



Agenda for 49th GST Council Meeting

18th February 2023





**GST Council Secretariat
New Delhi**

5th Floor, Tower-II, Jeevan Bharti Building, New Delhi
02nd February, 2023

OFFICE MEMORANDUM

Subject: Notice for the 49th Meeting of the GST Council scheduled to be convened on 18th February, 2023

The undersigned is directed to refer to the subject stated above and to convey that the 49th Meeting of the GST Council will be held on **18th February, 2023 at Vigyan Bhawan, New Delhi**. The schedule of the Meeting is as follows:

- **Saturday, 18th February, 2023:** 11:00 A.M. onwards
- 2. The agenda items and other details for the 49th Meeting of the GST Council will be communicated in due course of time.
- 3. Keeping in view the logistical constraints, it is requested that participation from each State/UT may be kept limited to two (02) officers in addition to the Hon'ble Member of the GST Council.
- 4. Kindly convey the invitation to Hon'ble Members of the GST Council to attend the Meeting of the GST Council.

Sd/-

(Sanjay Malhotra)

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 the 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 proceeding of the Council.
5. CEO, GST Network.

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Discussion on Agenda Items

Agenda Item 1: Draft Minutes of the 48th Meeting of GST Council held on 17th December, 2022

The 48th meeting of the GST Council was held on 17th December, 2022 through video conferencing under the Chairpersonship of the Hon'ble Union Finance Minister, Smt. Nirmala Sitharaman. The list of Hon'ble Members of the Council who attended the meeting is at **Annexure-1**. The list of the officers of the Centre, States, Union Territories with legislature, GST Council Secretariat and GSTN who attended the meeting is at **Annexure-2**.

1.2 The following agenda items were listed for discussion in the 48th meeting of the GST Council as stated below:

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<u>Agenda No.</u>	<u>Agenda Item</u>
1	Confirmation of Minutes of 47 th GST Council Meeting held on 28 th & 29 th June, 2022
2	Ratification of the Notifications, Circulars and Orders issued by the GST Council and decisions of GST Implementation Committee for the information of the Council
3	Recommendations of the Fitment Committee for the consideration of the GST Council
	a) Recommendations made by the Fitment Committee for making changes in GST rates or for issuing clarifications in relation to goods – Annexure-I
	b) Issues where no change has been proposed by the Fitment Committee in relation to goods – Annexure-II
	c) Issues deferred by the Fitment Committee for further examination in relation to goods – Annexure-III
	d) Recommendations made by the Fitment Committee for making changes in GST rates or for issuing clarifications in relation to services – Annexure-IV
	e) Issues where no change has been proposed by the Fitment Committee in relation to services – Annexure-V
	f) Issues deferred by the Fitment Committee for further examination in relation to services – Annexure-VI
4	Report of the Committee on Levy of penal interest on delayed remittances of GST by the Banks to the Government Accounts in RBI during the initial period of GST implementation.
5	Performance Report of the NAA (National Anti-profiteering Authority) for the 1 st quarter (April, 2022 to June, 2022) and 2 nd quarter (July, 2022 to September, 2022)

	along with monthly performance report for the months of October and November, 2022 for the information of the Council
6	Ad-hoc Exemptions Orders issued under Section 25(2) of the Customs Act, 1962 to be placed before the GST Council for information
7	Issues recommended by the Law Committee for the consideration of the GST Council
	i. Amendment in the CGST Rules, 2017 for Aadhaar based Biometric authentication of the registrants
	ii. Refund to unregistered persons
	iii. Decriminalization of the CGST Act, 2017
	iv. Amendment in Rule 94 of the CGST Rules, 2017 and Section 56 of the CGST Act, 2017 to provide for exclusion of time period of delay in sanction and disbursal of refund where such delay is attributable to the applicant
	v. Clarifying the manner of re-determination of demand in terms of sub-section (2) of Section 75 of the CGST Act, 2017
	vi. Amendment in the CGST Rules, 2017
	I. Amendment in sub-rule (3) of Rule 12
	II. Amendment in sub-rule (1) of Rule 37
	III. Insertion of Rule 37A
	IV. Amendment in Rule 46
	V. Amendment in Rule 46A
	VI. Insertion of proviso in sub-rule (8) of Rule 87
	VII. Amendment in Rule 108 and Rule 109
	VIII. Insertion of Rule 109C
	IX. Deletion of clause (d) of sub-rule (14) of Rule 138
	X. Amendment in entry (5) of Annexure appended to sub-rule (14) of Rule 138
	XI. Substitution of FORM GST REG-19
	XII. Amendment in FORM GST REG-17

	XIII. Amendment in FORM GST DRC-03
	vii. Supplies by unregistered person and composition dealers through e-commerce operators
	viii. Amendments in the CGST Act, 2017
	A. Amendment in second proviso to Section 16 of the CGST Act, 2017 to align with GSTR-1/3B
	B. Amendment to Section 23 to provide overriding effect over Sections 22(1) & 24
	C. Amendments in the CGST Act, 2017 to restrict filing of returns / statements after completion of specified time in view of data archival policy
	D. Proposal for amendment of sub-section (6) of Section 54 of CGST Act, 2017
	ix. Amendment in the tables of GSTR-1 for reporting ECO Supplies made under Section 9(5) of the CGST Act, 2017 and attracting TCS under Section 52 of the CGST Act, 2017
	x. Retrospective applicability of paras 7, 8(a) and 8(b) of Schedule III of the CGST Act, 2017
	xi. Mechanism to deal with differences in liabilities between GSTR-1 and GSTR-3B, along with draft rules and proposed FORM DRC-01B for implementing the same
	xii. Clarification on various issues in GST
	A. Clarification on taxability of No Claim Bonus offered by Insurance companies
	B. Clarification on applicability of e-invoicing w.r.t an entity
	xiii. Clarification regarding treatment of the difference in ITC availed in GSTR-3B as compared to that available in GSTR-2A for FY 2017-18 and 2018-19
	xiv. Clarification regarding the treatment of statutory dues under GST law in respect of the taxpayers for whom the proceedings have been finalised under the Insolvency and Bankruptcy Code, 2016
	xv. Amendment in provisions related to OIDAR Services under the IGST Act, 2017
	xvi. Amendment in Section 17 of the CGST Act, 2017 regarding ITC in respect of CSR (Corporate Social Responsibility) expenditure
	xvii. Issues related to place of supply in terms of the proviso to Section 12(8) of the IGST Act, 2017
8	Issues recommended by GSTN:

	1. Proposed Changes in HR Policies and Transition Management from GSTN
	2. Proposal for Changes in the Revenue Model of GSTN and transition to the new Revenue Model
	3. Waiver of Interest on delayed receipt of Advance User Charges (AUC) from a few states and CBIC
	4. Data Archival Policy for the GST System
	5. Implementation of facility to Generate Document Identification Number in GST Back Office for Model 2 States in compliance with the Hon'ble Supreme Court judgement in W.P 320 of 2022.
9	Report of Group of Ministers on constitution of Goods and Services Tax Tribunal
10	Closure of Group of Ministers (GoM) on levy of Covid Cess on Pharma and Power in Sikkim
11	Closure of Group of Ministers (GoM) to examine the feasibility of implementation of e-way bill requirement for movement of gold and other precious stones.
12	GST Data sharing with Ministries and Departments
13	Review of revenue position under Goods and Services Tax
14	Final Report of Group of Ministers (GoM) on Capacity Based Taxation and Special Composition Scheme in certain sectors on GST
15	Recommendations of the 17 th IT Grievance Redressal Committee for approval/decision of the GST Council
16	Agenda on Report of Committee of Officers (CoO) on GST Audit along with Draft Model All India GST Audit Manual
	i. Report of the Committee of Officers (CoO) on GST Audit 2022 (Annexure A)
	ii. Report of the Sub-Committee (CoO) on GST Audit Policy And practices of the Centre and the States that have already implemented certain procedures (Annexure I)
	iii. Model All India GST Audit Manual (Annexure II)
	iv. Report of the sub-committee constituted to broadly outline the procedural aspects of joint and thematic audit (Annexure III)
	v. Report of the sub-committee constituted on using capability of data analytic developed by DGARM for identification of state taxpayers for Audit (Annexure IV)
	vi. Report of the sub-committee constituted to suggest measures of capacity building in Services for focused approach on audit of Services Sector (Annexure V)

	vii. Report of sub-committee constituted to study, examine and make suggestions on the issue of “To build knowledge on financial accounting and focused approach towards interpreting business contract/agreement and understanding of the system-driven business process through SAP, Oracle, Tally, etc.” (Annexure VI)
17	Any other agenda with the permission of the Chair.

1.3 The meeting started with greetings from Hon’ble Members to the Hon’ble Chairperson. The Hon’ble Chairperson welcomed and introduced the new Revenue Secretary, Sh. Sanjay Malhotra to the Hon’ble Members of the Council and thanked ex Revenue Secretary, Sh. Tarun Bajaj for his contribution.

1.4 With the permission of the Chair, the Secretary to the GST Council welcomed all the Hon’ble Members of the Council and participating officers to the 48th meeting of the GST Council.

The Secretary, on behalf of the Council, thanked the following former Hon’ble Members of the Council for their immense contribution –

1. Shri Tarkishore Prasad, ex Member from Bihar
2. Shri Ajit Pawar, ex Member from Maharashtra
3. Shri Sukh Ram Chaudhary, ex Member from Himachal Pradesh

He further extended a warm welcome to the incoming Hon’ble Members of the GST Council to the 48th meeting of the GST Council-

1. *Sh. Devendra Fadnavis, Hon’ble Deputy Chief Minister, Maharashtra*
2. *Sh. Vijay Kumar Chaudhary, Hon’ble Finance and Commercial Tax Minister, Bihar*

and thanked ex. Revenue Secretary, Sh. Tarun Bajaj for his contributions.

1.5 The Secretary stated that in its 47th meeting at Chandigarh, the Council had formed a GoM on Goods and Services Tax Appellate Tribunal with Sh. Dushyant Chautala, Hon’ble Deputy Chief Minister of Haryana as the Convener and Hon’ble Ministers from States of Andhra Pradesh, Goa, Rajasthan, Uttar Pradesh and Odisha as Members. He stated that the GoM had submitted their recommendations in the form of a report which was placed as an agenda before the Council. He thanked all the Hon’ble Members of the GoM for their valuable recommendations.

1.6 Further, he stated that the GST Council had formed a GoM on Capacity based taxation and Special Composition Scheme in certain Sectors on GST with Sh. Niranjan Pujari, Hon’ble Minister of Finance, Odisha as the Convener and Hon’ble Ministers from Delhi, Haryana, Kerala, Madhya Pradesh, Uttar Pradesh and Uttarakhand as Members. The GoM had submitted its report which was

placed before the Council for deliberations. He thanked all the Hon'ble Members of this GoM for their valuable recommendations.

1.7 The Secretary further stated that in this Council meeting, there were agendas for closure of GoM on movement of Gold and Precious Stones and GoM on Levy of Covid Cess on power and pharma sector in Sikkim. He thanked all the Hon'ble Members of these two GoMs for their valuable contributions.

1.8 The Secretary informed that the GST Revenue had set new records this year. The gross GST revenue collected in the month of November, 2022 was Rs. 1,45,867 crore which was 11 % higher than the GST revenue in the same month last year. The gross GST revenue collected in the month of October, 2022 was Rs. 1,51,718 crore which was 14 % higher than the GST revenue in the same month last year. GST collections have crossed Rs.1.40 lakh crore mark for the 8th time at a stretch since March, 2022. He thanked all the States, Central GST formations and Union Territories for their remarkable efforts in revenue augmentation.

1.9 He further informed the Council that he had held a meeting with the officers of the States/UTs on 16th December, 2022 and had a very frank and fruitful discussion on various agenda items which would immensely help the Council in steering the agenda of this meeting. He sought the permission of the Chair to proceed with the discussions on the agenda.

1.10 The Hon'ble Chairperson requested the Hon'ble Members to offer comments, if any, before proceeding with the agenda items.

1.11 The Hon'ble Member from Tamil Nadu suggested that the meeting could be concluded by 01:30 p.m. and all agenda items that could not be discussed, could be rolled over to the upcoming Council meeting to be discussed in physical mode. He explained that due to budget session approaching, Hon'ble Members would be pre-occupied. Hon'ble Members from Telangana, Gujarat, Karnataka, Maharashtra etc. agreed with this suggestion and many States like Gujarat, Haryana, Kerala and Andhra Pradesh suggested that items could be prioritized and the Tribunal agenda could be discussed on priority. Hon'ble Member from West Bengal stated that she was agreeable with any decision taken by the Council in that regard.

1.12 The Secretary stated that the majority view appears to be that the meeting could be concluded by 01:30p.m. He informed that the officers meeting on 16th December was concluded by 03:00 p.m. even when the Law Committee agenda was discussed at length. He suggested that a call could be taken around 1:30 p.m. as the meeting progressed. The Hon'ble Chairperson accorded permission to start with the agenda.

2. Agenda Item 1: Confirmation of the Minutes of the 47th Meeting of the GST Council

The first agenda item pertained to confirmation of the minutes of the 47th GST Council meeting held on 28th and 29th June, 2022 at Chandigarh. The Secretary stated that some comments had been received from few States which were basically editorial changes which had been carried out and the revised minutes incorporated in the agenda and circulated to all the Hon'ble Members.

The Council adopted the Minutes of the 47th meeting of the GST Council.

