of Cenvat credit in their ER-1 and ST-3 returns last filed were not transferred to their ledger.
- (iii) In 01 case, TRAN 1 filed but the taxpayer did not file TRAN-2, by oversight.
- (iv) In 01 case, filed TRAN 1 on 09.11.2017 but CENVAT Credit of 7.51 Cr not reflecting in TRAN-1

S. No	State/ CGST	GSTIN/ Title of the Case/ WP No. and Date	Brief Issue/ Directions of Hon'ble High Court	Recommendations of Officer of the State /Centre	Remarks
9	CGST, Mysore	M/s AT&S India Limited, GSTIN 29AAECA2930J1ZO, WP No 22368/2019 (T-RES)	<p>Issue: Taxpayer filed the TRAN-1 on GSTN Portal on 11.12.2017. They did not get the 50% of Capital goods credit for the period April 2017 to June 2017 in their credit ledger. Taxpayer has mentioned Zero in column 11 of Table 6 of GST TRAN-1 form. They should have mentioned the credit which is pending to the transitioned.</p> <p>Order: The court has directed to reconsider the request of the petitioner for redressal of their grievances in accordance with law.</p>	Recommended	The case was presented as per circular 03.04.2018 in 5th ITGRC held on 05.03.2019 in 'B3' category but not allowed by the Committee.

10	Bengaluru, CGST	M/s Yokogawa Inida Ltd. GSTIN 29AAACY0840P1ZV 15854/2019 (T-RES) dtd. 09.04.2019 and order dtd. 25.04.2019	<p>Issue: The assessee had filed form GST TRAN-1 on 12.12.2017 before due date but the credit relating to the closing balance of Cenvat credit of Rs. 4,31,32,066/- in their ER-1 and ST-3 returns last filed were not transferred to their ledger. Under the column “Cenvat Credit admissible as ITC” they had failed to indicate the amount of credit to be transitioned, due to which the credit pertaining to their closing balance was not credited to their electronic credit ledger. Taxpayer had tried to rectify the error by attempting to revise the TRAN-1 filed before 28.12.2017 but all their all attempts got unsuccessful. As per Tax authorities taxpayer is seeking opportunity to revise the TRAN-1 already filed.</p> <p>Order: Request of the petitioner to revise the TRAN1 for the first time cannot be denied on technicalities and glitches not being uncommon, in a new tax regime, a pragmatic approach would sub-serve the ends of justice, directed to reconsider the grievance of the petitioner.</p>	Recommended	Case has not been presented before ITGRC earlier.
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11	CGST Tamil Nadu & Puduchery Zone, M/s Horology Impex Co.	GSTIN: 33AAHFH2933G1ZN, W.P. No. 34089/2018	<p>Taxpayer filed TRAN-1 on 19-12-2017 availing credit of Rs. 81,93,837/- under 7A stock with documents head of TRAN-1. Taxpayer has also shown stock of value of Rs 12,43,13,920/- under 7B Stock without documents in TRAN-1. They have stated now that they are entitled for a transitional credit of Rs. 62.29 Lakhs, which was not transferred to their Electronic Credit Ledger since they did not file TRAN-2, by oversight.</p> <p>Order: Writ Petition is disposed of directing respondents to pass appropriate orders, after following the procedures as indicated supra as expeditiously as possible. The respondent shall also provide an opportunity of hearing to the petitioners before passing the order</p>	Recommended	Till 8 th ITGRC the Case was not presented before ITGRC.
12	CGST Shimla, M/s Macleods Pharmaceuticals Ltd	CWP 1551/2018, GSTIN-02AAACM4100C1ZL	<p>Issue: Filed TRAN 1 on 09.11.2017 but as per taxpayer the CENVAT Credit of 7.51 Cr not reflecting in TRAN-1</p> <p>GSTN Findings: GSTN vide mail dated 06.08.2018 has communicated to the Commissionerate that TRAN-1 was successfully submitted on 26.10.2017 and 27.11.2017. As per logs party has filed 0 (zero) in the disputed field instead of 7.51cr and no logs of error evidencing any technical glitch faced by taxpayer were found.</p>	Recommended via mail as per the extended scope of ITGRC but signed copy still awaited.	Till 8 th ITGRC the Case was not presented before ITGRC.

			Order (20.11.2019): Consider the case of the petitioner Company for amendment of TRAN-1 form and pass appropriate orders within a period of three weeks from today.		
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Category A3 (01 Case):

Case of non-technical error [Mistakenly Transferred the balance service tax credit available with them to the GST Number of their Input Service Distributor (ISD) registration on the belief that this credit could be distributed to their various GSTNs subsequently. HC has ordered to allow filing of rectified TRAN-1 before 30.12.2019. Commissioner has forwarded the case to ascertain whether the case is fit to be considered as non-technical issue without any recommendations.

S. No	State/ CGST	GSTIN/ Title of the Case/ WP No. and Date	Brief Issue/ Directions of Hon'ble High Court	Recommendations of Officer of the State /Centre	Remarks
13	CGST, Cochin M/s South Indian Bank 32AABCT0022F2Z6	32AABCT0022F2Z6 WP 21008/2019	Issue: Case of non-technical error [Mistakenly Transferred the balance service tax credit available with them to the GST Number of their Input Service Distributor (ISD) registration on the belief that this credit could be distributed to their various GSTNs subsequently Order: HC vide order dated 18.11.2019 has ordered to allow a rectified TRAN-1 application or accept manually filed TRAN-1 with the appropriate corrections, on or before 30.12.2019.	Forwarded to ITGRC to ascertain whether the case is fit to be considered as non-technical issue. No Recommendation	Till 8 th ITGRC the Case was not presented before ITGRC

Category A4: Cases of **non-technical error** recommended by jurisdictional tax authority but Hon'ble High Court order details neither mentioned nor attached/No final order yet.

S. No	State/ CGST	GSTIN/ Title of the Case/ WP No. and Date	Brief Issue/ Directions of Hon'ble High Court	Recommendations of Officer of the State /Centre	Remarks
14	Chennai North CGST	33BURPS2116P1Z1 Senthil Vadivelu Senthilnathan / M/s. Shanmugam Agencies	Entry of details by oversight under Entry 7A of Table 7(a), instead of under Entry 7B of Table 7(a) of TRAN-1. The taxpayer is seeking relief in terms of Bombay High Court judgement in W.P No.2086/2018 in the case of M/s. O/E/N India Ltd., & others. No High Court order in the case	Recommended	No High Court order in the case.
15	Chennai North	33AQEPPS5122E1Z9 Senthil Vadivelu Palaniappan /M/s. Shanmuganathan Store	Entry of details by oversight under Entry 7A of Table 7(a), instead of under Entry 7B of Table 7(a) of TRAN-1. The taxpayer is seeking relief in terms of Bombay High Court judgement in W.P No.2086/2018 in the case of M/s. O/E/N India Ltd., & others. No High Court order in the case	Recommended	No High Court order in the case.
16	Chennai North	33ARKPS5830K1ZE Senthil Vadivelu / M/s. Senthil Agencies	Entry of details by oversight under Entry 7A of Table 7(a), instead of under Entry 7B of Table 7(a) of TRAN-1. The taxpayer is seeking relief in terms of Bombay High Court judgement in W.P No.2086/2018 in the case of M/s. O/E/N India Ltd., & others. No High Court order in the case	Recommended	No High Court order in the case.

17	Chennai South	33AAACB5985C1 ZW M/s. BHARAT ELECTRONICS LTD W.P. 2937 of 2019 dated 01.02.2019 of Madras high Court	The tax payer has mentioned the C/b of CENVAT in table 5(a) under column 5 (Balance CENVAT carried forward in the said last return) but has mentioned credit available as per the Stock in column no.6 of table 5(a)(CENVAT credit admissible as ITC of central tax in accordance with transitional provisions). they have also mentioned the credit available on stock in table 7(a) also. they have not properly understood the relevance of each column of the respective table and made wrong entries. Hence the Closing balance has not reflected in the ITC ledger. The case is pending for disposal, no final High Court order in the case.	Recommen ded.	The case is still pending for disposal, no final High Court order in the case.
18	Chennai Outer	PAREKH INTEGRATED SERVICES PVT LTD., GSTIN: 33AADCP1503F1 Z3 W.P.No.9052 OF 2019 DT.26.03.2019	Taxpayer had declared inputs held in stock for Value of Rs.2,06,62,196/- on the appointed day without documents under Col.7(a) (7B) of Tran-1 and filed Tran-2 for the periods July-2017 and August-2017 and received ITC of Rs.1,66,480/- and Rs.79,583/- respectively for the two months. But the taxpayer claims that he has filed ITC for an amount of Rs.96,41,874/- whereas has received only Rs.18,38,967/- against SGST taxpayer had filed Tran-1 and filed Tran-2 for the months of July & August 2017. The petitioner/authorised representative will appear before the nodal officer/second respondent on 27.03.2019 at 10.30 AM with all materials in support of his claim. Appropriate orders shall be passed by the officer on or before 29.03.2019. No HC Order attached	No Recommen dation made	No proper recommendation and No HC order attached. The case was presented as per circular 03.04.2018 in 6th ITGRC held on 27.05.2019 in 'B4' category but not allowed by the Committee.

Category B: Cases reported involving Technical error that should have been referred to ITGRC through GSTN.

Category B2: Cases of Technical error which are **not recommended** by jurisdictional tax authority. But Hon'ble Court has directed Nodal Officer to forward to IT Redressal Committee to decide the same.

S. No	State/ CGST	GSTIN/ Title of the Case/ WP No. and Date	Brief Issue/ Directions of Hon'ble High Court	Recommendations of Officer of the State /Centre	Remarks
19	Madurai CGST	M/s Sri Algar Industries, Sivakasi WP(MD)No. 19463/2018 dated 01.09.2018	<p>Tax Payer has tried to submit TRAN 1 Returns on common portal. But they could not file it due to some issues in common portal. Hence, they were unable to carry forward Rs. 23,40,113/- regarding TRAN 1.</p> <p>Order: Order dated 17.09.2018 passed by the Hon'ble Madurai Bench of Madras High Court directing that</p> <p>1.The 5th Respondent (i.e. The Assistant Commissioner of CGST &C.Ex, Sivaksi) forward the Representation of Petitioner dated 30.07.2018 to the 4th Respondent within a period of one week of date of receipt of a copy of this order.</p> <p>2. on receipt of the same 4th respondent/Nodal officer in consultation with GSTN, shall take the note the grievance expressed by the petitioner and forward the same to grievance committee, with in two week there after the grievance committee, in turn, to take appropriate decision in the matter within a period of four weeks from the date, on which ,the representation is received in proper form.</p>	Nothing recommended	Not filing case. Not placed in any ITGRC earlier.

20	Madurai	M/s Anbu Automobiles, Paramakudi. WP(MD) No. 22011 of 2018 dated 25.10.2018	Unable to file TRAN-1. <u>Order:</u> Common order dated 1.11.2018 passed by the Hon'ble Madurai Bench of Madras High Court directing that relying on the decision dated 10.09.2018 taken in WP(MD)No. 18532/2018 filed by M/s Tara Exports, Thoothukudi, disposed of both WP(MD)No. 22010 & 22011 of 2018 with a direction to the respondent to enable the petitioner to file GST TRAN 1 electronically for claiming the transitional credit and allow the input credit after processing the same, if it is otherwise eligible in law..	Nothing recommended	Not filing case. Not placed in any ITGRC earlier.
21	Madurai	M/s Anbu Motors, Ramanathapuram WP(MD)No. 22010 of 2018 dated 24.10.2018	Unable to file TRAN-1. <u>Order:</u> Common order dated 1.11.2018 passed by the Hon'ble Madurai Bench of Madras High Court directing that relying on the decision dated 10.09.2018 taken in WP(MD)No. 18532/2018 filed by M/s Tara Exports, Thoothukudi, disposed of both WP(MD)No. 22010 & 22011 of 2018 with a direction to the respondent to enable the petitioner to file GST TRAN 1 electronically for claiming the transitional credit and allow the input credit after processing the same, if it is otherwise eligible in law..	Nothing recommended	The case of ANBU MOTORS (33AAQFA5599J1Z U) was presented in Category-B3 of 4 th ITGRC and not recommended. GSTIN of this not provided hence the status can not be ascertained.

Category B3: Cases of Technical error already presented before 1st to 7th ITGRC and **also recommended by ITGRC.**

S. No	State/ CGST	GSTIN/ Title of the Case/ WP No. and Date	Brief Issue/ Directions of Hon'ble High Court	Recommendations of Officer of the State /Centre	Remarks
22	CGST Tamilnadu	M/S. EAP Infrastructure India Pvt.Ltd GSTIN 33AACCE8198G1 ZG W.P.No.22941 OF 2018 dt.04.09.2018	Taxpayer attempted to upload the details of stock holdings through json file on 25.12.2017. However, the json file could not be uploaded due to some technical glitches in the GST portal. Order: The petitioner was directed to submit application in accordance with Circular No.39/13/2018 dt.03.4.2018 with in period of two weeks from the date of receipt of this order to their respective assessing/jurisdictional officer/GST officers. The assessing officers are directed to forward the application to the nodal officer with in a period of one week.	taxpayer's request may be considered	The case was presented before 1 st ITGRC held on 22.06.2018 and allowed.
23	CGST Tamilnadu	M/S. Lear Automotive India Pvt.Ltd GSTIN 33AAACL1978K1 ZC W.P.NO.33193 OF 2017	Prior to GST, taxpayer was having three Central Excise Registrations, three Service Tax Registration and one TNVAT Registration. While migrating from TNVAT to GST, all the registration details were not captured due to an inadvertent mistake. Order: The petitioner was directed to submit application in accordance with Circular No.39/13/2018 dt.03.4.2018 with in period of two weeks from the date of receipt of this order to their respective assessing/jurisdictional officer/GST officers. The assessing officers are directed to forward the application to the nodal officer with in a period of one week.	taxpayer's request may be considered	The case was presented before 1 st ITGRC held on 22.06.2018 and allowed.

24	CGST Tamilnadu	M/s Surin Automotive Pvt. Ltd. GSTIN 33AACCK8026D1 ZX WPC 12986- 12987/2018- DT.16.07.2018	The Taxpayer tried to submit Form GST TRAN-1 electronically on 27.12.2017. but due to technical glitches/problems on the common portal, they were unable to submit TRAN-1 <u>Order:</u> The petitioner was directed to submit application in accordance with Circular No.39/13/2018 dt.03.4.2018 with in period of two weeks from the date of receipt of this order to their respective assessing/jurisdictional officer/GST officers. The assessing officers are directed to forward the application to the nodal officer with in a period of one week.	taxpayer's request may be considered	The case was presented in Category-A1, before 3rd ITGRC held on 26.10.2018 and allowed.
25	CGST Tamilnadu	M/S. Schwing Stetter Pvt.Ltd GSTIN : 33AADCS5069D1 ZJ W.P.No.3117 OF 2018 dt.16.07.2018	The Taxpayer tried to submit Form GST TRAN-1 electronically on 26.12.2017. but due to technical glitches/problems on the common portal, they were unable to submit TRAN-1. <u>Order:</u> The petitioner was directed to submit application in accordance with Circular No.39/13/2018 dt.03.4.2018 with in period of two weeks from the date of receipt of this order to their respective assessing/jurisdictional officer/GST officers. The assessing officers are directed to forward the application to the nodal officer with in a period of one week.	taxpayer's request may be considered	The case was presented before 1 st ITGRC held on 22.06.2018 and allowed.

Category C: Cases already presented before 1st to 7th ITGRC **but not recommended by ITGRC** and now as per 32nd GST Council decision also forwarded without recommendation by jurisdictional tax authority.

S. No	State/ CGST	GSTIN/ Title of the Case/ WP No. and Date	Brief Issue/ Directions of Hon'ble High Court	Recommendations of Officer of the State /Centre	Remarks
26	CGST, Coimbatore	M/s.Precision Rubber Industries Pvt. Ltd., Coimbatore [33AADCG0576B 1Z5], WP 11781 & 11784 of 2019 & 16.04.2019	Taxpayer claimed to have made attempt to file TRAN-1 within the due date 27.12.2017; However, no material evidence has been produced; HC has permitted the petitioner to appear before the Commissioner, Coimbatore on 24.04.2019 along with the requests / objections filed till date and all materials in support of the objections that will be taken into consideration.	It may not be proper to comment on the eligibility criteria on the aspect of Technical Glitches.	Appears to be a case where no TRAN-1 filed. No proper recommendation and No HC order attached. The case was presented as per circular 03.04.2018 in 4th ITGRC held on 12.02.2019 in 'B1' category but not allowed by the Committee.
27	Tirunelveli CGST	M/s.Tara Exports, Tuticorin WP 18532/2018	The taxpayer has not uploaded the TRAN-1 declaration before the extended time limit upto 27.12.2017 in terms of Order NO.9/2017-GST dated 15.11.2017. Order: The Hon'ble Court disposed of the WP with a direction to the respondents either to open the portal, so as to enable the petitioner to file the TRAN-1 electronically for claiming the transitional credit or accept the manually filed TRAN-1 on 31.01.2018, or allow the input credits, after processing the same, if it is otherwise eligible in law.	Nothing Recommended	No proper recommendation. Appears to be a case of TRAN-1 not filed which is not covered under 32 nd GST Council decision. The case was presented in category B1 of 6 th ITGRC held on 27.05.2018 and not recommended.

Category D: Cases forwarded by jurisdictional tax authority without recommendation. Parameters as recommended by 32nd GST Council decision not followed.

S. No	State/ CGST	GSTIN/ Title of the Case/ WP No. and Date	Brief Issue/ Directions of Hon'ble High Court	Recommendations of Officer of the State /Centre	Remarks
28	Madurai	M/s Myers Tyers Supply (india) Ltd. Madurai. WP(MD) No. 18723 of 2018 dated 27.08.2018	Prayer to issue order that the words “within 90 days of appointed day” found under the main part of rule 117(1) of CGST Rule 2017 and proviso there under, as ultra vires, Section 140(3) and section 164 of the CGST Act,2017or pass such further or other orders as may deem fir and proper in the circumstances of the case and render justice.	Nothing recommended	NO High Court Order, no recommendation, no error identified.

Members (Centre)

- Sh. Sandeep M. Bhatnagar, Member (GST & Investigation), CBIC
- Sh. Sandeep Kumar, Chief Commissioner, CGST, Delhi

Member (GST Council Secretariat)

- Dr. Rajeev Ranjan, Special Secretary

Members (States) (through VC)

- Sh. Anurag Rastogi, Principal Secretary, Haryana
- Sh. Devi Prasad Karnam, CST, West Bengal

Special Invitees

- Sh. Yogendra Garg, Pr. Commissioner, GST Policy Wing, CBIC
- Sh. Sanjay Mangal, Commissioner, GST Policy Wing, CBIC
- Sh. Amitabh Kumar, Joint Secretary, GST Council
- Sh. Dheeraj Rastogi, Joint Secretary, GST Council
- Sh. Prakash Kumar, CEO, GSTN
- Sh. Vashistha Chaudhary, SVP, GSTN
- Sh. K Gnanasekaran, Addl Commr, State Tax, Tamil Nadu (On behalf of ACS/Commr, State Tax, Tamil Nadu)
- Sh. Vijay Singh, Addl E & T Commissioner
- Sh. Rajib Sengupta, Jt. Commr, State Tax, West Bengal
- Sh. Ridhidesh Rawal, Dy. Commissioner, State Tax (On behalf of Chief Commr, State Tax, Gujarat)

Others

- Sh. Rajesh Agarwal, Director, GST Council
- Sh. Arjun Kumar Meena, Deputy Commissioner
- Sh. Rahul Raja, Under Secretary, GST Council
- Sh. S Mahesh Kumar, Under Secretary, GST Council
- Sh. Krishna Koundinya, Under Secretary, GST Council

Minutes of the 10th Meeting of IT Grievance Redressal Committee (ITGRC) held on 22nd January 2020 at Kalpvriksha, North Block, New Delhi

The tenth meeting of the IT Grievance Redressal Committee (ITGRC) was held on 22nd January 2020 at Kalpvriksha in North Block, New Delhi. The list of officers who attended the meeting is attached as **Annexure-7**.

Agenda Note 1: TRAN 1/TRAN 2 Cases as per Circular No. 39/13/2018-GST dated 3.04.2018:

2. Shri Vashistha Chaudhary, SVP (Services), GSTN appraised the committee about the background that a total number of around 2655 cases of TRAN-1, 213 cases of TRAN-2 and 18 cases of TRAN 3 had been received from the Nodal officers of Center and States till 31.03.2019 at GSTN, excluding court cases on this issue. Further, a few cases, which were received from Nodal officer containing all the relevant information but were not in the format prescribed in SOP (issued by GSTN in April 2018), had also been included in the agenda. The details of cases discussed in previous meetings were as follows.

Table 1: Details of TRAN 1/TRAN 2/TRAN 3 cases presented before IT-GRC through GSTN

S. No.	Meeting Reference	No. of TRAN-1/TRAN 2/TRAN-3 Cases received			Cases examined and approved	Cases examined and not approved	Cases Withdrawn by GSTN
		Nodal Officer	Court Cases	Total			
1	2	3	4	5 (3+4)	6	7	8
1	1st IT-GRC on 22.06.2018	161	9	170	122	48	NIL
2	2nd IT-GRC on 21.08.2018	262	78	340	213	127	NIL
3	3rd IT-GRC on 26.10.2018	252	16	268	70	198	NIL
4	4 th IT-GRC on 12.02.2019	408	53	461	165	296	NIL
5	5 th IT-GRC on 05.03.2019	203	21	224	80	144	NIL
6	6 th IT-GRC on 27.05.2019	594	88	682	172	510	NIL
7	7 th IT-GRC on 11.06.2019	236	13	249	98	151	NIL
8	8 th IT-GRC on 13.08.2019	442	49	491	137	352	02
9	9 th IT-GRC on 02.12.2019	256	23	279	72	194	13
10	10 th IT-GRC on 22.01.2020	50*	13*	63*	To be discussed		
	Sub Total			3227			

***Note:** In 10th ITGRC, 50 cases were being presented as received from Nodal officers while 13 cases were received due to court cases. Out of it 18 cases were pertaining to TRAN-1 and 45 cases pertained to TRAN-2 (Total 63 Cases)

3. The SVP (Services) explained that in previous nine ITGRC Meetings total 3164 TRAN-1/TRAN-2 cases including cases where Writ Petitions were filed in various High Courts, were presented to ITGRC. Out of which, a total of 1129 cases had been considered and approved up to 9th ITGRC. Further, another 258 TRAN-2 cases had also been approved by ITGRC during these meetings. The filing of TRAN 1/TRAN-2 in these approved cases had been enabled by GSTN at GST Common Portal and the taxpayers had been informed through e-mails for filing their TRAN-1/TRAN-2 as the case may be. Further, reminders had been given to the taxpayers who had either not attempted to file their TRAN-1/TRAN-2 after being enabled or had merely submitted their applications after receiving communication from GSTN. The taxpayers who had still not filed their TRAN-1/TRAN-2 even after reminders, had been contacted telephonically by the officers of GSTN and guided appropriately for filing the same.

4. Now, another 63 cases (**18 cases of TRAN-1 and 45 cases of TRAN-2**) had been examined and presented before 10th ITGRC. Out of these, 51 cases were sent by the Nodal officers of Center/States while 12 cases arose out of writ petitions filed before various High Courts/orders. Details of cases presented before 10th ITGRC were as under:

- (a) During 9th ITGRC meeting, the Committee had allowed GSTN to withdraw total 7 TRAN-1 cases i.e. 06 TRAN-1 cases of Subcategory A2 and A4 as mentioned in Annexure-1 and 1 court case of subcategory A2 mentioned in Annexure 3. Since the description of subcategory A2 and A4 seemed overlapping and it was not clear whether the Migration could not be done due to taxpayer's mistake or it was on account of having any technical difficulty. Thus ITGRC had directed GSTN to present these cases in the next ITGRC Meeting. It was also observed by the Committee that description of sub-category A2 mentioned in Annexure-2 of 9th ITGRC Meeting Agenda was not clear as it appeared from description that TRAN-1 was filed and TRAN-2 was also submitted with no errors. It was therefore not clear as to what was the error in these TRAN-2 cases. Therefore, 9 withdrawn cases (**7 cases of TRAN-1 and 2 cases of TRAN-2**) were being resubmitted by GSTN with correct description to the Committee for consideration. The list of such cases was presented as **Annexure-1 to the Agenda 1**.
- (b) Further, a total of remaining **42 fresh cases of TRAN-2**, out of total 213 received from the Nodal officers of States and Centre, had been processed at GSTN level after analyzing the System logs and other details, were also presented before the Committee. The list of such cases was presented as **Annexure-2 to the Agenda 1**.
- (c) A total of 370 writ petitions had been received by GSTN pertaining to TRAN-1 till 19.12.2019. However, in 9th ITGRC, GSTN had reported 379 cases including 10 case which were reported from Nodal officer as well as by the Counsel/Legal department both i.e. duplicate cases; 10 cases which had no technical glitches but reported by mistake and 1 case in which analysis was pending. Therefore, there were actually 358 court cases reported by GSTN up to 9th ITGRC. Further, 12 new cases were reported in 10th ITGRC. Therefore, total 370 cases were mentioned in the agenda of 10th ITGRC having 11 TRAN-1 Cases and 1 TRAN-2 case. These facts were apprised to the ITGRC in following words:

“Few cases were received from Nodal officers and also from the Counsels/Legal Department as Writ Petition. Therefore, the present figures of court cases and the figures furnished in the proposal of different ITGRC may vary.”

Further, court cases pertaining to TRAN-1 are still being received at GSTN and are being investigated and referred to ITGRC. Accordingly, 360 cases were presented till 9th ITGRC and 03 were withdrawn for re-examination.

In 10th ITGRC 12 court cases (11 **cases of TRAN-1 and 1 case of TRAN-2**) were analyzed by GSTN and placed before the Committee for consideration. The list of such cases was presented as **Annexure-3 to the Agenda 1**.

4.1 Accordingly, total 63 Cases of TRAN-1 and TRAN-2 (including court cases), as mentioned below were presented before 10th ITGRC Meeting for decision:

- i. 18 TRAN-1 cases (07 withdrawn cases of 9th ITGRC in Annexure-1 and 11 fresh court cases in Annexure-3 of the Agenda)
- ii. 45 cases of TRAN-2 (42 cases forwarded by Nodal Officers as per Annexure 2; 2 cases forwarded by Nodal officers and represented after being withdrawn in 9th ITGRC as per Annexure-1 and 01 court case as per Annexure 3 of the Agenda.

Analysis of TRAN 1 Cases (18 Cases):

5. SVP, GSTN explained that it included 7 withdrawn cases of 9th ITGRC and 11 fresh court cases. Therefore, out of 18 TRAN-1 cases 06 cases were from Nodal Officers and 12 cases through Writ Petition.

5.1 The SVP, GSTN, thereafter elaborated the nature of technical issues experienced by the taxpayers in filing TRAN-1 along with reasons, under **Category ‘A’**, which consisted of following 03 sub-categories out of the different sub-categories reported in earlier ITGRC and number of cases pertaining to each subcategory were as per **column 3 and 4 of Table 2** below:

- **Sub Category A1: Cases where the taxpayer received the error as “Processed with Error”:** The taxpayer could not claim transitional credit as the line items requiring declarations of earlier existing law registration numbers were processed with error since the taxpayer had not added them in his registration details.
- **Sub Category A2: Cases where TRAN-1 not attempted as per logs - due to Registration issue and First return filed after TRAN-1 due date:** The taxpayers were not able to file TRAN-1 due to technical issues before 27.12.2017 and for which screenshots proofs were submitted. These taxpayers had faced challenges and thereafter in filing of their first return and in all such cases first return submission (GSTR-1/GSTR-3B) had been done post TRAN-1 last date.
- **Sub Category A4: Migration User- Cases where because of technical error on account of validation, the taxpayer completed migration and got registration after 27.12.2017 and hence couldn’t file TRAN-1:** As per GST Portal, the taxpayer could not migrate due to technical glitches (validation error). The taxpayer activated his Part A and also completed part B but could not migrate because of a validation error.

5.2 The details of cases covered under these sub-categories of Category A are reflected in the **Annexure 1 (cases forwarded by Nodal Officers) and Annexure 2 (Court Cases) of the Minutes** with details as in Table 2 below.

Table-2: TRAN-1 Cases reported as having Technical Glitch

Sub Category	Sub Category Description	Cases received from Nodal Officers	Court Cases
1	2	3	4
A-1	Processed with Error	NIL	01 Cases (S. No 01 of Annexure 2)
A-2	TRAN-1 not attempted as per logs - due to Registration issue and First return filed after TRAN-1 due date	04 (S. No 1 to 4 of Annexure 1)	01 (S. No 02 of Annexure 2)
A4	Migration User- because of technical error on account of validation, the taxpayer completed migration and got registration after 27.12.2017 and hence couldn't file TRAN-1	02 (S. No 5 to 6 of Annexure 1)	NIL
	Sub Total	06	02

5.3 In above Subcategories, it was explained by the GSTN and observed by the Committee that technical glitch was genuinely faced by the taxpayer while filling the TRAN-1 and therefore could be considered for reopening the Portal in these cases.

6. **Category 'B'** had cases where no technical issues had been observed in TRAN 1 filing. The SVP, GSTN further elaborated the cases under the Category 'B', where no technical issues were found on the basis of GST system logs, as explained below in 03 sub-categories and number of cases pertaining to each sub-category, mentioned in **column 3 & 4 of Table 3** below: -

- **Sub-Category B-1: Cases in which as per GST system log, there was no evidences of error during submission/filing of TRAN1.** As per GST system log, there were no evidences of error during submission/filing of TRAN1.
- **Sub-Category B-2: Cases in which TRAN 1 filing attempted for first time or revision was attempted but no error/no valid error reported.** As per GST System logs the taxpayer has tried for saving/submitting for the first time or revision of TRAN 1 and there were no evidences of system error in logs.
- **Sub-Category B-5: Cases in which TRAN-1 was filed once but credit was not received.** The taxpayer had filed TRAN-1 once successfully but no credit had been posted in ledger and no errors had been observed in system logs.

6.1 The details of TRAN-1 cases covered under these sub-categories of Category B are reflected in the **Annexure 2 (Court Cases) of these Minutes** with details as in Table 3 below.

Table-3: TRAN-1 Cases Reported as Not having Technical Glitch

Sub Category	Sub Category Description	Cases received from Nodal Officers	Writ Petition Cases
1	2	3	4
B-1	As per GST system log, there are no evidences of error during submission/filing of TRAN 1.	NIL	05 (S. No 03 to 07 of Annexure 2)
B-2	TRAN-1 filing attempted for first time or revision and No error /No valid error reported.	NIL	01 (S. No 8 of Annexure 2)
B-5	Cases in which TRAN-1 was filed once but credit was not received.	NIL	04 (S. No 09 to 12 of Annexure 2)
	Sub Total	NIL	10

6.2. After going through the above cases, it was observed by the Committee that in case of cases at Category B, no technical issues were found as reported by SVP, GSTN on the basis of GST system logs. As, no technical issues had been observed in TRAN 1 filing in above Category B cases, Committee decided not to allow reopening of the Portal for these cases, in line with the decision in earlier nine ITGRC Meetings.

7. Considering the above submissions, Committee discussed the cases of technical glitch of Category 'A' and after further elaboration and discussion, 08 cases of TRAN-1 pertaining to subcategories A1, A2 and A4 of technical glitch as per Annexure, indicated in column No. 3 and 4 of Table 2 above were considered for allowing filing of TRAN 1/TRAN 2 in accordance with the Law Committee recommendations regarding consequential benefits related to filing of TRAN 1 and TRAN 2.

7.1 The Committee also decided to recommend not to allow remaining 10 cases of TRAN-1 pertaining to Category 'B' as per Annexures indicated in column No. 3 and 4 of Table-3 above in absence of any evidence of technical/system errors in these cases.

Analysis of TRAN-2 Cases (45 Cases):

8. SVP, GSTN explained that it included 2 withdrawn cases of 9th ITGRC and 43 fresh cases. Out of these 45 TRAN-2 cases, 44 cases were from Nodal Officers and 01 case through Writ Petition.

8.1 The SVP, GSTN elaborated nature of technical issues experienced by the taxpayers in filing TRAN-2 along with reasons, under **Category 'A'**, which consisted of following 02 sub-categories and number of cases pertaining to each subcategory were as per **column 3 and 4 of Table 4** below. The details of cases covered under these sub-categories of Category A is reflected in the **Annexure 3 of the Minutes** with details as in Table 4 below.

Table-4: TRAN-2 Cases reported as having Technical Glitch

Sub Category	Sub Category Description	From Nodal Officers	Court Cases
1	2	3	4
A2	TRAN-1 filed and TRAN-2 in submitted status with no errors - to be enabled for filing. As per Logs taxpayer had filed TRAN-1 successfully and also submitted TRAN-2. DSC/EVC needs to be affix.	02 (S. No 1 to 2 of Annexure 3)	NIL
A3	TRAN-1 approved cases and enabled for filing of TRAN-2. TRAN-1 Approved cases and enabled for filing of TRAN-2.	01 (S. No 3 of Annexure 3)	NIL
	Sub Total	03	NIL

8.2 In above Sub-categories, it was observed by the Committee that cases at Subcategories A2 and A3 appeared to be having technical glitch which was genuinely faced by taxpayers while filling the TRAN-2 and so they could be considered for reopening the Portal.

9. In **Category 'B'** cases, no technical issues had been observed in TRAN- 2 filing. The SVP, GSTN further elaborated the cases under the Category 'B', that no technical issues were found in the GST system logs, as explained below in 05 sub-categories and number of cases pertaining to each sub-category has been mentioned in **column 3 & 4 of Table 5** below.

Further, the details of TRAN-2 cases covered under these sub-categories of Category B is reflected in the **Annexure 3 and Annexure 4 of the Minutes** with details as in Table 5 below:

Table-5: TRAN-2 Cases reported as Not having Technical Glitch

Sub Category	Sub Category Description	From Nodal Officers	Court Cases
1	2	3	4
B3	TRAN-1 filed and TRAN-2 successfully filed with no errors. As per Logs TRAN-1 filed successfully. As per logs taxpayer filed TRAN-2 without any error	01 (S. No 04 of Annexure 3)	NIL
B5	TRAN-1 filed and TRAN-2 not attempted and no error in logs. As per Logs TRAN-1 filed successfully. User neither submitted nor filed the form. No logs of save as well. ITC ledger also not updated	09 (S. No 05 to 13 of Annexure 3)	NIL
B7	TRAN-1 filed with no declaration in table 7(a) section 7b or 7(d) hence not eligible for TRAN-2. As per Logs, TRAN-1 Filed with	11 (S. No 14 to 24 of Annexure 3)	NIL

	No Declaration in Table 7(a) Section 7B or Table 7(d). Hence Not Eligible For TRAN-2.		
B9	TRAN-1 filed, eligible for TRAN-2. TRAN-2 fresh/revision attempted with no error or no valid error reported. As per Logs TRAN-1 filed successfully. Eligible for TRAN-2. TRAN-2 fresh/revision attempted with no error or no valid error reported in logs.	NIL	01 (S. No 1 of Annexure 4)
B10	TRAN-1 not filed hence not eligible for filing TRAN-2. As per logs Tran-1 attempted, error reported related to invalid registration gets corrected and save attempt got processed but filing not attempted of TRAN-1. As taxpayer has not filed TRAN-1 hence, not eligible for filing of TRAN-2	20 (S. No 25 to 44 of Annexure 3)	NIL
	Sub Total	41	01

9.1 After going through the above cases, it was observed by the Committee that cases at Category B were those where no technical issues were found on the basis of GST system logs. As, no technical issues had been observed in TRAN-2 filing in above Category B cases, Committee decided to not to allow reopening of the Portal for these cases.

10. Considering the above submissions, Committee discussed the cases of technical glitch of Category 'A' and after further elaboration and discussion, 03 cases of TRAN-2 pertaining to Sub-categories A2 and A3 of technical glitch as indicated in column No. 3 and 4 of Table 4 above were considered for allowing filing of TRAN 2 in accordance with the Law Committee recommendations regarding consequential benefits related to filing of TRAN 2.

10.2 The Committee had also decided not to allow remaining 42 cases of TRAN-2 pertaining to Category 'B'(Sub-categories B3, B5, B7, B9, B10) as per Annexures indicated in column No. 3 and 4 of Table-5 above in absence of any evidence of technical/system errors in these cases.

11. Decision on Agenda 1:

11.1 TRAN-1:

- i. Considering the above submissions, Committee discussed the cases of technical glitch of Category 'A' and after further elaboration and discussion, 08 cases of TRAN-1 pertaining Subcategories A1, A2 and A4 of technical glitch as per Annexures indicated in column No. 3 and 4 of Table 2 above were considered for allowing filing of TRAN 1/TRAN 2 in accordance with the Law Committee recommendations regarding consequential benefits related to filing of TRAN 1 and TRAN 2.
- ii. The Committee also decided not to allow remaining 10 cases of TRAN-1 pertaining to Category 'B' (Subcategories B1, B2 and B5) as per Annexures indicated in column No. 3 and 4 of Table-3 above in absence of any evidence of technical/system errors in these cases, as was decided in similar cases in past nine IT-GRC meetings.