3. Agenda Item 2: Ratification of the Notifications, Circulars and Orders issued by the GST Council and decisions of GST Implementation Committee for the information of the Council

The Secretary stated that the second agenda item pertained to ratification of the Notifications, Circulars, and Orders issued by the GST Council and the decisions of the GST Implementation Committee (GIC) for the information of the Council. He stated that the GIC decisions are also implemented through Notifications, Circulars, and Orders. Principal Commissioner, GST Policy Wing informed the Council that subsequent to release of the Agenda, Notification No. 25/2022-Central Tax was issued on 13th December, 2022 pursuant to the decision of GIC to provide relief to the taxpayers affected by cyclone 'Mandous' by extending the due date for furnishing Form GSTR-1 for November, 2022 for registered persons whose principal place of business is in specified districts of Tamil Nadu. The Council took note of the decisions of the GST Implementation Committee (GIC) and ratified the Notifications, Circulars and Orders issued. Further, the Notifications, Circulars and Orders issued by the States which were *parimateria* with above Notifications, Circulars and Orders were also ratified.

4. Agenda item 3: Recommendations of the Fitment Committee for the consideration of the GST Council

4.1 The Secretary introduced the agenda item relating to the recommendations of the Fitment Committee. These recommendations had been given in six (06) Annexures where the first three related to goods and the other three related to services. The first Annexure provided details of the items (goods) where some tax rate change or clarification was being recommended; the second Annexure listed items (goods) where no tax rate changes were being recommended and the third Annexure listed items (goods) where the recommendations would be given by the Fitment Committee after further deliberations and approval of the Council would be sought. Categorization on similar lines had been made in fourth, fifth and sixth Annexures pertaining to the services.

4.2 The Secretary to the Council stated that the recommendations of the Fitment Committee were discussed in detail in the Officer's Meeting on 16.12.2022 and most of recommendations were agreed to by all. Then the Secretary asked JS, TRU to take the Council through a brief presentation on the recommendations of the Fitment Committee.

4.3 Joint Secretary, TRU stated that the agenda note dealt with proposals regarding GST rates and clarifications relating to supply of goods and services. The proposed changes emanated from the recommendations made by the Fitment Committee on the basis of representations received from various stakeholders including Ministries and other offices of Centre and States, seeking changes in GST rates/ issuance of clarifications regarding classification and GST rates applicable on supply of certain goods and services.

4.4 She further informed that the Fitment Committee had examined the representations on 12th & 23rd September, 2022 and 28th October, 2022. After examination, the Fitment Committee had recommended changes in GST rates or issue of clarifications, in relation to certain goods and services. Further, the Fitment Committee had recommended no change in respect of certain goods and services. On certain issues, Fitment Committee was of the view that further examination would be required before making any recommendation to the GST Council and thus those issues had been deferred.

4.5 Accordingly, Fitment Agenda for consideration of the GST Council was summarized in six Annexures (I to VI). There were a total of 19 issues relating to goods out of which the Fitment Committee had recommended rate changes or issue of clarifications in case of nine items (Annexure-I of the Agenda Volume-I), not recommended any change for 8 items (Annexure-II of the Agenda Volume-I) and deferred two issues (Annexure-III of the Agenda Volume-I) for further examination. In case of services, there were a total of 27 issues, out of which the Fitment Committee had recommended rate change in 7 (Annexure-IV of the Agenda Volume-I), not recommended any change for 16 services (Annexure-V of the Agenda Volume-I) and deferred 4 issues (Annexure-VI of the Agenda Volume-I) for further examination.

4.6 Thereafter, JS,TRU presented the Fitment agenda. (**Annexure-3**)

4.7 The first item of discussion was the proposal for deletion of 'pencil sharpener' from entry no. 180 of Schedule II mentioned at Sl. No. 1 of Annexure-I. She stated that in the 47th meeting of the Council, it was decided to increase the rate on this item from 12% to 18% on the recommendation of the GoM on Rate Rationalization. That rate change was carried out by omitting entry 188 in Schedule II. However, inadvertently in entry 180 of the Schedule II, the tax rate pertaining to pencil sharpener remained at 12%. This agenda had been brought before the Council in order to remove this inconsistency.

4.8 The Hon'ble Member from Punjab, West Bengal and Puducherry requested not to increase GST rate from 12% to 18% on pencil sharpener as the item pertains to education of young children.

4.9 JS, TRU then presented the agenda pertaining to by-products of milling of dal/pulses like Kanda, Churi (also known as Chuni), Chilka wherein the Fitment Committee had recommended that in view of the dual use of these products with differential GST rate (Nil when supplied as cattle feed and 5 % when supplied as cattle feed ingredients), till the GoM on Rate Rationalization takes a view on rationalization of tax rates under Chapter 23, in order to have clarity and avoid confusion amongst the concerned suppliers regarding the GST rate on the supply of subject goods and for the ease of administration of the levy, these products could be exempted from GST, irrespective of their end use. Fitment Committee also recommended that a clarification be issued to regularize the matter of the intervening period on as is basis from the date of issuance of the last Circular (that is, consequent to 47th GST Council Meeting) on account of genuine doubts.

4.10 The Hon'ble Member from Madhya Pradesh supported the proposal to exempt the by-products of milling of dal/pulses like Kanda, Churi (also known as Chuni), Chilka from GST, irrespective of their end use.

4.11 The Hon'ble Chairperson suggested that there could be full presentation on agenda 3 (a) and then the floor would be opened for discussion.

4.12 JS, TRU then presented the issue relating to SUV cars wherein doubts had been raised as to whether all four conditions viz. engine capacity exceeding 1500 cc, popularly known as SUV, a motor vehicle of length exceeding 4000 mm and having ground clearance of 170 mm and above need to be satisfied for levying higher cess rate as per entry 52 B of Compensation Cess Notification No. 1/2017 – Compensation Cess (Rate) dated 28.6.2017 or the conditions in Explanation to the entry are optional. Fitment Committee recommended that a clarification be issued to clarify that all four conditions need to be fulfilled for levy of higher compensation cess rate of 22%.

4.13 JS, TRU further explained that interim Report of the Group of Ministers (GoM) on capacity-based taxation and special composition scheme for certain sectors was placed before the GST Council in its 45th Meeting, held on 17.09.2021. One of the categorical recommendations in the Interim Report was for introducing the payment of GST liability under Reverse Charge Mechanism (RCM) on the supply of Mentha Oil, at the first stage of the supply, in terms of modalities worked out by Uttar Pradesh. Now, a request had been made to also include *Mentha arvensis*, classifiable under HSN Code 3301 25 90, in Notification No. 10/2021- Central Tax (Rate) dated 30.9.2021 under Reverse Charge Mechanism. The Fitment Committee had recommended to include *Mentha arvensis*, classifiable under HSN Code 3301 25 90, under Reverse Charge Mechanism.

4.14 The next issue was regarding clarification on applicable GST rate and 6/8 digit HS code of carbonated beverages of fruit drink or carbonated beverages with fruit juice. JS TRU explained that in the 45th Meeting, the GST Council had approved a separate entry for carbonated beverages as long as they are carbonated (irrespective of whether carbon dioxide is added as a preservative or additive). The Fitment Committee recommended that 2202 99 is the appropriate 6 digit code and that to remove any ambiguity, an exclusion be created for such beverages in entry No. 48 of Schedule II of Notification 1/2017- Central Tax(Rate) which deals with fruit pulp or fruit juice based drinks.

4.15 JS, TRU stated that the next issue was to clarify the classification of Rab (Rab- Salawat). The Fitment Committee noted that Rab (Salawat) being in liquid or semi-solid form did not qualify to be classified under HSN 1701, which dealt with solid form of cane or beet sugar and chemically pure sucrose, and since its chemical composition was different from that of molasses, that was not classifiable under HSN 1703. Therefore, the Fitment Committee had recommended to clarify that Rab (Rab-Salawat) falls under HSN 1702 attracting 18% GST.

4.16 The next item presented pertained to issuance of clarification regarding products such as fryums manufactured using the process of extrusion. The Fitment Committee recommended to clarify that the item ‘fryums’ manufactured using the process of extrusion would fall under CTH 1905 attracting GST @ 18%.

4.17 She presented the next issue regarding clarification sought on applicable IGST rate on items imported for petroleum operations under Notification No. 3/2017-Integrated Tax (Rate) wherein the Fitment Committee had noted that the said Notification provided a concessional rate of duty to such products which attracted a higher rate of GST when those goods were imported for petroleum operations. The Fitment Committee recommended that a clarification could be issued that a taxpayer could claim the lower rate for specific items as given in the Schedule.

4.18 The next item presented was for extending concessional rate of 5% on Ethyl alcohol supplied to refineries for blending with motor spirit (petrol). JS TRU stated that the National Policy on Biofuels – 2018 provided an indicative target of 20% ethanol blending under the Ethanol Blended Petrol (EBP) Program by 2030. Further, during the Budget exercise of 2022-23, additional Basic Excise Duty @ Rs. 2 per litre was levied on Unblended Petrol and Unblended Diesel to promote blending in petrol and diesel in the country. The concessional GST rate of 5% was available only to Oil Marketing Companies (OMCs) like IOCL, BPCL and HPCL under entry 102A of Schedule I of Notification No. 1/2017-Central Tax (Rate) dated 28.6.2017. She submitted before the Council that keeping in view the implementation of the Ethanol Blending Programme, and since concessional GST benefit was already given to OMCs for blending ethanol with petrol, the proposal was to provide the same concessional

GST rate of 5% on ethanol supplied to standalone petroleum refineries as well for blending with petrol in order to provide a level playing field. She submitted that Fitment Committee had recommended that the said entry 102A of Schedule I might be amended to include refineries in addition to Oil Marketing Companies.

4.19 JS, TRU then informed the Council about agenda 3 (b) which pertained to the list of goods where no change in GST rate had been recommended by the Fitment Committee.

4.20 The Hon'ble Chairperson then opened the floor for discussion except for pencil sharpeners and by-products of milling of dal/pulses on which comments had already been made by the Hon'ble Members.

4.21 The Hon'ble Member from Haryana stated that as per proposal on SUVs, a higher rate of Compensation Cess would be applicable on motor vehicles which were popularly known as SUVs 'and' which satisfied all the other three conditions, viz. (i) the engine capacity exceeds 1500 cc (ii) the length exceeds 4000 mm; and (iii) the ground clearance was 170 mm and above. He suggested that in case a sedan car which fulfilled all three conditions after and may also be called an SUV so as to avoid any confusion, he suggested to remove the word 'and' in the clarification being recommended by the Fitment Committee. He requested for a clarification in that regard.

4.22 JS, TRU clarified that the definition of SUV had been carried forward from the Central Excise regime and a vehicle to be called SUV, all four conditions need to be fulfilled and would not cover sedan car accordingly.

4.23 The Secretary clarified that that proposal was for vehicles which were popularly known as 'SUV' and also fulfilled remaining three conditions to be classified as a SUV.

4.24 The Hon'ble Member from Haryana further stated that there was a category of cars like Multi Utility Vehicle (MUV), which might also fulfil above conditions, but would not attract a higher rate of tax since that was not called a SUV.

4.25 The Hon'ble Chairperson asked JS TRU from where the definition of SUV was derived. JS, TRU responded that the definition of SUV was carried forward from the Central Excise regime. The Hon'ble Chairperson enquired about how the issue of compensation cess in case of other variants of vehicles like MUV that were available in the market would be addressed. JS, TRU responded that that aspect was yet to be seen.

4.26 The Chairman, CBIC suggested that other types of vehicles could also be included which satisfy the other three conditions as pointed out by the Hon'ble Member from Haryana. The Hon'ble Chairperson further enquired about the treatment of MUVs under that proposal.

4.27 The Chairman, CBIC suggested that MUVs might also be included in the Explanation for levy of higher rate of compensation cess @ 22% like SUVs. The Hon'ble Chairperson enquired whether the suggestion of Chairman, CBIC would satisfy the query of the Hon'ble Member from Haryana. The Hon'ble Member from Haryana responded that there was a need to restudy this proposal and bring that back in the future GST Council meetings to avoid any instances of tax evasion.

4.28 The Hon'ble Chairperson proposed that an additional line might be inserted in the clarification that that was applicable only to SUVs and as regards other descriptions of vehicle like MUVs, the matter should be studied and brought back before the Council in the upcoming meetings. The Hon'ble Member from Karnataka supported the view taken by the Hon'ble Chairperson.

4.29 The Hon'ble Member from Uttar Pradesh, referring to the agenda item on 'Rab' suggested that both Jaggery and 'Rab' were made from sugarcane juice and were mostly used by poor people. Thus the rate of GST on both Jaggery and Rab should be kept the same. He further stated that Rab was not a raw material for liquor preparation, so that should not attract GST rate of 18%.

4.30 The Hon'ble Chairperson clarified that the issue brought before the Council was only to clarify the classification of Rab. And that the clarification was necessitated as certain States had issued notices classifying Rab as similar to molasses under Chapter 1703 demanding 28% GST. No new tax had been proposed on Rab. If the Hon'ble Member from Uttar Pradesh wanted to propose a lower rate than 18% on Rab due to genuine reasons, that could be brought back before the Council as a separate agenda in the upcoming meetings.

4.31 The Secretary clarified that the proposal was only for the purpose of clarification on classification and applicable tax rate on Rab, as divergent tax rates were being made applicable on that item across the States. As already stated by the Hon'ble Chairperson, the suggestion for a lower tax rate on Rab could be brought back before the Council as a separate agenda in the upcoming meetings.

4.32 The Hon'ble Member from Punjab stated that the tax rate on ethyl alcohol should not be decreased to 5% as that would lead to tax evasion in the States.

4.33 The Secretary clarified that the concessional GST rate of 5% was available only to Oil Marketing Companies (OMCs). The proposal was to provide the same concessional GST rate of 5% on ethanol supplied to standalone petroleum refineries as well for blending with petrol in order to provide a level playing field, keeping in view the implementation of the Ethanol Blending Programme.

4.34 The Secretary to the Council also clarified that the rate on Pencil Sharpener was increased from 12% to 18% on the basis of recommendation of GoM to rectify inverted duty structure and to address the inconsistency. The Hon'ble Chairperson further clarified that the proposal was only for removal of inversion in duty rate structure and to streamline the tax structure on the item. She stated that the inversion scenario on the item, quantum of refunds being given etc. could be examined in detail by the Fitment Committee and then a fresh proposal brought as to whether a lower rate of GST on pencil sharpeners could be considered.

4.35 Further, the Secretary stated that the Council may approve the existing proposals in Agenda-3 (a) whereas the issues raised by the Members regarding the lower tax rate on pencil sharpener; compensation cess on vehicles which were similar to SUV and fulfilling the mandated conditions; and lower GST rate on Rab would be taken up in the upcoming GST Council meetings after detailed deliberation by the Fitment Committee.

4.36 The Hon'ble Chairperson instructed that issues regarding enhanced Compensation Cess on vehicles which were similar to SUV, rate of tax on Rab and on pencil sharpeners because of duty inversion would be examined by the Committee again and brought back to the Council for decision as fresh proposals.

The Council approved the proposals as detailed in Agenda 3(a).

4.37 JS, TRU further informed the Council that no change was being proposed in the tax rates of items mentioned in agenda 3(b), while agenda 3(c) contained list of goods on which decision has been deferred for upcoming GST Council meetings.

4.38 The Hon'ble Member from Puducherry requested to reduce the GST rates from 18% to 12% on the items like water pump set, kitchen ware and spoon mentioned in agenda 3(b) respectively as farmers are totally dependent on ground water and no other source of water is available with them while kitchen items are used by common public specially by the women.

4.39 The Secretary clarified that these tax rates were adopted on the recommendations of the GoM/Fitment Committee to remove the inverted duty structure and he requested the Hon'ble Members that such issues should not be reopened so early with a view to providing certainty and consistency in tax policy.

4.40 The Hon'ble Member from Puducherry stated that the current system did not provide a mechanism to States/UTs to present their views and concerns before the Fitment Committee or GoM.

4.41 The Hon'ble Chairperson stated that the Hon'ble Member from Puducherry could raise his concerns to the Council in writing and the Fitment Committee would examine these concerns afresh in detail. As of now the agendas 3 (b) and 3 (c) could be approved.

The Council approved the proposals as detailed in Agendas 3 (b) and 3(c).

4.42 JS, TRU further presented the agenda 3(d) i.e., Recommendations made by the Fitment Committee for making changes in GST rates or for issuing clarifications in relation to services. She presented the following issues-

- To extend validity of GST exemption on Viability Gap Funding (VGF) paid to Selected Airline Operators (SAOs) for operating flights under Regional Connectivity Scheme (RCS) for further period
- Omission of entry 23A of Notification No. 12/2017-CTR dated 28.06.2017 which provides exemption to the service by way of access to a road or a bridge on payment of annuity.
- To clarify the applicability of GST on revenue apportioned by Indian Railways (IR) to SPVs and O&M costs charged by Indian Railways from SPVs.
- To clarify applicability of GST on Air Force Officers Mess.
- To clarify whether GST is applicable on the incentive paid by MEITY to the Banks under the Scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions.
- To clarify the applicability of GST when the residential dwelling is rented by a person who is the proprietor of a proprietorship firm in his personal capacity for use as his own residential dwelling. The proposal was to amend the entry as well as insert an Explanation to the entry No. 12 of Notification No. 12/2017-CTR
- To specify a positive list of services under Sr. No. 3 & 3A of Notification No. 12/2017-Central Tax (Rate).

4.43 The Secretary informed the Council that on the issue of clarificatory circular regarding applicability of GST on Air Force Officers' Mess, a suggestion was received during the officers' meeting to include similarly placed messes also. He stated that if the Council agrees, the proposed circular may be suitably amended to include similarly placed messes.

4.44 JS, TRU informed the Council that pursuant to the suggestions received in the Officers' meeting it was proposed that only Explanation could be inserted in entry No. 12 of Notification No. 12/2017-CTR and the same could be issued only in respect of proprietorship concern, if agreed to by the Council. Further, it could be clarified that incentives paid to banks under the scheme for promotion of RuPay Debit Cards and BHIM-UPI transactions were in the nature of subsidies and thus, not taxable.

4.45 The Hon'ble Member from Tamil Nadu informed that in the meeting at Chandigarh, the State of Tamil Nadu had raised some concerns and submitted a list of concerns in writing also regarding positive list of services. He stated that where all States, Central and Local bodies service procurements

were exempt, then imposing a list of positive services would result in additional expenditure and that might be seen as discriminatory against the local Self-Governance Principle. He suggested to leave the entire schedule as exempt for States, Central and Local bodies rather than specifying a positive list.

4.46 The Hon'ble Member from Maharashtra suggested that a positive list of services should be specified to avoid ambiguity. Otherwise, States would have to come to Council every time for clarification.

4.47 The Hon'ble Member from Telangana sought exemption for minor irrigation work/maintenance services of minor irrigation tanks from GST as State of Telangana had around 46,000 minor irrigation tanks through which 25 lakh acres of land was being irrigated every year which attracted meagre or almost NIL material component. He further requested exemption of the Public Distribution System (PDS) related services like custom milling and transportation services from GST.

4.48 The Hon'ble Member from Delhi requested to follow the lists of functions enumerated in the Eleventh and Twelfth Schedules to Article 243G and Article 243W respectively and if there were instances of tax evasion then the Council can issue some clarifications rather than pruning the said lists. He stated that bringing a positive list would create a lot of ambiguity and confusion.

4.49 The Hon'ble Member from Karnataka suggested that if there were any other additional services then the Council should take that as specific cases. However, all the services which are as per the Constitution should be kept untouched.

4.50 The Hon'ble Member from West Bengal also suggested that there was no requirement to prune the list of services and all functions as listed out in Articles 243G and 243W of the Constitution should be exempted.

4.51 The Hon'ble Member from Uttar Pradesh, Gujarat, Goa, Tripura and Assam supported the proposal of the Fitment Committee to have a positive list of specified Services.

4.52 The Hon'ble Member from Andhra Pradesh requested to exempt pure manpower services which were hired by the Government or Government agencies and that in case of local bodies, entire services mentioned in Eleventh and Twelfth Schedules of the Constitution should be exempted.

4.53 The Hon'ble Member from Kerala suggested to take the issue later as it required more discussion.

4.54 The Secretary stated that in GST regime there were no end use-based exemption in case of supply of goods to Government. However, in case of services during the Service Tax regime, the tax was collected by the Centre and appropriated by the Centre. Thus, there were certain end use-based

exemptions available in case of specific services rendered to Central and State Governments. Under GST regime, the distinction between the Goods and the Services had been removed. He opined that end use exemption in the case of services should also be not there. He stated that the list of 12 services identified by the Fitment Committee covers 90% of the services rendered by the local authorities. Further, he suggested that certain works like construction of tanks etc. had more component of goods and including them would make it difficult for the tax authorities to ascertain whether it was supply of goods or services. Accordingly, the Council had recommended to come up with a pruned list of services under positive list.

4.55 The Hon'ble Member from Tamil Nadu stated that he did not agree that there was consensus on the issue and suggested that vote might be taken on the matter. He also requested that his dissent might be taken on record.

4.56 The Hon'ble Members from Delhi, Kerala, Andhra Pradesh and West Bengal stated that they did not agree with the proposal of the Fitment Committee to specify a positive list of services under Sr. No. 3 & 3A of Notification No. 12/2017-Central Tax (Rate).

4.57 The Hon'ble Chairperson, after duly considering the views of the Hon'ble Members, decided to postpone the discussion on the positive list of services for upcoming Council meetings.

The Council decided that all proposals under agenda item 3(d) were approved except the issue of specifying a positive list of services under Sr. No. 3 & 3A of Notification No. 12/2017-Central Tax (Rate) which was deferred.

4.58 JS, TRU then presented Agenda 3(e) where no changes were recommended by the Fitment Committee in respect of certain services.

4.59 The Secretary requested for comments from the Hon'ble Members on Agenda item 3(e).

4.60 The Hon'ble Member from Maharashtra raised the issue of GST rate on under construction apartments. In the same building, there were both residential units where no ITC is available as well as commercial units where ITC is available. He informed that it was very difficult to keep proper accounting in this scenario. He suggested that in case of residential building with mixed use, there should be uniform 10% GST with ITC on construction service.

The Council approved the proposals in Agenda 3(e).

4.61 JS, TRU further informed the Council that agenda 3(f) was regarding four issues which had been deferred.

The Council approved the proposals in Agenda 3(f).

4.62 The Hon'ble Members from Odisha and Telangana requested to exempt the levy of GST of 18% on Tendu leaves because it was a matter involving the livelihood of tribal people. Further, the Tendu leaves were used only in Bidi making which was leviable to GST @ 28% and there was no possibility of inverted duty structure.

4.63 The Hon'ble Chairperson requested the Hon'ble Members from Odisha and Telangana to forward their submissions to the Fitment Committee which in turn would study the issue in detail.

5. Agenda item 4: Report of the Committee on Levy of penal interest on delayed remittances of GST by the Banks to the Government Accounts in RBI during the initial period of GST implementation

The Secretary presented the Agenda No. 4 pertaining to the Report of the Committee on Levy of penal interest on delayed remittances of GST by the banks to the Government Accounts in RBI during the initial period of GST implementation and informed that this agenda was presented by the Joint Secretary, GST Council Secretariat during the officers meeting held on 16.12.2022 and there was unanimous acceptance by everyone on the proposal being made in that agenda (The detailed presentation attached as **Annexure-5**).

The Council took note of the same and approved the agenda.

6. Agenda item 5: Performance Report of the NAA (National Anti-Profiteering Authority) for the 1st quarter (April, 2022 to June, 2022) and 2nd quarter (July, 2022 to September, 2022) along with monthly performance report for the month of October, 2022 and November, 2022 for the information of the Council

The Secretary presented the Agenda No. 5 regarding performance report of National Anti-Profiteering Authority (NAA) for the 1st quarter (April, 2022 to June, 2022) and 2nd quarter (July, 2022 to September, 2022) along with monthly performance report for the month of October and November, 2022 for the information of the Council and informed the Council that work of NAA had been shifted to Competition Commission of India from 01.12.2022 as per the decision of the GST Council in its 45th meeting.

The Council took note of the same and approved the agenda.

7. Agenda Item 06: Ad-hoc Exemptions Orders issued under Section 25(2) of the Customs Act, 1962 to be placed before the GST Council for information

7.1 The Secretary presented the Agenda No. 6 i.e., Ad-hoc exemption orders issued under Section 25(2) of the Customs Act, 1962 to be placed before GST Council for information. He informed that in the 26th meeting of the GST Council held on 10.03. 2018, it was decided that all ad-hoc exemption orders issued with the approval of the Hon'ble Finance Minister as per the guidelines contained in Circular No. 09/2014-Customs dated 19.08. 2014 as was the case prior to the implementation of GST, shall be placed before the GST Council for information. The Secretary informed the Council that three Ad-hoc exemption orders had been issued since last meeting of the GST Council.

7.2 The Hon'ble Member from Tamil Nadu suggested the word 'for information' be replaced with 'deemed ratification' in case of ad-hoc exemption orders.

7.3 The Hon'ble Member from Goa suggested that it would not make any fundamental difference whether it was 'for information' or 'deemed ratification'. He suggested that present practice of placing ad-hoc exemption orders issued under Section 25(2) of the Customs Act, 1962 before the GST Council for information could be continued.

The Council took note of the ad-hoc exemption orders issued.

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

The Secretary took up the next Agenda on issues recommended by the Law Committee for the consideration of the GST Council. He informed that these agendas were discussed in detail in the Officers' Meeting held on 16th December, 2022 and there was an agreement in the Officers' meeting on most of the issues. He stated that in the Officers' meeting, concerns were raised on the agenda item pertaining to deletion of clause (d) of sub-rule (14) of Rule 138 of CGST Rules which was proposed for providing a uniform threshold for intra-state movement of goods and it was suggested that the agenda item need not be considered for approval by the Council. He requested Principal Commissioner, GST Policy Wing to make a presentation on the recommendations of the Law Committee and the discussions held in Officers' meeting on 16th December, 2022 on the same. The Principal Commissioner, GST Policy Wing accordingly made the detailed presentation (attached as

Annexure-4) giving overview of the recommendations made by the Law Committee and the discussions in Officers' meeting on the said agenda.

8.1 Agenda Item 7(i): Amendment in the CGST Rules, 2017 for Aadhaar based Biometric authentication of the registrants

A. Biometric-based Aadhaar authentication and physical verification for new registration

8.1.1 Principal Commissioner, GST Policy Wing informed that Rule 8 (4A) of the CGST Rules, 2017 inserted vide Notification No. 94/2020-Central Tax dated 22.12.2020 provided for biometric-based Aadhaar authentication but the said provision is yet to be notified. He informed that the GoMon GST System Reforms in its first report had approved the proposal to improve the registration process by using mandatory biometric authentication for high-risk applicants for registration under GST and the pilot project is to be conducted in the State of Gujarat. The GoM had recommended mandatory physical verification only in case of high-risk applicants in cases where the Aadhaar authentication is not opted for or has failed. The issue was deliberated by the Law Committee and it had recommended mandatory physical verification in all cases where the Aadhaar authentication is not opted for or has failed.

8.1.2 Law Committee recommended substitution of Rule 8 (4A) of the CGST Rules, 2017 in order to mandate biometric-based Aadhaar authentication for high-risk applicants who opt for authentication of Aadhaar number. Further, Law Committee recommended insertion of sub-rule (4B) in Rule 8 of the CGST Rules, 2017 to provide for exemption from biometric-based Aadhaar authentication in States/UTs where the pilot project is not being undertaken. It also recommended amendment of sub-rule (5) of Rule 8 of the said Rules in order to provide that acknowledgement shall be issued to the applicant only after completion of biometric-based authentication. In addition, Law Committee recommended amendment to said Rule 9 to provide for mandatory physical verification of an applicant who has undergone biometric-based Aadhaar authentication and is identified on the common portal, based on data analysis and risk parameters. The Principal Commissioner, GST Policy Wing further mentioned that Law Committee had also recommended that the above amendments to Rules 8(4A), 8(5) and 9 may be made only in Gujarat SGST Rules, 2017 and in the CGST Rules, 2017 at this stage. He added that Rule 8(4B) needs to be introduced only in the CGST Rules, 2017 and that Centre will need to issue a Notification under Rule 8(4B) for specifying all States and UTs, except State of Gujarat, where provisions of Rule 8(4A) will not apply.