11.2 TRAN-2

- i. Considering the above submissions, Committee discussed the cases of technical glitch of Category 'A' and after further elaboration and discussion, 03 cases of TRAN-2 pertaining to Subcategories A2 and A3 of technical glitch as per Annexures indicated in column No. 3 and 4 of Table 4 above were considered for allowing filing of TRAN 2 in accordance with the Law Committee recommendations regarding consequential benefits related to filing of TRAN 2.
- ii. The Committee also decided not to allow remaining 42 cases of TRAN-2 pertaining to Category 'B' (Sub-categories B3, B5, B7, B9, B10) as per Annexures indicated in column No. 3 and 4 of Table-5 above in absence of any evidence of technical/system errors in these cases, as was decided in similar cases in past nine IT-GRC meetings.

12. Other Issues:

12.1 SVP, GSTN further specifically pointed out that 22 cases of TRAN-1 and 05 cases of TRAN-2 (Total 27 cases as per **Annexure-5** to the instant minutes) received from the Nodal officer before 31st March, 2019 were not processed due to certain issues involved in them. These cases either had apparent non-technical issues and were therefore returned to the concerned Nodal officers or were received with Invalid GSTIN / without following SOP etc. It was requested by the GSTN that concerned Nodal officers may provide the missing information but so far, no reply had been received on these cases. Committee took note of above cases and expressed that these cases may be re-submitted before the committee if received with proper details through Nodal officers. It was also informed by SVP, GSTN to the committee that the TRAN 1 and TRAN 2 cases received up to 31st March 2019 by the GSTN Nodal Officer had been disposed of now. The court cases however, continued to be received.

12.2 Further, it was also appraised by the SVP, GSTN that the Nodal Officers are still sending representations of the taxpayers for enabling TRAN-1 on account of technical glitches in view of Circular No. 39/13/2018 dated 3rd April, 2018 and Notification No. 48/2018-CT dated 10th Sept. 2018 read with Notification No. 49/2019-CT dated 19th Oct. 2019 and almost 100 cases had been received. It was proposed by SVP, GSTN that these cases may be returned back to the nodal officers since those were received after 31st March, 2019. EVP GSTN informed that within the framework of Circular No. 39/13/2018 dated 03.04.2018 through which the IT Grievance Redressal mechanism had been set up, GSTN had issued a Standard Operating Procedure (SOP) in April 2018 wherein the modalities were laid down. It was expected that the cases would be examined and where prima facie it appeared to be a technical issue, then only it would be sent to GSTN. If the issue/problem was due to some legal/procedural reason the same may not be sent. However, the process was not followed in a number of cases and tax officers merely forwarded the applications of taxpayers. GSTN had presented the technical analysis of the Cases received from the Nodal officers' up to 31st March 2019. Cases received after that date have not been analysed and examined by GSTN. As regard the Court cases, after technical analysis they are put up before the ITGRC as per the directions from the Courts. The list of approved and not approved cases of the 9 ITGRC meetings have been shared with the tax administrations of Center and State. On this issue committee discussed the relevant provisions and informed GSTN that these cases shall not be returned back and may be examined by GSTN and suitably placed before the next ITGRC meeting. EVP Services informed that many of these cases received by GSTN were in the form of physical copies and not as per the SOP of April 2018 and it will be difficult to compile and analyse the same at this juncture. Accordingly, the Nodal officers from Center and States may be directed to send the TRAN1 cases of those taxpayers who may have faced a technical issue during filing after ascertaining as follows:

- a. The case of the taxpayer should be examined as to whether there appeared to be a demonstrable technical glitch due to which filing could not be completed on the common portal. Such an application should be accompanied with the evidences, which may identify the bona fide attempts on the part of the taxpayer for attempting to file TRAN 1 on or before 27.12.2017
- b. The Nodal officer should be authorized by the CCT/Chief Commissioner/Pr. Commissioner of the concerned State or Zone to send the recommended GSTINs to GSTN by mail. The Nodal officers should compile the details in the prescribed format and send the collated cases through mail to a dedicated email of GSTN as soon as possible but not later than 15th February 2020 so that the same can be put up before the ITGRC.

The Committee agreed and directed that GSTN would send a draft note to the GST Policy wing and GSTC Secretariat on process to be followed so that the tax officers of Center and State can accordingly be instructed to send all the pending cases of technical glitches of TRAN 1 to GSTN in a systematic manner for examination and presenting before the next ITGRC.

Agenda 2: Cases Received as per Extended Scope of ITGRC in view of 32nd GST Council Decision.

13. Shri Dheeraj Rastogi, Joint Secretary, GST Council informed to the Committee that in 32nd GST Council Meeting, agenda item 8 pertained to allowing IT-Grievance Redressal Committee (ITGRC) to consider non-technical issues (errors apparent on the face of record). After discussion in the GST Council, it was agreed to expand the mandate of the ITGRC and that *“the ITGRC shall consider on merits, the specific cases as covered under the orders of the Hon’ble High Court of Madras and by any other Hon’ble High Court as sent by any State or Central authority, to the GST Council Secretariat by 31st January, 2019. The ITGRC shall consider the listed cases (as informed by States / Centre before 31st January, 2019) where the following conditions were satisfied:*

- v. *TRAN-1, including revision thereof, has been filed on or before 27th December, 2017 and there is an error apparent on the face of the record (such cases of error apparent on the face of the record will not cover instances where there is a mistake like wrong entry of an amount e.g. Rs.10,000/- entered for Rs.1,00,000/-); and*
- vi. *The case has been recommended to the ITGRC through GSTN by the concerned jurisdictional Commissioner or an officer authorised by him in this behalf (in case of credit of Central taxes/duties, by the Central authorities and in the case of credit of State taxes, the State authorities, notwithstanding the fact that the taxpayer is allotted to the Central or the State authority). ”*

14. Accordingly, an OM dated 19.02.2019 was written to all States and CBIC to forward list of eligible cases. Thereafter, GST Council Secretariat had received a total of 179 cases *vis a vis* extended scope of ITGRC in 32nd GST Council Meeting and analysis of all these cases was presented in 6th ITGRC and no case was allowed by the Committee. Further, another 22 cases received as per extended scope of ITGRC were analysed and presented in 8th ITGRC wherein, Committee agreed to defer the agenda item covering these cases. Thereafter, few more cases were received as per extended scope of ITGRC and total 32 cases received as per extended scope of ITGRC (including the 22 cases of 8th ITGRC deferred by ITGRC) were analysed and presented in 9th ITGRC. After going through the facts of these 32 cases, 12 cases were allowed by the 9th ITGRC to rectify the non-technical glitch in TRAN-1/TRAN-2.

15. In Agenda 2 of the Meeting, another 04 cases received as per extended scope of ITGRC were placed before ITGRC in Annexure 6. The analysis of these cases on the basis of 32nd GST Council decision and mechanism specified in 8th ITGRC was presented before the committee as under:

Table-6: Analysis of Cases Received as per Extended Scope of ITGRC

Category		Description	No of Cases
A	Sub Category	Cases reported on account of Non-Technical error	
	A1	Recommended by jurisdictional tax authority with HC Order and having scenario where the credit was entered in wrong column. (i) In 01 cases, uploaded the details in table 7(d) instead of uploading in table 7(a) (ii) In 01 case, uploaded the details in table 7(d) instead of uploading in table 7(b)	02
	A2	Recommended by jurisdictional tax authority with HC Order but having scenario other than wrong column entry <ul style="list-style-type: none"> The last digit of the Cenvat Balance was missed resulting in short availment of ITC 	01
	A4	Cases of non-technical error recommended by jurisdictional tax authority but Hon'ble High Court order details neither mentioned nor attached/No final order yet. <ul style="list-style-type: none"> Filed TRAN-1 but by mistake uploaded the details in table 7(d) instead of uploading in the table 7(b) 	01
Total			04

16. In view of extended scope of ITGRC in 32nd GST Council Meeting and subsequently the mechanism/process approved in 8th ITGRC above 04 Cases as **per Annexure 6 of the instant Minutes** were discussed in the Committee. It was observed that 'Category A' involved cases reported on account of non-technical error which were received from jurisdictional officers of States/Centre. In the above table based on the availability of recommendation of jurisdictional tax authority, Hon'ble High Court Order and error type, Category-A was also divided in three subcategories as A1, A2 and A4.

17. Considering the above submissions, Committee had further discussed subcategory wise cases in view of the mechanism/process approved in 8th ITGRC as under.

Category A1 (02 Cases)

17.1 In subcategory A1, cases were having error of entry of credit in wrong column of TRAN-1. They had filed TRAN-1 by due date i.e. 27.12.2017, having Hon'ble High Court orders and recommendation from jurisdictional officers also. Therefore, they seemed to be squarely covered by the criteria specified in 8th ITGRC. It was further, observed that out of three subcategories of category A of table 6 this subcategory i.e. subcategory A1 fulfilled the criteria as approved in 32nd GST Council and subsequently the mechanism/process approved in 8th ITGRC as in these cases the error was apparent from records. Hence, these cases were covered by extended scope of ITGRC in 32nd GST Council decision and subsequent mechanism/process approved in 8th ITGRC.

Category A2 (01 Case)

17.2 Subcategory A2 had a case where the error was reported as the TRAN-1 was filed but last digit of the Cenvat balance was not carried forward in the GST credit balance resulting in short transfer of ITC to the taxpayer. Case details were as under.

M/s Tech Force Composites Pvt. Ltd. GSTIN 30AAACT6376M1Z4, W.P. No. 78/2019:

17.2.1 As informed by the jurisdictional officer, after uploading the details in TRAN-1, the assessee noticed that the last digit of Cenvat Balance i.e. '4' of Rs. 1,34,84,304 was missed and therefore instead of availing the amount of Rs. 1,34,84,304 they finally got the ITC of Rs. 13,48,430 in TRAN-1 which resulted in short transfer of ITC of Rs. 1,21,35,874. In the instant case the Hon'ble High Court in its order dated 27.09.2019 held that *"the interest of justice will be served if the petitioner is granted liberty to make representation to the CBIC and the CBIC is directed to consider such representation for verification and bona fide of the claim made by the petitioner, no doubt in accordance with law and on its own merits, such representation will be made to the CBIC within 15 days from today. If such representation is indeed made, the CBIC is directed to consider such representation in the aforesaid terms and dispose of the same as expeditiously as possible and in any case within a period of two months from the date the same is received by the CBIC"*.

17.2.2 It emerged during the discussion that the above directions of High Court were for CBIC and the views/decision of CBIC was not available so far. Further, the above-mentioned submission at para 17.2.1 could not be verified and ascertained by the committee itself as the filed TRAN-1 form was not available before the committee. After the discussion and deliberations, committee observed that verification report from Commissioner, CGST containing complete details of case such that the amount of Rs. 1,34,84,304, which taxpayer wanted to avail as ITC, was mentioned or not somewhere in TRAN-1 needed to be checked. Therefore, the committee recommended to send back the case to the jurisdictional Commissionerate, CBIC and GSTN to ascertain the above fact and re-submit before ITGRC along with the views of CBIC. Accordingly, the decision on the case was deferred by the committee and the case was recommended to be sent back to jurisdictional Commissionerate, CBIC and GSTN for proper details expeditiously in view of the time limit set by the Hon'ble Court, which if violated might lead to contempt proceedings.

17.2.3 Further, it was also suggested by the committee that other cases of similar nature may also be sent back to jurisdictional Commissionerates/States for proper details and similar verifications as discussed at para 17.2.2 above.

Category A4 (01 Case)

17.3 The case mentioned at subcategory A4 were recommended by the jurisdictional tax authority but as no details of any court case was mentioned or attached with the recommendation, it does not fulfil the criteria as approved in 32nd GST Council. Committee had observed that as per the decision of Council for non-technical cases High Court order was an essential condition to be fulfilled and in absence of High Court order in the present case Committee cannot recommend the case. Accordingly, the decision on the case deferred by the committee and the case was recommended to send back to the jurisdictional Commissionerate/State for proper and full details of High Court order as required under the extended scope of ITGRC or take any other remedial steps as per law.

18. Decision for Agenda 2

- i. Allowed reopening of portal for 02 cases of Subcategory A1 (Annexure 6) as per Extended Scope of ITGRC decided in 32nd GST Council Meeting and subsequently the mechanism/process approved in 8th ITGRC.
- ii. Deferred the 01 case of Subcategory A2 (Annexure 6) and the case was recommended to send back to jurisdictional Commissionerate, CBIC and GSTN for proper and full details and re-submit along with the views of CBIC. , it was also suggested by the committee that other cases of similar nature may also be sent back to jurisdictional Commissionerates/States for proper details and similar verifications as discussed at para 17.2.2 above.
- vii. Deferred the 01 case of Subcategory A4 (Annexure 6) and the case was recommended to send back to the jurisdictional Commissionerate/State for proper and full details of High Court order as required under the extended scope of ITGRC or take any other remedial steps as per law.

TRAN-1: Cases Received from Nodal Officer/resubmitted as per the direction of 9th ITGRC**(I) TRAN-1 : Cases resubmitted as per the direction of 9th ITGRC**

	Category	Detailed Description	Count of Taxpayer (Nodal Cases)
A2	TRAN-1 not attempted as per logs - Due to Registration issue and first Return filed after TRAN1 due date.	<p>Description reported in 9th ITGRC: The taxpayers were not able to migrate due to technical issues. These taxpayers have applied afresh after 27th Dec 2017 and were allotted the same GSTIN as their Provisional ID later.</p> <p>Correct Description : The taxpayers were not able to file TRAN-1 due to technical issues and for which screenshots proofs have been submitted. These taxpayers have faced challenges in filing of their first return and all first return submission (GSTR-1/GSTR-3B) has been done post TRAN-1 last date.</p>	04
A4	Migration User - Got New Registration post TRAN-1 end date.	<p>Description reported in 9th ITGRC : The taxpayer is a migrated taxpayer and has taken registration on 29th September 2018 with effective date of registration as 1st July 2017.</p> <p>Correct Description: The taxpayer is a migrated taxpayer and has taken registration post TRAN-1 end date with effective date of registration as 1st July 2017.</p>	02
	Total		06

Category A2: TRAN-1 not attempted as per logs - Due to Registration issue and first Return filed after TRAN1 due date : The taxpayers were not able to file TRAN-1 due to technical issues and for which screenshots proof has been submitted. These taxpayers have faced challenges in filing of their first return and all first return submission (GSTR-1/GSTR-3B) has been done post TRAN-1 last date.

S. No .	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constitution of business	Nodal Officer / Jurisdiction Name	Centre/State	E-Mail ID
1	07AAICM7866P2ZG	MIX INDIA BULK HANDLING PRIVATE LIMITED	Delhi	Private Limited Company	Superintendent, Tech GST-Okhla, Delhi-South	Centre	gstokhla@gmail.com
2	07AABCI8325A1ZZ	M/s IRVINE TECHNOLOGIES PVT LTD	Delhi	Private Limited Company	Sh. Nagendra Yadav, Joint Commissioner, Central Government, New Delhi	Centre	ccu-cexdel@nic.in
3	24AFIPM3663A1ZS	INDRANIBEN PANIRBHAI MUDALIAR (PANIR POLY PACK)	Gujarat	Proprietorship	S. M. Saxena, Joint Commissioner, State Government, Ahmedabad, Gujarat	State	jcegov-ct@gujarat.gov.in
4	33AADCR8355H1Z9	EXXARO TILES PRIVATE LIMITED	Tamil Nadu	Private Limited Company	K. M. Ravichandaran, Commissioner, CGST & Central Excise Commissionerate, Chennai South	Centre	comp.chennainorth@gov.in

Category A4 : Migration User – ‘Got New Registration post TRAN-1 end date’ : The taxpayer is a migrated taxpayer and has taken registration post TRAN-1 end date with effective date of registration as 1st July 2017.

S. No.	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constitution of business	Nodal Officer / Jurisdiction Name	Centre/State	E-Mail ID
5	13AAACI9321H1ZV	INFINITY INFOMATIC PRIVATE LIMITED	Nagaland	Private Limited Company	Wochamo Odyuo, Addl. Commissioner of Taxes, Dimapur, Nagaland	State	wochamo@rediffmail.com
6	33AABCH5055Q1ZB	HEURTEY PETROCHEM INDIA PRIVATE LIMITED	Tamil Nadu	Private Limited Company	S. Ramasamy, Joint Commissioner of State Tax, Tamilnadu	State	jccs@ctd.tn.gov.in

TRAN-1: Writ Petition Cases

Category No.	Category	Detailed Description	Count of Taxpayer
Category-A1	Processed with error	Cases where the taxpayer received the error 'Processed with error.' As per GST system logs the taxpayer has attempted to submit first time/fresh or revise TRAN1 but could not file because of errors.	01
Category-A2 (case resubmitted as per the direction of 9 th ITGRC)	TRAN-1 not attempted as per logs - Due to Registration issue and first Return filed after TRAN1 due date.	<p>Description reported in 9th ITGRC: The taxpayers were not able to migrate due to technical issues. These taxpayers have applied afresh after 27th Dec 2017 and were allotted the same GSTIN as their Provisional ID later.</p> <p>Correct Description: The taxpayers were not able to file TRAN-1 due to technical issues and for which screenshots proofs have been submitted. These taxpayers have faced challenges in filing of their first return and all first return submission (GSTR-1/GSTR-3B) has been done post TRAN-1 last date.</p>	01
Category-B1	As per GST system log, there are no evidences of error or submission/filing of TRAN-1.	As per logs User neither submitted nor filed the form. No logs of save as well. ITC ledger also not updated. No Valid Error reported.	05
Category -B2	TRAN-1 filing attempted for first time or revision was attempted but no error /no valid error reported	TRAN-1 Fresh/Revision Attempted with No error or No valid error reported	01
Category-B5	TRAN-1 filed but credit not received.	As per log user first time opened form and filed. ARN generated. ITC ledger is not updated. No error log captured.	04
	Total		12

Category A1: Cases where the taxpayer received the error 'Processed with error.' As per GST system logs the taxpayer has attempted to submit first time/fresh or revise TRAN1 but could not file because of errors.

1. W.P. 1111 / 2019 M/S Tolexo Online Private Limited V/s UOI and Others

GSTIN/ Provisional id	State	Constitution of Business
09AAFCT0145B1ZS	Uttar Pradesh	Private Limited Company

Issue: The petitioner attempted to file the form GST TRAN-1 on 22.12.2017 which is within the time period as prescribed in rule 117. However, the same could not be filed as the system was throwing an error. Even after numerous attempts to file the form GST TRAN-1, the form could not be filed owing to the system error.

Status: GSTN is not party in this matter. GSTN has issued comments apprising the status of the case in terms of CBIC's circular dated 03.04.2018 to the Asst. commissioner, CGST (Noida) vide letter dated 27.11.2019. The Hon'ble High Court vide order dated 19.10.2019 pleased to disposed off the writ petition directing the respondents to pass orders on the application of the petitioner which was pending consideration in accordance with law within a period of one month from date of order.

Category A2: TRAN-1 not attempted as per logs - Due to Registration issue and first Return filed after TRAN1 due date : The case was resubmitted as per the direction of 9th ITGRC. The taxpayers were not able to file TRAN-1 due to technical issues and for which screenshots proof has been submitted. These taxpayers have faced challenges in filing of their first return and all first return submission (GSTR-1/GSTR-3B) has been done post TRAN-1 last date.

2. ANUPAM MOTORS :

Description reported in 9th ITGRC: The taxpayers were not able to migrate due to technical issues. These taxpayers have applied afresh after 27th Dec 2017 and were allotted the same GSTIN as their Provisional ID later.

Correct Description : The taxpayers were not able to file TRAN-1 due to technical issues and for which screenshots proofs have been submitted. These taxpayers have faced challenges in filing of their first return and all first return submission (GSTR-1/GSTR-3B) has been done post TRAN-1 last date.

08AAUFA11 45N1Z1	ANUPAM MOTORS	Rajasthan	Partnership	Court Case	Centre
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Category-B1:- As per GST system log, there are no evidences of error or submission/filing of TRAN-1

3. W.P. 3298 / 2019 M/s Lantech Pharmaceuticals Limited V/s UOI and Others

GSTIN/ Provisional id	State	Constitution of Business
<i>37AABCL4746JIZ9</i>	Andhra Pradesh	Public Limited Company

Issue: The petitioner made an attempt for online submission of form GST TRAN-1 related to carry forward Input Tax Credit (ITC) of Rs.4,01,14,416/- but petitioner could not file the TRAN-1 due to technical error.

Status: GSTN is not party in this matter. GSTN has issued comments apprising the status of the case to the Visakhapatnam Central GST Commissionerate vide e- mail dated 06.09.2019. The Hon'ble High Court vide order dated 13.08.2019 disposed off the writ petition directing the respondents to either open the portal for filing of TRAN-1 electronically or in alternative accept the FORM GST TRAN-1 presented manually on or before 31.08.2019.

Further investigation by GSTN: An email dated 05.12.2019 was sent to the Petitioner requesting for the following information:-

- i. Exact technical glitch faced by you while filing TRAN-1
- ii. Nature of error noticed
- iii. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

The Petitioner was requested to provide the details by 09.12.2019. The Petitioner replied vide e-mail dated 09.12.2019 whereby he forwarded a letter dated 07.12.2019 along with copy of High Court's order dated 13.08.2019. The petitioner has stated that he tried to file TRAN-1, but their efforts were futile for the reason which they don't know and he was unable to connect to the network due to technical and other reasons. Petitioner has not attached any screen shot evidencing the error.

Considering the aforesaid facts provided the said taxpayer can be considered as he did not faced technical issues in filing the TRAN-1.

4. W.P. 12114 / 2018 M/s Inabata India Private Limited V/s UOI and Others

GSTIN/ Provisional id	State	Constitution of Business
06AABCI9109G1ZP	Haryana	Private Ltd. Company

Issue: The petitioner claimed that he repeatedly tried to upload its claim of credit of inputs in GST TRAN-1 on GST portal www.gst.gov.in. However, the applicant was not able to furnish TRAN-1 on account of the failure of the system to accept the information on the common portal.

Status: GSTN has only received incomplete copy of writ petition on 03.09.2019 along with copy of order dated 21.05.2018 from Nodal Officer, IT Issue (Haryana). GSTN vide e-mail dated 17.09.2019 issued comments apprising the status of case to the CGST Commissionerate (Haryana) in terms of CBIC's Circular no. 39/13/2018 dated 03.04.2018. The matter has been disposed of vide order dated 21.05.2018 in terms of Order passed in CWP No.4180 of 2018 wherein the Hon'ble High Court please to direct the ITGRC to decide the matter in terms of clause 5.4 of CBIC's Circular no. 39/13/2018 dated 03.04.2018 by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of four week from the date of receipt of representation.

Further investigation by GSTN: An email dated 05.12.2019 was sent to the Petitioner requesting for the following information:-

- i. Exact technical glitch faced by you while filing TRAN-1
- ii. Nature of error noticed
- iii. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

The Petitioner was requested to provide the details by 09.12.2019. However, no response received from the petitioner.

5. W.P. 17236 / 2019 M/s Print Sales Company V/s UOI and Others

GSTIN/ Provisional id	State	Constitution of Business
19ABKPV4571C1ZB	West Bengal	Proprietorship

Issue: The Petitioner claimed that he attempted to furnish the statement in FORM GST TRAN-1 within the stipulated period of 27th December 2017 in electronic interface ledger, but could not do so as the GST Portal was not opening.

Status: GSTN is not a party in this matter. No effective order is available on High court's website. GSTN vide e-mail dated 19.12.2019 issued comments apprising the status of case to the CGST

Commissionerate, Kolkata North Commissionerate in terms of CBIC's Circular no. 39/13/2018 dated 03.04.2018. The matter is pending and next date of hearing is not updated on Court's website.

Further investigation by GSTN: An email dated 05.12.2019 was sent to the Petitioner requesting for the following information:-

- i. Exact technical glitch faced by you while filing TRAN-1
- ii. Nature of error noticed
- iii. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

The Petitioner was requested to provide the details by 09.12.2019. However, no response received from the petitioner.

6. WP No. 15221 of 2019 M/s Jodhpur Truck Pvt. Ltd.

GSTIN/ Provisional id	State	Constitution of Business
08AACCJ0816C1Z3	Rajasthan	Private Limited Company

Issue: The petitioner tried to carry forward the unavailed CENVAT credit by submitting declaration FORM GST TRAN-1 before last date but due to system error the required FORM GST TRAN-1 could not be uploaded.

Status: GSTN is a party in this matter. GSTN has issued comments apprising the status of the case to the Central GST Commissionerate, Jodhpur vide e- mail dated 19.11.2019. The Hon'ble High Court vide order dated 01.11.2019 disposed off the writ petition directing the respondents to permit the petitioner to submit offline GST TRAN-1 subject to furnishing proof that he had tried to upload GST TRAN-1 FORM prior to 27.12.2017 and such attempt failed due to technical fault/glitch on the common portal. The petitioner was directed to submit an application before the GST Council to issue requisite certificate/recommendation along with requisite particulars and evidence. If the petitioner's assertions is found correct the GST Council shall issue the recommendation/certificate to the petitioner within a period of three weeks from placement of such application.

Further investigation by GSTN: An email dated 03.12.2019 was sent to the Petitioner requesting for the following information:-

- i. Exact technical glitch faced by you while filing TRAN-1
- ii. Nature of error noticed
- iii. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

The Petitioner was requested to provide the details by 05.12.2019. The Petitioner replied vide e-mail dated 04.12.2019 whereby he forwarded a letter dated 04.12.2019 addressed to GSTN stating therein that he wanted to file TRAN-1 but the site was not working and he also tried many times. On trying to login the petitioner was automatically logged out. He further stated that he could not submit the screen shot as there was no specific error.

Considering the aforesaid facts provided the said taxpayer can be considered as he did not faced technical issues in filing the TRAN-1.

7. W.P. 17234 / 2019 M/s Rishi Graphics P. Ltd V/s UOI & Others

GSTIN/ Provisional id	State	Constitution of Business
19AABCR1977M1ZS	West Bengal	Private Limited Company

Issue: Petitioner attempted to furnish the statement in FORM GST TRAN-1 within the stipulated period of 27th December 2017 in electronic interface ledger, but could not do so as the GST Portal was not opening.

Status: GSTN is not a party in this matter. GSTN has issued comments apprising the status of the case to the Central GST & CX Kolkata North Commissionerate vide e- mail dated 19.11.2019. No effective order is available on High court's website. Matter is pending and next date of hearing is not available on High Court's website.

Further investigation by GSTN: An email dated 19.12.2019 was sent to the Petitioner requesting for the following information:-

- i. Exact technical glitch faced by you while filing TRAN-1
- ii. Nature of error noticed
- iii. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

The Petitioner was requested to provide the details by 21.12.2019 however, no response received from the tax payer.

Category B2: Tran-1 Fresh/Revision Attempted with No error or No valid error reported**8. W.P. 9729 / 2018 M/s Vinay Fabrics Private Limited V/s UOI and Others**

GSTIN/ Provisional id	State	Constitution of Business
08AAACV2304DIZW	Rajasthan	Private Limited Company

Issue: The petitioner tried to carry forward the unavailed CENVAT credit by submitting declaration for GST TRAN-1 but due to technical glitches/system error for reasons beyond the control of the petitioner, the required form GST TRAN-1 could not be uploaded

Status: GSTN is not a party in this matter. The Hon'ble High Court vide order dated 13.07.2018 pleased to direct the respondents to provisionally entertain the GST TRAN-1 and other returns of the petitioner either by way of opening the portal or manually. GSTN vide e-mail dated 18.10.2019 issued comments apprising the status of case to the CGST Jodhpur in terms of CBIC's Circular no. 39/13/2018 dated 03.04.2018. The matter is pending before the Hon'ble High Court and listed for hearing on 29.01.2020.

Further investigation by GSTN: An email dated 05.12.2019 was sent to the Petitioner requesting for the following information:-

- i. Exact technical glitch faced by you while filing TRAN-1
- ii. Nature of error noticed
- iii. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

The Petitioner was requested to provide the details by 09.12.2019. However, no response received from the petitioner.

Category-B4: TRAN-1 filed but credit not received.**9. 782/2019-RPM Medicare v. GSTN & Ors.**

GSTIN/ Provisional id	State	Constitution of Business
20AARFR2946P1ZM	Jharkhand	Partnership

Issue: The Petitioner had filed TRAN-1 within due date however, they did not receive the credit.

Status: GSTN is a party in this matter. GSTN vide e-mail dated 18.03.2019 issued comments apprising the status of case to the CGST Commissionerate (Ranchi) in terms of CBIC's Circular no. 39/13/2018 dated 03.04.2018. The Hon'ble High Court vide common order dated 11.09.2019 pleased to dispose of the matter with direction to the nodal officer to forward the application of the petitioner to ITGRC to take final decision in the matter.

Further investigation by GSTN: An email dated 05.12.2019 was sent to the Petitioner requesting for the following information:-

- i. Exact technical glitch faced by you while filing TRAN-1
- ii. Nature of error noticed
- iii. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

The Petitioner was requested to provide the details by 09.12.2019. The Petitioner responded to the said email vide email dated 09.12.2019. The Petitioner has shared copy of letter addressed to IT Nodal officer GST, State Tax Deptt., Dhurwa stating therein that he filed TRAN-1 within due date and credit was to be granted in GST so that he can adjust the amount under GST regime. However, the credit in GST has not yet been granted. **He further stated that the error might be due to technical glitch in the process as well as due to clerical errors i.e. misclassification.** Petitioner has shared only screen shots of dashboard dated 09.12.2019 containing the message 'the filing of declaration in TRAN-1 is not available now as the due date is over' which is a valid message'.

Considering the aforesaid facts provided the said taxpayer can be considered as he did not face technical issues in filing the TRAN-1.

10. 785/2019 - RPM Pharma v. GSTN & Ors.

GSTIN/ Provisional id	State	Constitution of Business
20AAMFR8572J1ZT	Jharkhand	Partnership

Issue: Petitioner had filed TRAN-1 within due date however he did not receive the credit.

Status: GSTN is a party in this matter. GSTN vide e-mail dated 18.03.2019 issued comments apprising the status of case to the CGST Commissionerate (Ranchi) in terms of CBIC's Circular no. 39/13/2018 dated 03.04.2018. The Hon'ble High Court vide common order dated 11.09.2019 pleased to dispose of the matter with direction to the nodal officer to forward the application of the petitioner to ITGRC to take final decision in the matter.

Further investigation by GSTN: An email dated 05.12.2019 was sent to the Petitioner requesting for the following information:-

- i. Exact technical glitch faced by you while filing TRAN-1
- ii. Nature of error noticed
- iii. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

The Petitioner was requested to provide the details by 09.12.2019. The Petitioner responded to the said email vide email dated 09.12.2019. The petitioner has shared copy of letter addressed to IT Nodal officer

GST, State Tax Deptt., Dhurwa stating therein that he filed TRAN-1 within due date and credit was to granted in GST so that he can adjust the amount under GST regime. However, the credit in GST has not yet been granted. **He further stated that the error might be due to technical glitch in the process as well as due to clerical errors i.e. misclassification.** Petitioner has not shared any screen shot evidencing any errors. Petitioner has only shared GST system dashboard screen shots dated 09.12.2019.

Considering the aforesaid facts provided the said taxpayer can be considered as he did not face technical issues in filing the TRAN-1.

11. 799/2019 - RPM Distributors v. GSTN & Ors.

GSTIN/ Provisional id	State	Constitution of Business
20ADKPD3375LIZN	Jharkhand	Proprietorship

Issue: Petitioner had filed TRAN-1 within due date however they did not receive the credit.

Status: GSTN is a party in this matter. GSTN vide e-mail dated 18.03.2019 issued comments apprising the status of case to the CGST Commissionerate (Ranchi) in terms of CBIC's Circular no. 39/13/2018 dated 03.04.2018. The Hon'ble High Court vide common order dated 11.09.2019 pleased to dispose of the matter with direction to the nodal officer to forward the application of the petitioner to ITGRC to take final decision in the matter.

Further investigation by GSTN: An email dated 05.12.2019 was sent to the Petitioner requesting for the following information:-

- i. Exact technical glitch faced by you while filing TRAN-1
- ii. Nature of error noticed
- iii. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

The Petitioner was requested to provide the details by 09.12.2019. The Petitioner responded to the said email vide email dated 09.12.2019. The petitioner has shared copy of letter addressed to IT Nodal officer GST, State Tax Deptt., Dhurwa stating therein that he filed TRAN-1 within due date and credit was to granted in GST so that he can adjust the amount under GST regime. However, the credit in GST has not yet been granted. **He further stated that the error might be due to technical glitch in the process as well as due to clerical errors i.e. misclassification.** Petitioner has not shared any screen shot evidencing any errors. Petitioner has only shared GST system dashboard screen shots dated 09.12.2019.

Considering the aforesaid facts provided the said taxpayer can be considered as he did not face technical issues in filing the TRAN-1.

12. 784/2019 - RPM Associates v. GSTN & Ors.

GSTIN/ Provisional id	State	Constitution of Business
20AAUFR6765PIZA	Jharkhand	Partnership

Issue: Petitioner had filed TRAN-1 within due date however they did not receive the credit.

Status: GSTN is a party in this matter. GSTN vide e-mail dated 09.04.019 issued comments apprising the status of case to the CGST Commissionerate (Ranchi) in terms of CBIC's Circular no. 39/13/2018 dated 03.04.2018. The Hon'ble High Court vide common order dated 11.09.2019 pleased to dispose of the matter with direction to the nodal officer to forward the application of the petitioner to ITGRC to take final decision in the matter.

Further investigation by GSTN: An email dated 05.12.2019 was sent to the Petitioner requesting for the following information:-

- i. Exact technical glitch faced by you while filing TRAN-1
- ii. Nature of error noticed
- iii. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

The Petitioner was requested to provide the details by 09.12.2019. The Petitioner responded to the aforesaid email vide email dated 09.12.2019. The petitioner has shared copy of letter addressed to IT Nodal officer GST, State Tax Deptt., Dhurwa stating therein that he filed TRAN-1 within due date and credit was to granted in GST so that he can adjust the amount under GST regime. However, the credit in GST has not yet been granted. **He further stated that the error might be due to technical glitch in the process as well as due to clerical errors i.e. misclassification.** Petitioner has not shared any screen shot evidencing any errors. Petitioner has only shared GST system dashboard screen shots dated 09.12.2019.

Considering the aforesaid facts provided the said taxpayer can be considered as he did not face technical issues in filing the TRAN-1.

Annexure-3

TRAN 2: Cases Received from Nodal Officer of Centre & States /resubmitted as per the direction of 9th ITGRC

	Category	Detailed Description	Count of Taxpayers
A2	TRAN-1 FILED AND TRAN-2 IN SUBMITTED WITH NO ERRORS - TO BE ENABLED FOR FILING. (Cases resubmitted as per the direction of 9 th ITGRC)	Description reported in 9th ITGRC: As per Logs Tran-1 filed successfully. As per logs user neither submitted nor filed the form. No logs of save as well. Correct Description: The taxpayers have submitted TRAN-2. DSC/EVC needs to be affix.	02
A3	TRAN-1 APPROVED CASES AND ENABLED FOR FILING OF TRAN-2.	TRAN-1 Approved cases and enabled for filing of TRAN-2.	01
B3	TRAN-1 FILED AND TRAN-2 SUCCESSFULLY FILED WITH NO ERRORS.	As per Logs Tran-1 filed successfully. As per logs taxpayer filed Tran-2 without any error.	01
B5	TRAN-1 FILED AND TRAN-2 NOT ATTEMPTED AND NO ERROR IN LOGS.	As per Logs Tran-1 filed successfully. User neither submitted nor filed the form. No logs of save as well. ITC ledger also not updated.	09
B7	TRAN-1 FILED WITH NO DECLARATION IN TABLE 7(a) SECTION 7B OR TABLE 7(d) HENCE NOT ELIGIBLE FOR TRAN-2.	As per Logs, Tran-1 Filed with No Declaration in Table 7(a) Section 7B or Table 7(d). Hence Not Eligible for Tran-2.	11
B10	TRAN-1 NOT FILED HENCE NOT ELIGIBLE FOR FILING TRAN-2.	As per logs Tran-1 attempted, error reported related to invalid registration gets corrected and save attempt got processed but filing not attempted of Tran-1. As taxpayer has not filed Tran-1 hence, not eligible for filing of Tran-2	20
	Total		44

CATEGORY A2: TRAN-1 FILED AND TRAN-2 IN SUBMITTED WITH NO ERRORS - TO BE ENABLED FOR FILING: The taxpayers have submitted TRAN-2. DSC/EVC needs to be affix.

S. No.	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constitution of business	Nodal Officer / Jurisdiction Name	Centre/State	E-Mail ID
1	07AABCT2439G2ZG	M/S TOPSEL PRIVATE LIMITED	Delhi	Private Limited Company	Assistant Commissioner, O/o the Principal Chief Commissioner, CGST & CX, Delhi Zone	Centre	ccu-cexdel@nic.in
2	01AFQPS7260F1ZB	VIKRAM SHARMA (M/S VEE KAY ELECTRONICS)	Jammu & Kashmir	Proprietorship	Sandeep Kumar, Programmer, Coordinator Jammu Division, State Admin GST, STC, J&K GST, Nodal Officer GST/BAS	State	sandeep.progl23@gmail.com

CATEGORY A3: TRAN-1 APPROVED CASES AND ENABLED FOR FILING OF TRAN-2.