8.1.3 The Hon'ble Member from Haryana stated that at present, the time limit for verification of registration applications in non-Aadhaar cases is 30 days and he requested that the time limit for such non-Aadhaar based verification be raised to 90 days as many fake companies get deemed registered

after a period of 30 days. He requested the council to increase the time limit for verification to either 90 days or to 60 days in order to enable the officers to physically verify those companies.

8.1.4 The Secretary clarified that the time limit for processing of the application of registration in cases, where Aadhaar number was not authenticated, had been kept at 30 days in line with ease of doing business for providing registration as quickly as possible.

B. Incorporation of details of electricity bill and property registration in FORM GST REG-01

8.1.5 Principal Commissioner, GST Policy Wing informed that the Group of Ministers on GST System Reforms in its first report had approved the proposal to include Electricity Bill meta data (CA No.) as a data field during registration by new taxpayers and that the CA Number shall be verified to improve the quality of registered address. The States of Maharashtra and Madhya Pradesh had agreed to carry out the pilot project for the same. Besides, the State of Madhya Pradesh had also volunteered for the pilot project for validation of the property registration details from the Land Revenue department.

8.1.6 The issue was deliberated by the Law Committee and recommended that the details of Electricity consumer account number (CA Number) and Property registration be sought under State Specific Information at Sl. No. 24 of FORM GST REG-01. It further recommended that the details of Electricity CA Number could be notified under said Sl. No. 24 by the State of Maharashtra and details of Electricity CA Number and property registration could be notified under said Sl. No. 24 by the State of Madhya Pradesh.

8.1.7 The Hon'ble Member from Madhya Pradesh thanked the Council for considering their proposal to make the registration process effective. He further submitted that if the documents such as electricity bill or documents related to place of registration submitted by the applicant during the registration process were verified through API, then that would curb the practice of obtaining registration through forged documents. The Hon'ble Member from Madhya Pradesh thanked the Council for including their State in the pilot project. He further stated that as most of the applications of new registration were received from urban areas, therefore, there was a need to utilize the database of Land Revenue department as well as Urban Development department for verification of place of registration and thus, that was advisable to include Urban Development department in point no. 5 & 6 (3) of Agenda item 7(i)(b).

8.1.8 The Secretary informed the Hon'ble Member that this issue was also discussed during the Officers' meeting and that the suggestion of Madhya Pradesh had been taken note of for doing the needful.

C. Enhancement in GST Registration to restrict misuse of PAN

8.1.9 Principal Commissioner, GST Policy Wing informed that at present GST Registration was PAN-based. However, OTP-based verification in Part-A of FORM GST REG-01 was done to verify only the mobile number and email address provided by the authorized signatory and no intimation was sent to the mobile number and email address of the PAN holder when a GST registration was applied for. It was stated that that communication gap might result in misuse of PAN of a person, without his knowledge, by unscrupulous elements.

8.1.10 The issue was deliberated by the Law Committee and it recommended that PAN-linked mobile number and email address (fetched from CBDT database) might be captured and recorded in FORM GST REG-01 and further, OTP based verification in Part-A of FORM GST REG-01 might be done only on PAN-linked mobile and email address, instead of authorised signatory's self-declared mobile number and email address.

8.1.11 Accordingly, Law Committee proposed amendments in CGST Rules and FORM GST REG-01 as detailed in the agenda note.

The Council agreed with the said recommendations of the Law Committee in agenda item 7(i).

8.2 Agenda Item 7(ii): Refund to unregistered persons

8.2.1 Principal Commissioner, GST Policy Wing stated that representations had been received from unregistered buyers/recipients for providing a facility to such unregistered buyers/ recipients for claiming refund of amount of tax borne by them in the event of cancellation of the contract/agreement for supply of service of construction of flats/buildings or on termination of long-term insurance policy etc. wherein they had paid the consideration/premium in full/part, along with the applicable tax.

8.2.2 Those issues were discussed in the Law Committee and it was observed that under Section 54(1) of CGST Act, 2017, there was no restriction under GST law for any unregistered person from claiming refund. Further, it was observed that Section 54(8)(e) of the said Act, provides that the refund would be paid to the applicant instead of being credited to Consumer Welfare Fund (CWF), where such amount relates to the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person. GSTN had also introduced a new functionality which allowed unregistered persons to take a temporary registration and apply for refund under the category '*Refund for Unregistered person*'. The Law Committee recommended amendments in CGST Rules, 2017 as detailed in the agenda note and for issuance of a Circular for clarifying the procedure for filing application by the unregistered persons for refund of

amount of tax borne by them in the event of cancellation of the contract/agreement for supply of service of construction of flats/buildings or on termination of long-term insurance policy and processing of such refunds.

8.2.3 Principal Commissioner, GST Policy Wing also mentioned that in case of refund by a person, other than the supplier, the relevant date for filing refund application would be the date of receipt of goods or services as per clause (g) of Explanation (2) under Section 54 of the CGST Act. The Law Committee observed that in respect of cases where the supplier and the unregistered person had entered into a long-term contract/agreement for the supply, with the provision of making payment in advance or in installments but if the contract was cancelled/ terminated before supply of service, partially or fully, for any reason, there might be no date of receipt of service, to the extent supply had not been made/rendered. In this regard, Law Committee recommended that for the purpose of determining relevant date in such cases in terms of clause (g) of Explanation (2) under Section 54 of the CGST Act, 2017, date of issuance of letter of cancellation of the contract/ agreement for supply by the supplier might be considered as the date of receipt of the services by the applicant.

The Council agreed with the recommendations of the Law Committee detailed in agenda item 7(ii), along with the proposed amendments in CGST Rules, 2017 and the proposed Circular.

8.3 Agenda Item 7 (iii): Decriminalization of the CGST Act, 2017

8.3.1 Principal Commissioner, GST Policy Wing informed that the issue of decriminalization of various laws, including GST law, to reduce compliance burden on the taxpayers, was discussed in the meeting of Committee of Secretaries (CoS) on Decriminalization of existing Acts/Rules. It was also deliberated that there might be a need to examine whether any enhancement was required in the threshold for prosecution of offences under Section 132 of the Central Goods and Services Tax Act, 2017.

8.3.2 Accordingly, Law Committee deliberated on the various provisions pertaining to prosecution and compounding in the CGST Act, 2017, so as to rationalize the same and to remove ambiguity, if any, and also to make compounding provisions more attractive in GST for the taxpayers. The Law Committee proposed several amendments in GST law as detailed out in the agenda note for decriminalizing various provisions of the GST Act.

8.3.3 The Law Committee recommended that the offences specified in clauses (g), (j) and (k) of sub-section (1) of Section 132 are specifically covered and are punishable under Indian Penal Code, and therefore, these types of offences may be excluded from prosecution under the CGST Act, 2017. It

further recommended deletion of clause (iii) of sub-section (1) of Section 132 of the CGST Act, 2017 so that the monetary limit for prosecution is raised to Rs two crore from the current Rs one crore. The Law Committee also recommended to reduce the range of compounding amount to minimum of 25% of the tax amount to maximum of 100% of tax amount in the CGST Act, 2017. The Principal Commissioner, GST Policy Wing informed the Council that during the Officers' meeting, the States of Punjab and Tamil Nadu were of the view that the threshold for prosecution might not be changed for issuers of fake invoices. He stated that detailed deliberations took place on that proposal in the officers' meeting wherein general view was that the proposal made in the agenda note, as recommended by Law Committee, might be agreed to at present and in future, if any misutilization of those provisions was noticed, then the same would be re-visited.

8.3.4 The Hon'ble Member from Tamil Nadu stated that they agreed with proposal for decriminalization of GST Law, except in respect of bill traders who are a bane on the system. He stated that increasing the monetary limit for prosecution to Rs two crore from the current Rs one crore will have serious implications on revenue. He mentioned that in their State, they had detected 471 cases under Rs. one crore with a revenue implication of Rs. 222 crore. He stated if the limit is raised from Rs. one crore to Rs. two crore, only 241 cases could be prosecuted with a revenue implication of Rs. 350 crore. He stated that since bill trading causes greatest revenue loss, therefore bill trading upto Rs. 2 crore should not be decriminalized and threshold should be retained at Rs. one crore as indicated by the data. He further stated that that was quite difficult to prosecute such bill traders as civil cases and that was much more effective to prosecute them as criminal cases.

8.3.5 The Hon'ble Member from Puducherry stated that they completely agreed with the views of State of Tamil Nadu and added that in small UTs like Puducherry, it would not be possible for them to book cases if the threshold for prosecution was raised to Rs. two crore.

8.3.6 The Hon'ble Member from Goa stated that if the threshold for prosecution was increased to Rs. two crore then many cases would go out of the prosecution net. He stated that the threshold should be maintained at Rs. one crore so that there was some fear in dodging the payment of GST especially in case of trading of invoices.

8.3.7 The Hon'ble Member from Kerala stated that the limit for prosecution should continue at the present threshold, especially with regard to the bill trading. He suggested that the existing provisions could be continued as of now and the enhancement of threshold might be considered at a later stage.

8.3.8 The Hon'ble Member from Punjab stated that it would be desirable if the limit for prosecution for fake invoices cases could be brought down to 10 lakh rupees.

8.3.9 The Secretary presented before the Council the statistics of arrest and prosecution cases made by CBIC formations. He informed that a total of 1074 cases of arrest were made by CBIC and that

majority of cases were more than Rs. 50 crore i.e. 254 cases and in Rs. 30-50 crore limit, there were 106 cases. Thus, the majority of cases pertained to high evasion cases involving amounts of more than Rs. 2 crore. The Secretary stated that the Council could consider these statistics while deciding on the issue of threshold limit for prosecution of cases.

8.3.10 The Hon'ble Member from Tamil Nadu stated that besides CBIC, States were also filing prosecutions for GST offences. He also mentioned that whether prosecuted or not, the deterrence value of criminality was a significant component for deciding about the threshold for prosecution. He mentioned that as per his understanding, all the members who had spoken on the agenda item, appeared to be in favour of either keeping the limit at Rs. one crore or lowering that further. He mentioned that offence of issuance of fake bills came under a separate sub-section and therefore, there should not be any difficulty in imposing different limit for prosecution of Rs. one crore for bill trading and Rs. two crore for other violations. The Member further stated that at the end of the day, the GST Council, which comprised elected representatives of the different governments, should be the deciding body. The Hon'ble Member stated that that was his humble submission that once the Committee had submitted the report then the decision should be that of the Members and in cases where there was unanimous view from Members then that should be taken as consensus.

8.3.11 The Hon'ble Chairperson thanked the Member from Tamil Nadu for his inputs and assured him that when the Law Committee or Fitment Committee recommendations were brought to the Council then that was for the Council to decide on the recommendations. The Hon'ble Chairperson further stated that she would like to gently remind the Council that even if there were one or two voices that were different then that was her understanding that until everyone was convinced there was no unanimity. The Hon'ble Chairperson added that she was conscious that in the meeting there was no majority or unanimity of opinion on the agenda item and that there were voices on both sides.

8.3.12 The Hon'ble Member from Maharashtra stated that they totally supported the proposal made by the Law committee as statistics given by the Secretary held true even for the State of Maharashtra. The Hon'ble Member further elaborated that that was often seen that although that had deterrence value, that was impractical to prosecute so many people. He further stated that when the whole country was moving towards decriminalization, that was a very valid decision to raise the threshold for prosecution in GST to Rs. two crore.

8.3.13 The Hon'ble Member from Chhattisgarh stated that that was a very wise decision for the Chairperson to call for unanimity and he stated that they would go by the decision of the Hon'ble Chairperson.

8.3.14 The Hon'ble Member from Goa stated that there were valid points on both sides and the decision on the said agenda could be left to the decision of the Chairperson of the Council.

8.3.15 The Hon'ble Member from Kerala stated that the Council could continue with the present threshold and in future the matter could be relooked at. He further stated that their State was dealing with large number of cases on bill trading, therefore, deterrence must be there.

8.3.16 The Hon'ble Member from Jharkhand stated that there was no disagreement with the proposal in the said agenda.

8.3.17 The Hon'ble Chairperson stated that while threshold for prosecution might be increased from Rs 1 crore to Rs 2 crore for all other offences, however, for issuance of fake invoices, the threshold limit could be retained at Rs. one crore, instead of raising that to Rs. two crore. The Hon'ble Chairperson left the decision open to the Council and requested the members to speak.

8.3.18 The Hon'ble Member from Tamil Nadu stated that he fully agreed with the Hon'ble Chairperson.

The Council agreed with the recommendation of the Law Committee in agenda item 7(iii) with modification that the threshold for prosecution be increased to Rs 2 crore from Rs 1 crore for all offences, other than the offence pertaining to issuance of fake invoices.

8.4 Agenda Item 7 (iv): Amendment in Rule 94 of the CGST Rules, 2017 and Section 56 of the CGST Act, 2017 to provide for exclusion of time period of delay in sanction and disbursal of refund where such delay is attributable to applicant.

8.4.1 Principal Commissioner, GST Policy Wing informed that the provisions of Section 56 of the CGST Act, 2017, Rule 94 of the CGST Rules, 2017 and Para 34 of the Master Circular No. 125/44/2019-GST dated 18.11.2019 did not provide for any exceptions from payment of interest in cases of delayed refunds, where the delay in sanction or payment of refund was attributable to the applicant, as detailed in the agenda note, on account of not filing reply in prescribed time limit or seeking additional time to file documents/reply or for personal hearing. Further, there could be instances where the refund was sanctioned within time but the refund could not be credited to the bank account of the applicant within 60 days due to PFMS bank account validation error or wrong details of bank account submitted by the applicant.