S. No.	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constitution of business	Nodal Officer / Jurisdiction Name	Centre/State	E-Mail ID
3	19AABCG9063D1ZL	M/S GOBINDA DISTRIBUTORS PVT. LTD.	West Bengal	Private Limited Company	Tarun Majumder, Assistant Commissioner of Central Tax, Kolkata	Centre	kolkatanorth.gst@gov.in

CATEGORY B3: TRAN-1 FILED AND TRAN-2 SUCCESSFULLY FILED WITH NO ERRORS.

S. No .	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constitut ion of business	Nodal Officer / Jurisdiction Name	Cent re/St ate	E-Mail ID
4	19AAACO7727 M1ZW	OPTIVAL HEALTH SOLUTION S PRIVATE LIMITED	West Bengal	Private Limited Company	Tarun Majumder, Assistant Commissioner Of Central Tax, Kolkata	Centr e	kolkatanorth.gst@gov.in

CATEGORY B5: TRAN-1 FILED AND TRAN-2 NOT ATTEMPTED AND NO ERROR IN LOGS:

As per Logs Tran-1 filed successfully. User neither submitted nor filed the form. No logs of save as well. ITC ledger also not updated.

S. No .	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constitut ion of business	Nodal Officer / Jurisdiction Name	Cent re/St ate	E-Mail ID
5	29AABCW574 5N1ZM	WEIWO COMMU NICATIO N PRIVATE LIMITED	Karnataka	Private Limited Company	Basavaraj K. S., Joint Commissioner Of Commercial Taxes, Karnataka	State	ctdgstit.grievance@ka.gov.in
6	29AAACT4033 H1ZG	VERTIV ENERGY PRIVATE LIMITED	Karnataka	Private Limited Company	Basavaraj K. S., Joint Commissioner Of Commercial	State	ctdgstit.grievance@ka.gov.in

					Taxes, Karnataka		
7	33BHMPK6821 R1ZP	MOHAN AKRISHN AN KEERTHI KA (PREMKR ISHNA ASSOCIA TES)	Tamil Nadu	Proprieto rship	Shri. G. Sreenivasa Rao, Commissioner, Cgst & Central Excise Commissionerat e, Coimbatore	Centr e	comp.chennain orth@gov.in
8	29AAACB7461 R1ZZ	BIOCON LTD	Karnataka	Public Limited Company	G. Narayanaswamy , Commissioner, Bengaluru South	Centr e	commr- cexblr1@nic.in
9	27AABCJ2102 L1ZU	J.P. ELECTR ONIC DEVICES (INDIA)P VT. LTD.	Maharasht ra	Private Limited Company	Smt. Kiran Verma, Commissioner, Cgst & Central Excise Commissionerat e, Navi Mumbai	Centr e	Naveen.De@ic egate.gov.in
10	24AACFT4642 F1ZF	TIRTH ALUMINI UM	Gujarat	Partnersh ip	Bhupendra M. Shrimali, Deputy Commissioner Of State Tax, Gandhidham, Kutch	State	dc25-rjt2- gstn@gujarat.g ov.in
11	27AACFR8495 E1ZU	RAMGOP AL RAMKIS HAN	Maharasht ra	Partnersh ip	Miss Kalyaneshwari Patil, Deputy Commissioner of State Tax, Mumbai	State	gstit.state@ma hagst.gov.in
12	19AABCC2876 Q1ZZ	M/S VENUS PAPER MART (CASANO VA PROPERT IES	West Bengal	Proprieto rship	Nodal Officer (Technical Glitches), Cgst & Central Excise Commissionerat e, Kolkata North	Centr e	kolkatanorth.gs t@gov.in

		PRIVATE LIMITED)					
13	07AACCB6217H1ZW	BASUKI STEELS PRIVATE LIMITED	Delhi	Private Limited Company	Sidharth Goyal, Assistant Commissioner of Central Government, New Delhi	Centr e	ccu-cexdel@nic.in

CATEGORY B7: TRAN-1 FILED WITH NO DECLARATION IN TABLE 7(a) SECTION 7B OR TABLE 7(d) HENCE NOT ELIGIBLE FOR TRAN-2.

S. No	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constituti on of business	Nodal Officer / Jurisdiction Name	Cent re/St ate	E-Mail ID
14	36AABCM9244N1ZZ	CERA SANITARYWARE LTD	Telangana	Public Limited Company	Shri. Raghu Kiran B, Joint Commissioner, Cgst & Central Excise Commissioner ate, Hyderabad	Centr e	cgst.mdclcom mtecomp@gov .in
15	29ADVPR8240H1ZR	SALAN A GOVIND A RAJU (SRI GANESH APPLIANCES)	Karnataka	Proprietors hip	Gosu Ramesh, Assistant Commissioner, Cgst & Central Excise Commissioner ate, Belagavi	Centr e	commr-cexblgm@nic.i n
16	06AAACZ0751C1ZR	ZUPITE X (INDIA)	Haryana	Private Limited Company	Nodal Officer, It Issues, Haryana	State	gsttihry@gmai l.com

		PRIVAT E LIMITE D					
17	24BCCPP2651M 1ZH	M/S APPSTE CH SOLUTI ON (JAYAB EN NILESH BHAI PRAJAP ATI)	Gujarat	Proprietors hip	Dr. Tejpal Singh, Principle Commissioner, Cgst & Central Excise Commissioner ate, Ahemdabad	Centr e	commr- cexamd3@nic. in
18	27ADKPT7558B 1Z5	SHREEJI AGENCI ES (YOGES H TULSID AS THAKK AR)	Maharasht ra	Proprietors hip	Miss Kalyaneshwari Patil, Deputy Commissioner Of State Tax, Mumbai	State	gstit.state@ma hagst.gov.in
19	27A AFFN0517J1 ZD	NIKHIL AGENCI ES	Maharasht ra	Partnership	Miss Kalyaneshwari Patil, Deputy Commissioner Of State Tax, Mumbai	State	gstit.state@ma hagst.gov.in
20	27AABCM9244 N1ZY	CERA SANITA RYWAR E LTD.	Maharasht ra	Public Limited Company	Miss Kalyaneshwari Patil, Deputy Commissioner Of State Tax, Mumbai	State	gstit.state@ma hagst.gov.in
21	29AAMFN1523 D1ZF	NEYA FASHIO N	Karnataka	Partnership	Basavaraj K. S., Joint Commissioner Of Commercial Taxes, Karnataka	State	basavaraj.sagar @gmail.com

22	29AAHFH6613B 1ZL	HONEY DEW	Karnataka	Partnership	Basavaraj K. S., Joint Commissioner Of Commercial Taxes, Karnataka	State	basavaraj.sagar @gmail.com
23	29AYOPM0849 D1Z5	ROHIT PURUS HOTTA M MADIK AR (M/S PRISHA FASHIO NS)	Karnataka	Proprietors hip	Basavaraj K. S., Joint Commissioner Of Commercial Taxes, Karnataka	State	basavaraj.sagar @gmail.com
24	29AADFM1794J 1ZV	MALNA D CASHE WS	Karnataka	Partnership	Basavaraj K. S., Joint Commissioner Of Commercial Taxes, Karnataka	State	basavaraj.sagar @gmail.com

CATEGORY B10: TRAN-1 NOT FILED HENCE NOT ELIGIBLE FOR FILING TRAN-2: As per logs Tran-1 attempted, error reported related to invalid registration gets corrected and save attempt got processed but filing not attempted of Tran-1. As taxpayer has not filed Tran-1 hence, not eligible for filing of Tran-2.

S. No.	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constitution of business	Nodal Officer / Jurisdiction Name	Centre/State	E-Mail ID
25	09AFXPB3378 L1ZP	JAGDEEP BHALLA (M/S NEHA ELECTRONICS)	Uttar Pradesh	Proprietorship	Joint Commissioner (I.T.), Commercial Taxes, Head Quarter, Uttar Pradesh, Lucknow	State	ctithqlu-up@nic.in
26	36AAGFN1319 R1ZV	NAMAN TRADING COMPANY	Telangana	Partnership	Radha Sindhiya Linga, Assistant Commissioner, State Government	State	ac_gstn@tgct.gov.in
27	06ALTPS6218 G1ZN	M/S SEHGAL AUTOMOBILES (PANKAJ SEHGAL)	Haryana	Proprietorship	Pranesh Pathak, Commissioner, Office Of The Commissioner Of Cgst, Faridabad	Centre	commr-gstfbd@gov.in
28	06AADCM663 0J1ZG	MOUNTAIN VALLEY SPRINGS INDIA PRIVATE LIMITED	Haryana	Private Limited Company	Sh. Surender Lathar, Deputy Excise & Taxation Commissioner, Gurugram East	State / Court Case	gsttihry@gmail.com

29	32AADCM663 0J1ZL	MOUNTAIN VALLEY SPRINGS INDIA PRIVATE LIMITED	Kerala	Private Limited Company	Biju Thomas, Deputy Commissioner, Central Govt, Kerala	Centre	bijuthomasvk@gmail.com
30	03AABCM567 4J1ZE	MCNROE CONSUMER PRODUCTS PVT. LTD	Punjab	Private Limited Company	Pawan Garg, Deputy Commissioner Of State Tax, State Government, Punjab	State	aetcgstpb@gmail.com
31	19AADCM663 0J1Z9	MOUNTAIN VALLEY SPRINGS INDIA PRIVATE LIMITED	West Bengal	Private Limited Company	Sima Sarkar, Senior Joint Commissioner, Commercial Taxes, West Bengal	State	sima.sarkar@wbcomtax.gov.in
32	27ABRPB9803 G1ZI	SUMIT CHANDMAL BORA	Maharashtra	Proprietorship	Miss Kalyaneshwari Patil, Deputy Commissioner Of State Tax, Mumbai	State	gstit.state@mahagst.gov.in
33	09AFOPG2268 P1ZQ	KANAK MARBLES (GIRISH KUMAR GUPTA)	Uttar Pradesh	Proprietorship	Joint Commissioner (I.T.), Commercial Taxes, Head Quarter, Lucknow	State	ctithqlu-up@nic.in
34	27AAPFM3348 E1Z4	MAHAVIR TRADE CENTRE	Maharashtra	Partnership	Superintendent, Computer Centre, Mumbai Central Gst Commissionerate, Mumbai	Centre	comp-gstmcentral@gov.in

35	29AALFV8453 B1ZT	VERVE CLOTHING	Karnata ka	Partnership	Basavaraj K. S., Joint Commissione r Of Commercial Taxes, Karnataka	State	basavaraj.sagar @gmail.com
36	29AAIFT3839 N1ZD	THE SMART I	Karnata ka	Partnership	Basavaraj K. S., Joint Commissione r Of Commercial Taxes, Karnataka	State	basavaraj.sagar @gmail.com
37	29AAKFS2718 P1ZG	SHOPPIN	Karnata ka	Partnership	Basavaraj K. S., Joint Commissione r Of Commercial Taxes, Karnataka	State	basavaraj.sagar @gmail.com
38	29AAAFH6213 N1Z7	HI - STYLE	Karnata ka	Partnership	Basavaraj K. S., Joint Commissione r Of Commercial Taxes, Karnataka	State	basavaraj.sagar @gmail.com
39	27AABCM567 4J1Z4	MCNROE CONSUME R PRODUCT S PRIVATE LIMITED	Maharas htra	Private Limited Company	Shri Amit Kumar Sharma, Deputy Commissione r, Cgst & Central Excise Commissione rate, Mumbai	Centr e	amit.irs@gov.i n
40	21AABCM567 4J1ZG	MCNROE CONSUME R PRODUCT	Odisha	Private Limited Company	Dipankar Sahu, Joint Commissione r Of Ct & Gst (It), Commissione	Centr e	dcctitp@odish atax.gov.in

		S PRIVATE LIMITED			rate Of Ct & Gst, Odisha		
41	29ADRPV1935 F1ZZ	LEKHA MARKETING (YERRAGUNTA PHANIRAJA VITAL)	Karnataka	Proprietorship	Basavaraj K. S., Joint Commissioner Of Commercial Taxes, Karnataka	State	basavaraj.sagar@gmail.com
42	29AFGPT4653 P1ZI	SWATHI MEDICALS AND GENERAL STORES (TARANATHA NAYAK)	Karnataka	Proprietorship	Basavaraj K. S., Joint Commissioner of Commercial Taxes, Karnataka	State	basavaraj.sagar@gmail.com
43	29AFLPP4669 Q1Z7	USHA MEDICALS (DINAKAR PRABHU)	Karnataka	Proprietorship	Basavaraj K. S., Joint Commissioner Of Commercial Taxes, Karnataka	State	basavaraj.sagar@gmail.com
44	24ADAPP2977 Q1ZX	AUTO ELECTRICALS (SIRAZ ISMAILBHAI PIPERWADIYA)	Gujarat	Proprietorship	I.T.Keshwani, Deputy Commissioner, State Govt, Gujarat	State	dc22-rjt1-gstn@gujarat.gov.in

TRAN-2: Writ Petition Case

Category No.	Category	Detailed Description	Count of Taxpayer
CategoryB-9	TRAN-1 Filed and TRAN-2 attempted with no error in logs	As per logs TRAN-1 filed successfully. Eligible for TRAN-2. TRAN-2 fresh/revision attempted with no error or no valid error reported in logs	01
	Total		01

Category B-9: TRAN-1 Filed and TRAN-2 attempted with no error in logs**1. W.P. 538 / 2019 Globe Agencies V/s UOI and Others**

GSTIN/ Provisional id	State	Constitution of Business
09AAAFG7246A1ZQ	Uttar Pradesh	Partnership

Issue: The petitioner claims that he tried to file TRAN-2 several times and even on last date i.e. 30.06.2018 but failed to file the same on portal due to technical error which continued throughout the day.

Status: GSTN is a party in this matter. GSTN has issued comments apprising the status of the case to the CGST Commissionerate (Ghaziabad) vide mail dated 17.10.2019. The Hon'ble High Court vide order dated 02.05.2019 directed the respondents to reopen the portal within one month. In the event they do not do so, they will entertain the GST TRAN-2 of the petitioner manually and pass orders on it after due verification of the credits as claimed by the petitioner. The matter is pending before the Hon'ble High Court and next date of hearing is not available of court's website.

Further investigation by GSTN: An email dated 17.12.2019 was sent to the Petitioner requesting for the following information: -

- i. Exact technical glitch faced by you while filing TRAN-1
- ii. Nature of error noticed
- iii. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

The Petitioner was requested to provide the details by 19.12.2019. However, no response was received from the Petitioner.

TRAN-1 & TRAN 2 : Details of 27 Cases sent by Nodal Officers of Centre/States but not processed by GSTN due to issues mentioned below:

I. Details of TRAN-1 Cases not processed:

	Category	Issues Involved	Count of Taxpayers
A	Court Cases involving Non-Technical issues	No apparent technical glitch. The cases were returned to the Nodal officers by emails to take action as per decision of 32nd GSTC Meeting.	10
B	Cases reported with invalid GSTIN	Invalid GSTIN provided by the Nodal Officer. Information not provided despite repeated messages.	09
C	Cases with No SOP	Not received as per the prescribed SOP despite repeated reminders.	03
	Total		22

Category A: Court Cases involving Non-Technical issues :

S r. N o .	GSTIN	Legal Name	State	Nodal Officer
1	10AAAC T8593J1Z 5	M/S TOPSEL MARKETING PRIVATE LIMITED	Bihar	Mukesh Kumar, Assistant Commissioner State-Tax, Patna
2	10AAAC T8593J2Z 4	M/S TOPSEL MARKETING PRIVATE LIMITED	Bihar	Mukesh Kumar, Assistant Commissioner State-Tax, Patna
3	27AQSPS 1185N1Z V	M/S Euro Pratik Limited Edition	Maha rashtr a	Shri A. P. Bandekar, Assistant Commissioner, Central Government, Mumbai
4	27AQNPS 5698H1Z V	Euro Pratik sales corporation	Maha rashtr a	Shri A. P. Bandekar, Assistant Commissioner, Central Government, Mumbai

5	08AAAC A2251L1 ZU	M/S ALCHEM INTERNATIONAL PRIVATE LIMITED	Rajasthan	Sh. P. K. Singh. Principal Commissioner, CGST & Central Excise Commissionerate, Jaipur
6	36ACTPK 0948C1ZI	RUPESH KATHURI	Telangana	Radha Sindhiya Linga, Assistant Commissioner, State Government, Hyderabad
7	36AADH K3535K1 Z5	KATHURI RAJENDER HUF	Telangana	Radha Sindhiya Linga, Assistant Commissioner, State Government, Hyderabad
8	36AABH K9816K1 ZV	KATTURI MALLES	Telangana	Radha Sindhiya Linga, Assistant Commissioner, State Government, Hyderabad
9	09AACC N8820E1 ZH	NOREX FLOVOURS PRIVATE LIMITED	Uttar Pradesh	Joint Commissioner, Commercial Taxes, State Govt. Uttar Pradesh
10	09AABC A9292J1Z 8	ASHOKA BUILDCON LIMITED	Uttar Pradesh	Shri Madan Mohan Singh, Commissioner, CGST Commissionerate, G. B. Nagar

Category B: Cases reported with invalid GSTIN

S r. N o.	GSTIN	Legal Name reported by Nodal Officer	State	Nodal Officer
11	33AAFCG0 681R1ZA		Tamil Nadu	S. Ramaswamy, Joint Commissioner, Computer Syatems, Channai
12	33EMBPM3 104M1ZB	DEEN MEERAN FIRE WORKS	Tamil Nadu	S. Ramaswamy, Joint Commissioner, Computer Syatems, Channai
13	33EKUPM1 045C1ZD	K.P.N. HARDWARES	Tamil Nadu	S. Ramaswamy, Joint Commissioner, Computer Syatems, Channai
14	33BCYPS85 44Q1Z7	NEELAM INDUSTRIES	Tamil Nadu	S. Ramaswamy, Joint Commissioner, Computer Syatems, Channai
15	27AABCV 6662P1ZL	VARSA plastics	Maharashtra	Shrikant Patil, Comissioner, Central Govt, Aurangabad

1 6	29AACCS5 034K1ZG	SUNLUX TECHNOLOGIES PVT LTD	Karnata ka	K. S. Basavaraj, Joint Commissioner of Commercial Taxes, Bengaluru
1 7	29AAPFW4 783B1Z1	WINGS INTERNATIONAL	Karnata ka	K. S. Basavaraj, Joint Commissioner of Commercial Taxes, Bengaluru
1 8	37AJPV623 2G1ZW	SRI LAKSHMI SRINIVASA PACKAGINGS	Andhra Pradesh	M. Prakasarao, Deputy Commissioner of State Tax, Andhra Pradesh
1 9	37AFEPV75 38R1ZV	VENKAT AGRO CHEMICALS	Andhra Pradesh	M. Prakasarao, Deputy Commissioner of State Tax, Andhra Pradesh

Category C: Cases with No SOP

Sr N o.	GSTIN	Legal Name	State	Nodal Officer
20	04BEFPS1795 Q1ZQ	M/s Shukla Provision Store	Chandigarh	Excise & Taxation Department, Union Territory, Chandigarh
21	04AACCF409 9D1ZU	M/s Forbro Lifestyles Limited	Chandigarh	Excise & Taxation Department, Union Territory, Chandigarh
22	27AABCP658 4G1Z5	Prime Pharmaceuticals	Maharashtra	P.K Pathak, Central Govt, Maharashtra

II. Details of TRAN-2 Cases not processed:

	Category	Detailed Description	Count of Taxpayers
A	Court Cases involving Non-Technical issues	No apparent technical glitch . The cases were returned to the Nodal officers by emails to take action as per decision of 32nd GSTC Meeting.	04
B	Cases reported with invalid GSTIN	Invalid GSTIN provided by the Nodal Officer. Information not provided despite repeated messages.	01
	Total		05

Category A: Court Cases involving Non-Technical issues :

S r. N o.	GSTIN	Legal Name	State	Nodal Officer
1	10AAACT 8593J1Z5	M/S TOPSEL MARKETING PRIVATE LIMITED	Bihar	Mukesh Kumar, Assistant Commissioner State-Tax, Patna
2	10AAACT 8593J2Z4	M/S TOPSEL MARKETING PRIVATE LIMITED	Bihar	Mukesh Kumar, Assistant Commissioner State-Tax, Patna
3	27AQNPS 5698H1ZV	Euro Pratik sales corporation	Mahar ashtra	Shri A. P. Bandekar, Assistant Commissioner, Central Government, Mumbai
4	27AQSPS1 185N1ZV	M/S Euro Pratik Limited Edition	Mahar ashtra	Shri A. P. Bandekar, Assistant Commissioner, Central Government, Mumbai

Category B: Cases reported with invalid GSTIN.

Sr . N o.	GSTIN	Legal Name reported by Nodal Officer	Stat e	Nodal Officer
5	Not Provided	KATARIA AUTOMOBILES PVT. LTD.	Guja rat	S. M. Saxena, Joint Commissioner of State Tax, Ahemdabad

Cases Received as per Extended Scope of ITGRC

Category		Description	No of Cases
A	Sub Category	Cases reported on account of Non-Technical error	
	A1	Recommended by jurisdictional tax authority with HC Order and having scenario where the credit was entered in wrong column. (vii) In 01 cases, uploaded the details in table 7(d) instead of uploading in table 7(a) (viii) In 01 case, uploaded the details in table 7(d) instead of uploading in table 7(b)	02
	A2	Recommended by jurisdictional tax authority with HC Order but having scenario other than wrong column entry <ul style="list-style-type: none"> The last digit of the Cenvat Balance was missed resulting in short availment of ITC 	01
	A4	Cases of non-technical error recommended by jurisdictional tax authority but Hon'ble High Court order details neither mentioned nor attached/No final order yet. <ul style="list-style-type: none"> Uploaded the details in table 7(d) instead of uploading in table 7(b) 	01
Total			04

Category A: Cases reported on account of Non-Technical error

Category A1 (02 cases) Recommended by jurisdictional tax authority.

- i. In 01 case, uploaded details in column 7(d) instead of column 7(a)
- ii. In 01 case, uploaded details in column 7(d) instead of column 7(b)

S. No	State/ CGST	GSTIN/ Title of the Case/ WP No. and Date	Brief Issue/ Directions of Hon'ble High Court	Recommendations of Officer of the State /Centre	Remarks
1	Centre, CGST Delhi North, M/s Blue Bird Pure Pvt. Ltd.	GSTIN: 07AAHCB0011G1 ZD W.P. 3798/2019	Taxpayer filed TRAN-1 but the details were uploaded in wrong column 7(d) instead of column 7(a). Order: The High Court has directed to either open the online portal so as to enable the petitioner to again file the rectified TRAN-1 form with correction on or before 31.07.2019. Therefore, the petitioner will be permitted to file returns in TRAN-2.	Recommended	Case has not been presented in any ITGRC till now
2	State, SGST Thiruvananthapuram, M/s Popular Vehicles & Services Ltd.	GSTIN: 32AABCP3805G1 ZW, W.P. No. 609/19 & Review Petition No. 932 of 2019	Filed TRAN-1 but by mistake uploaded the details in table 7(d) instead of uploading in table 7(b) Order: Hon'ble H.C of Kerala at Ernakulum vide its order dtd. 14.01.2019 ordered the respondents to accept the petitioner's manual filing of Form GST TRAN-1 and Form GST TRAN-2 within a period of one week from the date of receipt of the judgement and if the petitioner submits the same within the stipulated time the respondent shall accept and transmit it into the electronic credit ledger of the petitioner within a further period of one week.	Recommended	Earlier placed in the 6 th ITGRC through GSTN under B4 category but not allowed

Category A2 (01 Case):

- i. The last digit of the Cenvat Balance was missed resulting in short availment of ITC. No error of placing values in wrong column.

S. No	State/ CGST	GSTIN/ Title of the Case/ WP No. and Date	Brief Issue/ Directions of Hon'ble High Court	Recommendations of Officer of the State /Centre	Remarks
3	Centre, CGST Goa, M/s Tech Force Composites Pvt. Ltd.	GSTIN 30AAACT6376M1 Z4, W.P. No. 78/2019	<p>After uploading the details in TRAN-1, the assessee noticed that the last digit of Cenvat Balance i.e. '4' of Rs. 1,34,84,304 was missed and therefore instead of availing the amount of Rs. 1,34,84,304 they availed the ITC of Rs. 13,48,430 in TRAN-1 which resulted in short availment of ITC of Rs. 1,21,35,874.</p> <p>Order: The Hon'ble H.C in its order dated 27.09.2019 held that " the interest of justice will be served if the petitioner is granted liberty to make representation to the CBIC and the CBIC is directed to consider such representation for verification and bona fide of the claim made by the petitioner, no doubt in accordance with law and on its own merits, such representation will be made to the CBIC within 15 days from today. If such representation is indeed made, the CBIC is directed to consider such representation in the aforesaid terms and dispose of the same as expeditiously as possible and in any case within a period of two months from the date the same is received by the CBIC."</p>	Commissioner has recommended the case	Case has not been presented in any ITGRC till now. The case is not having error of transposition of values in wrong column as approved in 32 nd GST Council meeting and further procedure approved in 8 th ITGRC

Category A4 (01 case) : Cases of **non-technical error** recommended by jurisdictional tax authority but Hon'ble High Court order details neither mentioned nor attached/No final order yet.

S. No	State/ CGST	GSTIN/ Title of the Case/ WP No. and Date	Brief Issue/ Directions of Hon'ble High Court	Recommendations of Officer of the State /Centre	Remarks
4	State, SGST Thiruvananthapuram, M/s Popular Auto Dealers Pvt. Ltd.	GSTIN: 32AADCP6984G1Z8, W.P. No. 5798/19	Filed TRAN-1 but by mistake uploaded the details in table 7(d) instead of uploading in table 7(b)	Commissioner has recommended the case	Placed in the 6 th ITGRC under B3 category but not allowed. No High court order attached or mentioned by the State Commissioner

Members (Centre)

- Sh. Ashok Kumar Pandey, Member (GST), CBIC
- Sh. Anil Kumar Jha, Additional Secretary, Revenue
- Ms. Hemambika R. Priya, Chief Commissioner & Pr. Commissioner, CGST Delhi North (on behalf of Sh. Sandeep Kumar, Chief Commissioner, CGST, Delhi)

Member (GST Council Secretariat)

- Dr. Rajeev Ranjan, Special Secretary

Members (States) (through VC)

- Sh. Vijay Singh, Additional ETC (on behalf of Sh. Anurag Rastogi, Principal Secretary, Haryana)
- Sh. Rajib Sengupta, Jt. Commr, State Tax, West Bengal (on behalf of Sh. Devi Prasad Karnam, CST, West Bengal)
- Sh. K Gnanasekaran, Addl Commr, State Tax, Tamil Nadu (On behalf of ACS/Commissioner, State Tax, Tamil Nadu)
- Sh. Ridhidesh Rawal, Dy. Commissioner, State Tax (On behalf of Chief Commissioner, State Tax, Gujarat)

Special Invitees

- Sh. Yogendra Garg, Pr. Commissioner, GST Policy Wing, CBIC
- Sh. Sanjay Mangal, Commissioner, GST Policy Wing, CBIC
- Sh. Amitabh Kumar, Joint Secretary, GST Council
- Sh. Dheeraj Rastogi, Joint Secretary, GST Council
- Ms. Ashima Bansal, Joint Secretary, GST Council
- Ms. Kajal Singh, EVP, GSTN
- Sh. Vashistha Chaudhary, SVP, GSTN
- Sh. Akhil Kumar Khatri, ADG (GST), DG Systems, CBIC

Others

- Sh. Rajesh Agarwal, Director, GST Council
- Sh. Santosh Kumar Mishra, Additional Commissioner, CGST Delhi Zone
- Sh. Arjun Kumar Meena, Deputy Commissioner, GST Council
- Sh. Sumit Kumar, Superintendent, GST Council



Agenda for

39th GST Council Meeting

14 March 2020

Volume – 3



GST Council Secretariat

Room No.275, North Block, New Delhi

Dated: 20th February 2020

Notice for the 39th Meeting of the GST Council scheduled on 14th March 2020

The undersigned is directed to refer to the subject cited above and to say that the 39th Meeting of the GST Council will be held on 14th March 2020 at Hall No.2-3, Vigyan Bhawan, New Delhi. The schedule of the meeting is as follows:

- Saturday, 14th March, 2020 : 11:00 AM onwards
2. In addition, an Officers' Meeting will be held on 13th March, 2020 at Hall No.2-3, Vigyan Bhawan, New Delhi as follows:
- Friday, 13th March, 2020 : 12:30 PM onwards
3. The agenda items for the 39th 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. Ajay Bhushan Pandey)

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

Tel: 011 23092653

Copy to:

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

Agenda Items for the 39th Meeting of the GST Council on 14th March 2020

1. Confirmation of the Minutes of 38th GST Council Meeting held on 18th December 2019
2. Update by Infosys (through GSTN)
3. Review of Revenue Position
4. Issues recommended by the Fitment Committee for the consideration of the GST Council (Recommendations by the Committee of Officers on Revenue Augmentation)
5. Issues recommended by the Law Committee for the consideration of the GST Council
 - A. Issues recommended by the Law Committee for the consideration of the GST Council
 - i. Taxability of 'economic surplus' earned by brand owners of alcoholic liquor for human consumption
 - ii. Challenges faced in apportionment of ITC in cases of business reorganization under section 18 (3) of CGST Act read with rule 41(1) of CGST Rules
 - iii. Issue regarding waiver of penalty and interest on previous period due to removal of pre-import condition under Advance Authorization scheme
 - iv. Levy of interest under the provisions of section 50 of the CGST Act, 2017 for delay in payment of tax
 - v. Proposal for waiver of filing of FORM GSTR-1 by taxpayers who have availed the special composition scheme under notification No. 2/2019-Central Tax (Rate) dated 07.03.2019.
 - vi. Filing of GSTR-9 (Annual Return) and GSTR-9C (Reconciliation Statement)
 - vii. Proposals for amendment in the CGST Rules, 2017
 - viii. Proposals for amendment in the CGST Act, 2017 and the IGST Act, 2017
 - ix. Scheme of 'Know Your Supplier'
 - x. Notifying NPCI, Transunion CIBIL Ltd. and Association of Mutual fund of India under section 150(1)(p) and Banking Information return under Section 150(1)(e)
 - xi. Proposal for Notification / Rule change for enabling AADHAAR based authentication in GST
 - xii. Clarification in respect of appeal in regard to non-constitution of Appellate Tribunal
 - xiii. Exemption for certain class of registered persons from having e-invoicing along with extension of dates for implementation of e-invoicing
 - xiv. Exemption for certain class of registered persons from capturing dynamic QR code along with deferment of implementation of QR Code
 - xv. Agenda note for GST Council regarding extension of date of GSTR 3B filing for the month of Jan, 2020 till 31st March 2020
 - xvi. Agenda note for GST Council regarding continuation of the existing system of furnishing FORM GSTR-1 and FORM GSTR-3B till the month of September, 2020

- xvii. Transition Plan in view of merger of Union Territories of Dadra & Nagar Haveli and Daman & Diu
- xviii. Deferring e-Wallet scheme and extending duty exemption for exporters
- B. Deliberations of the Law Committee in the matter of the representation by Construction Federation of India on the orders of the Hon'ble High Court of Delhi
- 6. Creation of State and Area Benches of the Goods and Services Tax Appellate Tribunal (GSTAT) for the State of Uttar Pradesh
- 7. Quarterly Report of the NAA for the quarter October to December 2019 for the information of the GST Council
- 8. Deemed ratification by the GST Council of Notifications, Circulars and Orders issued by the Central Government
- 9. Decisions of the GST Implementation Committee (GIC) for information of the Council
- 10. Decisions/Recommendations of the IT Grievance Redressal Committee for information of the Council
- 11. Any other agenda item with the permission of the Chairperson
- 12. Date of the next meeting of the GST Council

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<u>Agenda No.</u>	<u>Agenda Item</u>	<u>Page No.</u>
4	Issues recommended by the Fitment Committee for the consideration of the GST Council (Recommendations by the Committee of Officers on Revenue Augmentation) i. Fitment Agenda for Goods: Inverted Rate Structure in GST- Correction of inverted rates on certain key sectors ii. Fitment Agenda for Services	7 15

Discussion on Agenda Items

Agenda Item 4(i): Inverted Rate Structure in GST-Correction of inverted rates on certain key sectors

Committee of officers on Augmentation of Revenue identified Inverted Structure as a significant issue that has led to certain distortion in the GST tax regime and need correction. Inversion in rates causes accumulation of input tax credit with a manufacturer producing the goods. *Illustratively*, fabrics attract GST at the rate of 5% while its main input, i.e., yarn attracts GST at the rate of 12%. Other inputs, input services (except job work) and capital goods also attract GST at a rate higher than fabrics. As a result a fabric manufacturer would have output tax liability that is much lower than the input tax credits (ITC). Hence, a fabric manufacturer is not able to utilise the entire input tax credit. This causes accumulation of ITC with fabric manufacturers. Thus, inverted rates create distortion in GST being a deviation from the basic philosophy of a value added tax. The adverse implications of inverted rates are as follows:

- (i) A manufacturer suffers cash flow issues in case of inverted rate structure, even if refund of accumulated ITC on inputs is eventually refunded.
- (ii) The accumulated ITC on input services and capital goods is not refundable even if rate structure is inverted. Input services constitute significant portion of cost. Thus, accumulated ITC on input services would be significant. Accumulated ITC on capital goods is a burden for exporters too.
- (iii) Small standalone units suffer more in case on account of inversion (in comparison to a large composite unit). For example, a company making fabric starting from input chemicals (making fibre and then yarn followed by fabric) would not face adverse consequence of inverted structure. On the other hand, a stand-alone power loom unit would suffer on account of inversion (from yarn to fabric).
- (iv) Inverted rate structure makes import more competitive putting domestic units at disadvantage. While domestic unit suffer the adversities of accumulated ITC, the import simply enjoys lower IGST without any inversion or accumulated ITC.
- (v) Inversion disincentivises capital investment. Acquisition of capital goods for manufacturer of goods suffering inversion (say fabrics) would lead to hardship for a new unit or a unit undertaking expansion of capacity, as ITC on capital goods accumulates and cannot be adjusted with output tax liability. This has been argued by industry.
- (vi) A consumer is also unlikely to gain much on account of lower rate on goods suffering inversion. The embedded taxes become cost and likely to be passed on. Further, as new investment is dissuaded in such sectors, customers choices get restricted and sector remain uncompetitive/inefficient leading to adverse consequences in terms of price and availability of goods.
- (vii) Even claiming refund of accumulated ITC on inputs requires effort, cost and often marred with litigation.
- (viii) With technological advancement and increasing production, net unit value addition at manufacturer's end falls. Manufacturers have been outsourcing more, including the manpower supply. This makes inversion further acute.
- (ix) In absence of any standardised input output norms, the inverted rate structure has also led to making fraudulent refund claim that is accumulated on fake invoice in items like footwears.

- (x) Inverted rates also have serious implication to revenue as there has been substantial outgo in refund of accumulated ITC on inputs (no refund is given on input services and capital goods).

Thus, overall, inverted rate structure would make our industry less competitive, result is cash flow issues besides accumulation of ITC that sticks to cost, lead to unfair practices, creates dis-incentive for investment in newer technology and expansion, does not really benefit the consumer much in terms of cost reductions and has serious implication to revenue. Keeping these factors into account, the Committee has amongst other suggestions recommended that inverted rate structure be corrected in such a way that need for refund does not arise.

2. Subsequently, the issue was placed before the Fitment Committee in its meeting held on 6th March, 2020 wherein the Fitment Committee observed as follows:

- (i) GST is a value added tax. Therefore, a supplier in an optimal tax rate structure pays tax on his value addition.
- (ii) The tax suffered on inputs, input services and capital goods are available to a supplier as input tax credit (ITC). As this ITC is adjusted against the tax liability on the output, an ideal rate structure would be one in which the output tax liability is higher than the input tax. Otherwise, a taxpayer is not able to fully utilise his ITC and the accumulated unutilised
- (iii) Accumulated ITC becomes cost for the manufacturer unless refunded by the government. Therefore, ideally the inputs and raw material should have lower or same tax incidence as the finished goods. However, in GST certain manufactured goods attract GST rate of 5%/12% while their inputs, input services and capital goods attract GST at the higher rate of 18% or 28%. Such a tax structure causes hardship to manufacturers. This gives rise to need for claiming refund, associated cost and efforts, and cash flow issues. Further, no refund of accumulated ITC on input services and capital goods is allowed. This brings in-efficiency in tax regime and further hardship to manufacturers.
- (iv) Refining GST rate structure would not be feasible unless the inverted rate structure is corrected.
- (v) Fitment Committee also took note of other relevant factors as mentioned in para 1 above. The Committee felt that it is highly desirable that inverted rate structure is corrected by tweaking of rates in such a way that inputs suffer lower incidence as compared to finished goods. The Committee felt that to begin with inverted rate structure could be corrected on mobiles, footwears, textiles etc. It has also been felt that such corrections may also be desirable in fertilizers. Together these four sectors, along with associated services and inputs accounts for about 3/4th of inversion going by the refund claimed amount.