8.4.2 The Law Committee deliberated on that issue and recommended amendment in Section 56 of the CGST Act, 2017 in order to provide enabling provision for prescribing the manner of computation of period of delay for purpose of calculation of interest payable on delayed refund in the CGST Rules, 2017. The Law Committee also recommended amendment in Rule 94 of the said Rules for prescribing the manner of computation of period of delay for purpose of calculation of interest payable on delayed refund.

The Council agreed with the recommendation of the Law Committee in agenda item 7(iv).

8.5 Agenda Item 7 (v): Clarifying the manner of re-determination of demand in terms of sub-section (2) of Section 75 of the CGST Act, 2017.

8.5.1 Principal Commissioner, GST Policy Wing informed that in cases where the Appellate Authority/Appellate Tribunal/Court held that the notice under sub-section (1) of Section 74 of CGST Act, 2017 was not sustainable for the reason that the charges of fraud or wilful misstatement or suppression of facts to evade tax had not been established against the person to whom the notice was issued and directed the proper officer to determine the tax payable by such person deeming the notice to be issued under sub-section (1) of Section 73 of CGST Act, 2017, field formations were seeking clarification regarding the time limit within which the proper officer was required to re-determine the amount of tax payable considering notice to be issued under sub-section (1) of Section 73, specially in cases where the time limit for issuance of order as per sub-section (10) of Section 73 was already over. Doubts had also been expressed regarding the methodology for computation of such amount payable by the noticee, deeming the notice to be issued under sub-section (1) of Section 73.

8.5.2 The Law Committee deliberated on the issue and recommended issuance of a circular for clarifying the doubts. The draft Circular had been placed as annexure to the detailed agenda note.

8.5.3 The Hon'ble Member from Madhya Pradesh stated that they agreed with the Circular. He further informed that as per existing provisions of the Act, there were different time limits to issue notices under Sections 73 and 74 respectively and that many cases were being unearthed due to advanced techniques of Data Analytics and various GST related portals and accordingly to protect the revenue interest of the state, tax administration was issuing many notices under Section 73. Keeping those circumstances into consideration, the time limit for issuing notices under Section 73 needed to be increased from present time limit of 3 years to 5 years, as had been prescribed for Section 74.

The Council agreed with the recommendation of the Law Committee made in agenda item 7(v), along with the proposed Circular.

8.6 Agenda Item 7 (vi): Amendment in the CGST Rules, 2017

8.6.1 Principal Commissioner, GST Policy Wing informed that in the Officers' meeting, there was a general agreement on proposed amendments in respect of various Rules except on the proposal regarding deletion of clause (d) of sub-rule (14) of Rule 138 of CGST Rules. He further informed that

States of Tamil Nadu, Punjab, Rajasthan, Maharashtra, Delhi, Kerala and Chhattisgarh had expressed reservation on the proposal to delete clause (d) of sub-rule (14) of Rule 138 of CGST Rules and therefore, it was recommended that the agenda in respect of deletion of clause (d) of sub-rule (14) of Rule 138 of CGST Rules, 2017 might not be considered for approval.

He also informed that *parimateria* changes would also be required in the respective SGST Rules. He then proceeded to discuss various proposals in the agenda in detail.

I. Amendment in sub-rule (3) of Rule 12

8.6.2 Principal Commissioner, GST Policy Wing informed that references had been received from trade that there was no option available for an e-commerce operator having TCS registration to apply for cancellation of TCS registration in case of the closure of the operations of e-commerce operator. It has been requested to provide an option to cancel TCS registration. Similarly, there was also no option presently for a TDS registrant to apply for cancellation of TDS registration.

8.6.3 The Law Committee deliberated on the issue and recommended for amendment in sub-rule (3) of Rule 12 to provide an option to the TCS and TDS operators to apply for cancellation of their registration.

The Council agreed with the recommendation of the Law Committee.

II. Amendment in sub-rule (1) of Rule 37

8.6.4 Principal Commissioner, GST Policy Wing informed that the second proviso to Section 16 (2) of the CGST Act, 2017 provides for cases where a recipient fails to pay to the supplier the amount towards the value of supply along with tax payable thereon within a period of 180 days.

8.6.5 He mentioned that such recipients had to follow the procedure prescribed in Rule 37(1) of the CGST Rules, 2017. However, the said Rule had been amended with effect from 01.10.2022 *vide* Notification No. 19/2022 - CT dated 28.09.2022 and the amended Rule 37(1) required the said recipient to pay an amount equal to the input tax credit availed in respect of such supply. That gave an impression that the whole of ITC pertaining to such supply was to be reversed even though a part of the payment could have been made by the recipient to the supplier. That appeared to be an inadvertent departure from the principle of proportionate reversal under the original rule. To rectify the anomaly, the Law Committee recommended that sub-rule (1) of Rule 37 be amended retrospectively with effect from 01.10.2022 to provide for reversal of an amount of input tax credit proportionate to the amount not paid by the recipient to the supplier vis a vis the invoice value.

The Council agreed with the recommendation of the Law Committee.

III. Insertion of Rule 37A

8.6.6 Principal Commissioner, GST Policy Wing informed that sub-section (2) of Section 41 of the CGST Act, 2017, as substituted by Notification No. 18/2022-CT, provides for reversal of input tax credit availed by recipient of such supplies where tax payable has not been paid by supplier and re-availment of the said ITC after payment of tax by the said supplier. The Law Committee had deliberated the manner in which such ITC could be reversed and re-availed and after considering the various practical issues in the implementation of the said provision and for ease of doing business, the Law Committee recommended insertion of a new Rule 37A in CGST Rules, 2017 detailing out the mechanism for such reversal of credit and re-availment thereof. Principal Commissioner, GST Policy Wing stated that while there was agreement on this agenda in Officers' Committee meeting, a suggestion was made by State of Bihar that GSTN may provide a functionality for making the data pertaining to Rule 37A available to the tax officers and the same was agreed to.

The Council approved the recommendation made by the Law Committee.

IV. Amendment in Rule 46

8.6.7 Principal Commissioner, GST Policy Wing informed that in case of supply of services to unregistered persons through online platforms, in particular, recipients' addresses were not properly captured, which affected flow of revenue to the appropriate destination states.

8.6.8 Law Committee had deliberated on that issue and recommended insertion of a proviso to clause (f) of Rule 46 of CGST Rules, 2017 to ensure mandatory recording of address of unregistered recipients of service along with the PIN code when the said services were provided through online platform by a registered person even if the value of taxable supply was less than fifty thousand rupees.

8.6.9 The Hon'ble Member from Telangana welcomed the amendment to the tax invoice rules under Rule 46, but he stated that they had some concerns on the said issue especially in relation to Telecom sector. He added that in case of telecom services, the addresses of consumers were not provided by telecom operators to their distributors such as PhonePe, Paytm, BillDesk etc. He further stated that when the consumers purchased data from the said distributors, those distributors were not allowed to collect the address and the operators did not provide those details to distributors due to TRAI Rules. The Hon'ble Member stated that the TRAI Rules neither allowed the collection of details of addresses nor did that allowed sharing of addresses. He added that the State of Telangana received about Rs. 600 crore on such business transactions and therefore, requested intervention of the Council to address the issue. The Hon'ble Member further cited the example of BillDesk, which was a payment gateway and distributor for telecom, who had declared the Place of supply as their State for last 5 years (July, 2017 – April, 2022) and he stated that after much persuasion the telecom operators had shared the State of consumer and thereafter, BillDesk started paying IGST from May, 2022 onwards. He submitted that

the State was then receiving Rs. 8 crore per month from the tax payer. Therefore, he emphasized that there might be cases of similarly placed taxpayers in the State. The Hon'ble Member requested GSTN and Law committee to take note of that issue and to come up with some rectification/clarification.

8.6.10 The Secretary clarified that the present proposal in the agenda item was to take care of such cases and that after the amendment proposed in that agenda item, the name, address and other details of recipient i.e. user would be required to be provided by the supplier of services on the tax invoice if the services were rendered through online platform.

The Council agreed with the recommendation of the Law Committee.

V. Amendment in Rule 46A

8.6.11 Principal Commissioner, GST Policy Wing mentioned that Rule 46 of the CGST/SGST Rules, 2017 prescribes the particulars that a tax invoice issued by a registered person should contain and Rule 49 of the said Rules prescribes the particulars that are to be included in a bill of supply issued by a supplier. Rule 54 of the said Rules further prescribes the particulars in respect of tax invoices issued in special cases. Rule 46A of the CGST/SGST Rules provides that, notwithstanding anything contained in Rule 46 or Rule 49 or Rule 54, a registered person supplying taxable as well as exempted goods or services or both to an unregistered person may issue a single "invoice-cum-bill of supply" for all such supplies. It may be observed in this regard that the *non-obstante* clause in Rule 46A actually removes the obligation on the part of a registered person who is supplying taxable as well as exempted goods or services or both to an unregistered person to include the particulars as prescribed in Rule 46 or Rule 49 or Rule 54, as applicable, while issuing the single "invoice-cum-bill of supply".

8.6.12 The said issue was deliberated by the Law committee, and it was felt that Rule 46A needed to be amended accordingly to make that obligatory on the part of a registered person, who was supplying taxable as well as exempted goods or services or both to an unregistered person, to include the relevant particulars as prescribed in Rule 46 or Rule 49 or Rule 54, as applicable, while issuing a single "invoice-cum-bill of supply". The proposed amendment to Rule 46A is detailed in the agenda note.

The Council agreed with the recommendation of the Law Committee.

VI. Insertion of proviso in sub-rule (8) of Rule 87

8.6.13 Principal Commissioner, GST Policy Wing informed that in cases where bank fails to communicate the CIN details of taxes paid through e-payment mode to GST System for updating the Electronic Cash Ledger (ECL), the ECL of such taxpayers are updated next day on the basis of RBI e-Scroll file containing the successful payment made against the CINs as shared by banks with RBI. However, there is presently no provision in the CGST Rules, 2017 providing for such updation of ECL based on e-Scroll of RBI. In this regard, CAG has highlighted the need for having a specific provision in law for updation of ECL on the basis of e-Scroll of RBI.

8.6.14 The issue was deliberated by the Law committee and in order to regularize the process of updating ECL of the taxpayer on the basis of e-Scroll data received from the RBI in the cases where payment has been received successfully but bank fails to share the signed CIN with GST System, the Law Committee had recommended for amendment of Rule 87 of CGST Rules by inserting a new proviso to sub-rule (8) of Rule 87 of the CGST Rules, 2017. The proposed amendment to Rule 87 is detailed in the agenda note.

The Council agreed with the recommendation of the Law Committee.

VII. Amendment in Rule 108 and Rule 109

8.6.15 Principal Commissioner, GST Policy Wing further mentioned that in terms of Section 107 (1) of the CGST Act, 2017, any person aggrieved by any decision or order passed by an adjudicating authority may appeal to the concerned appellate authority within three months from the date of communication of the said decision or order to such person. Similar provision exists under sub-section (2) of Section 107 of CGST Act to provide for filing appeal by an officer authorised by the Commissioner to the appellate authority within six months from the date of communication of the said decision or order.

8.6.16 Further, as per Rule 108 (3) of the CGST Rules, in respect of an appeal filed in terms of the provisions of Section 107 (1) of CGST Act, 2017, a certified copy of the decision or order appealed against is required to be submitted within seven days of filing the appeal in FORM GST APL-01 under sub-rule (1) of Rule 108. The date of filing appeal in case where certified copy is submitted within seven days of filing appeal is the date of issuance of provisional acknowledgement, otherwise it is the date of submission of the certified copy.

8.6.17 Similarly, Rule 109 (2) of CGST Rules, 2017 provides for requirement of submission of certified copy of the order appealed against within seven days of filing application in FORM GST APL-03 in terms of sub-section (2) of Section 107 of CGST Act.

8.6.18 Law Committee deliberated on the issue and observed that in GST regime, when an order which is appealed against is issued or uploaded by the adjudicating authority on the common portal, the same can be viewed by the appellate authority. Accordingly, the requirement of submission by the appellant of a certified copy of such an uploaded order to vouch for its authenticity, pales into insignificance considering that the order has been uploaded by the adjudicating authority using his Digital Signature Certificate and the same is available for viewing or downloading by the appellate authority on the portal. However, in cases where the decision or order has been passed manually and has not been uploaded on the common portal, the same is not available to the Appellate Authority on the common portal. In such cases, non-submission of the certified copy by the appellant restricts the Appellate Authority from entertaining the same.

8.6.19 Law Committee accordingly recommended that to provide clarity on the requirement of submission of certified copy of the order appealed against and the issuance of final acknowledgment by the appellate authority, an amendment might be made in sub-rule (3) of Rule 108 and in Rule 109 of the CGST Rules, 2017 and Form GST APL-02. The details of the same are provided in the agenda note.

The Council agreed with the recommendation of the Law Committee.

VIII. Insertion of Rule 109C

8.6.20 Principal Commissioner, GST Policy Wing informed that while Sections 107(1) & 107(2) of CGST Act, 2017 provide for filing of appeal before first appellate authority against decision or orders of adjudicating authority by aggrieved person or authorized officer respectively. However, there was no provision in the CGST Act/Rules for withdrawal of such an appeal either by aggrieved person or authorized officers.

8.6.21 The issue was deliberated by the Law Committee and it recommended insertion of Rule 109C in CGST Rules, 2017 to provide for withdrawal of appeal before the issuance of SCN or Order under Section 107 (11), whichever is earlier. Further, Law Committee recommended introduction of FORM GST APL-01/03W in CGST Rules, 2017, to enable the appellant to file application for withdrawal of appeal application.

The Council agreed with the recommendation of the Law Committee.