3. After detailed deliberations, the Committee makes the following recommendations.

4. **Mobile Phones:** Cellular Mobile phones attract 12% GST rate. Further, parts falling under chapter 85 used in the manufacturing of Cellular Mobile Phones also attract 12% GST rate. In effect, parts falling under Chapter 85 have dual rate and a manufacturer has option to procure these inputs at 18% or 28% as the case may be. All other parts (like plastic, rubber and metal parts like mechanics etc.) attract GST at the rate of 18%. Further, input services and capital goods also attract GST at the rate of 18%. Thus, there is an inverted rate structure on mobiles and their manufacturers are claiming refund of accumulated ITC. As per the data available, the total refund amount of about Rs. 5500 Crore (approx.) has been claimed so far by mobile manufacturers (July 2017-till date).

4.1 The GST rate on mobile phone was prescribed taking into account that in pre-GST era there was a dual rate of central excise rate on mobile. This was done to promote domestic manufacturing of

these items. Under dual excise scheme, a manufacturer has two options for excise rate: - (i) Basic Excise Rate (BED) @ 1% without CENVAT Credit, and (ii) BED @ 12.5% with CENVAT credit. This was done to incentives domestic value addition. In central excise there was no provision for refund of input tax credit on account of inverted rate structure. During the discussion on rates of cellular mobile phones in the 14th GST Council meeting held on 18th and 19th May, 2017, there were divergent views. While some of the Members favoured standard rate of 18% on mobile, the other argued for a lower rate of 12% based on pre-GST incidence, digitalisation and for promoting further penetration of mobiles. It was eventually decided to keep the rate on mobile phones at 12%. Since then, domestic mobile manufacturing has grown rapidly and now domestic manufacture is in excess of 2 Lakh Crore (estimated) in the Year 2019-20 and, its total consumption value (including spare parts) would be about of Rs 2.5 lakh crore. The consumption has been increasing. About 29 crore phones are now made domestically. Thus, on maturing of domestic manufacturing, it would be desirable that inverted rate structure is corrected and this significant consumer item should be standard rated along with its parts.

4.2 During the Fitment Committee the need for retaining the present GST rate of 12% on the low-cost push-button type phones/feature phones was also deliberated upon. The Fitment Committee was of the view that keeping 12% GST rate on push button type feature phone is not desirable based on the following reasons, namely: -

- (i) With increase in production the margin of manufacturer on per unit of phone squeezes. As such service element in electronic manufacturing is increasing beside increasing capital infusion as innovation in technology happen. Push button type mobile will have even thinner margin. Therefore, inversion is a serious issue of manufacturer of such phone.
- (ii) Feature phones are low value items. Therefore, rate calibration to 18% would not have significant impact on prices. On another hand correction of inversion would have help manufacturers in utilising their ITC on inputs, input services and capital goods fully, thus have softening impact on prices.
- (iii) Keeping GST rate of 12% on feature phones will not resolve the issue of inversion which is the primary objective of this whole exercise.
- (iv) Having a dual rate leads to distortion and evasion. As such common manufacturing facility may be used for manufacture of both kinds of phones.
- (v) Inverted structure promotes the imports and disincentives the exports as the importer will not have to suffer the cost of unutilised credit. Further, Indian manufacturers have started exporting the feature phones also. In the period April, 19-Januray, 2020, total exports of the feature phones from India was around Rs. 2000 Crore. Even in the interest of exports, it is desirable to correct inversion.

4.3 Accordingly, based on the above discussion, Fitment Committee recommends that the GST rate on mobile phones and its parts (falling under Chapter 85) may be increased from 12% to 18% (on par with other consumer goods items) in order to remove the inversion in rates on the mobile phones.

5. **Footwear:** India produces more than 2 billion pairs of different categories of footwear. Over the year the percentage of non-leather footwear has been increasing and at present non-leather footwear constitutes about 60% of the total footwears made. Even in leather footwear as significant constituents (like soles, consumable, embellishments etc.) is of non-leather items. Hence, non-leather inputs, as discussed below are the major constituents of footwear industry. There are nearly 15000 units engaged in manufacturing footwear in India with total turnover of these manufacturing unit is estimated at Rs. 70,000 crores. The value addition in this industry is about 15-20%. With post manufacturing (trading) value addition and imports of footwear, the total domestic consumption

estimated to be about Rs 80,000 crore a year. As the major constituents of footwear industry attract standard rate (except leather-cost of which on an average is about 20% in leather footwear), the inversion in footwear with 5% rate is acute.

5.1 While pre-GST tax incidence on footwear was significantly higher (ranging from 10% to 29%), the GST Council recommended a lower dual rate structure for footwear with 5% rate on footwear with retail sale price up to Rs. 500 and 18% on other footwears. The Council revisited the rate structure on footwear and concessional rate of 5% was extended up to footwear with retail sale price upto Rs. 1000 with effect from August, 2018. Subsequently, w.e.f. 1.1.2019 further concession was given to footwear and GST rate would apply on the supply value rather than on the basis of retail sale price.

5.2 This has led to inversion in rate structure, as majority of sale of footwear (about 70%) is at concessional GST rate of 5%. The major inputs of footwear and their typical share in a footwear are as under:

Parts	Material	GST rate	Proportion in Cost
Shoe Sole	Natural/Synthetic Rubber, Precipitated Silica, Elasto Polymer	18%	25%
Shoe Upper	Leather, Technical Textile, Rubber, Plastic	5%/12%/18%	30%
Chemicals, components, embellishments, other Parts, Consumables and other inputs	Adhesives, [PU, polychloroprene, PVA, Acrylics, Isocyanate], Solvents [MEK], Colors and Pigments, Catalysts etc.	18%	15%
Overheads and other expenditures (Capital goods, input services)		18% on capital goods and input services (other than job work)	25%
Margin			5%

Source: Industry data

5.3 The refunds generated due to inverted rate structure in Footwear sector on footwear attracting concessional GST rate of 5% from July 2017 to January, 2020 is to the tune of Rs. 2500 crore.

5.4 In general Fitment Committee has been of the view that dual rate structure needs to be avoided as it creates distortion and leads to mis-declaration/ evasion of taxes. As such an advalorem rate ensures that in absolute term the lower segment would suffer lesser tax incidence. Therefore, ideal all footwear should be standard rated. However, considering that the items is a mass consumption goods, at this stage 12% rate for footwear with value upto Rs.1000/- per pair may be conducive to correct inversion. The Fitment Committee recommends accordingly. Thus taking all factors into account

6. **Textiles:** The GST rate structure on all goods of the textile value chain was deliberated at length during the 15th meeting of the GST council held on 03.06.2017 and subsequent GST Council meetings. Based on the Pre-GST tax incidence, the GST Council recommended: -

- (a) 18% GST on Man-made fibres
- (b) 18% rate on MMF filaments and yarns,
- (b) 5% GST on cotton, silk, wool and other natural fibre and yarns
- (c) 5% on raw cotton and other vegetable fibres; nil rate on raw silk, raw wool and raw jute.
- (d) 5% on all apparel fabrics including Man-made fibre fabrics with restriction on refund of accumulated ITC at fabric stage.
- (e) 12% rate on technical and other fabrics such as narrow fabrics.

6.1. In pre-GST regime fabrics suffered a much higher tax incidence. While cotton fabric had an incidence of about 9%, MMF fabrics had an incidence of about 13.6%. Therefore, a 5% rate in GST was much lower. Taking this into account Council prescribed the restriction of not allowing refund of accumulated ITC on fabrics. After roll out of GST, the textile industry represented that the rate structure resulted in acute inversion if textile sector particularly at fabric stage. It was also argued that the restriction of not allowing refund of accumulated ITC on fabrics favoured large composite mills while standalone power looms suffered. Accordingly, in stages further relief was extended to textile sector. To begin with GST rate on manmade yarn was reduced to 12%. Thereafter, refund of accumulated ITC was allowed on fabrics with prospective effect from 1.8.2018. Job-work services were also brought down to 5%. However, these changes have not been able to sort out the inversion issues. Yarn continues to suffer significant inversion as value addition from fibre to yarn is not significant. Hence, standalone spinning units suffer. Fabric continues to have inversion on account higher tax rate on yarn, input services and capital goods. The adverse impact of inverted rate structure has bearing to ready-made garment segment too on account of accumulated ITC on services and capital goods. Also the cost associated with inversion on fabric becomes a cost that is transferred by fabric manufacturer to readymade garments.

6.2 On ready-made garments the pre-GST incidence was about 13.2%. Hence, 5% rate in GST is significantly lower.

6.3 Lower rate of 5% on job-work has led to hardship to dyeing units. Their significant inputs like chemicals and dyes attract GST at the rate of 18%. Further critical input services of effluent treatment attract GST at the rate of 12%. These job workers have been representing for correcting inversion even if it requires increasing rate to 12% of dyeing services.

6.4. Ministry of Textiles has recommended for correcting inverted rate structure so as to unshackle it from the burden of taxes (accumulated ITC etc). It has been stated that liberating this sector will also substantially increase employment opportunities in the textile industry. The differential rates and slow-refunds of accumulated input tax credit has affected the competitiveness of the industry and has proven to be a deterrent for investment in the sector. Ministry of Textile is of the view that for tax uniformity across the value chain, MMF fibres and yarns need to be brought under a uniform tax slab to take care of inversion in tax structure. This will benefit the spinning and power loom sectors, which in turn will boost the garment sector and create huge job opportunities. An inter-Ministerial Group (IMG) consisting of Ministry of Textiles, Commerce and NITI Aayog has also viewed similarly. The IMG has observed that with implied limitation on growing cotton, man made fibre base needs to grow atleast 5 times in next 5 years.

6.5 The inversion in rate structure of textile sector has led to a refund of about Rs 4000 crore. This is anticipated to grow considerably in future considering that in the first year, refund of accumulated ITC was not allowed to fabric units.

6.6 The volumes of quantity produced and sold for textile sectors broadly are as follows. Cotton yarn - 4200 Mn Kg, man-made fibre and yarn- 3600 Mn Kg, fibre being about 1200 Mn Kgs,-fibre being about 1200 Mn Kg. Over 26,000 Mn sqm. fabrics are produced out of manmade yarn (Source DC&PC, Textile Commissioner). In coming years, the man-made segment is anticipated to grow faster than natural fibre segment.

6.7 Fitment Committee examined the above issue of inversion in the textile value chain in its meeting. General view as regards GST rate structure in textile sector is that the 5% rate on fabrics and lower value garments (Rs 1000 per pc) is an anomaly. Manufactured goods should either have higher or equal rate (in comparison to the rate as applicable to key inputs). However, a divergent view offered was that the output tax rate on mass consumption commodities like garments and fabrics should be viewed from the point of view of the consumer interests and not solely from the view of industry hardships or inversion. On this count any increase in rate of fabric and garment may not be justifiable.

6.8 Fitment Committee deliberated in detail on this issue. Fitment Committee also dwelled on the issue as to the impact of any calibration of GST rates on fabrics or garments on the end consumer. It was observed that in the meeting that the GST Council had recommended a lower rate of 5% on all fabrics and lower segment garments on account of acceptability of GST rate and essential consumption nature of the item. However, the experience since the roll out of GST has been that inverted rate structure has led to significant adverse impact as stated in para 1 and 2 above. It has not really benefitted the consumer either. Lower incidence did not lead to reduction of prices of fabrics or garments. In any case, inversion of tax rate meant that a lot of cost on account of accumulated ITC on services, capital goods and the resource cost for seeking refund of accumulated ITC on input sticks to the cost of fabric and garments. This may be 4-5% considering service and capital goods would at least constitute 20-25% of the input cost. Further, removal of inversion would give boost to the garment sector and with increasing production customer would only benefit. Therefore, increase in tax rates may at the most a marginal effect of garment. Besides, there exists a strong economic justification, as argued by Ministry of Textiles, that refined rate structure will help the sector to grow at faster pace.

6.9. In this background the Fitment Committee discussed the possible solutions to address the issue of inversion in the textile value chain. While doing so, it was kept in mind that input chemicals, capital goods and input services, other than job work, and inputs like buttons, dyes etc are at 18% and hence, a low rate of 5% on MMF, fabrics and garments would not help the sector. It was felt that at garment or fabric stage it is not feasible to differentiate the natural fibre and MMF. In any case blended fabric is quite common. Therefore, Fitment Committee was of the view the output tax rate on fabrics and garments/made-up should be prescribed at a uniform level of 12%. It was also discussed that as per the recommendations made by the Ministry of Textiles and IMG, the GST rate on fibres should be lowered to 12% to bring them at par with yarns to avoid inverted rate structure at yarn stage. As the value addition at the fibre stage is significant (e.g., while import parity price of PTA - input for polyester is about Rs 50 per kg, the import parity price for fibre is about Rs 100 per Kg), the fibre manufacturer shall not suffer adversely on account of inversion.

6.10 The Fitment Committee also observed the dyeing industry has also been severely affected by inversion as the output service attract GST rate of 5% while their significant inputs like dyes attract GST at the rate of 18% and significant services like effluent treatment also attract a GST of 12%. This industry has represented for correction of inversion by raising GST rate on the process of dyeing from

5% to 12%. Once the fabrics rate is calibrated to 12%, it would also be feasible to calibrate the GST rate of dyeing industry. Fitment Committee is also of the view that dual rate on readymade garment and made ups be avoided. RMG and made up, irrespective of value be placed at uniform rate of 12%. Advalorem rate would ensure that lower rate garment suffer lower tax in absolute terms. As stated, rate calibration shall not have any significant implication to consumer. In long run, as sector grows, it would benefit consumers and economy as streamlining of the tax structure textile industry would be able to grow at a more rapid pace and with increased productions and economies of scale, the costs and prices in this sector would naturally go down.

6.11 In view of the above discussions, the Fitment Committee proposed the following rate structure on textiles: -

- (a) 5% GST on cotton and other natural fibres (except raw jute, silk and wool) and all-natural fibre yarns.
- (b) 12% GST on manmade fibres
- (c) 12% GST on MMF yarns
- (d) 12% GST on all fabrics
- (e) 12% GST on all garments and made-up
- (f) 12% GST on dyeing services

7. **Fertilizers:** All fertilizers attract GST at the rate of 5%. The major category of fertilizers is urea, DAP, NPK and ammonium sulphate. Total consumption of fertiliser is about 60 million tonnes in a year. Urea constitutes major consumption at about 30 million ton. Consumption of DAP and NPK is about 10 million tonnes each. SSP and MoP constitute the remaining. Domestic production is about 41 million ton. Subsidised value of fertilizer consumed is estimated to be about Rs 80000 crore, while total value is about Rs. 1.5 lakh crore (including subsidy). Fertilizer thus remains a highly subsidised and controlled price product.

7.1. In the original rate structure, fertilizers were placed under the 12% GST bracket. However, many states raised the demand to reduce the GST rate on fertilizers to support the agricultural sector. It was also mentioned that natural gas, a major input for fertilizers, remains outside GST. The total pre-GST tax incidence on fertilizers, including central excise, tax on inputs, average VAT, CST, octroi, etc, was estimated to be about 9.75%. Ultimately, a consensus was reached in the Council (in the 18th meeting held on 30th June- i.e., just before the roll out of GST) that GST rate on fertilizers be fixed at 5%.

7.2 Subsequently, fertilizer manufacturers claimed that inverted tax structure was leading to hardship to them in terms of cash flow. Accordingly, the Council, after detailed deliberation reduced GST rate on phosphoric acid from 18% to 12% and then eventually to 5% to address the inverted duty structure to certain extent. However, inverted rate structure has still not been resolved completely. Accordingly, demand has been to lower rate on other inputs like ammonia and sulphuric acid. Considering that GST rate on services and capital goods is 18% rate, a rate cut on input would not fully resolve the issue of inversion.

7.3. As per the data available, a total of Rs. 6000 crores have been claimed as input tax credit refund on fertilizers from July, 2017 till date. With reduction of GST rate to 5% on phosphoric acid the inversion has reduced. However, other inputs like sulphuric acid, ammonia, potash etc, input services and capital goods are still at 18%. Therefore, significant inversion still remains. More so on

account of input services and capital goods, which is not even refundable. In view it is desirable that the inverted rate structure is corrected in fertilizers. This could be achieved by raising GST rate on fertilisers to 12%. Fitment Committee recommends accordingly.

7.4 While making recommendation, the Fitment Committee has been conscious of the fact and dwelled upon the aspect as to the impact of rate calibration. As stated, an inverted rate structure helps none in a mature industry, neither the manufacturer nor the consumer. It creates distortion in the tax regime, causes hardship in terms of cash flow for domestic manufacturing and leads to cost built up on account of ITC that is not usable. A big domestic industry of this kind should have a non-inverted rate structure. Therefore, seamless ITC chain with full ITC flow, which industry could utilise timely, shall ensure investment, production growth, efficiency and cost reduction. In any case full ITC utilisation would ensure that basic cost is reduced. Thus, a consumer would not be adversely affected on account of calibrated GST rate wherein fertilizer is placed at 12%. This would make tax regime simple, transparent and avoid the requirement of refunds on account of inverted structure. As such fertiliser is subsidised and controlled price product. Suitable calibration is feasible.

7.5 In view of the above, the Fitment Committee recommends that all chemical fertilizers be placed in the 12% slab.

Agenda Item 4(ii): Agenda for GST Council Meeting on 14th March, 2020- in relation to supply of services

Recommendations made by the Fitment Committee in the meeting held on 6th March, 2020 in relations to services.

Sl. No.	Proposal	Recommendation of Fitment Committee
1.	<p>Representations of Haj/ Umrah Private Tour Operators (PTOs) to exempt/not levy GST on the Haj/ Umrah tours organized and conducted by the Haj Group Operators (HGO) formerly known as Private Tour Operators.</p> <p>The Hon'ble SC vide order 11.12.2019 has allowed the petitioners to withdraw their petitions and directed the government to decide on the representation of the PTOs within 90 days of the order.</p>	<p>Recommendation: Agreed</p> <p>Request may not be acceded to.</p> <p>As per the direction of the Hon'ble Court representation of the PTOs has been examined. The request for issuing a clarification that the service of conduct of haj/ Umrah tours by Private Tour Operators is not taxable or to exempt the same has no merit as discussed in detail in the annexure I placed below.</p>
2.	<p>To provide level playing field to domestic MROs vis-à-vis foreign MROs by reducing GST on MRO services to 5% with full ITC and change PoS for B2B MRO Services to Location of Recipient.</p>	<p>Recommendation: Agreed except by Maharashtra.</p> <p>i. GST on MRO services in respect of aircraft may be reduced to 5% with full ITC.</p> <p>ii. PoS for B2B MRO Services in respect of aircraft may be changed to Location of Recipient. [notification may be issued u/S 13(13) of the IGST Act]</p> <p>A note on analysis of the issue and solution is enclosed as annexure II.</p>
3.	<p>To provide level playing field to Indian Shipping lines in light of the order dated 23.1.2020 of the High Court of Gujarat in the case of M/s. of Mohit Minerals Pvt. Ltd by changing the PoS of goods transport service from the place of destination of goods to the location of recipient.</p>	<p>Recommendation: Deferred for further discussion.</p> <p>Detailed write up on the issue is enclosed as annexure III.</p>
4.	<p>Proposal to tax job work service in relation to manufacture of alcoholic liquor for human consumption @ 18%</p>	<p>Recommendation: Most of the members of the Fitment Committee agreed to the following proposal. However, Tamil Nadu and Maharashtra expressed a different opinion.</p> <p>(a) services by way of job work in relation to manufacture of alcoholic liquor for</p>

Sl. No.	Proposal	Recommendation of Fitment Committee
		<p>human consumption may be excluded from the residual entry for job work service at 9988 (id) prescribing 12% rate of GST and taxed at 18% as has been done in case of job work related to bus body building.</p> <p>(b) An explanation may be inserted at entry 9988 (i)(f) of the notification no 11/2017- CTR which prescribes GST rate of 5% for job work services in relation to food and food products as under</p> <p>“Explanation-For removal of doubts it is clarified that food and food products excludes alcoholic beverages for human consumption”.</p> <p>Detailed write up on the issue is enclosed as annexure IV.</p>

Subject: Representations of Haj/Umrah Private Tour Operators (PTOs) to exempt/not levy GST on the Haj/Umrah tours organized and conducted by the Haj Group Operators (HGO) formerly known as Private Tour Operators- reg.

Hon'ble SC vide order 11.12.2019 has allowed the petitioners to withdraw their petitions and directed the government to decide on the representation of the PTOs within 90 days of the order. As per the direction of the Hon'ble Court representation of the PTOs has been examined.

The petitioners have requested to exempt/not levy GST on the services of organizing and conducting Haj/Umrah tours on following grounds: -

- (1) Place of supply of Haj/Umrah tours is outside India. CGST/SGST Acts are applicable only to whole of India. Therefore, it may be clarified that tours being organized outside India are not taxable.
- (2) The Haj/Umrah tours are covered Sl. No. 13(a) of Notification No. 12/2017-CTR and Sl. No. 14a of Notification No. 9/2017-ITR, which exempts *services by a person by way of conduct of any religious ceremony*. Haj and Umrah are religious ceremonies of Islam and it is organized by HGO [PTO].
- (3) GST exemption [Sl. No. 60 of Notification No. 12/2017-CTR and Sl. No. 63 of Notification No. 9/2017-ITR] has been granted only to the pilgrims for whom Haj Committee of India organizes the Haj/Umrah pilgrimage and not for the pilgrims for whom HGO [PTO] organizes and conducts the pilgrimage. It is discriminatory and violative of Article 14 of the Constitution of India.

The issues/grounds raised by the HGO [PTO] in the representations have been examined below:

Ground 1: Place of supply of Haj/Umrah tours is outside India. CGST/SGST Acts are applicable only to whole of India. Therefore, it may be clarified that tours being organized outside India are not taxable.

The foremost principle followed world over in levy of consumption taxes like Service Tax, VAT, GST is that they are borne by the consumer, and are taxed by the jurisdiction where the consumer belongs. This is the reason that in all major VAT jurisdictions, the general rule to determine the place where supply of service is consumed or supplied is that the place of supply of service will be the place where the recipient of the service is located. Exceptions may be made where the service recipient or service provider belong to different countries. The exceptions are generally aimed at avoiding double- taxation or double non-taxation of a service or to ensure that the procedural compliance burden of a tax does not fall on an individual. Such exceptions are not required where both the supplier of service and the recipient of service are located in the taxable territory.

The general rule for determination of place of supply based on location of the recipient of service ensures that service tax/ GST levied on service provided by a tour operator located in Delhi to a service recipient residing in Bihar accrues to the State of Bihar, the resident of which has borne the tax on that service. This is the essence of a destination based consumption tax, which GST is. This rule also ensures that a service consumed, enjoyed and paid for by a resident in India is taxed by the Indian jurisdiction. Not taxing service of outbound tour provided by a tour operator located in India to a service recipient located in India would lead to double non taxation; the service would neither be taxed in India nor by the country in which the tour is conducted.

The tour operators have cited in support of their contentions, the CESTAT judgments in the case of M/s Atlas Tours and Travels and M/s Cox and Kings India Limited,. However, the judgments in the case of M/s Atlas Tours and Travels and M/s Cox and Kings India Limited relied upon are not relevant in Service Tax period, post 01.07.2012 or for GST due to following reasons –

In the Service Tax period prior to 01.07.2012, ‘tour operator service’ was defined in such a manner that it required the tour to be operated in a ‘tourist vehicle’ covered by a permit granted under the Motor Vehicle Act 1988. In 2004, the definition was expanded to cover planning, scheduling, organizing or arranging tour by any mode of transport but the definition of tour operator was so structured that it led the Tribunal to conclude that the definition has been expanded only to cover one facet of the service namely, of planning, scheduling or arranging tours, by any mode of transport. Operating of the tour, per se was still excluded from the expanded definition and it still required the tour to be operated in a ‘tourist vehicle’ covered by the permit granted under the Motor Vehicle Act, 1988. Based on this interpretation, the Tribunal held that the outbound tours which do not have any component of travel in a vehicle covered by a permit granted under Motor Vehicle Act, 1988 was not covered by the tour operator service. Prior to 01.07.2012, Service Tax could be levied only on specified services. Once an activity was excluded from the scope of a specified taxable service, it could not be taxed.

However, with effect from 01.07.2012, the concept of comprehensive taxation of services based on a negative list of services was ushered in. All services, which did not figure in the negative list or were not specifically exempted, became subject to Service Tax. Tour operator service neither figured in the negative list of services nor was exempted. Therefore, with effect from 01.07.2012 the taxability of service provided by a tour operator was not contingent upon the service fitting in any specified description or definition.

Further, for the purposes of Notification No. 26/12 – Service Tax dated 20.06.2012, which granted partial exemption to services provided by a ‘tour operator’, was defined tour operator as *“any person engaged in the business of planning, scheduling, organizing, arranging tours [which may include arrangements for accommodation, sight-seeing or other similar services] by any mode of transport and includes any person engaged in the business of operating tours”*. Therefore, with effect from 1.7.2012, the tour operator service was not restricted to a tour operated by a vehicle covered by a permit granted under Motor Vehicle Act, 1988.

In the pre-2012 period, the Department had itself clarified vide circulars/trade notices that tours conducted outside India were not taxable. It was only in 2007 that the Board conveyed vide letter dated 12.10.2007 to Commissioner of Service Tax, Delhi that the service provided by a tour operator located in India to a recipient, who is also located in India, for planning, scheduling and organizing in relation to a tour outside India (outbound tourism) would be taxable under the category of “Tour Operator Service”. This view is based on the fact that service provider and service receiver, both, are located in India and the service flows within the country. Accordingly, the place of supply of service is India, and hence, the service is taxable. This view was in line with the international practice of taxation of destination based ‘consumption tax’ and the principle that consumption tax should be borne by the final consumer and the tax should accrue to the jurisdiction to which the consumer belongs. However, this view was not backed by an explicit provision in law at that time. Section 66 of Finance Act, 1994, which was the charging section at that time provided that Service Tax shall be levied on the services specified in Clause 105 of Section 65 of the Finance Act, 1994. The section 64 of the Finance Act, 1994 provided that the provisions of Service Tax extended to whole of India

except the State of J&K. There was no provision in the Act, which provided for determination of the place where the service was supplied.

However, with the advent of negative list system of taxation of services w.e.f. 1.07.2012, key provisions of the Finance Act, 1994 underwent a complete change. The erstwhile charging Section 66 was deleted and replaced with Section 66 B which provided that Service Tax shall be levied on all services provided or agreed to be provided in the taxable territory by one person to another. The words “*provided or agreed to be provided in the taxable territory*” in the new section are noteworthy. Linked to these words was the provision in Section 66C of the Finance Act, 1994, which also became effective from 01.07.2012. Section 66C empowered the Central Government to determine the place where the service is provided or deemed to have been provided, having regard to the nature and description of various services.

In exercise of powers under Section 66 C of the Finance Act, 1994 the Government notified the Place of Provision of Service Rules vide Notification No. 28/12 – Service Tax dated 20.06.2012. These rules were framed keeping in view the internationally followed principles for determination of place of supply of service. In accordance with the international practice and OECD guidelines in this regard, the general rule or the default rule for determination of place of provision of service was that the place of provision of service shall be the place where the recipient of service was located (Rule 3 of the Place of Supply of service). Further, Rule 8 of the said rules provided that place of provision of a service, where the location of the provider of the service as well as that of the recipient of services is in the taxable territory, shall be the location of the recipient of service. These rules were notified in due exercise of powers expressly given by the Finance Act, 1994. The place of supply of service provided by a tour operator located in India to a person located in India (Hajis) was in India following either the default rule (Rule 3) or Rule 8 of the said Rules. Accordingly, the provision of service was in the taxable territory and thus clearly liable to Service Tax w.e.f. 1.07.2012.

The same provisions continued in GST, which came with effective from 01.07.2017. According to Section 12 of the IGST Act, 2017, the place of supply of services, except specified services, provided by a person located in India to a recipient of service located in India, is the location of recipient of the service. The services provided by a tour operator are covered by this general rule. In view of the above, the rulings in the case of M/s Cox and Kings, M/s Travel Corporation of India Ltd. Etc. are not relevant after 01.07.2017 for Service Tax or GST purposes.

Extra Territorial Applicability of Law

It is a settled law that the Parliament is empowered to make laws with respect to aspects or causes that have an impact on or nexus with India. [Supreme Court judgment in GVK Industry Limited [(2011) 4SCC36 refers]. The provisions in question do not have any extra territorial applicability. The tour operators are located in India, the service recipients are located in India, and the service is consumed, enjoyed and paid for by the recipients located in India. Therefore, the provisions have a direct impact on and nexus with India and Indians.

Ground 2: The Haj/Umrah tours are covered Sl. No. 13(a) of Notification No. 12/2017-CTR and Sl. No. 14a of Notification No. 9/2017-ITR, which exempted services by a person by way to conduct of any religious ceremony. Haj and Umrah are religious ceremonies of Islam and it is organized by HGO [PTO].

The word ‘religious ceremony’ is not defined in Service Tax or GST laws. However, as per the Service Tax Education Guide, religious ceremonies are life-cycle rituals including special religious poojas conducted in terms of religious texts by a person so authorized by such religious texts. Occasions like birth, marriage, and death involve elaborate religious ceremonies. The activity of HGO [PTO] of conducting tours on commercial basis for Haj/Umrah pilgrimage is a commercial activity undertaken by tour operators and not a religious ceremony; and hence, not eligible for the exemption under Sl. No. 13a of Notification No. 12/2017-CTR and Sl. No. 14a of Notification No. 9/2017-ITR.

Services provided by a specified organization in respect of a religious pilgrimage facilitated by the Ministry of External Affairs of the Government of India, under a bilateral arrangement, have been given specific exemption from GST vide Sl. No. 60 of Notification No. 12/2017-CTR and Sl. No. 63 of Notification No. 9/2017-ITR. Had conduct of tours for Haj/Umrah pilgrims been a religious ceremony, there was no need to provide a separate exemption entry for Haj/Umrah pilgrimage facilitated by Government of India.

HGO [PTO] are not conducting a religious ceremony but acting as commercial entity organizing tours for persons, who wish to take journey to Saudi Arabia for Haj/Umrah. Tour operator services for conduct of religious pilgrimage of various religions, both within and outside India, is taxable under GST. Examples include tour operator service for Kashi Yatra, Chardham Yatra, Krishna Temple in USA, Buddhist Temple in Nepal, Japan etc.

Ground 3: GST exemption [Sl. No. 60 of Notification No. 12/2017-CTR and Sl. No. 63 of Notification No. 9/2017-ITR] has been granted only to the pilgrims for whom Haj Committee of India is organizes the Haj/Umrah pilgrimage and not for the pilgrims for whom HGO[PTO] organizes and conducts the pilgrimage. It is discriminatory and violative of Article 14 of the Constitution of India.

Services provided by a specified organisation in respect of a religious pilgrimage facilitated by the Government of India, under a bilateral arrangement, is exempt from GST. “Specified organizations” are Kumaon Mandal Vikas Nigam Limited, a Government of Uttarakhand Undertaking and ‘Committee’ or ‘State Committee’ as defined in section 2 of the Haj Committee Act, 2002 (35 of 2002).

GST is leviable on tour operator service for organizing Haj/Umrah pilgrimage tour. GST exemption is available only on services of religious pilgrimage facilitated by Central govt. or State govt. under a bilateral arrangement. There is no exemption available to services of religious pilgrimage of any religion provided by any private tour operator. Therefore, existing exemption available on services of religious pilgrimage facilitated by Government of India is not discriminatory. The legislature intends to exclude private tour operators from the purview of Service Tax/GST exemption. Catena of court judgments have upheld that legislature has wide latitude in taxation to choose the subject and people to be taxed.

Article 14 prohibits class legislation and not reasonable classification. It is very much within the powers of legislature to categorize goods and services for the purpose of taxation in such manner as meets the policies and objectives of the government. The legislation intends to differentiate between tour operator services rendered by public and private entities. There is no discrimination between religious pilgrims. All pilgrims who undertake Haj/Umrah pilgrimage or any other religious pilgrimage through private tour operators are treated equally.

The Constitutional bench of Supreme Court in R.K. Garg v. Union of India(1981) 4 SCC 675, laid down the test of classification by reference to article 14 was as under –

"The clarification must not be arbitrary but must be rational, that is to say, it must not only be based on some qualities or characteristics which are to be found in all the persons grouped together and not in others who are left out but those qualities or characteristics must have a reasonable relation to the object of the legislation. In order to pass the test, two conditions must be fulfilled, namely, (1) that the classification must be founded on an intelligible differentia, which distinguishes those that are grouped together from others, and (2) that differentia must have a rational relation to the object sought to be achieved by the Act."

The classification of pilgrims undertaking Haj/Umrah pilgrimage tours through Haj Committee of India under bilateral arrangement and those undertaking tours through private tour operators is based on an intelligible differentia having a rational relation to the object sought to be achieved by the statute in question. Therefore, services Tax/GST exemption on services provided by a specified organization in respect of a religious pilgrimage facilitated by Government of India under bilateral arrangement are not discriminatory and not violative of Article 14 of the Constitution.

As discussed above, the service of organizing and conduct of tour for Haj/Umrah pilgrims by private tour operators is taxable under GST. It is not covered under any of the existing exemptions from GST. Therefore, the request to not levy GST or to clarify that GST is not leviable on the same is not acceptable.

As regards the request for exemption GST on the services of Haj and Umrah tour provided by Haj Group Operators [Private Tour Operators], the same has no merit. The private tour operators supply such services on purely commercial basis to pilgrims who can afford it. GST is an indirect tax. The burden of the tax is not on the suppliers but on the recipients. The service was taxable in Service Tax also. There is no justification for granting a new exemption. Exemptions not only cause loss of revenue but also block input tax credit chain and credit distortions.

Subject: To provide level playing field to domestic MROs vis-à-vis foreign MROs by reducing GST on MRO services to 5% with full ITC and change PoS for B2B MRO Services to Location of Recipient.

Issue: Domestic aircraft maintenance repair and overhaul (MRO) industry faces comparative disadvantage vis-à-vis foreign MRO as explained below:

(i) Services provided by MRO in DTA –

The place of supply of MRO services is the location where the services are actually performed and not the location of the recipient of services, which is the general rule. As a result, services provided by Indian MRO units including SEZ units to the domestic airlines attract GST @ 18%. On the other hand, MRO services procured by the Indian airlines companies from the foreign MROs do not attract any GST. The only protection available to Indian MROs is the IGST payable u/S 3(7) of the Customs Tariff Act on aircraft/ aircraft engines sent abroad for repairs and re-imported into India after repairs on the value of repairs, freight and insurance both ways at the rate applicable on aircraft and aircraft parts which is 5% in most of the cases.

(ii) MRO services provided by Indian MROs to foreign airlines and aircraft leasing companies located outside India

A carve out has been made in the place of supply provisions, which provides that PoS of goods which are temporarily imported into India for repairs and exported after such repairs without being put to any use in India, shall be the place of location of recipient. [Identical provision existed in service tax]. MRO services provided by Indian MRO units including SEZ units to foreign aircraft leasing companies in respect of aircrafts leased to Indian airline companies are not covered by this carve out in PoS provisions. The aircrafts leased by foreign leasing companies to Indian airline companies are already in the taxable territory of India. They are not imported into India for repairs; nor are they exported out of India after repairs. The PoS of MRO services provided in respect of such aircraft is in India. Therefore, such services, even though they are supplied to the foreign leasing company and paid for in foreign exchange, are not treated as export of services and attract GST of 18%.

The MRO services provided by Indian MRO units including SEZ units to foreign airlines which operate routine flights to India are also not covered by the said carve out in PoS. The aircrafts of such foreign airlines come with passengers and depart after repairs with passengers. Such aircrafts which come on routine flights cannot be said to have been temporarily imported into India for repairs. They also cannot be said to have not been put in use in India after repairs as they carry passengers after such repairs.

(iii) MRO services sub contracted by the foreign MROs to Indian MROs

The Indian airline companies enter into annual MRO contracts with foreign MROs. The foreign MROs sub contract part of their services to Indian MROs. Though such services are provided to MROs located outside and payment is received in foreign exchange, they are not considered as export of services again because of the PoS provisions. Such services attract GST @ 18%.