IX. Deletion of clause (d) of sub-rule (14) of Rule 138

8.6.22 The Principal Commissioner, GST Policy Wing informed the Council that in the Officers' meeting held on 16th December 2022, the officers from the States of Tamil Nadu, Punjab, Rajasthan, Maharashtra, Delhi, Kerala and Chhattisgarh had expressed reservation on the proposal to delete clause (d) of sub-rule (14) of Rule 138 of CGST Rules. Accordingly, it was proposed that the agenda might not be considered by the Council for approval.

The Council did not take up this agenda item for consideration.

X. Amendment in entry (5) of Annexure appended to sub-rule (14) of Rule 138

8.6.23 Principal Commissioner, GST Policy Wing further informed that entry nos. 4 & 5 of the Annexure appended to clause (a) of sub-rule (14) of Rule 138 of the CGST/SGST Rules, 2017 exempt the generation of e-way bill for transportation of goods falling under Chapter 71 of First Schedule to the Customs Tariff Act, 1975, including imitation jewellery. In the interest of revenue, field formations had suggested to mandate requirement of generation of e-waybill for movement of consignments of imitation jewellery, an item which was prone to tax evasion. Further, security concerns associated with transportation of gold, silver and other precious metals are not applicable to the transportation of imitation jewellery.

8.6.24 Law Committee deliberated on the issue and recommended a modification in the entry No. 5 of the Annexure appended to sub-rule (14) of Rule 138 of the CGST Rules, 2017 so as to exclude imitation jewellery from the exemption from the generation of e-way bill for its movement.

The Council agreed with the recommendation of the Law Committee.

XI. Substitution of FORM GST REG-19

8.6.25 Principal Commissioner, GST Policy mentioned that Rule 22(3) of CGST Rules, 2017 provides for an order of cancellation of registration under FORM GST REG-19. The Form contains a list of options to choose from to bring out reason for cancellation of registration. However, it was felt that there could be more scenarios based on whether the reply to the show cause notice had been submitted or not and whether the concerned person had appeared for personal hearing or not to include more scenarios. Further, FORM GST REG-19 also provided for a table for "Determination of amount payable pursuant to cancellation", which may create confusion if no amount was filled in the said table by the officer.

8.6.26 The Law Committee deliberated on the issue and recommended that FORM GST REG-19 may be substituted to include a more elaborate list of options to clarify the order of cancellation and also to include certain other compliances due such as furnishing the pending returns and the final return. The Law Committee also recommended to remove the table for “Determination of amount payable pursuant to cancellation” from FORM GST REG-19.

The Council agreed with the recommendation of the Law Committee made in agenda item.

XII. Amendment in FORM GST REG-17

8.6.27 Principal Commissioner, GST Policy mentioned that under Rule 22(1) of CGST Rules, 2017, FORM GST REG-17 is regarding show cause notice for cancellation of registration. GSTN proposed that “*Kindly refer to the supportive documents attached for case specific details.*” may be added at the end of FORM GST REG-17. The Law Committee deliberated on this issue and has recommended incorporating the proposal made by GSTN at the end of FORM GST REG-17.

The Council agreed with the recommendation of the Law Committee.

XIII. Amendment in FORM GST DRC-03

8.6.28 Principal Commissioner, GST Policy mentioned that Circular No. 174/06/2022-GST dated 06.07.2022 prescribes the manner for re-credit of amount of erroneous refund deposited by the taxpayer, in terms of provisions of sub-rule (4B) of Rule 87 of CGST Rules, 2017 in electronic credit ledger using FORM GST PMT-03A. In this regard, GSTN had been requested to make certain amendments in FORM GST DRC-03 to include more options in the drop-down regarding cause of payment as detailed in the agenda note. GSTN had also been requested to develop an automated functionality for online transmission of intimation of payment of amount of erroneous refund through FORM GST DRC-03 to the jurisdictional proper officer for issuance of FORM GST PMT-03A for re-credit of amount so deposited by the taxpayer in his electronic credit ledger as prescribed under Circular No. 174/06/2022-GST dated 06.07.2022 in terms of provisions of sub-rule (4B) of Rule 87.

8.6.29 Accordingly, GSTN had proposed certain amendments in FORM GST DRC-03 before the Law Committee and after discussion, the Law Committee had recommended the requisite changes in FORM GST DRC-03 as detailed out in the agenda.

The Council agreed with the recommendation of the Law Committee.

8.7 Agenda Item 7(vii): Supplies by unregistered person and composition dealers through e-commerce operators

8.7.1 Principal Commissioner, GST Policy informed that the GST Council in its 47th meeting held on 28th-29th June had given in-principle approval for relaxation in the provisions for supplies by unregistered person and composition dealers making supplies through e-commerce Operators (ECOs), as detailed in the agenda. The Council had also mandated Law Committee to work out the details of the scheme.

8.7.2 The Law Committee deliberated on the requisite legal changes required to implement the recommendations of the Council. It recommended that for unregistered persons, Notification may be issued under Section 23(2) of the CGST Act, 2017 for exempting unregistered persons from obtaining mandatory registration for supplying goods through e-commerce operators, subject to certain conditions. Further, two separate notifications needed to be issued under Section 148 of the CGST Act, 2017 for providing special procedure to be followed by the electronic commerce operators, one in respect of supplies of goods through them by unregistered persons and second, in respect of supplies of goods through them by composition taxpayers. Law Committee also recommended that FORM GSTR-8 might be amended for capturing the information of supplies made by unregistered suppliers through e-commerce operators by insertion of two tables in FORM GSTR-8. In addition, it also recommended that Rule 67(2) of CGST Rules, 2017 might be amended to clearly bring out that the details of TCS furnished by ECOs in FORM GSTR-8 shall be made available only to the registered suppliers, as the supplies by unregistered persons do not attract TCS. For composition taxpayers, to remove the condition restricting registered persons engaged in supplying through electronic commerce operators from opting for the Composition Levy, Law Committee recommended that clause (d) to sub-section (2) and clause (c) to sub-section (2A) of Section 10 of CGST Act, 2017 might be amended. Law Committee further recommended insertion of sub-section (1B) in Section 122 of CGST Act, 2017 providing for penal provisions in cases of violation of compliances on part of the e-commerce operators in respect of the supplies made by unregistered persons and Composition taxpayers through them. Further, Law Committee also recommended that considering the time required for development of requisite functionality on the portal as well as preparedness by ECOs, the implementation of scheme might be deferred to 01.10.2023.

8.7.3 The Hon'ble Member from Haryana stated that there was requirement for a validation on the portal that an unregistered supplier should not be able to get enrolment on the portal from more than one State. Principal Commissioner, GST Policy Wing clarified that GSTN would be requested to put such a validation on the portal, so as to ensure that an unregistered person does not get enrolled in two or more States.

The Council agreed with the recommendation of the Law Committee along with the draft Notifications.

8.8 Agenda Item 7(viii): Amendments in the CGST Act, 2017

A. Amendment in second proviso to Section 16 of CGST Act to align with GSTR-1/3B

8.8.1 Principal Commissioner, GST Policy Wing mentioned that in the 42nd GST Council meeting, held in October 2020, it was recommended that the GST laws be amended to make the present GSTR-1/3B return filing system as the default return filing system. Accordingly, amendments were carried out vide the Finance Act, 2022 and were notified w.e.f. 01.10.2022. In this regard, Law Committee observed that 2nd and 3rd provisos to Section 16(2) also require amendments in order to align with the GSTR-1/2B/3B return filing system as detailed in the agenda.

The Council agreed with the recommendation of the Law Committee.

B. Amendment to Section 23 to provide overriding effect over Sections 22(1) & 24

8.8.2 Section 22 of CGST Act, 2017 provides for persons liable for registration and Section 24 provides for compulsory registration in certain cases. On the other hand, Section 23 provides for persons not liable for registration and exemption of specified categories of persons from obtaining registration. However, existing Section 23 does not have any clause overriding the registration requirement imposed vide Section 24 and Section 22(1). Therefore, it was discussed that doubts had arisen as to whether provisions of compulsory registration under Section 24 prevail over the exemption under Section 23.

8.8.3 Accordingly, the Law Committee deliberated on this issue and recommended that to avoid any conflict within the said provisions and to provide more clarity, Section 23 may be amended retrospectively w.e.f. 01.07.2017 as detailed in agenda.

The Council agreed with the recommendation of the Law Committee.

C. Amendments in CGST Act, 2017 to restrict filing of returns/statements after completion of specified time in view of data archival policy

8.8.4 Principal Commissioner, GST Policy mentioned that GST System has completed more than five years. GSTN has informed that the huge data size of all these years is putting an excessive load on the server and compromising performance. Keeping massive data available online slows down the GST system applications and impacts return filing, especially during peak filing days. Therefore, GSTN proposed a data archival policy for the smooth functioning of the GST Portal and also to provide superior experience to the taxpayers.

8.8.5 While deliberating on the proposed data archival policy for GST portal, the Law Committee recommended that the maximum time limit for filing returns/statements be fixed as three years beyond the due date of filing and accordingly, CGST Act, 2017 be amended by inserting sub-section (5) in Section 37 and sub-section (11) in Section 39 of the CGST Act, 2017. Law committee also recommended inserting sub-section (2) in Section 44 and sub-section (15) in Section 52 of the CGST Act, 2017.

The Council agreed with the recommendation of the Law Committee.

D. Proposal for amendment of sub-section (6) of Section 54 of CGST Act, 2017

8.8.6 Sub-section (6) of Section 54 of the CGST Act, 2017 provides for provisional refund of ninety percent of the total amount claimed as refund on account of zero rated supplies of goods or services or both excluding the amount of input tax credit provisionally accepted. The concept of ‘provisionally accepted input tax credit’ was related to the GSTR-1-2-3 system of return filing which was never implemented. However, in the absence of implementation of GSTR-1-2-3 system of return filing, it was clarified vide para 2.0 of Circular no 24/24/2017 –GST dated 21.12.2017 that provisionally accepted input tax credit would be sanctioned upon obtaining an undertaking in relation to Sections 16(2)(c) and 42(2) of the CGST Act, 2017. Further, Section 41 of the CGST Act, 2017 provided for availing eligible input tax credit as self-assessed in the return on a provisional basis in terms of GSTR-1-2-3 system of return filing, has been amended in Finance Act, 2022 w.e.f. 01.10.2022 by doing away with the provision of availment of input tax credit on a provisional basis.

8.8.7 Accordingly, it was proposed that as the provision relating to availment of input tax credit on provisional basis has been done away with, the words “*excluding the amount of input tax credit provisionally accepted,*” in sub-section (6) of Section 54 of the CGST Act might be omitted. The Law Committee deliberated on this issue and recommended the proposed amendment in sub-section (6) of Section 54 of the CGST Act.

The Council agreed with the recommendation of the Law Committee.

8.9 Agenda Item 7(ix): Amendment in the tables of GSTR-1 for reporting ECO Supplies made under Section 9(5) of CGST Act and attracting TCS under Section 52 of CGST Act , 2017.

8.9.1 Principal Commissioner, GST Policy Wing mentioned that as per current notified format of FORM GSTR-1, the supplies made by a registered person through e-commerce operators (ECOs) attracting TCS under Section 52 of CGST Act, 2017 are to be reported in various tables of FORM

GSTR-1 i.e. 4C, 5B, 7A(2), 7B(2), 10A(1) & 10B(1). The details are to be provided invoice-wise and e-commerce operator-wise. However, these tables have not yet been made functional on GST Portal.

8.9.2 Further, amendment has been made in FORM GSTR-3B vide Notification no. 14/2022-Central Tax dated 05.07.2022 to provide that the taxable supplies made by the registered person through e-commerce operator, on which electronic commerce operator is required to pay tax under sub-section (5) of Section 9 of CGST Act, 2017, are required to be reported by both the registered persons as well as the e-commerce operators in their respective returns in FORM GSTR-3B. However, there is no separate table in FORM GSTR-1 to furnish the aforementioned details.

8.9.3 The issue was deliberated by the Law Committee which recommended certain changes in FORM GSTR-1 to capture details of the supplies made through e-commerce operators attracting TCS, as well as those on which e-commerce operator is required to pay tax under sub-section (5) of Section 9 of CGST Act, 2017. The changes recommended by the Law Committee in FORM GSTR-1 are enclosed as Annexure to the agenda note.

The Council agreed with the recommendation of the Law Committee in relation to FORM GSTR-1.

8.10 Agenda Item 7(x): Retrospective applicability of paras 7, 8(a) and 8(b) of Schedule III of the CGST Act, 2017

8.10.1 Principal Commissioner, GST Policy Wing further mentioned that Para 7 of Schedule III to CGST Act, 2017 provides that supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India, is an activity which is to be treated as neither supply of goods or services. Para 8(a) of Schedule III of CGST Act, 2017 provides that supply of warehoused goods to any person before clearance for home consumption will be treated neither as a supply of goods nor a supply of services. Similarly, as per Para 8(b) of Schedule III of CGST Act, High Sea Sales are to be treated neither as a supply of goods nor a supply of services. The said paras were inserted in Schedule III of CGST Act vide the Central Goods and Services Tax (Amendment) Act, 2018 and were made applicable vide Notification No. 02/2019-Central Tax dated 29.01.2019 with effect from 01.02.2019. The said notification was not made applicable retrospectively from 01.07.2017 which implies that before the said amendment of the CGST Act, such transactions were subject to GST. However, taxpayers were of view that amendment made in Paras 7, 8(a) & 8(b) of Schedule III to Central Goods and Services Tax Act, 2017 (CGST Act), all of which are activities to be treated as neither supply of goods or services, with effect from 01.02.2019, should be made applicable with effect from 01.07.2017. The detailed discussion is provided in the agenda.

8.10.2 Law Committee deliberated on this issue and felt that to avoid unnecessary litigation and doubts, there is a need to provide clarity in the GST law with respect of treatment of the transactions covered by Paras 7, 8(a) and 8(b) of Schedule III of CGST Act, 2017 for the period from 01.07.2017 to 31.01.2019, i.e. before the said paras were inserted in Schedule III of CGST Act. The Law Committee recommended that Paras 7, 8(a) and 8(b) in Schedule III should have retrospective effect w.e.f. 01.07.2017. The Law Committee also recommended that in cases where any tax has already been paid in respect of transactions/supplies covered under Paras 7, 8(a) and 8(b) of Schedule III of CGST Act during the period 01.07.2017 to 31.01.2019, no refund shall be available in respect of such tax paid.

The Council agreed with the recommendations of the Law Committee.

8.11 Agenda Item 7 (xi):- Mechanism to deal with differences in liabilities between GSTR-1 and GSTR-3B, along with draft rules and FORM DRC-01B for implementing the same.

8.11.1 Principal Commissioner, GST Policy Wing presented the agenda item before the Council and stated that Law Committee had deliberated upon the ways to safeguard revenue by finding a mechanism for dealing with difference in liability reported in statement of outward supplies between FORM GSTR-1 and FORM GSTR-3B. Further, he informed that the Law Committee felt that the mechanism should be based on system-based identification of the taxpayers based on certain approved risk criteria and a procedure of auto-compliance on the part of the taxpayers to explain/ take remedial action in respect of such difference. After deliberation, the Law Committee recommended that where the tax liability as per FORM GSTR-1 for a tax period exceeds the tax liability as per FORM GSTR-3B for that period by more than a specified extent, the registered person could be intimated on the portal of such difference and be directed to either pay the differential tax liability along with interest, or explain the difference and unless the taxpayer either deposits the amount specified in the said intimation or furnishes a reply explaining the reasons for any amount remaining unpaid, such a person should not be allowed to file FORM GSTR-1/ invoice furnishing facility for the subsequent tax period.

8.11.2 In this regard, Law Committee recommended insertion of a new Rule 88C in CGST Rules, 2017 for giving intimation to the taxpayer through the portal of difference in liability in FORM GSTR-1 and FORM GSTR-3B and to request payment of the differential liability or explain the difference. To begin with, it was recommended that difference between liability declared in FORM GSTR-1 & that declared in FORM GSTR-3B of more than 20% as well as more than Rs. 25 lakh may be taken for the purpose of intimation under proposed Rule 88C(1). Law Committee also recommended for insertion of FORM GST DRC-01B as required under Rule 88C(1).

8.11.3 Further, Law Committee recommended insertion of a new clause (d) in sub-rule (6) of Rule 59 of CGST Rules, 2017 to enable blocking of FORM GSTR-1 for a subsequent tax period unless the taxpayer has deposited the amount specified in the intimation or has furnished a reply explaining the reasons for any amount remaining unpaid.

8.11.4 It was further informed that Law Committee would be formulating a separate procedure for examination of such cases by the proper officer, where the taxpayer deposits the differential tax liability only partly, with or without an explanation for such short payment, and for further action for recovery of the unpaid amount in accordance with the provisions of Section 79, to the extent no satisfactory explanation has been provided by the taxpayer for such differential unpaid amount.

8.11.5 The Hon'ble Member from Haryana stated that the issue of FORM GST DRC-01B was also discussed in the Officers' Meeting. He thereafter stated that there is provision for blocking the filing of GSTR-1 if the differential amount involved is more than Rs. 25 Lakh and 20% and requested that the filing of GSTR-1 might be unblocked only after verification by the officer. He further stated that there may be scenarios wherein the filing of GSTR-1 for subsequent tax period could be allowed even if the taxpayer uploads a blank paper without proper details. He proposed that such cases should be verified by a GST officer as there may be a possibility that the registration can be used for claiming more Input Tax Credit in the later stages.

8.11.6 The Principal Commissioner, GST Policy Wing informed that as also explained in the agenda, a separate procedure would be worked out by the Law Committee for examination and verification of such cases by the tax officers, where the taxpayer deposits the differential tax liability only partly, with or without an explanation for such short payment, and for further action for recovery of the unpaid amount in accordance with the provisions of Section 79, to the extent no satisfactory explanation has been provided by the taxpayer for such differential unpaid amount.

8.11.7 The Hon'ble Chairperson stated that it would be desirable that verification by the officers should not be insisted upon at this stage for filing of GSTR-1 for the subsequent tax period and verification of the response of the taxpayer may be a separate exercise, as suggested by the Law Committee.

The Council agreed with the recommendation of the Law Committee.

8.12 Agenda Item 7(xii): Clarification on various issues in GST.

A. Clarification on taxability of No Claim Bonus offered by Insurance companies

8.12.1 Principal Commissioner, GST Policy Wing presented the agenda item before the council and stated that various representations had been received from General Insurance Council and various insurance companies seeking clarity on treatment of No Claim Bonus ('NCB') under GST. It had been represented that NCB is a discount given by insurance companies on the premium payable by the customer/insured for a particular year, if the insured has not made any claim during the previous year. However, some field formations/ investigation agencies were treating NCB as a supply by the customer to the insurance company.

8.12.2 Clarity was sought as to whether NCB is a consideration paid to the customer by the insurer for agreeing to the obligation to refrain from the act of lodging insurance claim during the policy period and therefore, tax would be payable by the insurance company on the gross amount without deducting NCB from the premium amount; or alternatively, whether it should be treated as a discount by insurance company, to be deducted from the gross premium, for the purpose of calculation of value of supply made by insurer to the insured.

8.12.3 The Law Committee had recommended that it might be clarified through a Circular that NCB is not a consideration in respect of any service rendered by the insured to the insurance company, rather it is an upfront discount from the premium payable by the insured for the supply of insurance services by the insurance company to the insured; and therefore, NCB is deductible for the purpose of calculation of value of supply of insurance services under Section 15 of CGST Act, 2017.

B. Clarification on applicability of e-invoicing with respect to an entity

8.12.4 Principal Commissioner, GST Policy Wing presented the agenda item before the Council and stated that Notification No. 13/2020-Central Tax dated 21.03.2020, as amended, provides the class of registered persons for whom e-invoicing shall be applicable under Rule 48(4) of the CGST Rules, 2017. SEZ units, government departments, local authority and those referred in sub-rules (2), (3), (4) and (4A) of Rule 54 of the CGST Rules, 2017 have been exempted from e-invoicing.

8.12.5 Representations had been received from banking companies for clarifying the matter as banks were being subject to investigation by some tax authorities on grounds that e-invoices were required to be generated by banks for movement of goods, including bullion. Tax officers are also claiming that said exemption from generation of e-invoices is available to a banking company only with respect to the banking services provided by it and not for goods or for the Banking Company as a whole.

8.12.6 Law Committee had recommended that it could be clarified through a circular that the exemption from mandatory issuance of e-invoices is with respect to the entity as a whole and not just with respect to the nature of supply/transaction, so as to provide clarity to the trade and field formations and remove ambiguity on these issues.

The Council agreed with the recommendation of the Law Committee along with the draft Circular.

8.13 Agenda Item 7(xiii): Clarification regarding treatment of the difference in ITC availed in GSTR-3B as compared to that available in GSTR-2A for FY 2017-18 and 2018-19

8.13.1 Principal Commissioner, GST Policy Wing presented the agenda item before the Council and stated that during the initial period of implementation of GST, especially during the financial years 2017-18 and 2018-19, many suppliers had failed to furnish the correct details of outward supplies in their FORM GSTR-1. Because of such discrepancies, FORM GSTR-2A of their recipients remained incomplete. However, the concerned recipients might have availed input tax credit on the said supplies in their returns in FORM GSTR-3B, as restrictions in availment of ITC up to certain specified limit beyond the ITC available to the registered persons as per FORM GSTR-2A were provided under Rule 36(4) of CGST Rules, 2017 only with effect from 9.10.2019.

8.13.2 Such discrepancies between the amount of ITC availed in FORM GSTR-3B and the amount available in FORM GSTR-2A of the registered person were being noticed by the tax officers during proceedings such as scrutiny/ audit/ investigation etc. and were being considered by them as representing ineligible ITC availed by the registered persons. Various representations had been received from the trade as well as the tax authorities, seeking clarification regarding the manner of dealing with such discrepancies.

8.13.3 The Law Committee had recommended that in cases where the difference between the ITC claimed in FORM GSTR-3B and that available in FORM GSTR 2A of the registered person in respect of a supplier for the said financial year exceeded Rs 5 lakh, the proper officer shall ask the registered person to produce a certificate for the concerned supplier from the Chartered Accountant (CA) or the Cost Accountant (CMA), certifying that supplies in respect of the said invoices of supplier had actually been made by the supplier to the said registered person and the tax on such supplies had been paid by the said supplier in his return in FORM GSTR 3B. Certificate issued by CA or CMA shall contain UDIN. In cases where difference between the ITC claimed in FORM GSTR-3B and that available in FORM GSTR 2A of the registered person in respect of a supplier for the said financial year was upto Rs 5 lakh, the proper officer shall ask the claimant to produce a certificate from the concerned supplier, to the effect that said supplies had actually been made by him to the said registered person and the tax on said supplies had been paid by the said supplier in his return in FORM GSTR 3B.

8.13.4 Law Committee had recommended issuance of a Circular for detailing the procedure for verification of ITC availed by the registered persons in such cases and for providing clarity to the trade and field formations.

The Council agreed with the recommendation of the Law Committee along with the draft Circular.

8.14 Agenda Item 7(xiv): Clarification regarding the treatment of statutory dues under GST law in respect of the taxpayers for whom the proceedings have been finalized under the Insolvency and Bankruptcy Code, 2016.

8.14.1 Principal Commissioner, GST Policy Wing presented the agenda item before the Council and stated that in cases where proceedings are initiated under Insolvency and Bankruptcy Code, 2016 (IBC) against corporate debtor, claims should be filed by the tax officers in respect of government dues pending against such person before the appropriate authority under IBC. On finalization of proceedings under IBC, the amount of government dues, payable by the said taxpayer, could be totally extinguished or could be reduced vis-à-vis the amount claimed by the tax officer. Doubts were being raised by tax authorities regarding the modalities for implementation of the order of the adjudicating/appellant authority under IBC, after finalization of the proceedings thereof, with respect to demand for recovery against such corporate debtor under CGST Act, 2017.

8.14.2 Law Committee deliberated on the issue and was of the view that in cases where a confirmed demand for recovery had been issued by the tax authorities for which a summary had been issued in FORM GST DRC-07/DRC 07A against the corporate debtor, and where the proceedings had been finalized against the corporate debtor under IBC reducing the amount of statutory dues payable by the corporate debtor to the government under CGST Act or under existing laws, the Jurisdictional Commissioner should issue an intimation in FORM GST DRC-25 reducing such demand, to the taxable person or any other person as well as the appropriate authority with whom recovery proceedings were pending.

8.14.3 Law Committee had recommended issuance of a Circular clarifying that the proceedings conducted under IBC also adjudicate the Government dues pending under the CGST Act, 2017 or under existing laws against the corporate debtor, therefore, the same are covered under the term 'other proceedings' in Section 84 of CGST Act, 2017 and that in case the Government dues under the CGST Act, 2017 are extinguished or reduced in IBC proceedings, an intimation should be issued in FORM GST DRC-25 by Commissioner under Section 161 of CGST Rules, 2017 for reducing the said dues. Law Committee also recommended amendment in Rule 161 to align the same with Section 84 of the

CGST Act, 2017 and also recommended that FORM GST DRC 25 be amended, to specifically include the authorities under IBC in the said form.

The Council agreed with the recommendation of the Law Committee.

8.15 Agenda Item 7(xv): Amendment in provisions related to OIDAR Services under the IGST Act, 2017.

8.15.1 Principal Commissioner, GST Policy Wing presented the Agenda item before the Council and stated OIDAR services are digitally supplied services, the nature of which renders their supply impossible in the absence of Information Technology. With the growth of digital economy, the OIDAR services are expected to grow immensely in volume and accordingly, more measures would be required to be taken in due course for improving compliance under GST for OIDAR services supplied by persons located in non-taxable territory.

8.15.2 To ensure compliance under GST by OIDAR service providers, the Law Committee opined that amendments were required in existing provisions of law so as to reduce the scope of interpretation for deciding whether the said supply is covered under the scope of OIDAR services or not for taxation under GST.

8.15.3 Law Committee deliberated on these issues and recommended amendment in the definition of “non-taxable online recipient” under Section 2(16) of the IGST Act, 2017. Currently, for a service to be classified as OIDAR services under Section 2(17) of the IGST Act, 2017, an essential condition was that the supply of such service must be essentially automated and should involve minimal human intervention. However, there was lack of clarity on the meaning of the term “minimal human intervention” and it was opined that restricting the scope of GST on cross border supply by non-resident suppliers only to those services with minimal human intervention did not provide a level playing field and also gave rise to legal disputes. In view of this, Law Committee recommended amending the definition of OIDAR services under Section 2(17) of the IGST Act, 2017 as detailed in the agenda.

The Council agreed with the recommendation of the Law Committee.

8.16 Agenda Item 7(xvi): In Section 17 of the CGST Act, 2017 regarding ITC in respect of CSR (Corporate Social Responsibility) expenditure.

8.16.1 Principal Commissioner, GST Policy Wing presented the agenda item before the Council and stated that doubts had been raised by trade as well field formations in respect of availability of input tax credit on CSR expenditure incurred by companies in accordance with the provisions of Companies Act, 2013 due to various contradictory advance rulings. One view was that CSR expenditure is incurred to meet the obligations under section 135(5) of the Companies Act, and non-compliance on this count attracts penal action. Accordingly, input tax credit should be available in respect of inputs and input services for CSR activities in terms of Section 16(1) of CGST Act. However, another view was that CSR does not include activities undertaken in pursuance of normal course of business of the company and input tax credit should not be available to the registered person on CSR expenditure under Section 16(1) of CGST Act. Further, Explanation 2 to Section 37(1) of the Income Tax Act, 1961 provides that the expenditure incurred by an assessee on CSR activities shall not be deemed to be an expenditure incurred by the assessee for the purposes of business or profession.