2. **The present tax structure of MRO service** can be depicted as below:

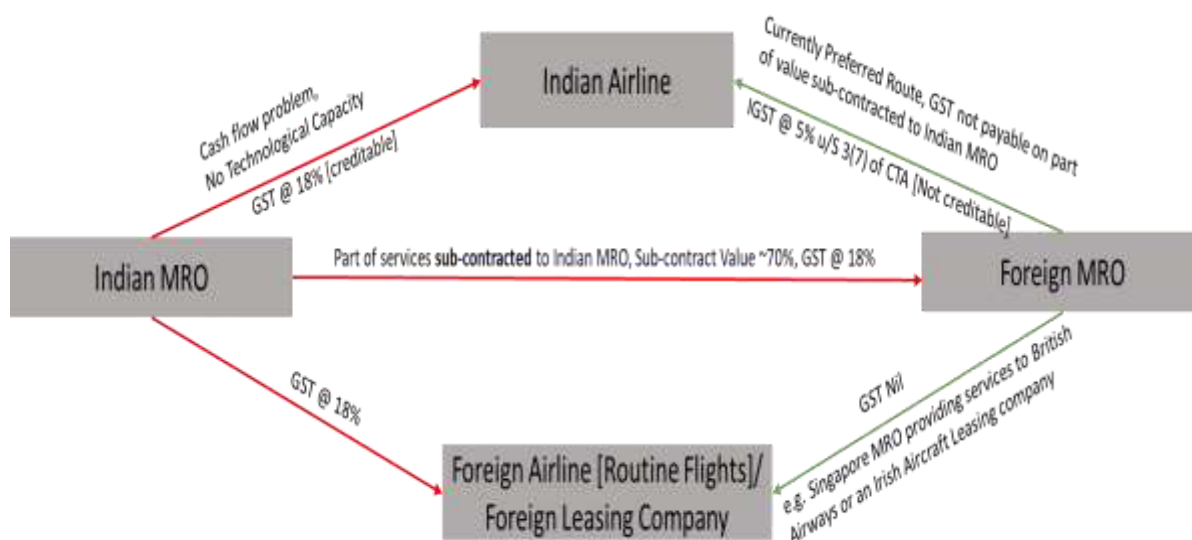


Figure 1: Present tax structure of MRO services

3. **Present status of MRO Industry in India**

At present, less than 2% of MRO service on aircrafts of Indian airlines is being performed by domestic MRO as shown below:

Table 1: MRO services availed from foreign MRO vs Indian MRO in FY 2018-19 (All values in INR Crores)

Airline	Value of MRO Services procured by Indian airlines		% of MRO Services procured by Indian airlines from Indian MRO
	from foreign MRO	from Indian MRO	
Air Asia	19	14	43%
IndiGo	2210*	47	1%
SpiceJet	1528	38	2%
Blue Dart Aviation	168	0	0%
Total	5757	100	2%

* As per annual report of Indigo.
MoCA

Source:

4. **Proposal:**

The following solution has been proposed to solve the above issues:

- Reduce GST rate on MRO services to 5% with full ITC
- Change PoS for B2B MRO Services to Location of Recipient [Notification u/S 13(13) of the IGST Act]

Advantages –

1. Services of both domestic and foreign MRO will be taxed at the same GST rate of 5%
2. Domestic MRO will get additional protection as tax paid on goods sent abroad for repairs u/S 3(7) of the CTA will not be creditable
3. Reduced additional cash flow burden on airlines

Disadvantages –

1. The domestic airlines may object to this proposal on the grounds of additional cash flow burden.
2. GST rate of 5% may cause inversion of duty structure for MRO since some spares/ parts required in MRO are taxable at more than 5%

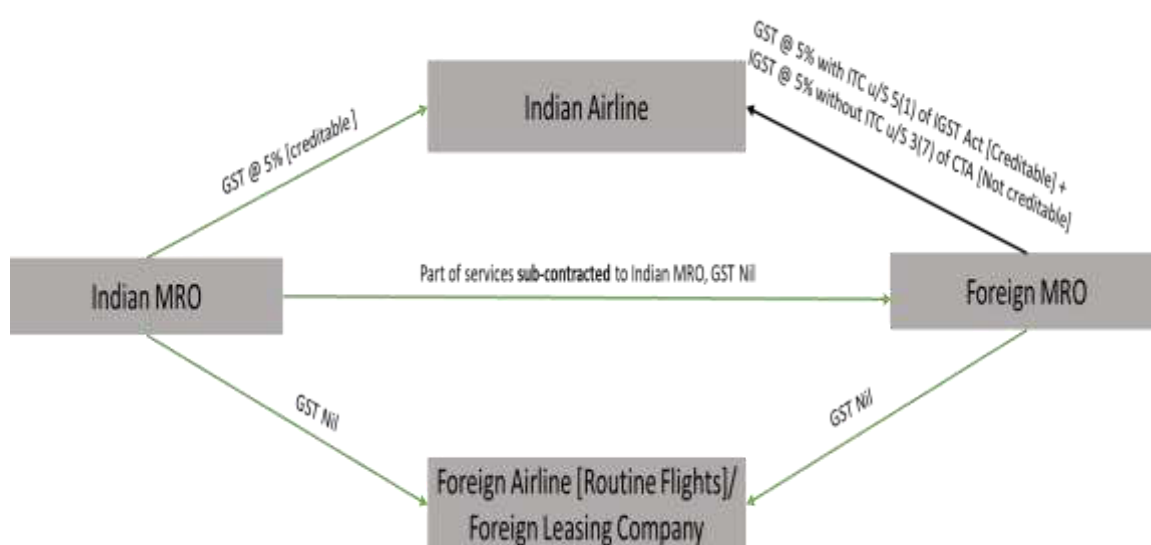


Figure 2: Proposed tax structure of MRO services

Comments of Maharashtra on the proposal:

Post circulation of the record of discussion in the Fitment Committee meeting, State of Maharashtra has conveyed comments on the proposal as under.

“So far as level playing field to domestic MROs and Indian shipping lines is concerned, we are trying to shift place of supply to outside India. However in both the cases POS change would result in Indian operators getting qualified for export (and in one contingency of MRO result in inversion). We do not have an idea of what their quantum of refund would be. However, on one side we are trying to reduce refund or do away inversion in cases of common utility items and on the other hand, here we may look like providing an advantage or favouring a particular industry. This is from public perspective, sir. This proposal will have to be justified on the basis of quantum of refund.”

Subject: To provide level playing field to Indian Shipping lines in light of the order dated 23.1.2020 of the High Court of Gujarat in the case of M/s. of Mohit Minerals Pvt. Ltd by changing the PoS of goods transport service from the place of destination of goods to the location of recipient.

Background:

Prior to 1.6.2016 (Budget 2016-17), services by way of transportation of goods by an aircraft or a vessel from a place outside India upto the customs station of clearance in India were nontaxable by virtue of being in the negative list of services [66(p)(ii)]. Export freight was not taxable since place of provision of service was outside the taxable territory of India. [POPS Rules, Rule 10]. Thus, the Indian Shipping Lines (ISL) were unable to avail input tax credit of tax paid on input goods and services. Such tax formed a part of their cost and rendered them uncompetitive vis-a-vis foreign shipping lines (FSL).

1.2 Ministry of Shipping vide letter dated 8.12.2016 had requested that either the international import and export freight may be zero rated in line with international practice, or if this is not acceptable, then, inward freight may be taxed and ITC may be allowed against non-taxable export freight. In view of the requests of the Indian Shipping Industry and other stakeholders supported by Ministry of Shipping, in order to provide level playing field to Indian shipping lines vis-a-vis foreign shipping lines, service of inward transportation of goods by a vessel was made taxable to enable Indian shipping lines to use ITC available with them against export freight. This was done in consultation with Ministry of Shipping. It was expected that while Indian Shipping lines would pay service tax on import freight through ITC, foreign shipping lines would have to pay in cash.

1.3 Subsequently, many representations were received that in order to avoid payment of service tax on inward transport, FOB contracts were being converted to CIF contracts. This was possible because services received from a provider of service located in a non- taxable territory by a person located in a non-taxable territory were exempt from service tax vide entry 34(c) of notification No. 25/2012-ST. This defeated the purpose of the amendments effected in Budget 2016-17. In order that tax is suffered by both Indian shipping lines and foreign shipping lines on inward transportation of goods, service tax exemption was withdrawn for services provided by a person located in non-taxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India vide notification No. 1/2017-ST. Liability to pay service tax on such import freight was placed on importer under RCM. Similar dispensation continues in GST.

2. Present Tax structure for Ocean Freight

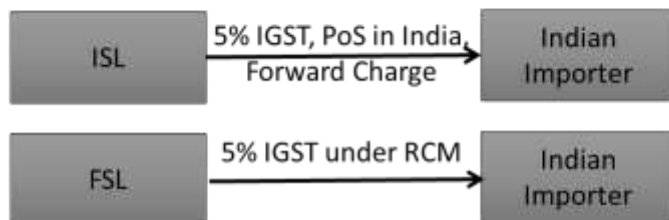
The present tax structure of Ocean Freight can be depicted as below:

Import of Goods

CIF Contracts

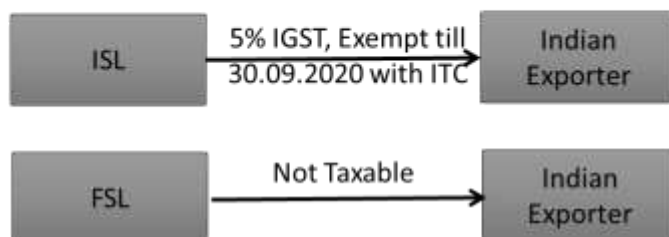


FoB Contracts

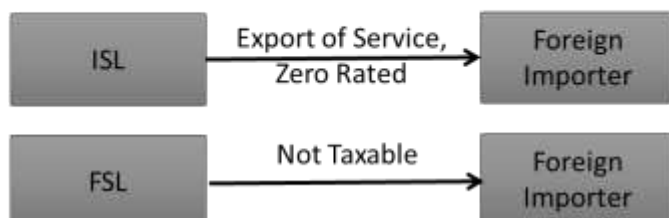


Export of goods

CIF Contracts



FoB Contracts



3. Judgment of High Court of Gujarat in the case of M/s. of Mohit Minerals Pvt. Ltd

In the order dated 23.1.2020 of the High Court of Gujarat in the case of M/s. of Mohit Minerals Pvt. Ltd. it has been held that Notification No. 8/2017 – Integrated Tax (Rate) dated 28th June 2017 and

the Entry 10 of the Notification No.10/2017 – Integrated Tax (Rate) dated 28th June 2017 which require the importer to pay IGST on ocean freight in respect to CIF consignment under RCM are ultra vires the law. The High Court has given the judgment on the following grounds:

- a) The charging section provides for payment of GST by person who is making supplies and in certain notified cases, by the recipient of supply. Thus, GST is not payable by a person who is neither a supplier nor a recipient. The provisions of section 5(3) of IGST Act does not provide for fixing the liability on any person other than the recipient.
- b) Importer has neither availed the ocean freight service nor is he liable to pay the consideration. Hence, he is not the recipient. If the importer is held to be recipient of supply of ocean freight service, then he shall also be the recipient of various other inward supply of goods and services received by the exporter of goods with regard to said imported goods. Importer can't be made to pay tax on the supposed theory that he is directly or indirectly recipient of the service. Such interpretation is unwarranted.
- c) Tax can be levied only on intra-State supplies and inter-State supplies. Provision of ocean freight service by a non-resident person to another non-resident person is neither an intra-State supply nor an inter-State supply. Therefore, notification entries taxing the said service are beyond the scope of the Act.

4. Analysis of the judgment:

4.1 The judgment is based on sound legal reasoning. It will be difficult to succeed in appeal against the same in Hon'ble Supreme Court and succeed in appeal.

4.2 The immediate consequence of this judgment is that the level playing field, which was given to Indian Shipping Lines by making importer liable to pay GST on ocean freight charged by foreign shipping lines from foreign exporter under RCM, is no longer available to Indian Shipping lines. Therefore, there is a need to find out a way to continue to provide level playing field to Indian Shipping lines despite the judgment. The issue has been examined with this view in the following paragraphs.

5. International Practice

Globally, major maritime jurisdictions have a zero-rated tax treatment for import cargo as well as export cargo transportation services. In addition to zero rating the inbound ocean freight, many countries like Canada, Singapore and Australia have zero rated local handling/ transportation and other ancillary services which are provided as a part of continuous inbound ocean freight services. Relevant extracts of the respective jurisdictions regarding freight transport are reproduced below for reference:

5.1 **UK:** To determine the VAT treatment of freight transport and related services, all of the following points are to be considered in order: the status of your customer: Whether 'in business' or not, the place of supply of services, and the liability of the supply. Freight transport and related services fall under the 'general rule' when supplied to customers 'in business'. The general rule is that the place of supply of services to a person who's 'in business' is the place where the customer belongs for the purposes of receiving your supply. The place of supply of these services that would have a place of supply in the UK under the general rule, but which

take place wholly outside the EU, is treated as taking place where performed. **If the place of supply of freight transport or related services is the UK**, the supply is standard rated, **except for**, *inter-alia*, the supply of transport or related services connected with an import to/ export from the EU or when the supply is zero-rated.

5.2 **Australia:** Subdivision 38-K (Transport and related matters) of Division 38 (GST-free supplies) of Part 3-1 (Supplies that are not taxable supplies) of Chapter 3 (Exemptions) of the GST Act of Australia states that the international transport of goods is GST free, i.e. zero rated.

5.3 **Singapore:** Section 21(1) of the Singapore GST Act zero rates international services and Section 21(3)(a)(ii) *ibid.* includes international transport by Sea in the definition of international services.

5.4 **Canada:** A supply of a freight transportation service in respect of tangible personal property from a place in Canada to a place outside Canada is zero-rated under section 6 of Part VII of Schedule VI where the value of the consideration for the supply is \$5 or more.

6. Proposal:

The objective of providing level playing field to Indian Shipping Lines can be achieved by changing the place of supply of goods transport service from the place of destination of goods to the location of recipient. This would ensure that both Indian Shipping Lines and Foreign Shipping Lines have identical liability to pay or not pay IGST on transportation of goods by vessel (inward, outward or coastal) in both CIF and FOB contracts. A tabular representation of taxability of the said service with the proposed PoS is as under:

Contract	Supplier	Recipient	PoS	Tax Liability	Liability on
Import Ocean Freight					
FoB	ISL	Indian Importer	India	Taxable with ITC available to importer	ISL
FoB	FSL	Indian Importer	India	Taxable under RCM with ITC available to importer	Indian Importer
CIF	ISL	Overseas Exporter	Outside India	Zero rated (Export of service)	ISL
CIF	FSL	Overseas Exporter	Outside India	Outside GST (Neither inter-State nor intra-State supply)	NA
Export Ocean Freight					
FoB	ISL	Overseas Importer	Outside India	Zero rated (Export of service)	ISL
FoB	FSL	Overseas Importer	Outside India	Outside GST (Neither inter-State nor intra-State supply)	NA
CIF	ISL	Indian Exporter	India	Taxable with ITC available to exporter (currently exempt upto 30.9.2020)	ISL
CIF	FSL	Indian Exporter	India	Taxable with ITC available to exporter (currently exempt upto 30.9.2020)	Indian Exporter

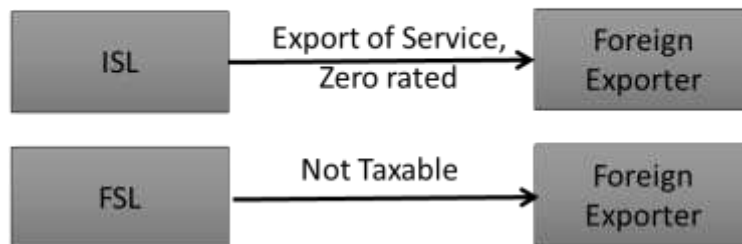
Note: - ISL – Indian Shipping Line, FSL – Foreign Shipping Line

6.1 International VAT/GST Guidelines by OECD also state that the general rules on place of taxation for business-to-business supplies will lead to an appropriate result when considered against the criteria set out in Guideline 3.7 (Neutrality, Efficiency of compliance and administration, Certainty and simplicity, Effectiveness and Fairness) in most circumstances.

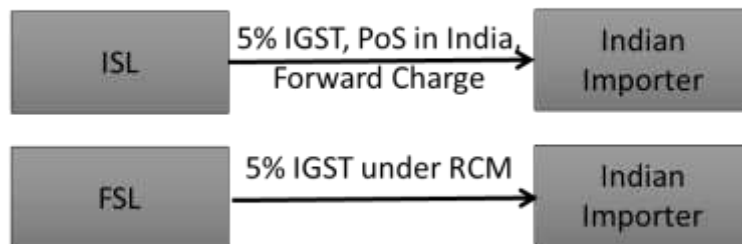
Proposed Tax structure for Ocean Freight

Import of goods

CIF Contracts



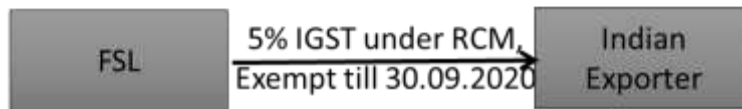
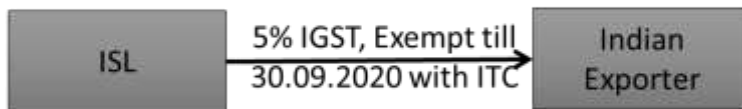
FoB Contracts



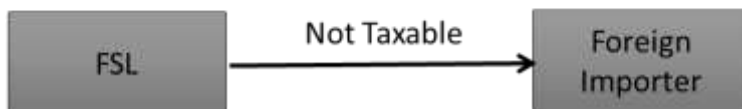
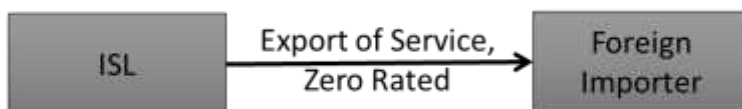
Creditable in both cases

Export of goods

CIF Contracts



FoB Contracts



Subject: Proposal to tax job work service in relation to manufacture of alcoholic liquor for human consumption @ 18%– reg.

Law Committee, in its meeting dated 28.01.2020 has recommended to issue a clarification that in an arrangement where a contract manufacturing unit i.e. TMU/CBU undertakes to manufacture alcoholic liquor for human consumption for and on behalf of brand owner (BO), and receives consideration in the form of bottling charges, conversion charges or in any other name or form, such consideration is taxable. It is also proposed to clarify that the said service supplied by CBU/ TMU to BO shall be classified as ‘manufacturing services on physical inputs (goods) owned by others’ under heading 9988 of scheme of classification of services annexed to the notification No. 11/ 2017- Central Tax (Rate) dated 28.06.2017 which currently attracts GST rate of 18% under Sl. No. 26(iv) of the said notification.

2. Reason why manufacture of alcoholic liquor by a contract manufacturer for the brand owner will not be eligible for GST of 12% prescribed for ‘job work’ under entry 9988, Sl. No. 26(id) of notification No. 11/ 2017- CTR is that, an activity qualifies as job work only if it is carried out on goods belonging to a registered person. Alcoholic liquor is outside GST and therefore brand owner is not required to take registration under GST. However, brand owner may take registration for selling mineral water and carbonated water etc. and avail lower rate of GST of 12% as applicable to job work.

3 The rate of GST on job work was reduced to 12% mainly on the ground that ITC of the same is available to the principal manufacture and reduction in GST would not affect revenue. In sectors, where the principal supplier is not eligible for ITC, there is no justification for reduced rate of 12% on job work.

4 It has been ascertained that GST @ 18% is being paid in most cases. However, in isolated cases TMUs are claiming alcoholic liquor as food products and paying GST @ 5% as applicable on job work service in relation to food and food products falling under chapters 1 to 22 in the First Schedule to the Customs Tariff Act, 1975 (sl. No. 26 (i)(f) of the notification No. 11/2017- CTR refers) being alcoholic beverage as food products. It has been stated that definition of ‘food’ under section 3 (j) of the Food Safety and Standards Act, 2006 covers alcoholic drinks.

Proposal:

5. Therefore, to avoid dispute and litigation it is proposed that,-

- (a) services by way of job work in relation to manufacture of alcoholic liquor for human consumption may be excluded from the residual entry for job work service at 9988 (id) prescribing 12% rate of GST and taxed at 18% as has been done in case of job work related to bus body building.
- (b) An explanation may be inserted at entry 9988 (i)(f) of the notification no 11/ 2017- CTR which prescribes GST rate of 5% for job work services in relation to food and food products to the effect that “ for removal of doubts it is clarified that food and food products excludes alcoholic beverages for human consumption”.

Comments of Tamil Nadu and Maharashtra on the proposal:

Post circulation of the record of discussion in the Fitment Committee meeting, State of Tamil Nadu and Maharashtra have conveyed comments on the proposal as under.

Tamil Nadu:

“..... Alcoholic beverages are treated as food products as per the definition of ‘food’ under section 3 (j) of the Food Safety and Standards Act, 2006 it goes without any dispute that alcoholic drinks are only food products.

As per Notification No. 11/2017 – Central Tax (Rate) as amended by Notification No.31/2017-Central Tax (Rate), dated 13th October, 2017 at serial No. 26(i)(f), “ the job work services in relation to manufacture all food and food products” falling under Chapters 1 to 22 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) is taxable at 5%(2.5% SGST and 2.5% CGST). This is specific entry available in the above said Notification.

Accordingly as per the specific entry available as above, the job work services in relation to manufacture of alcoholic liquor for human consumption is to be assessed at 5% under GST. Currently job work of alcoholic liquor for human consumption are being levied GST at 5% only. They cannot be compared with bus body building, where the nature of job work and the product manufactured is totally different.

Increasing tax rates to 18 percent will adversely affect the interests of State revenues in a different manner. States have the domain over the above goods for taxation and the States have flexibility in altering the rate of tax on the sale of Alcoholic Liquor for Human Consumption and few more goods only. The proposed change will affect the ability of the States to alter tax rates on alcohol for human consumption and reduce their fiscal manoeuver ability.

Any increase in tax in the manufacturing process of alcoholic liquor will result in demand from manufacturers for increasing the MRP as these taxes get embedded in the costs and increase their cost of production. As it is, State Government has been taxing alcohol at high rates. The proposed increase will therefore result in demand for corresponding reduction of State Tax on alcohol or increase in MRP both of which are undesirable from States’ point of view.....”

Maharashtra:

“So far as the rate of tax on Job Work in relation to manufacture of alcoholic liquor for human consumption is concerned, Maharashtra agrees with the views expressed by Tamil Nadu to the extent that rate of tax may be considered at 5% instead of 18% for the reason that flexibility for upward revision in State Excise Duty is available to the state.”

Confidential



Table Agendas for 39th GST Council Meeting

14 March 2020



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Table Agenda

39th GST Council Meeting – 14th March 2020

Agenda Item 11 (i): An incentive scheme for consumers to increase invoice compliance in B to C supply

In the sale-purchase or supply-receipt transactions, a tax invoice is the only proof of the transaction between the supplier and the recipient. It contains details of the supplies made, transaction value and the amount of tax collected/payable. Once a supplier issues the invoice to the customer, it become difficult, if not impossible, to suppress the supply. For a B2C transaction settled by the customer in cash, chances of suppression and consequent evasion of tax by the supplier are very high if invoice is not issued.

2. It is known practice that in many cases when the customer demands invoice, he may be enticed by the seller to not ask for the invoice by sharing a part of tax saved or by ‘enticing’ the customer about the money potentially saved if invoice is not issued. Therefore, measures to incentivise consumer as well as supplier need to be urgently taken.

3. Further, Government of India seeks to promote digital payment methods to encourage consumers and merchants to increasingly shift to these payment modes. Promotion of digital payments usage will enhance efficiency of tax collection by bringing the hitherto informal economy into formal economy thereby also potentially enhancing the tax base as well as strengthening tax collection efforts by capturing such transactions.

4. In order to wean the consumers and supplier away from the attraction of saving money (tax) by not asking/issuing invoice, a scheme of periodical lucky draw. The salient features of the proposed scheme will be as follows:

- 1) In this scheme a B2C invoice for which payment has been done successfully using digital mode- RuPay Cards or UPI a consumer shall be eligible for prize.
- 2) Financial transactions for Rs. 100 to Rs. 10,000/- to be eligible for the scheme;
- 3) Credit cards spends will not be covered under scheme;
- 4) This scheme shall be administered by NPCI.
- 5) The prizes winner shall be identified by NPCI through a random selection from amongst the Digital transactions IDs generated.
- 6) There will be a live cast of the draw of prizes.
- 7) Initially scheme shall be for 1 year.
- 8) Prizes will be as follows:
 - a) 1 Bumper Prize of Rs. 1 Cr./month;
 - b) 100 prizes of Rs. 1 lakh each;
 - c) 5000 prizes of Rs. 5000 each.
- 9) Bumper Prize will be disbursed in Public function;
- 10) Reward will be shared between Consumer and Supplier in ratio 3:1;
- 11) Winner will be informed via SMS and e-mail to mobile no. and email address linked to the bank account;
- 12) Prize money will be credited directly in bank account of the winner by NPCI only;

- 13) Winner consumer will be eligible for prize in subsequent months too- except the bumper prize;
 - 14) Officers of NPCI and GST Department along with their immediate family members will not be eligible for scheme.
5. It is proposed to meet the expenditure for the scheme of Rs. 54 Crore, out of the Consumer Welfare Fund of the Centre as well of the States. It is further proposed that half of the amount will be contributed by Centre and remaining half by all the States conjointly.
6. The issue is placed for approval of GST Council.

Table Agenda

39th GST Council Meeting – 14th March 2020

Agenda Item 11 (ii): Issuance of Circular clarifying certain refund related issues

Master Circular on refunds was issued vide Circular No. 125/44/2019-GST dated 18.11.2019. However, due to changes in the GST Acts and Rules subsequent to issuance of aforesaid circular, there is a need to align the provision of the said circular with the amended provisions of the Acts and Rules. Further, various references have been received from the field formations and the people of trade/ industry to clarify certain issues relating to the refunds.

2. Thus, to discuss all the issues pertaining to refund together, a consolidated agenda on refund related issues was placed before the Law Committee in the meeting held on 02.03.2020 wherein the Law Committee has recommended for issuance of circular to clarify the following issues:

- i. **No Refund of accumulated input tax credit (ITC) on account of reduction in GST Rate**
- ii. **Refund of unutilized ITC to be restricted to the ITC available in GSTR-2A of the relevant period**
- iii. **Provision for providing HSN/SAC code in the statement of invoices to be furnished with the refund of unutilized ITC, wherever applicable**
- iv. **Clubbing of Financial Years for filing refund**
- v. **Manner of calculation of refund, in cases of refund of tax provided at S. No. (i) to (l) of para 3 of Circular No. 125/44/2019-GST dated 18.11.2019.**

3. Accordingly, a draft circular, prepared as per the recommendations of the Law Committee, is placed before the GST Council as Annexure for consideration and approval. To ensure uniformity and consistency in implementation of these provisions, states would also be required to issue similar circular.

Draft Circular
CBEC-20/01/06/2019-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the, 2020

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/ Commissioners of Central Tax (All)

The Principal Director Generals/ Director Generals (All)

Madam/Sir,

Subject: Clarification on refund related issues – Reg.

Various representations have been received seeking clarification on issues relating to refund. In order to clarify these issues and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”), hereby clarifies the issues detailed hereunder:

2. Refund of accumulated input tax credit (ITC) on account of reduction in GST Rate

2.1 It has been brought to the notice of the Board that various applicants are seeking refund of unutilized ITC on account of inverted duty due to change in the GST rate on goods. The same can be explained through an illustration. An applicant trading in goods has purchased, say goods “X” at 18%. Subsequently, the rate of GST on “X” has reduced to, say 12%. Accordingly, there has been accumulation of ITC in respect of goods lying in stock. Such applicants have sought refund of accumulated ITC under clause (ii) of sub-section (3) of section 54 of the CGST Act.

2.2 Refund of accumulated ITC in terms clause (ii) of sub-section (3) of section 54 of the CGST Act is applicable where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies. It is hereby clarified that refund of unutilized ITC under clause (ii) of sub-section (3) of section 54 of the CGST Act is not permitted when ITC has been accumulated on account of reduction in the rate of tax. It is further clarified that refund of accumulated ITC under clause (ii) of sub-section (3) of section 54 of the CGST Act would not be applicable in cases where the input and the output supplies are classified under the same Tariff Heading.

3. Guidelines for refunds of unutilized Input Tax Credit

3.1 As per para 36 of circular No. 125/44/2019-GST dated 18.11.2019, the refund of ITC availed in respect of invoices not reflected in **FORM GSTR-2A** was admissible. However, in wake of insertion of sub-rule (4) to rule 36 of the CGST Rules, 2017 vide notification No. 49/2019-GST dated 09.10.2019, various references have been received from the field formations regarding admissibility of refund of the ITC availed on the invoices which are not reflecting in the **FORM GSTR-2A** of the applicant

3.2 The matter has been examined and it has been decided that the refund of accumulated ITC shall be restricted to the ITC available in the **FORM GSTR-2A** of the applicant. Accordingly, para 36 of the circular No. 125/44/2019-GST, dated 18.11.2019 stands modified to above extent.

4.1 References have also been received from the field formations that HSN wise details of goods and services are not available in **FORM GSTR-2A** and therefore it is very difficult to distinguish ITC on capital goods or input services out of total ITC for a relevant tax period. It is recommended for inclusion of a column relating to HSN Code in the statement of invoices relating to inward supply as provided in **Annexure-B** of the circular No. 125/44/2019-GST dated 18.11.2019 so as to easily identify between the supplies of goods and services.

4.2 The issue has been examined and accordingly, a modified statement format is attached for applicants to upload the details of invoices reflecting in their **FORM GSTR-2A**. Accordingly, **Annexure-B** of the circular No. 125/44/2019-GST, dated 18.11.2019 stands modified to above extent. It is further clarified that the applicant is required to mention the HSN/SAC code which is mentioned on the invoice pertaining to input supply. In case where the supplier is not mandated to mention HSN/SAC code on the invoice, the applicant shall refrain from mentioning HSN/SAC code against that supply.

5. Clubbing of Financial Years for filing refund

5.1 Hon'ble Delhi High Court in Order dated 21.01.2020, in the case of M/s Pitambra Books Pvt Ltd., vide the para 13 of the said order has stayed the rigour of paragraph 8 of Circular No. 125/44/2019-GST dated 18.11.2019 and has also directed the Government to either open the online portal so as to enable the petitioner to file the tax refund electronically, or to accept the same manually within 4 weeks from the order.

5.2 The restriction on clubbing of tax periods across different financial years was put in vide para 11.2 of the Circular No. 37/11/2018-GST dated 15.03.2018. The said circular was rescinded by the Master Circular on Refunds No. 125/44/2019-GST dated 18.11.2019 and the said restriction on the clubbing of tax periods across financial years for claiming refund has been continued vide Paragraph 8 of the Circular No. 125/44/2019-GST dated 18.11.2019, which is reproduced as under:

*“8. The applicant, at his option, may file a refund claim for a tax period or by clubbing successive tax periods. **The period for which refund claim has been filed, however, cannot spread across different financial years.** Registered persons having aggregate turnover of up to Rs. 1.5 crore in the preceding financial year or the current financial year opting to file FORM GSTR-1 on quarterly basis, can only apply for refund on a quarterly basis or clubbing successive quarters as aforesaid. However, refund claims under*

categories listed at (a), (c) and (e) in para 3 above must be filed by the applicant chronologically. This means that an applicant, after submitting a refund application under any of these categories for a certain period, shall not be subsequently allowed to file a refund claim under the same category for any previous period. This principle / limitation, however, shall not apply in cases where a fresh application is being filed pursuant to a deficiency memo having been issued earlier.”

5.3 Hon’ble Delhi High Court vide para 12 of the aforesaid order dated 21.01.2020 has observed that **the Circulars can supplant but not supplement the law. Circulars might mitigate rigours of law by granting administrative relief beyond relevant provisions of the statute, however, Central Government is not empowered to withdraw benefits or impose stricter conditions than postulated by the law.**

5.4 On perusal of the provisions under Section 16(3) of the IGST Act 2017 and Section 54(3) of CGST Act 2017, there appears no bar in claiming refund by clubbing different months across successive Financial Years. The said restriction has been placed vide the above-mentioned Circular only.

5.5 Further, same issue has been raised in other representations, especially those received from the merchant exporters wherein merchant exporters have received the supplies of goods in the month of March and have made exports in the next Financial Year i.e. from April onwards. The restriction imposed vide para 8 of the master refund circular prohibits the refund of ITC accrued in such cases as well.

5.6. The issue has been examined and it is decided that to remove the restriction on clubbing of tax periods across financial years. Accordingly, the circular No. 125/44/2019-GST dated 18.11.2019 stands modified to that extent.

6. Manner of calculation of refund

6.1 Circular No. 125/44/2019-GST dated 18.11.2019 in para 3 of the said circular has classified the refunds to be filed in FORM GST RFD-01 in the following types:

- a. Refund of unutilized input tax credit (ITC) on account of exports without payment of tax;
- b. Refund of tax paid on export of services with payment of tax;
- c. Refund of unutilized ITC on account of supplies made to SEZ Unit/SEZ Developer without payment of tax;
- d. Refund of tax paid on supplies made to SEZ Unit/SEZ Developer with payment of tax;
- e. Refund of unutilized ITC on account of accumulation due to inverted tax structure;
- f. Refund to supplier of tax paid on deemed export supplies;
- g. Refund to recipient of tax paid on deemed export supplies;
- h. Refund of excess balance in the electronic cash ledger;
- i. Refund of excess payment of tax;**
- j. Refund of tax paid on intra-State supply which is subsequently held to be inter-State supply and vice versa;**
- k. Refund on account of assessment/provisional assessment/appeal/any other order;**

I. Refund on account of “any other” ground or reason.

6.2 For the refunds specified at S. No. (i) to (l) above, no separate debit of ITC from electronic credit ledger is made by the applicant for claiming refund. Further, the total tax would have been paid by the applicant by debiting amount from both electronic credit ledger and electronic cash ledger. At present, in these cases, the amount of refund, if admissible, is paid in cash even when such payment of tax has been made through ITC and any amount, if rejected, lapses unlike in cases of refund on account of zero-rated supplies or deemed exports or inverted duty structure where the amount so rejected is automatically re-credited to the electronic credit ledger.

6.3 However, in wake of amendment of CGST Rules 2017 vide Notification No. _____ dated ____ to provide for re-credit of ITC in the electronic credit ledger by way of issuance of Form GST PMT-03 by the proper officer in cases where the payment of tax has been made by the way of debit of ITC from the electronic credit ledger, it has been decided that in the cases involving refund of tax, the refund shall be calculated in the following manner:

In cases of refund where the tax to be refunded has been paid by debiting by both electronic cash and credit ledgers, the refund to be paid in cash and credit shall be calculated in the same proportion in which the cash and credit ledger has been debited for discharging the total tax liability for the relevant period for which refund has been filed. Such amount, if admissible, to be paid in Cash shall be sanctioned vide issuance of order in GST RFD-06 and for the remaining amount FORM GST PMT-03 shall be issued to re-credit the amount as ITC in the electronic credit ledger.

7. It is requested that suitable trade notices may be issued to publicize the contents of this circular.

8. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

(Yogendra Garg)
Principal Commissioner (GST)

Annexure-B

Statement of invoices to be submitted with application for refund of unutilized ITC

Sr . N o.	GSTIN of the Supplier	Name of the Supplier	Invoice Details			Type	<u>HSN/SAC</u>	Central Tax	State Tax/ Union Territory Tax	Integrated Tax	Cess	Eligible for ITC	Amount of eligible ITC
			Invoice No.	Date	Value	Inputs/Inputs Services/capital goods						Yes/No/Partially	
1	2	3	4	5	6	7	8	9	10	11	12	13	14

Table Agenda

39th GST Council Meeting – 14th March 2020

Agenda Item 11 (iii): Physical verification and KYC of persons willing to take registration within first six months and corresponding spike rule

At present, registration is deemed to be granted in three days. Further, the same is granted without getting any physical verification done. It has been observed that the instances of fake invoicing and fraudulent passing of ITC have been unearthed by tax authorities and in many such cases the registered persons are either untraceable or dummy operators. This has led to revenue losses due to wrongful monetization of fake ITC through refunds.

2.1 As one of the methods to curb such a menace, it is proposed that physical verification of premises and Financial KYC of persons willing to obtain registration may be done. The same may be required to be completed before obtaining the registration or within six months of obtaining the registration. In case a person opts to get his verification done within six months of obtaining the registration, it is proposed to put restriction in the quantum of ITC that can be passed by him to the extent of rupees 3 lakhs per month. Facility would be provided to him to pass on the additional ITC, beyond the limit set, on deposit of 20% of additional amount in cash ledger. Further, no refund would be allowed to taxpayers for the period during which the verification / KYC has not been completed.

2.2 It is pertinent to note that in FY 2018-2019, a total of 12,67,893 new registrations were granted of which only 20,302 (**about 2%**) taxpayers were such whose liability of tax was greater than Rs. 3 lacs on an average per month in the first 6 months from registration. The limit of Rs. 3 Lacs of passing ITC per month translates into a turnover of approx Rs. 3 Crores in B2B transaction only while B2C transaction remain unaffected.

2.3 It is also important to note that the taxpayer on his own may also opt for a full financial KYC and physical verification of premises and such restrictions and limitations shall cease to apply after positive verification.

3. The proposal above would ensure that GST registration process complies with the EODB provisions and a comprehensive check is done for the high risk (owing to large volume) businesses which push and/ or avail high levels of ITC. The issue has been deliberated in the Law Committee on 09.03.20 and the Law Committee has recommended amendment in the provisions of the CGST Rules to enable the implementation of above recommendation. Draft rule amendment is placed as **Annexure A** to this agenda.

4. The issue is placed before the GST Council for deliberation and in principal approval and the modalities and process of implementation and the consequent changes in law may be deliberated by GST Policy Wing in consultation with GSTN.

Amendment in CGST Rules in order to operationalize Spike Rule

Step 1 – Registration is possible only for someone who has undergone physical verification and submitted (and got verified by the proper officer) documents for physical and financial KYC as per a prescribed FORM. Suggested amendment in Rule 8 with powers derived under section 25 (1).

8. Application for registration.-(1) Every person, other than a non-resident taxable person, a person required to deduct tax at source under section 51, a person required to collect tax at source under section 52 and a person supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) who is liable to be registered under sub-section (1) of section 25 and every person seeking registration under sub-section (3) of section 25 (hereafter in this Chapter referred to as “the applicant”) shall, before applying for registration,-

- (a) declare his Permanent Account Number, mobile number, e-mail address, State or Union territory in **Part A of FORM GST REG-01** on the common portal, either directly or through a Facilitation Centre notified by the Commissioner;
- (b) undergo physical verification of his premises from where he intends to make a taxable supply of goods or services or both; and
- (c) submit such details and such documents, and get them verified by the proper officer, for undergoing a general and financial KYC, which the Government may, on the recommendations of the Council, prescribe in this behalf, in **FORM GST KYC- 1**:

~~[Provided that a person having a unit(s) in a Special Economic Zone or being a Special Economic Zone developer shall make a separate application for registration as a business vertical distinct from his other units located outside the Special Economic Zone:]¹~~

Provided [further]² that every person being an Input Service Distributor shall make a separate application for registration as such Input Service Distributor:

Provided further that applicants shall have the option to obtain registration without furnishing the details in **FORM GST KYC-1** and undergoing a physical verification, subject to the following conditions and restrictions, -

- (a) such registered persons shall, within six months of grant of his registration -
 - (i) undergo his physical verification of the registered premises; and
 - (ii) submit details and documents in **FORM GST KYC-1**,
- (b) such registered persons after grant of registration, for the first six months or till the time physical verification of registered premises is completed along with furnishing of **FORM GST KYC-1**, whichever is earlier,
 - (i) shall not be allowed to pass on the input tax credit beyond a value of rupees three lakhs per month in respect of supplies made by him, except where he deposits in his electronic cash ledger an

¹ Omitted vide Notf no. 03/2019-CT dt. 29.01.2019 wef 01.02.2019

² Omitted vide Notf no. 03/2019-CT dt. 29.01.2019 wef 01.02.2019

amount equivalent to 20 per cent. of additional input tax credit, he intends to pass, in blocks of rupees one lakh, and

(ii) shall not be eligible for any refund for the said period.

Step 2 – Refund for zero rated supplies not eligible to any person who has not undergone physical verification (possible for existing taxpayers) or who has been granted preferential registration (by opting to not get physical verification and KYC done but agreeing to not take refunds and pass on limited amount of ITC). Suggested insertion of Rule 97B with powers derived under section 16 (2) of the IGST Act.

97B. Non-eligibility of refunds.- Notwithstanding anything contained in this Chapter, for any process or procedure prescribed herein, a registered person who has obtained registration under second proviso to sub-rule (1) of rule 8 making zero rated supply shall not be eligible to claim refund for the first six months of registration or till the time physical verification of registered premises is completed along with furnishing of **FORM GST KYC-1**, whichever is earlier .

Step 3 – ITC beyond rupees three lakhs and such additional amounts as deposited in the electronic cash ledger by a person obtaining preferential registration (by opting to not get physical verification and KYC done but agreeing to not take refunds and pass on limited amount of ITC) to be barred by law. Suggested amendment in Rule 59(3) and 36(4) with powers derived under section 41 (1).

59 (3) Subject to the restrictions contained in sub-rule (1) of rule 8, the details of outward supplies furnished by the supplier shall be made available electronically to the concerned registered persons (recipients) in **Part A of FORM GSTR-2A**, in **FORM GSTR-4A** and in **FORM GSTR-6A** through the common portal after the due date of filing of **FORM GSTR-1**:

36 (4) Input tax credit to be availed by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers under sub-section (1) of section 37, shall not exceed 10 per cent. of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded, by the suppliers under sub-section (1) of section 37.

Step 4 – Dormant taxpayers, or taxpayers whose registration is liable to be cancelled, are potentially risky and may be suspended automatically, and if such taxpayers ask for revocation of suspension before subsequent cancellation, the criteria to be followed for new registration to be applied on them before revoking the suspension. Suggested amendment in Rule 21A, 22(4) and 23(2)(a) with powers derived under section 30 (1).

21(A) (2) Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled under section 29 or under rule 21, or the registered person has not furnished returns under section 39 for more than four months or has furnished nil return for more than six months, he may, after affording the said person a reasonable opportunity of being heard, suspend the registration of such person with effect from a date to be determined by him, pending the completion of the proceedings for cancellation of registration under rule 22.

22 (4) Where the reply furnished under sub-rule (2) is found to be satisfactory, the proper officer shall drop the proceedings and pass an order in **FORM GST REG –20**:

[Provided that where the person instead of replying to the notice served under sub-rule (1) for contravention of the provisions contained in clause (b) or clause (c) of sub-section (2) of section 29, furnishes all the pending returns and makes full payment of the tax dues along with applicable interest and late fee, the proper officer shall drop the proceedings and pass an order in **FORM GST-REG 20**]³

Provided further that the proper officer shall, before dropping the proceedings under this sub-rule, ensure that the registered person, shall,-

- a) undergo physical verification of his premises from where he intends to make a taxable supply of goods or services or both; and
- b) submit such details and such documents, and get them verified by the proper officer, for undergoing a general and financial KYC, which the Government may, on the recommendations of the Council, prescribe in this behalf, in **FORM GST KYC- 1**.

23 (2) (a) Where the proper officer is satisfied, for reasons to be recorded in writing, that there are sufficient grounds for revocation of cancellation of registration, he shall revoke the cancellation of registration by an order in **FORM GST REG-22** within a period of thirty days from the date of the receipt of the application and communicate the same to the applicant:

Provided that the proper officer shall, before revocation of cancellation under this sub-rule, ensure that the registered person, shall,-

- (a) undergo physical verification of his premises from where he intends to make a taxable supply of goods or services or both; and
- (b) submit such details and such documents, and get them verified by the proper officer, for undergoing a general and financial KYC, which the Government may, on the recommendations of the Council, prescribe in this behalf, in **FORM GST KYC- 1**.

³ Inserted vide Notf no. 39/2018-CT dt. 04.09.2018

Table Agenda

39th GST Council Meeting – 14th March 2020

Agenda Item 11 (iv): Proposed amendments in the CGST Act, 2017

Various representations, suggestions received and other feedbacks brought to notice through social, electronic and print media regarding issues / difficulties in the GST regime faced by trade and industry. On examination and analysis of the above, it was felt that certain amendments in the GST laws may be carried out.

2. The Law Committee in its meeting held on 09.03.2020 has recommended some of the amendments in the GST law. **The rationale and the proposed amendment is annexed to this Agenda Note.** The proposed amendments are for Revenue Augmentation measures and Enforcement measures.

2. Following sections are proposed to be amended.

Sl. No.	Sections to be amended	Purpose
1	CGST - 83	Enforcement measures
2	CGST – 129/130	Revenue Augmentation and Enforcement measures
3	CGST – 74/107	Consequential to amendment in sections 129 / 130

3. The above proposals for amendment in the CGST Act, 2017, as recommended by the Law Committee is placed before the GST Council for approval. The exact wordings of the amendments shall be finalised in consultation with the Union Law Ministry. Similar amendments in law would have to be made in the respective SGST Acts as well.

Enclosed: Annexure A

LAW AMENDMENT PROPOSALS – CGST Act, 2017

Sl. No.	Section	Gist of issue	Proposal	Suggested formulation	Consequential changes
1.	83	Reference has also been received from the state of Gujarat drawing attention towards Order dated 17.12.2019 of the Hon'ble High Court of Gujarat on SCA No. 19533 of 2019 filed by M/s Kushal Ltd quashing and setting aside the provisional attachment of the bank account on the ground that " <i>the proceedings under section 67 of the GST Acts are no longer pending and pursuant to the search, proceedings under any of the other sections mentioned in section 83 have not been initiated. Under the circumstances, on the date when the orders of provisional attachment came to be made, the basic requirement for exercise of powers under section 83 of</i>	<p>The issue of an amendment by insertion of an explanation in section 83 has been examined and it is observed that section 83 needs to be substantially amended to make it more comprehensive.</p> <p>In addition to the draft proposal as shown in next column, it was also deliberated as to <u>whether Commissioner should exercise the power of provisional attachment or it should be given to an officer not below the rank of Joint Commissioner.</u></p> <p>There were differing views on this. Few members opined that the power to be assigned to Joint Commissioner, mainly on the ground that it may</p>	<p><u>Draft as recommended by Law Committee</u></p> <p>83. Provisional attachment to protect revenue in certain cases.-(1) Where <u>any proceedings has been initiated under chapter XII, Chapter XIV or Chapter XV, during the pendency of any proceedings under section 62 or section 63 or section 64 or section 67 or section 73 or section 74 of assessment or determination of tax on supplies escaping levy of tax,</u> and the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue, it is necessary so to do, he may, by order in writing attach provisionally any property, including bank account, belonging to the taxable person <u>or any person specified in sub-section (1A) of Section 122</u> in such manner as may be prescribed."</p> <p>(2) Every such provisional attachment shall cease to have effect after the expiry of one year from the date of the order made under sub-section (1).</p> <p><u>Draft as circulated to Law Committee</u></p>	

		<p><i>the GST Acts was not satisfied”.</i></p>	<p>not be possible for Commissioner in geographically large State to exercise this power expeditiously.</p> <p><u>It may also be deliberated whether provisional attachment of property is to be restricted to taxable person or it should be done for beneficial owner also.</u></p>	<p>83. Provisional attachment to protect revenue in certain cases.-(1) Where during the pendency of any proceedings under section 62 or section 63 or section 64 or section 67 or section 73 or section 74 <u>of assessment or determination of tax on supplies escaping levy of tax</u>, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue, it is necessary so to do, he may, by order in writing attach provisionally any property, including bank account, belonging to the taxable person in such manner as may be prescribed.”</p> <p>(2) Every such provisional attachment shall cease to have effect after the expiry of one year from the date of the order made under sub-section (1).</p>	
2.	129 / 130 / 74	<p>1. Section 129 is for detention, seizure and release of goods and conveyances in transit. Section 67 covers all other cases of seizure. Section 130 covers is for confiscation of goods or conveyances and levy of penalty. However, both section 129 and 130 starts with a non-obstante clause</p>	<p>1. It is proposed to de-link section 130 from the proceedings under section 129 by amending the sub-section (6) of section 129. Similar provision existed in many State VAT Acts.</p> <p>2. The words “Notwithstanding anything contained in this Act” in</p>	<p>129. Detention, seizure and release of goods and conveyances in transit</p> <p>(1) Notwithstanding anything contained in this Act, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the rules made thereunder, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or</p>	<p>130. (1) Notwithstanding anything contained in this Act, if <u>If</u> any person—</p> <p>(i) supplies or receives any goods in contravention of any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or</p> <p>(ii) does not account for any goods on which he is liable to pay tax under this Act; or</p> <p>(iii) supplies any goods liable to tax under this Act without having applied for registration; or</p>

	<p>which creates confusion whether confiscation can be done without seizure.</p> <p>2. Explanation to section 74 prescribes that proceedings under section 129 and 130 are deemed to be concluded in case the person liable to pay tax under section 73/74 concludes the proceedings by paying tax, interest and applicable penalty.</p> <p>ii. Section 131 provides that confiscation or penalty not to interfere with other punishments.</p> <p>3.i. Section 129 (1) (a) and (b) states that detention and seizure shall be released on payment of the applicable tax and penalty. When the applicable tax and amount is not paid, confiscation proceedings under section 130 would be initiated.</p> <p>ii. Penalty and fine is detailed in section 130 (1) and 130(2). However,</p>	<p>section 130 may be omitted.</p> <p>3. Section 129 and 130 to be omitted from Explanation to section 74 so as to allow seizure and confiscation a separate proceeding from recovery of tax under section 73/74</p> <p>4. i. The words “on payment of the applicable tax and” may be omitted from 129(1)(a) and (b). Related changes would be required in other clauses of section 129 so as to allow demand of only penalty and fine.</p> <p>ii. Sub-section (3) of section 130 may be omitted.</p>	<p>seizure and after detention or seizure, shall be released,—</p> <p>(a) on payment of the applicable tax and penalty equal to <u>two</u> hundred per cent. of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two per cent of the value of goods or twenty five thousand rupees, whichever is less, where the owner of the goods comes forward for payment of such tax and penalty;</p> <p>(b) on payment of the applicable tax and penalty equal to the fifty per cent. of the value of the goods <u>or two hundred per cent. of the tax payable on such goods, whichever is higher reduced by the tax amount paid payable thereon</u> and, in case of exempted goods, on payment of an amount equal to five per cent of the value of goods or twenty five thousand rupees, whichever is less, where the owner of the goods does not come forward for payment of such tax and penalty;</p> <p>(c) upon furnishing a security equivalent to the amount payable under clause (a) or clause (b) in such form and manner as may be prescribed: Provided that no such goods or conveyance shall be detained or seized without serving an order of detention or seizure on the person transporting the goods.</p> <p>(2) The provisions of sub-section (6) of section 67 shall,</p>	<p>(iv) contravenes any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or</p> <p>(v) uses any conveyance as a means of transport for carriage of goods in contravention of the provisions of this Act or the rules made thereunder unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance, then, all such goods or conveyances shall be liable to confiscation and the person shall be liable to penalty under section 122.</p> <p>(2) Whenever confiscation of any goods or conveyance is authorised by this Act, the officer adjudging it shall give to the owner of the goods an option to pay in lieu of confiscation, such fine as the said officer thinks fit:</p> <p>Provided that such fine leviable shall not exceed the market value of the goods confiscated, less the tax chargeable thereon:</p> <p>Provided further that the aggregate of such fine and penalty leviable shall not be less than the amount of penalty leviable under sub-section (1) of section 129:</p>
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	<p>section 130(3) again speaks about demand of tax, in addition to fine and penalty.</p> <p>4. Doubts have been raised as to whether “penalty equivalent to the tax specified in the notice” as per section 74(1) is independent of the penalty under section 122; to say that whether officer can impose penalty equivalent to tax under section 74(1) and penalty under section 122 equivalent to tax one more time. <u>It is proposed to clarify point 4 through a Circular.</u></p>	<p>mutatis mutandis, apply for detention and seizure of goods and conveyances.</p> <p>(3) The proper officer detaining or seizing goods or conveyances shall issue a notice, <u>within seven days of the detention or seizure, as the case may be</u>, specifying the tax and penalty payable and thereafter, pass an order, <u>within a period of seven days from the date of service of such notice</u>, for payment of tax and penalty under clause (a) or clause (b) or clause (c):</p> <p>(4) No tax, interest or penalty shall be determined under sub-section (3) without giving the person concerned an opportunity of being heard.</p> <p>(5) On payment of amount referred <u>to</u> in sub-section (1), all proceedings in respect of the notice specified in sub-section (3) shall be deemed to be concluded.</p> <p>(6) Where the person transporting any goods or the owner of the goods fails to pay the amount of tax and penalty as provided in sub-section (1) within fourteen days of such detention or seizure, further proceedings shall be initiated in accordance with the provisions of section 130; <u>fifteen days from the date of the receipt of the copy of the order passed under sub-section (3), the goods so detained or seized shall be liable to be sold or disposed off</u></p>	<p>Provided also that where any such conveyance is used for the carriage of the goods or passengers for hire, the owner of the conveyance shall be given an option to pay in lieu of the confiscation of the conveyance a fine equal to the tax payable on the goods being transported thereon.</p> <p>(3) Where any fine in lieu of confiscation of goods or conveyance is imposed under sub-section (2), the owner of such goods or conveyance or the person referred to in sub-section (1), shall, in addition, be liable to any tax, penalty and charges payable in respect of such goods or conveyance.</p> <p>(4) No order for confiscation of goods or conveyance or for imposition of penalty shall be issued without giving the person an opportunity of being heard.</p> <p>(5) Where any goods or conveyance are confiscated under this Act, the title of such goods or conveyance shall thereupon vest in the Government.</p> <p>(6) The proper officer adjudging confiscation shall take and hold possession of the things confiscated and every officer of Police, on the requisition of such proper officer, shall assist him in taking and holding such possession.</p>
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				<p><u>otherwise, in the manner and within the time prescribed, to recover the penalty per the order passed under sub-section (3):</u> <u>Provided that, the conveyance shall be released in such cases on payment of penalty under sub-section (3) or one lakh rupees, whichever is less, by the transporter:</u></p> <p>Provided <u>further</u> that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of fourteen <u>fifteen</u> days may be reduced by the proper officer.</p>	<p>(7) The proper officer may, after satisfying himself that the confiscated goods or conveyance are not required in any other proceedings under this Act and after giving reasonable time not exceeding three months to pay fine in lieu of confiscation, dispose of such goods or conveyance and deposit the sale proceeds thereof with the Government.</p> <p>74.</p> <p>.</p> <p>.</p> <p>Explanation 1.—For the purposes of section 73 and this section,—</p> <p>(i) the expression “all proceedings in respect of the said notice” shall not include proceedings under section 132;</p> <p>(ii) where the notice under the same proceedings is issued to the main person liable to pay tax and some other persons, and such proceedings against the main person have been concluded under section 73 or section 74, the proceedings against all the persons liable to pay penalty under sections 122, <u>and 125</u>, 129 and 130 are deemed to be concluded.</p>
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					<p>107.</p> <p>(6) No appeal shall be filed under sub-section (1), unless the appellant has paid—</p> <p>(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and</p> <p>(b) a sum equal to ten per cent. of the remaining amount of tax in dispute arising from the said order, in relation to which the appeal has been filed. <u>or</u></p> <p><u>(c) a sum equal to twenty-five per cent. of the penalty arising out of sub-section (3) of section 129 of the Act.</u></p>
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Table Agenda

39th GST Council Meeting – 14th March 2020

Agenda Item 11 (v): Proposal to issue notification and circular clarifying issues related to corporate debtors under the provisions of the Insolvency and Bankruptcy Code, 2016

Various representations seeking clarification on issues being faced by entities covered under Insolvency and Bankruptcy Code, 2016 have been received. The IBC, 2016 and provisions of GST Act, 2017 as summarised below which need to be harmoniously read and a method be prescribed for collection of GST during the resolution period.

- i. As per IBC, once an entity defaults certain threshold amount, Corporate Insolvency Resolution process (CIRP) gets triggered and the management of such entity (Corporate Debtor) and its assets vest with a Resolution Professional (RP). IT continues to run the business and operations of the said entity as a going concern till the insolvency proceeding is over.
- ii. As per the IBC code, once CIRP is initiated with respect to a Corporate Debtor, the RP is required to make public announcement calling for financial and operational claims for the dues pending from debtor till the insolvency commencement date.
- iii. As per the provisions of IBC and regulations made thereunder, the RP is duty bound for compliance of all laws that are applicable to the corporate debtor. Therefore, the RP is required to deposit all the statutory dues including GST for the period post the insolvency commencement date.
- iv. Section 14 provides for a declaration of moratorium by the NCLT. It states-

“14. Moratorium. -

(1) Subject to provisions of sub-sections (2) and (3), on the insolvency commencement date, the Adjudicating Authority shall by order declare moratorium for prohibiting all of the following, namely: -

- (a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority.....*
- v. During CIRP period, the existing GST law does not allow for filing returns by RP. It may be noted that as per section 2 (77) of the CGST Act, a return furnished under section 39 (1) shall be valid once self-assessed tax is paid in full. Further as per section 16 of the CGST Act, any service recipient can not avail the credit unless the supplier has paid the entire self-assessed tax. Therefore, during CIRP, the Resolution Professional cannot file a return on GSTN portal, since the GST dues for the pre- CIRP period has not been paid by the corporate debtor.
 - vi. It may be noted that RP are willing to deposit the GST dues for the CIRP period and file monthly return thereafter. However, since return cannot be filed by RP pending clearance of all dues by the corporate debtor for pre- CIRP period, they are not able to comply the laws as applicable to them.
 - vii. All the stages starting from default stages to post insolvency resolution, the events can be divided into following three states as per the table under.

Default stage: pre - CIRP	Corporate Insolvency Resolution process (CIRP)	Post CIRP
<ul style="list-style-type: none"> Corporate debtor defaults in payment of statutory dues and breaches threshold limit. It applies insolvency resolution process. 	<ul style="list-style-type: none"> Admission of proceeding by NCLT. (insolvency commencement date) Resolution Professional takes over the business and operation of corporate debtor as going concern. RP is responsible for compiling all statutory law applicable to corporate debtor. 	<ul style="list-style-type: none"> New entity takes over as per the outcome of the CIRP proceedings.

- viii. NCLT order dated 25.10.2019 in the matter of Axis Bank vs Prius Commercial projects Pvt. Ltd has held that:
- GST authorities should not take any coercive action against the corporate debtor with respect to dues for period prior to insolvency commencement date
 - GST authorities shall allow the RP to deposit the GST dues for the CIRP period and allow filing of returns so that appropriate GST credit can be passed on to the customers of the corporate debtor.
- ix. Similarly, NCLT, Chennai Bench vide its order dated 05.12.2019 in the matter of Kiran Global Chem Limited VS. Asst. Commissioner (ST) has directed the GST authorities to allow the corporate debtor to have access to GSTN portal, permit the applicant to file GST returns generated after the commencement of CIRP period without insisting upon payment of past dues of GST arisen during pre-admission period.
- x. At present RPs are not paying tax. As per the date provided by NCLT, total 19,771 cases were pending with NCLT benches as on 30.09.2019 which includes 10,860 cases under IBC, 2016 proceedings. Some of the cases pertain to big corporate houses involving huge revenue.
- xi. It may be noted that for recovery of dues or compliance in the Post CIRP period would be as per the directions of the Tribunal.
- xii. The legal and practical challenges for each of the stages above pertain to: -
- Filing of Returns
 - Claiming of credit by the recipient who received supplies from the corporate debtor during the CIRP period.
 - Issues arising out of the demands being raised by the GST authorities for the period prior to Insolvency Commencement Date.
 - Issues due to cancellation of registration of a corporate debtor.

2. On examination and analysis of the above, it is proposed to issue a notification (**Annexure-A**) specifying the special procedure for such taxpayers stipulating the process of registration, filing of the statement of outward supplies and filing of returns under GST for the period when an interim resolution professional / resolution professional has been appointed. Further, a circular (**Annexure-B**) clarifying several issues related to corporate debtors undergoing corporate insolvency process under the provisions of the Insolvency and Bankruptcy Code, 2016 is also proposed to be issued.
3. The above proposals for issuance of notification and circular, as recommended by the Law Committee, are placed before the GST Council for approval.

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

**Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs**

Notification No. __/2020 – Central Tax

New Delhi, the __th February, 2020

G.S.R.....(E).—In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the CGST Act), the Government, on the recommendations of the Council, hereby notifies those registered persons (hereinafter referred to as erstwhile registered person), who are corporate debtors under the provisions of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), undergoing the corporate insolvency resolution process (hereafter in this notification referred to as the CIRP) and the management of whose affairs are being undertaken by interim resolution professionals (IRP) or resolution professionals (RP), as the class of persons who shall follow the following special procedure, from the date of the appointment of the IRP/RP till the period it undergoes the corporate insolvency resolution process (hereafter in this notification referred to as the CIRP period), as mentioned below.

2. Registration: The said class of persons shall, with effect from the date of appointment of IRP / RP, be treated as a distinct person of the corporate debtor, and shall be liable to take a new registration (hereinafter referred to as the new registration) in each of the States or Union territories where the corporate debtor was registered earlier, within thirty days of the appointment of the IRP/RP;

Provided that in cases where the IRP/RP has been appointed prior to the date of this notification, he shall take registration within thirty days of issuance of this notification, with effect from date of his appointment as IRP/RP.

3. Return: The said class of persons shall, after obtaining registration file the first return under section 40 of the said Act, from the date on which he becomes liable to registration till the date on which registration has been granted.

4. Input tax credit : (1) The said class of persons shall, in his first return, be eligible to avail input tax credit on invoices covering the supplies of goods or services or both, received since his appointment as IRP/RP but bearing the GSTIN of the erstwhile registered person, subject to the conditions of Chapter V of the CGST Act and rule made thereunder, except the provisions of sub-section (4) of section 16 of the CGST Act and sub-rule (4) of rule 36 of the CGST Rules;

(2) Registered persons who are receiving supplies from the said class of persons shall, for the period from the date of appointment of IRP / RP till the date of registration as required in this notification or 30 days from the date of this notification, whichever is earlier, be eligible to avail input tax credit on invoices issued using the GSTIN of the erstwhile registered person, subject to the conditions of Chapter V of the CGST Act and rule made thereunder, except the provisions of sub-rule (4) of rule 36 of the CGST Rules;

(5) Any amount deposited in the cash ledger by the IRP/RP, in the existing registration, from the date of appointment of IRP/RP to the date of registration in terms of this notification shall be available for refund to the erstwhile registration.

4. For the purposes of this notification, unless the context otherwise requires, the terms “corporate debtor”, “corporate insolvency resolution professional”, “interim resolution professional”, and “resolution professional” etc. shall have the same meaning as assigned to them under the Insolvency and Bankruptcy Code, 2016 (31 of 2016).

[F.No.20/06/09/2019-GST]

(Pramod Kumar)
Director, Government of India

CBEC-20/16/04 /2018 -GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, dated February, 2019

To,

The Principal Chief Commissioners / Chief Commissioners / Principal Commissioners / Commissioners of Central Tax (All)

The Principal Director Generals / Director Generals (All)

Madam/Sir,

Subject: Clarification in respect of issues under GST law for companies under Insolvency and Bankruptcy Code, 2016-Reg.

Various representations have been received from the trade and industry seeking clarification on issues being faced by entities covered under Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the “IBC, 2016”).

2. As per IBC, once an entity defaults certain threshold amount, Corporate Insolvency Resolution process (hereafter referred to as “CIRP”) gets triggered and the management of such entity (Corporate Debtor) and its assets vest with an interim resolution professional (hereafter referred to as “IRP”) or resolution professional (hereafter referred to as “RP”). It continues to run the business and operations of the said entity as a going concern till the insolvency proceeding is over and an order is passed by the National Company Law Tribunal (hereinafter referred to as the “NCLT”)

3. To address the aforementioned problems, notification No..../2020- Central Tax dated has been issued by the Government prescribing special procedure under section 148 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”) for the corporate debtors who are undergoing CIRP under the provisions of IBC, 2016 and the management of whose affairs are being undertaken by IRP/RP. In order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act hereby clarifies various issues in the table below:-

S.No.	Issue	Clarification
1.	How are dues under GST for pre-CIRP period be dealt?	In accordance with the provisions of the IBC, 2016 and various legal pronouncements on the issue, no coercive action can be taken against the corporate debtor with respect to the dues for period prior to insolvency commencement date. The dues of the period prior to the

		<p>commencement of CIRP will be treated as ‘operational debt’ and claims may be filed by the proper officer before the NCLT in accordance with the provisions of the IBC, 2016. The tax officers shall seek the details of supplies made / received and total tax dues pending from the corporate debtor to file the claim before the NCLT.</p> <p>Moreover, section 14 of the IBC mandates the imposition of a moratorium period, wherein the institution of suits or continuation of pending suits or proceedings against the corporate debtor is prohibited.</p>
2	Should the GST registration of corporate debtor be cancelled?	<p>It is clarified that the GST registration of an entity for which CIRP has been initiated should not be cancelled under the provisions of section 29 of the CGST Act, 2017. The proper officer may, if need be, suspend the registration. In case the registration of an entity undergoing CIRP has already been cancelled and it is within the period of revocation of cancellation of registration, it is advised that such cancellation may be revoked by taking appropriate steps in this regard.</p>
3	Is IRP/RP liable to file returns of pre-CIRP period?	<p>No. In accordance with the provisions of IBC, 2016, the IRP/RP is under obligation to comply with all legal requirements for period after the Insolvency Commencement Date. Accordingly, it is clarified that IRP/RP are not under an obligation to file returns of pre-CIRP period.</p>
<u>During CIRP period</u>		
5	Should a new registration be taken by the corporate debtor during the CIRP period?	<p>The corporate debtor who is undergoing CIRP is to be treated as a distinct person of the corporate debtor and shall be liable to take a new registration in each States or Union territories where the corporate debtor was registered earlier, within thirty days of the appointment of the IRP/RP. Further, in cases where the IRP/RP has been appointed prior to the issuance of notification No...., dated....., he shall take registration within thirty days of issuance of the said notification, with effect from date of his appointment as IRP/RP.</p>
6	How to file First Return after obtaining new registration?	<p>The IRP/RP will be liable to furnish returns, make payment of tax and comply with all the provisions of the GST law during CIRP period. The IRP/RP is required to ensure that the first return is filed under section 40 of the CGST Act, for the period beginning the date on which it became liable to take registration till the date on which registration has been granted.</p>

7	How to avail ITC for invoices issued to the erstwhile registered person in case the IRP/RP has been appointed before issuance of notification No....., dated..... and no return has been filed by the IRP during the CIRP ?	The special procedure issued under section 148 of the CGST Act has provided the manner of availment of ITC while furnishing the first return under section 40. The said class of persons shall, in his first return, be eligible to avail input tax credit on invoices covering the supplies of goods or services or both, received since appointment as IRP/RP and during the CIRP period but bearing the GSTIN of the erstwhile registered person, subject to the conditions of Chapter V of the CGST Act and rule made thereunder, except the provisions of sub-section (4) of section 16 of the CGST Act and sub-rule (4) of rule 36 of the CGST Rules. In terms of the special procedure under section 148 of the CGST Act issued vide notification no....., dated.... This exception is made only for the first return filed under section 40 of the CGST Act.
8.	How to avail ITC for invoices by persons who are availing supplies from the corporate debtors undergoing CIRP, in cases where the IRP/RP was appointed before the issuance of the notification no....., dated....?	Registered persons who are receiving supplies from the said class of persons shall, for the period from the date of appointment of IRP / RP till the date of registration as required in this notification or 30 days from the date of this notification, whichever is earlier, be eligible to avail input tax credit on invoices issued using the GSTIN of the erstwhile registered person, subject to the conditions of Chapter V of the CGST Act and rule made thereunder, except the provisions of sub-rule (4) of rule 36 of the CGST Rules.
9	Some of the IRP/RPs have made deposit in the cash ledger of erstwhile registration of the corporate debtor. How to claim refund for amount deposited in the cash ledger by the IRP/RP?	Any amount deposited in the cash ledger by the IRP/RP, in the existing registration, from the date of appointment of IRP / RP to the date of notification specifying the special procedure for corporate debtors undergoing CIRP, shall be available for refund to the erstwhile registration under the head refund of cash ledger, even though the relevant FORM GSTR-3B/GSTR-1 are not filed for the said period. The Circular No. 125/44/2019-GST dt. 18.11.2019 is modified to this extent.

4. It is requested that suitable trade notices may be issued to publicize the contents of this circular.
5. Difficulty, if any, in the implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Yogendra Garg)
Principal Commissioner(GST)

Table Agenda

39th GST Council Meeting – 14th March 2020

Agenda Item 11 (vi): Proposal to issue Removal of difficulty order for extending the time limit for revocation of cancellation of registration

Reference is invited to letter from Commissioner of Commercial Tax, Government of Tamil Nadu, wherein request has been made to issue Removal of Difficulties Order (RoD) so that application for revocation may be made for order passed for cancellation of registration. In this regard, it is pertinent to mention that Tamil Nadu like other State / Central Government Tax authorities have cancelled registration as per the provisions of Section 29 of the CGST Act, particularly, for not furnishing returns for six consecutive months. Further, the time-period for making application for revocation of order of cancellation of registration for such taxpayers have already been over. They have also crossed the time-period for making appeal under Section 107 of the CGST Act. Hence, the law does not permit revocation of such cancellation orders. Tamil Nadu has informed that based on the data analysis, they have found that there are 66,977 persons whose registration have been cancelled and are still continuing their business operation. Now, since revocation of cancellation of registration cannot be done for most of such taxpayers, their ITC will lapse in case these taxpayers take a new registration. Tamil Nadu has said that such arrangement is not conducive for efficient tax administration. In view of the same, request has been made to issue RoD to allow for such revocation. The same was agreed in the meeting of Committee of Officers for revenue augmentation in its meeting held on 26.02.2020.

2. It is noteworthy that such one-time relaxation was provided vide RoD No. 5/2020- GST dated 23.04.2019, wherein the order of cancellation of registration passed till 31.03.2019 was allowed to be revoked if application for revocation was made till 22.07.2019. Further, rules were amended to enable furnishing of return by such taxpayers vide amendment of rule 23(1) through Notification No. 20/2019- Central Tax dated 23.04.2019. A Circular was also issued for clarification in order to have smooth implementation of the same.

3. In the past few months, concentrated drive has been made to weed out dormant registrations which have not been furnished returns for past six months. Since, taxpayers are still getting acquainted with this new 'complete online system', it is desirable to allow one-time amnesty to taxpayers and to allow revocation of such cancellation orders. It is noteworthy that CGST Act is being amended (Finance Bill, 2020) to provide power to Joint /Additional Commissioner to allow period of application for revocation to be extended by 30 days which can be further extended by 30 days by the Commissioner.

4. In view of the above, it is proposed that a RoD on lines similar to the earlier said RoD may be issued wherein all the cancellation order passed up to 14.03.2020 may be allowed to file application for revocation of cancellation till 30.06.2020. The proposed RoD order is enclosed as **Annexure A**.

5. Accordingly, the proposal to issue the RoD order is placed before the GST Council for approval.

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (ii)]

**Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs**

Removal of Difficulty Order No. -Central Tax

New Delhi, the March, 2020

S.O. (E). —WHEREAS, sub-section (2) of section 29 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the 'CGST Act') provides for cancellation of registration by proper officer in situations described in clause (a) to clause (e) as under: -

- (a) a registered person has contravened such provisions of the Act or the rules made thereunder as may be prescribed; or
- (b) a person paying tax under section 10 has not furnished returns for three consecutive tax periods; or
- (c) any registered person, other than a person specified in clause (b), has not furnished returns for a continuous period of six months; or
- (d) any person who has taken voluntary registration under sub-section (3) of section 25 has not commenced business within six months from the date of registration; or
- (e) registration has been obtained by means of fraud, willful misstatement or suppression of facts:

Provided that the proper officer shall not cancel the registration without giving the person an opportunity of being heard.

AND WHEREAS, sub-section (1) of section 169 of the CGST Act provides for service of notice (opportunity of being heard); clause (c) and (d) of said sub-section are as under: -

.....

- (c) by sending a communication to his e-mail address provided at the time of registration or as amended from time to time; or
- (d) by making it available on the common portal; or

.....

AND WHEREAS, sub-section (1) of Section 30 provides for revocation of cancellation of the registration within thirty days from the date of service of the cancellation order.

AND WHEREAS, sub-section (1) of section 107 of the CGST Act provides for filing appeal by any person aggrieved by any decision or order passed by an adjudicating authority within three months from the date on which the said decision or order is communicated to such person and sub-section (4) of section 107 of the CGST Act empowers the Appellate Authority that it may, if he is satisfied that the appellant was

prevented by sufficient cause from presenting the appeal within the aforesaid period of three months, allow it to be presented within a further period of one month.

AND WHEREAS a large number of registrations have been cancelled under sub-section (2) of section 29 of the CGST Act by the proper officer by serving notices as per clause (c) and clause (d) of sub-section (1) of section 169 of the CGST Act and the period of thirty days provided for revocation of cancellation order in sub-section (1) of section 30 of the CGST Act, the period for filing appeal under section (1) of section 107 of the CGST Act and also the period of condoning the delay provided in sub-section (4) of Section 107 of the CGST Act has elapsed; the registered persons whose registration have been cancelled under sub-section (2) of section 29 of the CGST Act are unable to get their cancellation of registration revoked despite having fulfilled all the requirements for revocation of cancellation of registration. GST being a new Act, these taxpayers were not familiar with the manner of service of notice by e-mail or making available at portal in comparison to earlier regime where manual service of notice was provided, as a result whereof certain difficulties have arisen in giving effects to the provisions of sub-section (1) of section 30 of the CGST Act;

NOW, THEREFORE, in exercise of the powers conferred by section 172 of the Central Goods and Services Tax Act, 2017, the Central Government, on recommendations of the Council, hereby makes the following Order, to remove the difficulties, namely: —

Short title—This Order may be called the Central Goods and Services Tax (First Removal of Difficulties) Order, 2020.-

In sub-section (1) of section 30 of the said Act, after the first proviso, the following proviso shall be inserted, namely: -

“Provided further that the registered person who was served notice under sub-section (2) of section 29 in the manner as provided in clause (c) or clause (d) of sub-section (1) of section 169 and who could not reply to the said notice, thereby resulting in cancellation of his registration certificate and is hence unable to file application for revocation of cancellation of registration under sub-section (1) of section 30 of the Act, against such order passed up to 14.03.2020, shall be allowed to file application for revocation of cancellation of the registration till 30.06.2020.”.

[F. No.]

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Under Secretary to the Government of India.

Table Agenda

39th GST Council Meeting – 14th March 2020

Agenda Item 11 (vii): Status update on conversion of Goods And Services Tax Network (GSTN) into 100% Government owned Company

The GST Council in its 27th Meeting held on 4th May, 2018 decided that GSTN will be converted into a 100% Government-owned entity by transferring 51% equity shares held by the Non-Government institutions to the Centre and states equally. The Union Cabinet in its Meeting held on 26th September, 2018 approved the proposal to convert GSTN into a fully-owned Government Company with 50% equity of the Company to be held by the Central Government and the balance 50% to be held by States and Union Territories.

2. Further, the GST Council in its 31st Meeting held on 22nd December, 2018 and the Department of Revenue (DOR), Government of India vide its Letter No

3. S-31011/5/2018-ST-1-DoR dated 17th January, 2019 both have approved the revised shareholding pattern of GSTN as per (**Annexure-1**).

4. In order to facilitate the above decision and consequent to the approval as accorded by the shareholders of GSTN in their Extra-Ordinary General Meeting (EGM) held on 21st June, 2019, the Empowered Committee of State Finance Ministers (EC) & all Non- Government Institutions have already offered their entire existing shareholding in GSTN through Share Transfer Notice for Sale/Transfer to Centre, State Governments & Union Territories accordingly in order to convert GSTN into a 100% Government-owned entity as per (**Annexure-2**) and hence this will result into change of share capital/ownership structure of GSTN.

5. Pursuant to Share Transfer Notices issued by the Empowered Committee & Non- Government Institutions, the respective Transferees (Centre and States) are required to acknowledge the receipt of the above Share Transfer Notice and communicate their acceptance through Purchase Notice to the respective Transferor(s) within 30 days from the receipt of Share Transfer Notice. Post acceptance of the offer to purchase the share, Centre, State Governments & Union Territories are required to pay share purchase consideration to them accordingly.

6. The State Governments of Tamil Nadu, Sikkim and Chhattisgarh have not yet communicated their acceptance till date and thereafter need to make the payment for share transfer in their favour as well.

7. The following Governments have accepted the proposal; however, the payment is still pending from them:

S No.	Governments	S No.	Governments
1	Government of India	10	Government of Uttarakhand
2	Government of Gujarat	11	Government of Assam
3	Government of Tamil Nadu	12	Government of Kerala
4	Government of Rajasthan	13	Government of Jharkhand
5	Government of Sikkim	14	Government of Uttar Pradesh
6	Government of Andhra Pradesh	15	Government of Chhattisgarh
7	Government of Bihar	16	Government of Arunachal Pradesh
8	Government of Nagaland	17	Government of Telangana
9	Government of Mizoram		

8. Accordingly, it is proposed that:
- State Governments of Tamil Nadu, Sikkim and Chhattisgarh may accept the above offer; and
 - Centre and 16 other State Governments as listed above may be requested to make payment of their respective share purchase consideration and execute necessary documentations including Shareholders' Agreement (**Annexure-3**) and send the same to GSTN in order to expedite the matter of conversion of GSTN.
9. The Council may take note of the above and issue necessary advisory/directions to all concerned in order to complete the above transaction at the earliest.

**GOODS AND SERVICES TAX NETWORK
PROPOSED NEW SHAREHOLDING STRUCTURE**

Annexure

Sl. No	Name of Subscribers	Ledger Folio Number	No. of shares allotted	Paid-up Capital
1	2	3	4	5
1	Member (System) (on behalf of President of India)	E-001	50,00,000	5,00,00,000
2	Govt. of Punjab	E-008	1,61,290	16,12,900
3	Govt. of Gujarat	E-009	1,61,290	16,12,900
4	Govt. of Odisha	E-010	1,61,290	16,12,900
5	Govt. of Tamil Nadu	E-011	1,61,290	16,12,900
6	Govt. of Jammu & Kashmir	E-012	1,61,290	16,12,900
7	Govt. of Maharashtra	E-013	1,61,300*	16,13,000
8	Govt. of Rajasthan	E-014	1,61,290	16,12,900
9	Govt. of Sikkim	E-015	1,61,290	16,12,900
10	Govt. of Karnataka	E-016	1,61,290	16,12,900
11	Govt. of Andhra Pradesh	E-017	1,61,290	16,12,900
12	Govt. of Meghalaya	E-018	1,61,290	16,12,900
13	Govt. of Bihar	E-019	1,61,290	16,12,900
14	Govt. of Nagaland	E-020	1,61,290	16,12,900
15	Govt. of Himachal Pradesh	E-021	1,61,290	16,12,900
16	Union Territory of Puducherry	E-022	1,61,290	16,12,900
17	Govt. of Mizoram	E-023	1,61,290	16,12,900
18	Govt. of Uttarakhand	E-024	1,61,290	16,12,900
19	Govt. of Haryana	E-025	1,61,290	16,12,900

20	Govt. of Assam	E-026	1,61,290	16,12,900
21	Govt. of Goa	E-027	1,61,290	16,12,900
22	Govt. of Kerala	E-028	1,61,290	16,12,900
23	Govt. of Manipur	E-029	1,61,290	16,12,900
24	Govt. of Tripura	E-030	1,61,290	16,12,900
25	Govt. of West Bengal	E-031	1,61,290	16,12,900
26	Govt. of Delhi	E-032	1,61,290	16,12,900
27	Govt. of Jharkhand	E-033	1,61,290	16,12,900
28	Govt. of Uttar Pradesh	E-034	1,61,290	16,12,900
29	Govt. of Chhattisgarh	E-035	1,61,290	16,12,900
30	Govt. of Madhya Pradesh	E-036	1,61,290	16,12,900
31	Govt. of Arunachal Pradesh	E-037	1,61,290	16,12,900
32	Govt. of Telangana		1,61,290	16,12,900
	Total		1,00,00,000	10,00,00,000

* The State of Maharashtra has been given additionally 10 shares extra, being on top amongst states in GST collection.

Annexure 2

S. No.	Transferee	Transferor's Share certificate Number	Distinctive Number of Shares to be transferred (Lower Limit)	Distinctive Number of Shares to be transferred (Upper Limit)	Non Government Institution/EC (Transferor)	Nos. of shares to be acquired	New Share certificate number	Consideration payable for shares @ Rs. 10 each to Non-Government Institutions	Aggregate consideration payable for shares @ Rs. 10 each to Non-Government Institutions	Transfer Duty to be fixed on share transfer form (SH-4) by Government @ 0.25%	Aggregate Transfer Duty to be fixed on share transfer form (SH-4) by Government
1	Government of India	7	2,92,501	3,25,000	NSE Investments Limited	32,500	NA	3,25,000	1,00,00,000	812.50	25,000.00
		16	9,06,787	9,71,429		64,643	NA	6,46,430		1,616.08	
		38	56,14,694	61,30,611		5,15,918	NA	51,59,180		12,897.95	
		44	86,65,062	90,52,000		3,86,939	NA	38,69,390		9,673.48	
		5	2,24,251	2,60,000	LIC Housing Finance Limited	35,750	NA	3,57,500	1,10,00,000	893.75	27,500.00
		14	7,71,037	8,42,143		71,107	NA	7,11,070		1,777.68	
		36	45,31,266	50,98,775		5,67,510	NA	56,75,100		14,187.75	
		40	70,78,612	75,04,244		4,25,633	NA	42,56,330		10,640.83	
		3	1,59,251	1,91,750	HDFC Limited	32,500	NA	3,25,000	45,00,000	812.50	11,250.00
		12	6,41,751	7,06,393		64,643	NA	6,46,430		1,616.08	
		34	34,99,430	38,52,286		3,52,857	57	35,28,570		8,821.43	
		34	38,52,287	39,34,576		82,290	58	8,22,900		2,057.25	
2	Government of Punjab	34	38,52,287	39,34,576	HDFC Limited	82,290	59	8,07,710	8,07,710	2,019.28	2019.28
3	Government of Gujarat	41	39,34,577	40,15,347		1,519	60	15,190	15,190	37.98	37.98
4	Government of Odisha	41	75,05,764	75,88,053		82,290	61	8,22,900	8,22,900	2,057.25	2057.25
5	Government of Tamil Nadu	41	75,88,054	76,70,343		82,290	62	8,22,900	8,22,900	2,057.25	2057.25
6	Government of Jammu & Kashmir	41	76,70,344	77,52,633		82,290	63	8,22,900	8,22,900	2,057.25	2057.25
7	Government of Maharashtra	41	77,52,634	78,34,933		82,300	64	8,23,000	8,23,000	2,057.50	2057.50
8	Government of Rajasthan	41	78,34,934	78,91,183		56,250	65	5,62,500	5,62,500	1,406.25	1406.25
9	Government of Sikkim	4	1,91,751	2,17,790		26,040	66	2,60,400	2,60,400	651.00	651.00
		4	2,17,791	2,24,250		6,460	67	64,600	64,600	161.50	161.50
		13	7,06,394	7,71,036		64,643	68	6,46,430	6,46,430	1,616.08	1616.08
		35	40,15,348	40,26,534		11,187	69	1,11,870	1,11,870	279.68	279.68
10	Government of Karnataka	35	40,26,535	41,08,824	HDFC Bank Limited	82,290	70	8,22,900	8,22,900	2,057.25	2057.25
11	Government of Andhra Pradesh	35	41,08,825	41,91,114		82,290	71	8,22,900	8,22,900	2,057.25	2057.25
12	Government of Meghalaya	35	41,91,115	42,73,404		82,290	72	8,22,900	8,22,900	2,057.25	2057.25
13	Government of Bihar	35	42,73,405	43,55,694		82,290	73	8,22,900	8,22,900	2,057.25	2057.25
14	Government of Nagaland	35	43,55,695	44,37,984		82,290	74	8,22,900	8,22,900	2,057.25	2057.25
15	Government of Himanchal Pradesh	35	44,37,985	45,20,274		82,290	75	8,22,900	8,22,900	2,057.25	2057.25
16	Union Territory of Puducherry	35	45,20,275	45,31,265		10,991	76	1,09,910	1,09,910	274.78	274.78
17	Government of Mizoram	42	78,91,184	79,62,482		71,299	77	7,12,990	7,12,990	1,782.48	1782.48
18	Government of Uttarakhand	42	79,62,483	80,44,772		82,290	78	8,22,900	8,22,900	2,057.25	2057.25
19	Government of Haryana	42	80,44,773	81,27,062		82,290	79	8,22,900	8,22,900	2,057.25	2057.25
20	Government of Assam	42	81,27,063	82,09,352	ICICI Bank Limited	82,290	80	8,22,900	8,22,900	2,057.25	2057.25
21	Government of Goa	42	82,09,353	82,78,122		68,770	81	6,87,700	6,87,700	1,719.25	1719.25
		6	2,60,001	2,73,520		13,520	82	1,35,200	1,35,200	338.00	338.00
		6	2,73,521	2,92,500		18,980	83	1,89,800	1,89,800	474.50	474.50
		15	8,42,144	9,05,453		63,310	84	6,33,100	6,33,100	1,582.75	1582.75
22	Government of Kerala	15	9,05,454	9,06,786		1,333	85	13,330	13,330	33.33	33.33
23	Government of Manipur	37	50,98,776	51,79,732		80,957	86	8,09,570	8,09,570	2,023.93	2023.93
24	Government of Tripura	37	51,79,733	52,62,022		82,290	87	8,22,900	8,22,900	2,057.25	2057.25
25	Government of West Bengal	37	52,62,023	53,44,312		82,290	88	8,22,900	8,22,900	2,057.25	2057.25
26	Government of Delhi	37	53,44,313	54,26,602		82,290	89	8,22,900	8,22,900	2,057.25	2057.25
27	Government of Jharkhand	37	54,26,603	55,08,892		82,290	90	8,22,900	8,22,900	2,057.25	2057.25
28	Government of Uttar Pradesh	37	55,08,893	55,91,182	Empowered Committee	82,290	91	8,22,900	8,22,900	2,057.25	2057.25
29	Government of Chhattisgarh	37	55,91,183	56,14,693		23,511	92	2,35,110	2,35,110	587.78	587.78
		43	82,78,123	83,36,901		58,779	93	5,87,790	5,87,790	1,469.48	1469.48
		43	83,36,902	84,19,191		82,290	94	8,22,900	8,22,900	2,057.25	2057.25
		43	84,19,192	85,01,481		82,290	95	8,22,900	8,22,900	2,057.25	2057.25
30	Government of Madhya Pradesh	43	85,01,482	85,83,771		82,290	96	8,22,900	8,22,900	2,057.25	2057.25
31	Government of Arunachal Pradesh	43	85,83,772	86,65,061		81,290	97	8,12,900	8,12,900	2,032.25	2032.25
32	Government of Telangana	43	86,65,062	87,50,000		81,290	97	8,12,900	8,12,900	2,032.25	2032.25
TOTAL						51,00,000		5,10,00,000.00	5,10,00,000	1,27,500.00	1,27,500.00
33	Government of Telangana	2	79,626	1,59,250	Empowered Committee	79,625	NA	7,96,250.00	79,625.00	1,990.63	
34	Government of Telangana	9	4,83,376	4,83,750	Empowered Committee	375	NA	3,750.00	3,750.00	9.38	2,000.00

Annexure A as referred in Articles of Association

SHAREHOLDERS' AGREEMENT

This Shareholders Agreement is made on this _____ day of _____, 2019 (“**Agreement**”)

BY AND BETWEEN

1. The **Government of India** (hereinafter referred to as “**Central Government**”) acting through and represented by the _____, Department of Revenue, Ministry of Finance, Government of India (which expression shall include its successors in office) of the one part; and
2. [The **Governments of States in the Union of India listed in Schedule 1 hereto** (hereinafter individually referred to as “**State Government**” and collectively referred to as “**State Governments**”), acting through and represented by the person mentioned in **Schedule 1** of the second part]; and
3. **Empowered Committee of State Finance Ministers** (hereinafter referred to as “**EC**”) a society registered under the Societies Registration Act, 1860, having its registered office at [] acting through and represented by the _____, (which expression shall include its successors in office) of the third part; and
4. [The **Parties listed in Schedule 2 hereto** (hereinafter individually referred to as “**Private Participant**” and collectively referred to as “**Private Participants**”) (which expression shall, unless it be repugnant or contrary to the subject or context thereof, be deemed to mean and include their respective nominees, legal representatives and successors) of the fourth part]

The Central Government, the EC, [the State Governments] and the Private Participants, are hereinafter collectively referred to as the “**Parties**” and individually as the “**Party**”.

WHEREAS:

- A. The **GOODS AND SERVICE TAX NETWORK** is a private limited not-for-profit company incorporated and existing under the provisions of the (Indian) Companies Act, with its registered office at [] (hereinafter referred to as the “**Company**”, which expression shall, unless it be repugnant or contrary to the subject or context thereof, be deemed to mean and include its legal representatives, successors and permitted assign);
- B. The Company has been incorporated to, amongst others, promote trade and commerce by providing easily accessible, quick and efficient information technology and communications related services to the public and Government;

C. According to the Articles of Association of the Company, every entity which intends to be a shareholder in the Company is required to execute a Shareholders' Agreement in order to be entitled to receive Shares of the Company;

D. The Central Government is the beneficial and legal owner of 24.5% of the issued, subscribed and paid up equity share capital of the Company as on date of this Agreement.

E. The State Governments and the EC are collectively the beneficial and legal owners of 24.5% of the issued, subscribed and paid up equity share capital of the Company as on date of this Agreement.

F. Private Participants are collectively the beneficial and legal owners of 51% of the issued, subscribed and paid up equity share capital of the Company as on date of this Agreement.

G. The Parties hereby intend to set forth and record the terms and conditions to govern the relationships in their mutual capacity as the Member or shareholders of the Company once shares are issued to them and to record their respective rights and obligations in relation to the management and functioning of the Company and other matters incidental thereto.

NOW THEREFORE, in consideration of the above recitals, the mutual covenants of the Parties, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. DEFINITIONS AND INTERPRETATIONS

(a) **"Articles of Association" or "AOA"** means the articles of association of the Company;

(b) **"Business Day"** means a day (other than a Saturday or Sunday) on which public sector banks are open for business in New Delhi;

(c) **"Charter Documents"** means the Memorandum of Association and Articles of Association of the Company incorporating as appropriate, and consistent with, to the extent permitted by law, the terms and conditions of this Agreement;

(d) **"Deed of Adherence"** means the Deed of Adherence to be executed in accordance with Clause 5 hereof.

1.1. In this Agreement, except to the extent that the context otherwise requires:

i. Capitalized terms used but not defined herein shall have the same meaning as ascribed to them under the Articles of Association.

ii. References to Clauses are to clauses of this Agreement;

- iii. Headings to Clauses are for convenience only and are to be ignored in construing this Agreement;
- iv. References to a “entity” are to be construed so as to include any firm, company, Government, or any joint venture, association or partnership (whether or not having a separate legal personality);
- v. References to a “company”, are to be construed so as to include any company, corporation, or other body corporate, wherever and however established;
- vi. References to any statute or statutory provisions are to be construed as a reference to the same as it may have been, or may from time to time, amended modified or reenacted;
- vii. Words denoting the singular include the plural and vice versa and words importing the masculine gender include feminine and neuter genders and vice versa;
- viii. References to Annexures, Schedules and Recitals are to annexures, schedules and recitals to this Agreement and shall be taken, read and construed as essential parts of this Agreement but headings and the table of contents are for ease of reference and shall be ignored in construing this Agreement;
- ix. The word “month” wherever used shall mean the period of time which ends on the same date as it commenced in the previous month but if there is no numerically corresponding date in the following month then the period shall end on the last day of the month;
- x. Time being the essence of this Agreement; and
- xi. References to “Rs.” or “Rupees” or “INR” are references to lawful currency of India.

2. CAPITAL STRUCTURE

The paid up share capital of the Company shall at all times be owned and maintained in the proportion mentioned in Table I of Article 6 of the Articles of Association (**Agreed Proportion**).

3. FUTURE CAPITALIZATION

3.1 In order to ensure that percentage of Shares held by each shareholder is maintained as per the Agreed Proportion, all parties to this Agreement (including the Parties) hereby agree that each party (including the Parties) shall be allotted Shares against its total investment in the Company in such proportion only as may be required to maintain the Agreed Proportion. The remaining part of the total investment of each party (including the Parties) shall be allocated towards share application money (**Pending Share Application Money**) and further shares against such **Pending Share Application Money** shall be issued in accordance with the AOA and this Agreement in a manner that Agreed Proportion is maintained.

3.2 Subscription of the Shares by any party other than the Parties hereto (**New Shareholder(s)**) shall be in

accordance with the AOA. Allotment of Shares to the New Shareholder shall take place in accordance with the AOA and the directions of the Board thereafter. Where applicable, shareholders having the Pending Share Application Money with the Company will be issued Shares against such Pending Share Application Money simultaneously with the Shares issued to any New Shareholder in proportion and in a manner that ensures that the aggregate shareholding of each shareholder of the Company at all times remains in accordance with the Agreed Proportion.

3.3 If the authorized share capital of the Company is further increased, the Members of Group A and Group B shall proportionately subscribe to the Shares in order to maintain the overall Agreed Proportion

4. TRANSFER OF SHARES

All matters including matters related to the transfer or transmission of Shares and the management of the Company shall be governed by the AOA in addition to this Agreement.

5. DEED OF ADHERENCE

Any entity (other than the Parties) that intends to subscribe to the Shares of the Company shall have to execute the deed of adherence in the form specified in **Annexure 1** hereof (“**Deed of Adherence**”) and undertake and be bound by the terms and conditions of the Agreement before being eligible to be a shareholder in the Company. Any entity that executes the Deed of Adherence shall be deemed to be a party to this Agreement.

6. RESERVED MATTERS- SHAREHOLDER’S MEETINGS

6.1 The shareholders shall take all the needful steps to ensure that Company is doing the business in accordance with the provisions of this Agreement and Charter Documents.

6.2 The matters set forth in **Schedule 3** hereof shall only be decided in accordance with the procedure set out in Article 38 and 39 of the AOA.

7. OBLIGATIONS OF PARTIES

7.1 Each shareholder shall share with the Company, free of cost, all relevant information, knowledge and data, whether confidential or not (except any trade secrets), that is required and necessary for the smooth functioning of the Company.

7.2 Each shareholder shall transfer to the Company, free of cost, such of its knowledge as is required and necessary for the smooth functioning of the Company.

7.3 For the purpose of this Clause, the shareholders may decide upon the information, data and knowledge

that is required and necessary for the smooth functioning of the Company.

7.4 Each shareholder shall provide to the Company, and keep update, its address for the purpose of serving the notice by the Company.

8. REPRESENTATIONS AND WARRANTIES

8.1 Each of the Non-Government Institutions that become party to this Agreement hereby warrants and represents to other parties of the Agreement that:

(i) it is duly organized and validly existing under law and has all requisite legal power and authority to execute this Agreement and carry out the terms, conditions and provisions hereof;

(ii) the execution and delivery by the such parties to this Agreement has been duly authorized by all requisite corporate and other action and will not contravene any provisions of or constitute a default under, any other agreement or instrument to which it is a party or by which it may be bound;

(iii) this Agreement will constitute following the execution and delivery thereof valid and legally binding obligations of such parties, enforceable against it in accordance with its respective terms in accordance with the applicable laws;

(iv) it is not insolvent and no insolvency proceedings have been instituted, nor threatened or pending by or against it and it shall forthwith give notice to the other parties to this Agreement and to the Company upon knowing of any such proceedings being instituted or threatened to be instituted against such party;

(v) except those disclosed to the Company and shareholders at the date of execution of this Agreement or Deed of Adherence, there are no actions, suits, claims, proceedings or investigations pending or, to the best of the knowledge of such parties, threatened in writing against it at law, in equity, or otherwise, whether civil or criminal in nature, before or by, any court, commission, arbitrator or Governmental Authority, and there are no outstanding judgments, decrees or orders of any such courts, commissions, arbitrators or governmental authorities, which materially and adversely affects its ability to perform its obligations under this Agreement;

8.2 Each of the parties to this Agreement [including the EC] that are not Non-Government Institutions hereby represents and warrants to the other parties of this Agreement that:

(i) it has the power and authority to enter into and perform its obligations under this Agreement;

(ii) this Agreement has been duly authorized, executed and delivered by it and constitutes a valid and binding obligation enforceable against it in accordance with its terms;

(iii) to the best of its knowledge, neither the execution and delivery of this Agreement by it nor the performance of its obligations will violate, adversely affect, contravene or breach or create any default under any agreement, instrument, judgment of the applicable law.

9. CONFIDENTIALITY

9.1 Each of the Non-Government Institutions that are party to this Agreement agrees that it shall not, at any time or under any circumstances, without the prior written consent of the Company and the Central Government, [EC] or the State Governments as may be applicable, directly or indirectly communicate or disclose to any entity or person any knowledge, data or information, irrespective of form, howsoever acquired by them including the information relating to the consumers, technology, trade secrets, systems, operations or other confidential information regarding the property, business and affairs of the Company or the Central Government, the EC or the State Governments ("**Confidential Information**").

9.2 Provided however that the confidentiality obligation under this Clause 9 shall be subject to the following exceptions:

- (i) Disclosure to the employees and auditors requiring the information for the purposes of this Agreement subject to the execution of a confidentiality agreement by them; or
- (ii) Disclosure to legal advisors and professional consultants subject to the execution of a confidentiality agreement by them; or
- (iii) If the information is, prior to the execution of this Agreement lawfully in the possession of the Investor through sources other than the Party(ies); or
- (iv) If such information has been released or disclosed by requirement of law; or
- (v) If the information is or becomes generally and publicly available, other than due to reason of breach of this Agreement.

9.3 The Private Participants shall maintain and cause to be maintained all Confidential Information, as secret and confidential using the same degree of care as they use for their own confidential information of similar nature, but in any event no less than reasonable care, as per this Clause 9 even after the termination of this Agreement for any reason whatsoever.

10. Termination

10.1 This Agreement shall terminate:

- i. With respect to all parties of this Agreement, upon the dissolution or winding up of the Company; or
- ii. With respect to any one or more parties to this Agreement, upon such one or more of such parties ceasing to be a shareholder of the Company;
- iii. With respect to any one or more parties to this Agreement, upon any material breach by such one or more parties (“**Defaulting Party**”) of any of its representations, warranties, covenant and/or undertakings herein and/or the Articles of Association.

10.2 In case of termination of this Agreement under Clause 10.1 (iii) due to any material breach by any Non-Government Institution, such Non-Government Institution shall, if decided by the Board, transfer its entire shareholding in the Company in the manner as may be directed by the Board in accordance with the AOA.

11. EFFECTIVE DATE

11.1 For the Parties, this Agreement shall be effective from the date of execution of this Agreement.

11.2 For the parties to this Agreement other than the Parties, this Agreement shall be effective from the date of issuance of Shares to such parties.

12. MISCELLANEOUS

12.1 Notices

12.1.1 Any notice to be given under this Agreement shall be deemed to have been duly given upon receipt when in writing and delivered in person, by facsimile transmission, by telex, email or by courier, addressed as follows:-

i.If to Central Government

Address: Ministry of Finance (MoF)
Department of Revenue (DoR)
State Taxes Section-1, Government of India
275, North Block
New Delhi- 110001.
Attention: Under Secretary to Government of India

ii.If to Empowered Committee

Address: B-603, Delhi Secretariat IP Estate, New Delhi- 110002.
Attention: Advisor (EC)

iii.If to State Government

• Name: Andhra Pradesh

Address: D.No.5-59, R. K. Spring Valley Apartments, Bandar Road, Eedupugallu Village, Kankipadu Mandal, Vijayawada, Krishna District, Pin-521144
Attention: Commissioner (CT)

• Name: Goa

Address: Commissioner of Commercial Taxes,
Government of Goa,
Vikrikar Bhavan,
Panaji – 400301
Attention: Commissioner (CT)

• Name: Haryana

Address: Excise & Taxation Commissioner, Govt. of Haryana, Vanijya Bhawan, Plot No. I-3, Sector-

5,

Panchkula - 134151

Attention: Commissioner (CT)

- Name: Karnataka

Address: Commissioner (Commercial Taxes), Govt. of Karnataka, 1st Floor, Vanijya Therigi Karyalay,
First Main Road,

Gandhinagar, Bangalore – 560009

Attention: Commissioner (CT)

- Name: Kerala

Address: Commissioner, Commercial Taxes, State GST Department, Government of Kerala,
Tax Tower, 9th Floor, Killipalam,

Karamana P.O.,

Thiruvananthapuram-695002

Attention: Commissioner (CT)

- Name: Maharashtra

Address: Commissioner of Sales Tax,

Govt. of Maharashtra, Vikrikar Bhawan, 8th Floor, Mazgaon, Mumbai – 400010

Attention: Commissioner (CT)

- Name: Meghalaya

Address: Commissioner of Taxes, Govt. of Meghalaya, Main Secretariat Building,
Shillong – 793001

Attention: Commissioner (CT)

- Name: Sikkim

Address: Spl. Commissioner Cum Commissioner Commercial Tax
Commercial Tax Division

Finance, Revenue & Expenditure

Department, Govt. of Sikkim,

Deorali, Gangtok - 737101

Attention: Commissioner (CT)

- Name: Tamil Nadu

Address: Commissioner, Commercial Commercial Taxes,
Govt. of Tamil Nadu,

Ezhilagam, Chepauk, Chennai-600005"

Attention: Commissioner (CT)

- Name: Arunachal Pradesh

Address: Commissioner,

Tax & Excise, Govt. of Arunachal Pradesh, Kar Bhawan, Itanagar – 791111

Attention: Commissioner (CT)

- Name: Assam

Address: Commissioner of Taxes,

Govt. of Assam, Kar Bhawan, DISPUR, Guwahati – 781006"

Attention: Commissioner (CT)

- Name: Bihar

Address: Commissioner Commercial Tax,

Commercial Taxes, Govt. of Bihar,

Vikas Bhawan, Patna – 800015

Attention: Commissioner (CT)

- Name: Chhattisgarh

Address: Commissioner, Commercial Tax,

Govt. of Chhattisgarh,

Mantralaya, Dau Kalyan Singh Bhawan,

Raipur-492001

160001

Attention: Commissioner (CT)

- Name: Delhi

Address: Commissioner, Trade Tax,

Govt. of NCT Delhi, Bikrikar Bhawan, I.T.O., Indraprastha Estate,

New Delhi – 110002

Attention: Commissioner (CT)

- Name: Gujarat

Address: Commissioner, Commercial Tax,

Govt. of Gujarat, Rajya Kar Bhavan, Ashram Road, Ahmedabad – 380009

Attention: Commissioner (CT)

- Name: Himachal Pradesh

Address: Excise & Taxation Commissioner, Govt. of Himachal Pradesh

Block No. 30, SDA Complex,

Shimla – 171009

Attention: Commissioner (CT)

- Name: Jammu & Kashmir

Address: Commissioner of Commercial Taxes,
Department of Commercial Tax,
Government of Jammu & Kashmir,
Excise & Taxation Complex,
Solina, Rambagh,
Srinagar – 190001 (from May to Oct.)

OR

Address: Commissioner of Commercial Taxes,
Excise & Taxation Complex,
Rail Head Complex, Panama Chowk, Jammu-180001 (from Nov. to Apr.)
Attention: Commissioner (CT)

- Name: Jharkhand

Address: Principal Secretary-cum-Commissioner,
Commercial Taxes Department,
Government of Jharkhand,
Project Building, Dhurwa, Ranchi
Attention: Commissioner (CT)

- Name: Madhya Pradesh

Address: Commissioner (Commercial Tax),
Govt. of Madhya Pradesh,
Moti Bangla Compound, M.G. Road, Indore - 452007
Attention: Commissioner (CT)

- Name: Manipur

Address: Government of Manipur,
Directorate Complex,
Near 2nd MR Gate,
Imphal - 795001,
Manipur, India
Attention: Commissioner (CT)

- Name: Mizoram

Address: Office of Commissioner of State Tax, Taxation Department, Government of Mizoram, New
Capital Complex, Taxation Building, Aizawl - 796001
Attention: Commissioner (CT)

- Name: Nagaland

Address: Office of the Commissioner of Taxes
Opposite DC court
Dimapur-797112(Nagaland)
Attention: Commissioner (CT)

- Name: Odisha

Address: Commissioner, Commercial Taxes,
Govt. of Odisha,
Vanjiya Kar Bhawan, Old Secretariat Cmapus, Buxi Bazar
Cuttack– 753001
Attention: Commissioner (CT)

- Name: Puducherry

Address: First Floor, 100 feet Road, Ellapillaichavady, Pondicherry-605005
Attention: Commissioner (CT)

- Name: Punjab

Address: Excise & Taxation Commissioner,
Excise & Taxation Bhawan, Sector 69, Mohali - 160067
Attention: Commissioner (CT)

- Name: Rajasthan

Address Commissioner (Commercial Taxes),
Govt. of Rajasthan, Kar Bhawan, Bhawani Singh Road, JAIPUR – 302005
Attention: Commissioner (CT)

- Name: Tripura

Address: Commissioner of Taxes & Excise,
3rd Floor, Pundit Nehru Complex,
Gurkhabasti, Post Office Kunjaban,
Agartala 799006
Attention: Commissioner (CT)

- Name: Uttar Pradesh

Address: Commissioner, Commercial Taxes,
Govt. of Uttar Pradesh,
Vibhuti Khand, Gaumati Nagar,
Lucknow - 226010

Attention: Commissioner (CT)

- Name: Uttarakhand

Address: Commissioner, Commercial Tax,
Government of Uttarakhand,
Commercial Tax Headquarter,
Mussoorie by pass Road, Jogiwala Nathanpur (near pulia no. 6),
Dehradun- 248001

Attention: Commissioner (CT)

- Name: West Bengal

Address: Commissioner of Commercial Taxes, Govt. of West Bengal,
14, Beliaghata Road, Kolkata – 700015

Attention: Commissioner (CT)

iv.If to Private Participants

- Name: LIC Housing Finance Ltd

Address: 131, Maker Tower "F" Premises,
13th Floor, Cuffe Parade,
Mumbai-400005

Attention: Director

- Name: NSE Strategic Investment Corporation Ltd

Address: Exchange Plaza,
C-1, Block-G, Bandra Kurla Complex,
Bandra East, Mumbai-4000051.

Attention: Director

- Name: HDFC Ltd

Address: HDFC House, HT Parekh Marg, 165-166, Backbay, Reclamation, Church Gate,
Mumbai- 400020

Attention: Director

- Name: HDFC Bank Ltd

Address: Country Head, Wholesale Banking Operations &
Cash Management Products,
HDFC Bank Ltd., HDFC Bank House,
5th Floor, Senapati Bapat Marg,
Lower Parel Marg, Mumbai- 400013.

Attention: Director

• Name: ICICI Bank Ltd
Address: Senior General Manager,
ICICI Bank Ltd., ICICI Bank Towers,
Bandra- Kurla Complex,
Mumbai-400051
Attention: Director

12.1.2 Any Party may change its address provided above for the purpose of this Agreement by giving written notice to the shareholders of such change forthwith in the manner hereinabove provided.

12.2 Governing Law

This Agreement shall be governed and interpreted by and construed in accordance with the laws of India without giving effect to the principles of conflict of laws there under. Courts at New Delhi shall have the exclusive jurisdiction.

12.3 Entire Agreement

Subject to the AOA, this Agreement, together with all Annexures, Schedules, Exhibits and attachments hereto, represents the entire agreement and understanding between the parties to this Agreement with respect to the subject matter of this Agreement and supersedes any prior agreement or understanding, written or oral, that the parties to this Agreement may have had.

12.4 Amendments

Any modification, amendment, or waiver of any provision of this Agreement shall be effective if, but only if, in writing and signed in person or by an authorized representative of each party to this Agreement except consequent upon conversion of company into 100% Government company the EC and Private Participants shall from the date of conversion be no longer parties to this agreement and this agreement shall remain in force amongst the remaining parties and shall stand modified to this extent and governed accordingly as per the amended AOA of the company.

12.5 Severability

If any article, clause, section or paragraph, or part thereof, of this Agreement or any agreement or document appended hereto or made a part hereof is invalid, ruled illegal by any court of competent jurisdiction, or unenforceable under present or future applicable laws, then it is the intention of the parties to this Agreement that the remainder of the Agreement, or any agreement or document appended hereto or made a part hereof, shall not be affected thereby unless the deletion of such provision shall cause this Agreement to become materially adverse to any party in which case the parties shall negotiate in good faith such changes to the Agreement

as will best preserve for the parties the benefits and obligations under such provision.

12.6 Counterparts

This Agreement may be executed in two or more counterparts, and by each Party on the same or different counterparts, but all of such counterparts shall together constitute one and the same instrument.

12.7 Waivers

No failure by a Party to take any action with respect to a breach of this Agreement or a default by any other Party shall constitute a waiver of the former Party's right to enforce any provision of this Agreement or to take action with respect to such breach or default or any subsequent breach or default. Waiver by any Party of any breach or failure to comply with any provision of this Agreement by a Party shall not be construed as, or constitute, a continuing waiver of such provision, or a waiver of any other breach of or failure to comply with any other provision of this Agreement.

12.8 No Agency

This Agreement shall not constitute any Party as the legal representative or agent of another Party, nor shall any Party have the right or authority, to assume, create or incur any liability or obligation, express or implied, against, in the name of, or on behalf of another Party.

12.9 No Third Party Beneficiaries

Nothing expressed or mentioned in this Agreement is intended or shall be construed to give any entity other than the Parties hereto (and their respective successors and permitted assigns) any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision herein contained.

12.10 Survival

The obligations of confidentiality mentioned in Clause 9 shall survive indefinitely irrespective of any termination of this Agreement for whatever reasons or without reasons what so ever

IN WITNESS WHEREOF the Parties have hereunto set their respective hands the day and year first above written.

SIGNED AND DELIVERED by

for and on behalf of the **Government of India**

Witnessed by:

Name:

Address:

SIGNED AND DELIVERED by

for and on behalf of **Empowered Committee of State
Finance Ministers**

Witnessed by:

Name:

Address:

SIGNED AND DELIVERED by

for and on behalf of **Government of Andhra Pradesh**

Witnessed by:

Name:

Address:

SIGNED AND DELIVERED by

for and on behalf of **Government of Goa**

Witnessed by::

Name:

Address:

SIGNED AND DELIVERED by

for and on behalf of **Government of Haryana**

Witnessed by::

Name:

Address:

SIGNED AND DELIVERED by

for and on behalf of **Government of Karnataka**

Witnessed by::

Name:

Address:

SIGNED AND DELIVERED by

for and on behalf of **Government of Kerala**

Witnessed by::

Name:

Address:

SIGNED AND DELIVERED by

for and on behalf of **Government of Maharashtra**

Witnessed by::

Name:

Address:

SIGNED AND DELIVERED by

for and on behalf of **Government of Meghalaya**

Witnessed by::

Name:

Address:

SIGNED AND DELIVERED by

for and on behalf of **Government of Sikkim:**

Witnessed by::

Name:

Address:

SIGNED AND DELIVERED by

for and on behalf of **Government of Tamil Nadu**

Witnessed by::

Name:

Address:

SIGNED AND DELIVERED by

for and on behalf of **Government of Arunachal Pradesh**

Witnessed by::

Name:

Address:

SIGNED AND DELIVERED by

for and on behalf of **Government of Assam**

Witnessed by::

Name:

Address:

SIGNED AND DELIVERED by

for and on behalf of **Government of Bihar**

Witnessed by::

Name:

Address:

SIGNED AND DELIVERED by

for and on behalf of **Government of Chhattisgarh**

Witnessed by::

Name:

Address:

SIGNED AND DELIVERED by

for and on behalf of **Government of Delhi**

Witnessed by::

Name:

Address:

SIGNED AND DELIVERED by

for and on behalf of **Government of Gujarat**

Witnessed by::

Name:

Address:

SIGNED AND DELIVERED by

for and on behalf of **Government of Himachal Pradesh**

Witnessed by:

Name:

Address:

SIGNED AND DELIVERED by

for and on behalf of **Government of Jammu & Kashmir**

Witnessed by:

Name:

Address:

SIGNED AND DELIVERED by

for and on behalf of **Government of Jharkhand**

Witnessed by:

Name:

Address:

SIGNED AND DELIVERED by

for and on behalf of **Government of Madhya Pradesh**

Witnessed by:

Name:

Address:

SIGNED AND DELIVERED by

for and on behalf of **Government of Manipur**

Witnessed by:

Name:

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for and on behalf of **State Government of Mizoram**

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for and on behalf of **Government of Nagaland**

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for and on behalf of **Government of Odisha**

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for and on behalf of **Government of Puducherry**

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for and on behalf of **Government of Punjab**

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for and on behalf of **Government of Rajasthan**

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for and on behalf of **Government of Tripura**

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for and on behalf of **Government of Uttar Pradesh**

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for and on behalf of **Government of Uttarakhand**

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for and on behalf of **Government of West Bengal**

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Name:

Address:

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for and on behalf of **LIC Housing Finance Corporation Ltd**

Witnessed by::

Name:

Address:

SIGNED AND DELIVERED by.....

for and on behalf of **NSE Strategic Investment Corporation Ltd**

Witnessed by::

Name:

Address:

SIGNED AND DELIVERED by.....

for and on behalf of **HDFC Ltd**

Witnessed by::

Name:

Address:

SIGNED AND DELIVERED by.....

for and on behalf of **HDFC Bank Ltd**

Witnessed by::

Name:

Address:

SIGNED AND DELIVERED by.....

for and on behalf of **ICICI Bank Ltd**

Witnessed by::

Name:

Address:

SCHEDULE 1

List of State Governments

- (i) Government of Andhra Pradesh acting through and represented by [_____] (which expression shall include its successors in office)
- (ii) Government of Goa acting through and represented by [_____] (which expression shall include its successors in office)
- (iii) Government of Haryana acting through and represented by [_____] (which expression shall include its successors in office)
- (iv) Government of Karnataka acting through and represented by [_____] (which expression shall include its successors in office)
- (v) Government of Kerala acting through and represented by [_____] (which expression shall include its successors in office)
- (vi) Government of Maharashtra acting through and represented by [_____] (which expression shall include its successors in office)
- (vii) Government of Meghalaya acting through and represented by [_____] (which expression shall include its successors in office)
- (viii) Government of Sikkim acting through and represented by [_____] (which expression shall include its successors in office)
- (ix) Government of Tamil Nadu acting through and represented by [_____] (which expression shall include its successors in office)
- (x) Government of Arunachal Pradesh acting through and represented by [_____] (which expression shall include its successors in office)

- (xi) Government of Assam acting through and represented by [_____] (which expression shall include its successors in office)
- (xii) Government of Bihar acting through and represented by [_____] (which expression shall include its successors in office)
- (xiii) Government of Chhattisgarh acting through and represented by [_____] (which expression shall include its successors in office)
- (xiv) Government of Delhi acting through and represented by [_____] (which expression shall include its successors in office)
- (xv) Government of Gujarat acting through and represented by [_____] (which expression shall include its successors in office)
- (xvi) Government of Himachal Pradesh acting through and represented by [_____] (which expression shall include its successors in office)
- (xvii) Government of Jammu & Kashmir acting through and represented by [_____] (which expression shall include its successors in office)
- (xviii) Government of Jharkhand acting through and represented by [_____] (which expression shall include its successors in office)
- (xix) Government of Madhya Pradesh acting through and represented by [_____] (which expression shall include its successors in office)
- (xx) Government of Manipur acting through and represented by [_____] (which expression shall include its successors in office)

- (xxi) Government of Mizoram acting through and represented by [_____] (which expression shall include its successors in office)
- (xxii) Government of Nagaland acting through and represented by [_____] (which expression shall include its successors in office)
- (xxiii) Government of Odisha acting through and represented by [_____] (which expression shall include its successors in office)
- (xxiv) Union Territory of Puducherry acting through and represented by [_____] (which expression shall include its successors in office)
- (xxv) Government of Punjab acting through and represented by [_____] (which expression shall include its successors in office)
- (xxvi) Government of Rajasthan acting through and represented by [_____] (which expression shall include its successors in office)
- (xxvii) Government of Tripura acting through and represented by [_____] (which expression shall include its successors in office)
- (xxviii) Government of Uttar Pradesh acting through and represented by [_____] (which expression shall include its successors in office)
- (xxix) Government of Uttarakhand acting through and represented by [_____] (which expression shall include its successors in office)
- (xxx) Government of West Bengal acting through and represented by [_____] (which expression shall include its successors in office)

SCHEDULE 2

List of Private Participants

- (i) LIC Housing Finance Corporation Ltd
- (ii) NSE Strategic Investment Corporation Ltd
- (iii) Housing Development Finance Corporation Ltd
- (iv) HDFC Bank Ltd
- (v) ICICI Bank Ltd

SCHEDULE 3

RESERVED SHAREHOLDERS MATTERS

- (a) Rescinding of any contract, memorandum of understanding, agreement etc. entered into with the Government;
- (b) Formation of a policy for disclosure of the confidential and sensitive information to any person outside the Company and Government;
- (c) Amendment of the Memorandum of Association or Articles of Association of the Company;
- (d) Any reorganization or change in the nature of the business or scope of business or the activities undertaken pursuant to the Memorandum of Association of the Company;
- (e) Purchasing or taking on lease or otherwise acquire for the Company, property right or privilege which Company is authorized to acquire in excess of a sum to be previously specified by the Ordinary Resolution;
- (f) Appointment or change in the auditors, except as contemplated by these Articles; (Consequent upon the conversion of company into Government Company, the provisions mentioned in Article No. 90 will be operative)
- (g) Formation of subsidiary companies;
- (h) Any merger, restructuring, sale, divestment, amalgamation, demerger, reorganization or consolidation of the Company or any of the subsidiaries;
- (i) Any liquidation, winding up, deregistration or dissolution;
- (j) Change in name of the Company;
- (k) Change in status of the Company from private limited company to public limited company or vice-versa or from not for profit to for profit company;
- (l) Redemption of capital and/or any buy back of shares;
- (m) Change in capital structure, ownership or debt structure of the Company;
- (n) Any transfer of shares by any Shareholder;
- (o) Divestment or sale of assets of the Company; and
- (p) Any license, transfer, assignment, sale or grant of all or any of the intellectual property rights of the Company.

DEED OF ADHERENCE

I, [Insert name of the interested party to be the New Shareholder/Transferee], a company incorporated and existing under the laws of [____], having its registered office at [_____] (hereinafter referred to as [“_”], which expression shall include my successors and permitted assigns), is interested in subscribing to the shares of the Goods and Services Tax Network (the “**Company**”) and therefore undertakes the following:

- (a) That I have received a copy of the Shareholders’ Agreement dated [] (the “**Shareholders’ Agreement**”) and that I understand the implications of all provisions relating to the rights, duties and obligations of any nature whatsoever under the Shareholders’ Agreement
- (b) That I shall abide by all the terms and conditions of the Shareholders’ Agreement from the date of issue of shares of the Company to me;
- (c) That the Shareholders’ Agreement shall be binding on me;
- (d) That I represent and warrant to all parties to the Shareholders’ Agreement the undertakings given in Clause 8 of the Shareholders’ Agreement
- (e) That I shall not undertake any act of omission or commission, which is or may be contrary to the provisions of the Shareholders’ Agreement, prejudicial to any of the rights or interests of parties to the Shareholders’ Agreement or which may impede or render ineffective any action undertaken by any of the parties of the Shareholders’ Agreement in exercise of their rights under the Shareholders’ Agreement.

IN WITNESS WHEREOF, I execute this Deed on the [_____] day of [____], [____].

SIGNED AND DELIVERED by

for and on behalf of the

Witnessed by:

Name :

Address:

Table Agenda

39th GST Council Meeting – 14th March 2020

Agenda Item 11 (viii): Judgment of Hon'ble Supreme Court of India in Chief Commissioner of Central Excise and Service Tax & Ors. Vs. M/s Ranchi Club Ltd. and State of West Bengal vs. Calcutta Club Limited laying down that from 2005 onwards, Finance Act, 1994 does not purport to levy service tax on member clubs in incorporated form

The Hon'ble Supreme Court of India in the case of *Chief Commissioner of Central Excise and Service Tax & Ors. Vs. M/s Ranchi Club Ltd. and State of West Bengal vs. Calcutta Club Limited* laid down the following ratio decidendi:

- a. From 2005 onwards, the Finance Act of 1994 does not purport to levy Service Tax on member clubs in the incorporated form. (Para 84)
 - b. The doctrine of mutuality continues to be applicable and that there cannot be a sale transaction between a club and its members. Clubs or associations in law have no separate existence from that of the members. (Para 49)
2. The judgment covers two aspects: a) levability of sales tax on supply of food and drinks by a member club to its members; and b) levability of service tax on the services provided by a member club to its members.
3. Regarding levability of sales tax, the Hon'ble Supreme Court laid down that there cannot be a sale transaction between an *incorporated and unincorporated* members' club and its members. The Court drew a distinction between 'members' clubs' and 'proprietary clubs' stating that in case of the latter, the owner of club would not be the members themselves, but somebody else. Members' clubs or associations in law have no separate existence from that of the members. In case of members' clubs, there is no sale by one person to another for consideration as one cannot sell something to oneself. The Court further observed that the *Young Mens Indian Association* and other judgments which applied the doctrine of mutuality continue to hold even after the 46th Amendment adding Article 366(29-A) to the Constitution of India. In support of this analysis, the Court also placed reliance on the last part of Article 366(29-A), which states that supply of such goods shall be deemed to be sale of those goods by the person making the supply, and the purchase of those goods by the person to whom such supply is made. As the *Young Men's Indian Association* (supra) case and the doctrine of mutuality state, there is no sale transaction between a club and its members. As has been pointed out above, there cannot be a sale of goods to oneself. Thus, the Court concluded that it is clear that the ratio of *Young Men's Indian Association* (supra) has not been done away with by the limited fiction introduced by Article 366(29-A)(e).
4. Regarding the levability of service tax, the Court restricted its ruling stating that from 2005 onwards, service tax is not leviable on services provided only by *incorporated* member clubs to its members. The Court took cognizance of the Explanation to Section 65 (inserted in 2006) which provided that services provided by any *unincorporated* association or body of persons to a member thereof shall be a taxable service and particularly Explanation 3 inserted to the definition of 'service' in the post negative list regime under which unincorporated associations or body of persons and their members are statutorily treated as distinct persons. It appears that the Court appreciated the fact that as per Service Tax law, an artificial distinction between an *unincorporated* association and its members was created and this provided a legal basis for taxing services provided by an unincorporated association or body of persons to its members. Due to this explicit distinction between an unincorporated

association and its members (but not in case of incorporated associations or body of persons), the Court restricted its adverse observations only in respect of incorporated member clubs.

Judgment of Hon'ble Supreme Court in ITO Mumbai vs. Venkatesh Premises dated 12.3.2018:

5.1 In this judgment, the question of law that arose was whether certain receipts by cooperative societies, from its members i.e. non-occupancy charges, transfer charges etc. are exempt from income tax based on the doctrine of mutuality.

5.2 As per clause (vii) of sub-section 24 of Section 2 (Definitions), income includes,-
“(vii) the profits and gains of any business of insurance carried on by a mutual insurance company or by a co-operative society, computed in accordance with section 44 or any surplus taken to be such profits and gains by virtue of the provisions contained in the First Schedule.”

5.3 The Court held that the essence of the principle of mutuality lies in the commonality of the contributors and the participants who are also the beneficiaries. A person cannot make a profit from himself. An income received from oneself, therefore, cannot be regarded as income and taxable.

5.4 Hon'ble Supreme Court noted that Section 2(24) of the Income Tax Act, 1961 defines 'income' and that the income of a co-operative society from business is taxable under Section 2(24)(vii) and will stand excluded from the principle of mutuality. The judgment also cited the Supreme Court judgment in the *Bangalore Club* case that “8..... The principle relates to the notion that a person cannot make a profit from himself. An amount received from oneself is not regarded as income and is therefore not subject to tax; only the income which comes within the definition of Section 2(24) of the Act is subject to tax [income from business involving the doctrine of mutuality is denied exemption only in special cases covered under clause (vii) of Section 2(24) of the Act]. The concept of mutuality has been extended to defined groups of people who contribute to a common fund, controlled by the group, for a common benefit. Any amount surplus to that needed to pursue the common purpose is said to be simply an increase of the common fund and as such neither considered income not taxable.... A common feature of mutual organisations in general and of licensed clubs in particular, is that participants usually do not have property rights to their share in the common fund, nor can they sell their share. And when they cease to be members, they lose their right to participate without receiving a financial benefit from the surrender of their membership...”

5.5 Receipts by co-operative societies from their members in the form of non-occupancy charges, transfer charges etc., not being covered by clause (vii) of Section 2(24), the Hon'ble Supreme Court held that such receipts were not taxable in view of doctrine of mutuality.

5.6 This judgment, like the judgment of the Supreme Court in *Calcutta Club* case, clearly shows that in order to tax any supply by an Association – of – persons (AoP) to its members, the doctrine of mutuality needs to be overcome by express provisions to that effect in the taxing statute.

Legal provisions in Service Tax:

Positive Tax Regime (Pre 1.7.2012):

6.1 In the positive tax regime, all services were not taxable. Only specified services were listed as taxable services in Section 65(105) of the Finance Act, 1994. One such taxable service, w.e.f. 16.6.2005 was the service provided or to be provided to its members by any club or association in relation to provision of services, facilities or advantages for a subscription or any other amount [Section 65(105)(zzze) refers].

6.2 Club or association was defined in Section 65(25a) as under:

“Club or Association means providing services, facilities or advantages, for a subscription or any other amount, to its member, but does not include –

- (i) any body established or constituted by or under any law for the time being in force; or
- (ii) any person or body of persons engaged in the activities of trade unions, promotion of agriculture, horticulture or animal husbandry; or
- (iii) any person or body of persons engaged in any activity having objectives which are in the nature of public service and are of a charitable, religious or political nature; or
- (iv) any person or body of persons associated with press or media;

Note: The Hon’ble Supreme Court held that an incorporated club or association having been constituted under a law, will not fall in this definition.

6.3 Following explanation was inserted to Section 65 of the Finance Act, 1994 vide Finance Act, 2006, -

“Explanation: For the purposes of this section, taxable service includes any taxable service provided or to be provided by any unincorporated association or body of persons to a member thereof, for cash, deferred payment or any other valuable consideration.”

6.4 Explanation to Section 65 (above) is identical to Article 366 29(A) of the Constitution inserted by the 46th Amendment, which the Hon’ble Supreme Court has held, does not do away with the doctrine of mutuality. Thus, what appears to have saved the levy of Service Tax on the supply of service by an unincorporated club/AoP to its members during this period was the fact that such service had specifically been declared as a taxable service in the Finance Act, 1994.

6.5 In the positive list tax regime, there was no definition of ‘service’. In the negative list regime, all services became taxable except those in the negative list. ‘Service’ was defined as any activity carried out by a person for another for consideration [Section 65B(44) of the Finance Act, 1994 refers].

6.6 Explanation 3(a) to Section 65B(44) stated as under:

“Explanation 3. – For the purposes of this chapter, -

- (a) an unincorporated association or a body of persons, as the case may be, and a member thereof shall be treated as distinct persons;”

6.7 Definition of person in Section 65B(37) included “(vii) *an association of persons or body of individuals, whether incorporated or not*”.

6.8 Explanation 3(a) to Section 65B(44) in the negative list regime was the key to survival of levy of Service Tax on the supply of service by an unincorporated club or AoP to its members as discussed above. The incorporated clubs or AoPs and its members, having been declared as distinct persons by law, the doctrine of mutuality failed to apply to the provision of service by unincorporated club to its members.

Legal Provisions in GST:

7.1 Prior to deletion of clause (d) of sub-section (1) of Section 7, the expression ‘supply’ included activities specified in Schedule II. Therefore, the following activity listed in Schedule II para 7 was a supply under CGST Act, -

“Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.”

7.2 The activity referred to in Schedule II, para 7 is identical to the provisions in Article 366(29A)(e) inserted by 46th Amendment to the Constitution. Since the Hon’ble Supreme Court has ruled in *Calcutta Club* case that 46th Amendment does not take away the doctrine of mutuality, it is doubtful that the said provision in Schedule II para 7 read with sub-clause (d) of Section 7(1), prior to its deletion, would withstand challenge to levy of supply of service by an unincorporated club or association to its members. [Supply by incorporated club or association to their members in any case is out of tax net, like in Service Tax law, in view of the said judgment]. However, the Department could argue that levy has been upheld in Service Tax in view of identical explanation inserted in Section 65(105) in the Finance Act, 2006.

7.3 Even this tenuous ground has been lost after the deletion of clause (d) of Section 7(1) of CGST Act, w.e.f. 1.7.2017 and introduction of sub-section (1A). With deletion of the said clause, including an activity in Schedule II, does not have a bearing on the question whether the activity constitutes a supply or not. For an activity appearing in Schedule II to be taxable, it should first constitute a supply under provisions of Section 7. The supply of goods or services by an incorporated or unincorporated club or association, has in view of the Supreme Court judgment in *Calcutta Club* case, completely gone out of tax net after deletion of clause (d) of sub-section (1) of section 7 of CGST Act, 2017.

7.4 As discussed above, provision in Schedule II para 7 read with omitted Section 7(1)(d) of the CGST Act, 2017, is not enough to counter the judgment of the Hon’ble Supreme Court because they do not lay down a *distinction between an unincorporated or incorporated association and its members*. The only reason why the levy of Service Tax on services by an unincorporated association to its members was not axed by the Supreme Court was because the relevant provisions specifically created a legal distinction between an unincorporated association and its members. The same was not the case in case of levy of Sales Tax, because they did not provide for such a distinction. It has become completely ineffectual after deletion of clause (d) of Section 7(1) and inclusion of Section 7(1A).

7.5 Therefore, GST on supplies of goods or services by an *unincorporated or incorporated* entity to its members may become subject matter of litigation. There is no provision in the CGST Act, 2017 which stipulates that an *unincorporated or incorporated entity* and its *members* shall be distinct persons. In the absence of a provision to this effect, the subject judgment of the Hon’ble Supreme Court becomes squarely applicable. The doctrine of mutuality applies and thus supplies by *unincorporated or incorporated entity* to its *members* is a supply to self and not leviable to GST.

7.6 Therefore it is imperative to amend the CGST Act, 2017 so as to safeguard the levy of GST on supplies by an association or body of persons (whether incorporated or not) to its members. It is proposed that amendment to the CGST Act, 2017 as being proposed below may be carried out to prevent litigation on this count:-

(a) In Section 7(1) of the CGST Act, 2017, after clause (c), new clause (e) followed by an Explanation may be added with retrospective effect:

7. (1) For the purposes of this Act, the expression “supply” includes—
--

(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;

(b) import of services for a consideration whether or not in the course or furtherance of business;

(c) the activities specified in Schedule I, made or agreed to be made without a consideration; and

(d) ***

(e) the supply of goods or services or both, by an association or a body of persons, whether incorporated or not, to its members, for cash, deferred payment or other valuable consideration.

Explanation.- for the purpose of this section, an association or a body of persons, whether incorporated or not, and member thereof shall be treated as distinct persons.

(NOTE: Insertion of the above Explanation is suggested by TRU-II)

(b) Para 7 of Schedule II may be deleted, as the above amendment would more than fulfil its objective. In any case, it serves no purpose after deletion of clause (d) of sub-section (1) of Section 7.

8. The issue is placed before the GST Council for consideration and decision.

Table Agenda

39th GST Council Meeting – 14th March 2020

Agenda Item 11 (ix): Order of Hon'ble High Court of Rajasthan in the matter of Rajasthan Tax Consultants Association vs UoI and Ors. (D. B. Civil Writ No. 15239/2017)

Reference is invited to the Order of Hon'ble High Court of Rajasthan dated 01.08.2018 in the matter of Rajasthan Tax Consultants Association vs UoI and Ors. (D. B. Civil Writ No. 15239/2017). Para 3 of the said order is reproduced below:

*“3. In our considered opinion, it will be appropriate that the **GST Council will decide the issue.** However, the question regarding delay in filing of return, registration or late fees will not be changed and the same will be **complied with pursuant to earlier order of this Court.** The return which are filed late because of not proper functioning of the computer will not be attributed to the assess between 01.07.2017 to 30.09.2017.”*

2. Para 4 of the previous interim order of the Hon'ble High Court dated 20.09.2017 reads as follows:

*“4. In the meantime, **no coercive action (penal interest, late fees and prosecution)** against any of the client of the petitioners members who are referred in the petition and are informing by email, will be protected. The composition scheme is extended upto 30.09.2017, therefore, desirous assessee can apply.”*

3. A conjoint reading of the above two orders appear to imply that no coercive action (including levy of penal interest due to delay in payment of tax) is to be taken against the petitioners if the delay is on account of system related issues. Further, as per Hon'ble Court Order, it will be appropriate that the GST Council will decide the issue.

4. Since, under GST law there is no provisions for waiver of interest for delayed filing returns and therefore, Misc. Civil application (WMAF-199/2019) was filed before Hon'ble Court with plea to modified order to such extent that the waiver of interest for delayed filing of return may be deleted or modified as per the order of Court. In this regard, Order dated 28.02.2020 of Hon'ble Court is reproduced below:

“List the matter on 18.03.2020 for orders.

In the meantime, learned counsel for the Union of India is directed to obtain instructions as to whether the direction contained in the order dated 01.08.2018 directing the GST Council to decide the issue in para-3 of the order, has in-fact, been considered by the GST Council or not, and if so, what is the decision of the GST Council.”

5. Accordingly, the issue is placed before the GST Council for deliberation and decision.

Table Agenda

39th GST Council Meeting – 14th March 2020

Agenda Item 11 (x): Agenda Note for refund of ITC of the tax paid on capital goods, in cash, for registered taxpayers with annual aggregate turnover up to 15 crores

In view of the focus of the present Government to increase the India's rank in World Bank Ease of Doing Business Report, the Department of Promotion of Industry and Internal Trade (DPIIT) has provided the time up to 31.03.2020 to this Department to amend GST Act to introduce provision for cash refund of input tax credit (ITC) to the companies (engaged in manufacturing) on account of purchase of capital assets during the year.

2. In this regard, it is informed that the overall ranking of India has improved substantially by 57 ranks in past 4 years. However, the improvement under paying taxes has gone up by only 21 ranks. The different indicators which are used for measuring the score under the head of paying taxes and the score obtained by India against these indicators in 2018 are:

Indicators	2018	Score
Number of tax payments	11	86.67
Time to comply with the tax system (hours per year)	252	68.64
Total Tax Rate	49.7%	65.80
Post-filing Index	2018	Score
(A) Time to comply with a VAT refund (Capital Goods)	No refund	0
(B) Time to obtain a VAT refund	No refund	0
(C) Compliance time to correct CIT error (including review time)	3.0 hrs	97.25
(D) Time to complete CIT review, where applicable	Review likelihood <25%	100
Score for post filing index (average of A, B, C & D)		49.31
Overall Paying Taxes Ranking	115	67.63

3. From the above, it is seen that India has got 0 score against the indicators relating to Time to comply with a VAT refund and time to obtain VAT refund. In this regard, it is submitted that the VAT refund referred under this head relates to refund of tax paid on capital assets/goods procured by the registered taxpayer. In the present regime, the registered taxpayer is eligible to avail the Input Tax Credit (ITC) of the tax paid on capital assets. The ITC so availed can be utilised by the said taxpayer for offsetting its outward tax liability. The said observation was placed before the World Bank for giving score against these indicators. However, it was found that the World Bank does not consider the utilisation of ITC availed on Capital Goods for payment of outward tax liability but only cash refund of tax paid on the capital assets for giving a score against these indicators.

4. Further, it has been learnt that to have uniform calculation across all member countries, World Bank considers investment in Capital Assets as 65 times the per capita income in companies with the annual turnover of 1050 times per capita income. For India, as per these criteria, the size of company comes to Rs. 29.26 crores per annum and Capital assets to the tune of Rs. 1.8 Crores with ITC of Rs. 32.4 lakhs.

5. A study has been conducted by a case study company on the status of VAT for paying taxes. The study included a total of 189 countries. As per the report, there are 107 countries where refund of

VAT is available to the case study company and out of these 107 countries in 26 countries refund of VAT is allowed after a carry forward period which ranges from 1 month in The Bahamas to 1 year in Pakistan. In addition, there are 26 countries where no VAT is charged and 5 countries where no VAT is charged on capital purchases. There are 50 countries including India which does not allow for VAT refund. Further, China has recently started the VAT refund. The domestic companies operating in 19 industries meeting the industry criteria and having an appropriate tax credit rating can avail the cash refund of VAT.

6. From the above, it can be seen that internationally in most of the countries the practise is either to allow refund or not to charge any tax on capital purchases. Further, a case study has been conducted by GSTN to compare the utilization of ITC on Capital assets for payment of Liability Vs Refund of ITC accrued on account of Capital Assets acquisition, in cash. The outcome of the study has shown that the impact on revenue remains the same even if the tax paid on capital assets is refunded in cash. They have found that usually the ITC availed on Capital assets is utilized in 4 months from the date of Purchase whereas the refund would be paid in around 3.5 months from the date of purchase. It is further informed that if cash refund of tax paid on capital goods is given, the estimated impact on India's rank would be as under:

1. Post filing Index: 49.4 → 89
2. Indicator Rank: 115 → 76
3. Overall Rank: 63 → 56

7. In view of the above, it is proposed that refund of ITC of tax paid on capital goods procured may be allowed for the registered taxpayers with the annual aggregate turnover up to Rs. 30 crores (factoring in the exchange rate variations). Further, the following conditions may be imposed for refund of tax paid on capital goods:

- a) The facility may be extended to taxpayers registered under GST having annual turnover up to Rs. 30 crores at PAN level.
- b) The cash refund to be processed after such verification, as prescribed, to ensure capital assets have been actually acquired and tax has been paid by the supplier.
- c) The upper limit on cash refund for capital assets to be fixed as Rs. 90 lakhs a year.
- d) The facility may be made available once in 3 years, as capital assets acquired are expected to have a life of 3-4 years.
- e) The refund may be paid after a carry forward period of 6 months.

8. It may be noted that as per the data provided by the Income Tax for Firms/Companies for the Assessment Year 2019-20, the expected revenue impact of providing refund of ITC accrued on account of tax paid capital goods after a carry forward period of 6 months is likely to be Rs. 14000 crore per year.

9. Accordingly, it is proposed that the Section 54 of the CGST Act 2017 may be amended as under to provide for the refund of tax paid on capital goods:

I. By inserting the following sub-section (1A):

(1A) The Government may, on the recommendations of the Council, and subject to such conditions, safeguards and procedures as may be prescribed, notify the class of registered persons, who shall be eligible to claim the refund of any balance lying unutilised in the electronic credit ledger in accordance with the provisions of Section 42 on account of tax paid on the procurement of Capital goods.

II. By amending the 1st proviso to sub-section (3) by inserting clause (iii) to 1st proviso of sub-section (3):

Provided that no refund of unutilised input tax credit shall be allowed in cases other than—

(i) zero rated supplies made without payment of tax;

(ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council:

(iii) where the credit has accumulated on account of procurement of capital goods as specified under sub-section (1A):

10. Further, Rule 89 of the CGST Rules 2017 may be amended as under to provide for the processing of the refund claims:

I. By inserting following clauses under sub-rule (2)

(ha) a statement containing the number and the date of the invoice received during a tax period and the details of payment made by the recipient to supplier, along with the proof thereof, in a case where the claim pertains to refund of any unutilised input tax credit under sub-section (3) of section 54 where the credit has accumulated on account of procurement of capital goods;

(n) a certificate issued by a chartered accountant or a cost accountant to the effect that the said capital goods have been installed in the registered premises and the said capital goods are being utilised for furtherance of business, in case where the claim pertains to refund of any unutilised credit accumulated on account of procurement of capital goods.

(o) a copy of income tax statement and other related documents evidencing the capitalization of said capital goods in books of account, in case where the claim pertains to refund of any unutilised credit accumulated on account of procurement of capital goods.

(p) an undertaking to the effect that the tax has been paid to the Government exchequer by the supplier of the said capital goods of which refund of ITC has been claimed and the refund paid shall be liable to be recovered along with applicable interest and penalty in case it is found that the refund has been availed on the basis of false declaration and undertaking.

(q) an undertaking to the effect that no refund of tax paid on capital goods have been availed in preceding 3 years and the refund paid shall be liable to be recovered along with applicable interest and penalty in case it is found that the refund has been availed on the basis of false declaration and undertaking.

II. By inserting the following sub-section (6):

(6) In the case of refund on account of procurement of capital goods, the refund payable to the registered taxpayer shall be equal to the ITC availed on Capital Goods during the relevant period or

ITC remaining unutilised at the end of the tax period or ITC remaining unutilised at the time of filing the refund claim or Rupees Ninety Lakhs, whichever is lower.

11. Further, a notification would be required to be issued for notifying the class of registered taxpayers i.e. the taxpayers with annual aggregate turnover of Rs. 30 crores at (PAN level) eligible to claim refund of tax paid on capital goods.

12. Accordingly, the above issue is placed before the GST Council for deliberation.

Table Agenda

39th GST Council Meeting – 14th March 2020

Agenda Item 11 (xi): Time bound disposal of long pending change request arising out of changes made in Law/Rules through one time special measure.

1. **Background:** M/S Infosys was asked to clear the pendency of CRs in the SCOMs (27th March, 2019 and 29th May, 2019) as well as during the Group of Ministers meeting held on 28th June 2019 at Bangalore. Infosys shared a plan on 28th May 2019 for the same, which was also presented to the GoM on 28th June. The said plan was improved and re-submitted by Infosys on 17 July 2019. As per the Plan submitted by M/S Infosys, 85 CRs were to be cleared by March 2020. The gist of CR clearing proposal along with the gist of month-wise UAT drop is given below:

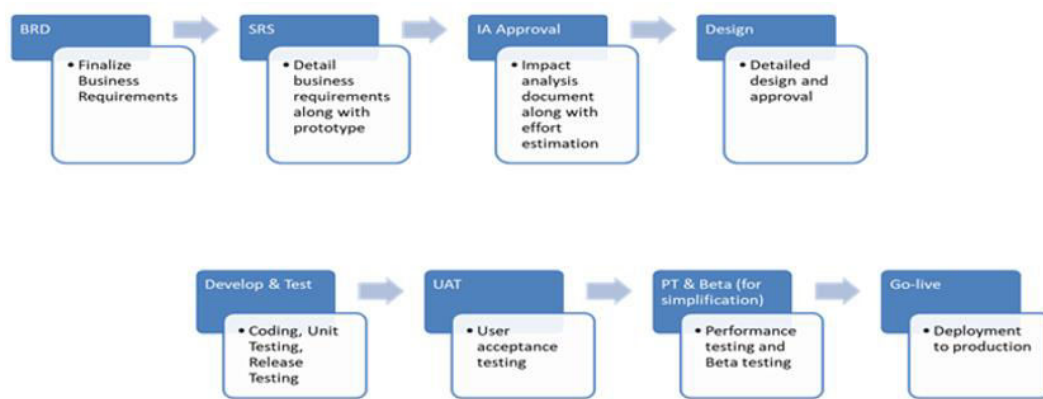
Month	Planned UAT Drop Month wise	Plan to deliver the CRs for clearing backlog
Jul-19	7	85
Aug-19	12	78
Sep-19	13	66
Oct-19	16	53
Nov-19	8	37
Dec-19	15	29
Jan-20	6	14
Feb-20	5	8
Mar-20	3	3
	85	

- a. Since July 2019 till 28th Feb 2020, there has been a significant inflow of Change Requests (CR) due to policy decisions, changes in workflow, feedback received from taxpayers, tax officers and other enhancements. 105 new application changes were raised between Aug 2019 and 28th Feb 2020.
- b. Current status as on 28th Feb 2020 of all the CRs which were deployed is given below. This also include status of 85 CRs (as per plan of M/S Infosys) and new change request raised.

CR Status	Current Status on CRs which were presented by Infosys in CR plan	Current Status of CRs (raised btw July 19 – Feb 2020)	Total
In Production	23	21	44
In Production (Partial)	1	0	01
Awaiting Deployment	1	3	04

In UAT(User Acceptance Testing)	9	8	17
In RT(Release Testing)	4	2	06
In Development	5	13	18
Pre-Assessment	15	56	71
On Hold	8	2	10
Withdrawn	19	0	19
Grand Total	85	105	190

- c. This concern of long delay in clearing the CR backlog was raised again in the meeting held on at DoR on 31st January 2020. Infosys team was asked to expedite the implementation of change request. Infosys team informed that significant time goes into designing of SRS, Tech design document (TDD) and framing of Impact Assessment (IA), which also contains the man-days required for development and deployment of a CR. They further reported that lot of to & fro movement takes place between GSTN and Infosys leading to delay in taking up of CRs.
- d. In the said meeting Infosys team proposed that a crack team of 10 to 15 tech personnel may be taken on manpower rates (T&M - *Time & Material* basis), as approved in the contract, to do the solutioning [develop SRS(System req. specification)/IA(Impact Assessment)/TDD(Technical design document)] in CRs, which takes more than 6 to 8 weeks leading to long delay in estimation of efforts to complete the CRs.
- e. On March 4th 2020, M/S Infosys submitted the proposal for setting up and operating a dedicated team which will have two dedicated teams namely Solution Team (10 Resources) and Execution Team (50 Resources) as part of its dedicated team. Under this proposal complete change request workflow will go on T&M basis. Key points of this plan as follows:
 - i. Solution Team will have 10 resources (domain consultant/Tech Architect)
 - ii. Solution team will design Techno-functional document to reduce the time taken in SRS designing/TDD/IA designing. This document easily suffice SRS/TDD/IA and can be easily understood by domain teams, UAT teams and third party teams.
 - iii. That Techno functional document will handed over to Execution team (50 resources count) and development /Testing will be done by execution Team.
 - iv. Post development and RT, this will be deployed to UAT.



2. It is proposed that the above mentioned methodology of getting the work done on T&M basis, as a departure from existing methodology of development to liquidate long pendency of change request (CR) and to have quick turnaround of development based on policy changes, may kindly be approved. The first set of 5 change request to be undertaken under this methodology (End to end development and testing by Infosys team on T&M basis) is attached as **Annexure- 1**.
3. This approach is placed for in-principle approval of GST Council.

List of first set of change request to be taken up on T&M basis.

Sl. No.	Change
1	<p>Nil filing of GSTR-3B through SMS</p> <p>For allowing filing of GSTR-3B through SMS if there is no liability to be declared in table-3.1 and no credit to be claimed in table-4 of GSTR-3B.</p>
2	<p>Auto population of liabilities from GSTR-1 into GSTR-3B (System to generate a draft version of GSTR-3B on the basis of the entries made in GSTR-1. Subsequently, the liabilities would also be auto-populated in the corresponding entries of tables 3.1 and 3.2 of GSTR-3B.)</p>
3	<p>Flow of ITC from GSTR 2A to GSTR 3B and from data received from ICEGATE/ SEZ</p>
4	<p>Spike Rule (The Law Committee recommended the proposal of restricting new registrations to pass input tax credit over and above Rs. 3 lakh and the deposit made in the electronic cash ledger. Once the proposal is approved by the GST Council, a CR would be issued to make the corresponding technical changes in the system to implement this decision.)</p>
5	<p>De-linking of credit/debit notes from invoices in GSTR-1 (As of now, the system links every credit/debit note to the original invoice. Necessary changes would be made in GSTR-1 to de-link credit/debit notes from the original invoices against which they were issued, to enable reporting of consolidated credit/debit notes in the system. CR for the same has already been issued.)</p>

Table Agenda

39th GST Council Meeting – 14th March 2020

Agenda Item 11 (xii): Ad-hoc Exemptions Order(s) issued under Section 25 (2) of Customs Act, 1962 to be placed before the GST Council for Information

In the 26th GST Council meeting held on 10th March, 2018, it was decided that all ad-hoc exemption orders issued with the approval of Hon'ble Finance Minister as per the guidelines contained in Circular No. 09/2014 – Customs dated 19th August, 2014, as was the case prior to the implementation of GST, shall be placed before the GST Council for information. The GST involved is approximately Rs. 93 Lakh

2. The details of the ad-hoc exemption order are as follows:

S. No.	Date	Order No.	Remarks
1.	17 th February, 2020	AEO No. 01 of 2020	Request from the Ministry of Defence for Custom Duty exemption for import and re-export of Guns/equipment from Sri Lanka.

3. This is placed for the information of GST Council.