8.16.2 Law Committee had recommended that ITC in respect of CSR expenditure incurred by Companies under section 135 of Companies Act may not be allowed. Further, it recommended that to unambiguously state such position, such CSR expenditure may be included in the list of blocked credits under Section 17(5) of the CGST Act, 2017.

The Council agreed with the recommendation of the Law Committee.

8.17 Agenda Item 7(xvii): Issues related to place of supply in terms of the proviso to Section 12(8) of the IGST Act, 2017.

8.17.1 Principal Commissioner, GST Policy Wing presented the agenda item before the Council and stated that Place of supply (PoS) of services by way of transportation of goods, including by mail or courier, where location of supplier and recipient is in India, is specified in Section 12(8) of the IGST Act, 2017. Further, Proviso to the section 12(8), inserted w.e.f. 01.02.2019, provides that where the transportation of goods is to a place outside India, the PoS shall be the place of destination of such goods, i.e. foreign country. Accordingly, IGST would be payable on the said supply. As the PoS is different from the location of the recipient of services in such cases, doubts are being raised in respect of the admissibility of input tax credit (ITC) to the recipient of such services.

8.17.2 Law Committee had recommended issuance of a Circular for clarifying that in such case ITC would be available to the registered person located in India, in respect of such receipt of services of transportation of goods, where place of supply is outside India in terms of proviso to Section 12(8),

subject to fulfilment of other conditions of Sections 16 and 17 of CGST Act, 2017. Also, PoS is to be declared in FORM GSTR-1 on the common portal under the State code “96- Foreign Country” (and not under “97-Other Territory”).

8.17.3 Law Committee had also recommended omission of the proviso to Section 12(8) of IGST Act, 2017, as no useful purpose is being served by insertion of the proviso to Section 12(8) of IGST Act, 2017 w.e.f. 01.02.2019.

The Council agreed with the recommendations of the Law Committee.

9. Agenda Item 12: GST Data sharing with Ministries and Departments

9.1 The Secretary then presented Agenda No. 12 regarding Data Sharing with Ministries and Departments and requested Additional Secretary, DoR to brief the Council regarding the agenda.

9.2 Additional Secretary, DoR informed that the agenda was for sharing of the GST Data which masked individual taxpayer data for the benefit of the Centre and State Government Departments and Agencies. The view behind Data sharing was that a lot of services could be rendered if the GST Data i.e. both aggregated and dis-aggregated data was shared between the Centre/States’ departments and agencies through API. He further informed that States had requested to share individual taxpayer data also in the officers meeting and that would be taken up later.

9.3 The Hon’ble Member from Punjab voiced his concern and sought clarification on how the GST data would be shared between different departments and agencies.

9.4 The Secretary clarified that the GST data would be mutually shared between the Centre/States’ departments and agencies. The Hon’ble Member from Punjab agreed to the agenda after the clarification.

9.5 The Hon’ble Member from West Bengal enquired about the agencies with which GST data would be shared.

9.6 The Secretary clarified that the GST data would be shared among the Centre/State Departments and agencies.

9.7 The Hon’ble Member from Puducherry raised concerns about the leakage of GST Data in case the same was shared with multiple departments and agencies.

9.8 The Hon’ble Chairperson clarified that the GST data sharing would be with State and Central Government Departments and their agencies only.

9.9 The Hon'ble Member from Andhra Pradesh supported sharing of GST data base but requested for sharing of other data base from Income Tax Department, Customs and NHAI Toll Data base.

9.10 The Hon'ble Chairperson clarified that GST Council had authority to share State/Centre GST data but the data sharing of Income Tax and Customs was outside the purview of Council.

9.11 The Hon'ble Member from Delhi stated that both the Centre and State were performing survey and investigations. In situations when any investigation is going on in one state for example in Uttar Pradesh and any lead related to other states like Delhi emerges from that investigation, then this data might be shared between the States through GSTN. There should be a mechanism in GSTN that such references might be auto populated or through online mechanism.

9.12 The Secretary took the note of the suggestions from the Hon'ble Member from Delhi and stated that there should be a system to share GST data regarding surveys and investigations between States and Centre and States.

9.13 The Secretary stated that from the deliberations, we can infer that the agenda on data sharing has the approval of the Council.

The Council approved the agenda on GST Data sharing with Ministries and Departments.

10. The Hon'ble Member from Haryana requested to take agenda on GST Tribunal. He further stated that if that agenda was delayed, the GST Tribunal would not see light for another one year.

10.1 The Hon'ble Chairperson assured that the GST Council would meet at the earliest.

10.2 The Secretary stated that the meeting could be concluded as per request of many of the Hon'ble Members. In the meeting the Council had discussed Agenda Items 1,2,3,4,5,6,7 and 12. Since, there were requests to end the meeting by 01.30 p.m., the remaining agendas would be taken up in the upcoming meetings of the Council.

10.3 The Secretary thanked the Hon'ble Chairperson, Hon'ble MoS, Hon'ble Members and all officers for attending the 48th meeting of the GST Council.

Annexure-1**List of Hon'ble Ministers from States/Uts who participated in the 48th Meeting of the GST Council held on 17th December, 2022**

S. No.	Centre/States/Uts	Name of Hon'ble Minister	Charge
1	GOI	Smt. Nirmala Sitharaman	Union Finance Minister
2	GOI	Shri. Pankaj Chaudhary	Minister of State for Finance
3	Andhra Pradesh	Shri BugganaRajendranath	Minister for Finance, Planning, Legislative Affairs, Commercial Taxes and Skill Development & Training
4	Assam	Smt. Ajanta Neog	Finance Minister
5	Chhattisgarh	Shri T.S.Singh Deo	Minister, State Tax (Commercial Tax)
6	Delhi	Shri Manish Sisodia	Deputy Chief Minister and Finance Minister
7	Goa	Shri. MauvinGodinho	Minister for Transport, Industries, Panchayat and Protocol.
8	Gujarat	Shri Kanubhai Desai	Minister for Finance
9	Haryana	Shri Dushyant Chautala	Deputy CM and Excise & Taxation Minister
10	Jammu and Kashmir	Shri Rajeev Rai Bhatnagar	Advisor to Hon'ble Lieutenant Governor, UT of J&K
11	Jharkhand	Dr Rameshwar Oraon	Minister for Planning cum Finance, Commercial Taxes and Food, Public Distribution and Consumer Affairs
12	Karnataka	Shri Basavaraj Bommai	Chief Minister
13	Kerala	Shri K N Balagopal	Finance Minister

14	Madhya Pradesh	Shri Jagdish Devda	Minister for Finance, Commercial Tax, Planning and Statistics
15	Maharashtra	Shri Devendra Fadnavis	Deputy Chief Minister
16	Manipur	Dr.Sapam Ranjan Singh	Minister for Medical, Health & Family Welfare Department and Publicity & Information Department
17	Meghalaya	Shri James K Sangma	Taxation Minister
18	Odisha	Shri Niranjan Pujari	Finance and Parliamentary Affairs Minister
19	Punjab	Shri Harpal Singh Cheema	Finance Minister
20	Puducherry	Shri. K. Lakshminarayanan	Minister for Public Works
21	Rajasthan	Shri Shanti Kumar Dhariwal	Minister of Local Self Government, Urban Development & Housing
22	Sikkim	Shri B. S. Panth	Minister of Tourism & Civil Aviation and Commerce & Industries
23	Tamil Nadu	Dr.PalanivelThiagaRajan	Minister for Finance and Human Resources Management
24	Telangana	Shri. T. Harish Rao	Minister for Finance, Health, Medical & Family Welfare
25	Tripura	Shri Jishnu Dev Varma	Deputy Chief Minister
26	Uttarakhand	Shri Prem Chand Agarwal	Minister for Finance, Urban Development, Housing, Legislative & Parliamentary Affairs, Reorganization & Census
27	Uttar Pradesh	Shri Suresh Kumar Khanna	Minister of Finance, Parliamentary Affairs
28	West Bengal	Smt. Chandrima Bhattacharya	Minister of State for Finance

List of Officers from Centre and the States/Uts who participated in the 48th Meeting of the GST Council held on 17th December, 2022

S.No.	Centre/States/Uts	Name of the Officer	Designation/Charge
1	Government of India	Shri Sanjay Malhotra	Revenue Secretary
2	Government of India	Shri Vivek Johri	Chairman, CBIC
3	Government of India	Ms. V Rama Mathew	Member (GST & Tax Policy),CBIC
4	Government of India	Shri Sanjay Kumar Agarwal	Member(Compliance Management),CBIC
5	Government of India	Shri Vivek Aggarwal	Additional Secretary (Revenue)
6	Government of India	Shri Pankaj Kumar Singh	Additional Secretary (GST Council Secretariat)
7	Government of India	Shri Ritvik Pandey	Joint Secretary
8	Government of India	Shri Sanjay Mangal	Principal Commissioner
9	Government of India	Ms. LimatulaYaden	Joint Secretrary
10	GSTN	Shri Manish Kumar Sinha	CEO
11	GSTN	Shri Dheeraj Rastogi	Off. EVP (Support) & SVP (Services)
12	Government of India	Sh Sanjeev Shrivastava	Pr. Chief Controller of Accounts

13	Government of India	Ms Seema Arora	Pr. Director General (Audit)
14	Government of India	Dr. Amandeep Singh	Additional Director General(Audit)
15	Government of India	Ms. Ashima Bansal	Joint Secretary
16	Government of India	Ms. B.Sumidaa Devi	Joint Secretary
17	Government of India	Shri S.S. Nakul	PS to FM
18	Government of India	Shri Deepak Kapoor	OSD to Revenue Secretary
19	Government of India	Shri D. P. Misra	OSD to Chairman, CBIC
20	Government of India	Dr Puneeta Bedi	Additional Commissioner
21	Government of India	Shri Alok Kumar	Additional Commissioner
22	Government of India	Shri Pramod Kumar	Director
23	Government of India	Shri Rakesh Dahiya	Deputy Secretary
24	Government of India	Ms. Amreeta Titus	Deputy Secretary
25	Government of India	Shri Nitesh Gupta	Deputy Commissioner
26	Government of India	Ms. Rajni Sharma	Deputy Commissioner
27	Government of India	Shri Amit Samdariya	Deputy Commissioner

28	Government of India	Ms. Neha Yadav	Deputy Commissioner
29	Government of India	Shri Rahul Kumar	Under Secretary
30	Government of India	Shri Rajeev Ranjan	Under Secretary
31	Government of India	Shri Gaurav Shukla	Under Secretary
32	Government of India	Ms. Smita Roy	Technical Officer
33	Government of India	Ms. Anna Sosa Thomas	Technical Officer
34	Government of India	Ms. Soumya	OSD
35	Government of India	Shri RushikeshKodgi	Dy. Controller of Accounts
36	GST Council Secretariat	Shri Kshitendra Verma	Director
37	GST Council Secretariat	Shri Harish Kumar	Deputy Secretary
38	GST Council Secretariat	Shri S.S.Shardool	Deputy Secretary
39	GST Council Secretariat	Shri Joginder Singh Mor	Under Secretary
40	GST Council Secretariat	Ms. Reshma R. Kurup	Under Secretary
41	GST Council Secretariat	Ms. Priya Sethi	Superintendent
42	GST Council Secretariat	Shri Dharambir	Superintendent

43	GST Council Secretariat	Shri Niranjana Kishore	Superintendent
44	GST Council Secretariat	Shri Rakesh Joshi	Inspector
45	GST Council Secretariat	Shri Vijay Malik	Inspector
46	GST Council Secretariat	Shri Padam Singh	Inspector
47	Andhra Pradesh	Shri N. Gulzar	Secretary Finance(CT)
48	Andhra Pradesh	Shri M. Girija Shankar	Chief Commissioner(ST)
49	Andhra Pradesh	Shri K. Ravi Sankar	Commissioner(ST) Policy
50	Arunachal Pradesh	Shri Kanki Darang	Commissioner of Commercial Taxes
51	Arunachal Pradesh	Shri Tapas Dutta	Deputy Commissioner of State Taxes
52	Arunachal Pradesh	Shri NakutPadung	Superintendent
53	Assam	Shri Samir K Sinha	Principal Secretary, Finance Department
54	Assam	Shri Jayant Narlikar	Commissioner & Secretary, Finance Department
55	Assam	Shri Rakesh Agarwala	Principal Commissioner of State Tax
56	Assam	Md. Shakeel Saadullah	Additional Commissioner of State Tax
57	Bihar	Dr Pratima	Commissioner cum Secretary Commercial Taxes Department

58	Bihar	Shri Arun Kumar Mishra	Tax Expert Commercial Taxes
59	Bihar	Shri Sanjay Kumar Mawandia	Special Commissioner State Tax
60	Chhattisgarh	Shri Him Shikhar Gupta	Special Secretary, State Tax (Commercial Tax)
61	Chhattisgarh	Shri Bhim Singh	Commissioner, State Tax (Commercial Tax)
62	Chhattisgarh	Shri T.L. Dhruw	Additional Commissioner of State Tax
63	Delhi	Shri Ashish Chandra Verma	Pr. Secretary Finance and Secretary to Deputy Chief Minister
64	Delhi	Dr. S. B. Deepak	Commissioner DT & T
65	Delhi	Shri. Awanish Kumar	Special Commissioner DT & T
66	Goa	Ms. Sarita Gadgil	Additional Commissioner of State Tax
67	Goa	Shri Saba Krishna Parab	Nodal Officer GST
68	Gujarat	Shri. J.P. Gupta	Principal Secretary, Finance Department
69	Gujarat	Shri. Milind Torawane	Chief Commissioner of State Tax
70	Gujarat	Shri Dilip Thaker	Deputy Secretary(Tax)
71	Gujarat	Shri Milind Kavatkar	Joint Commissioner (Legal)
72	Haryana	Shri Anurag Rastogi	Addl. Chief Secretary to Government, Excise and Taxation Department.

73	Haryana	Shri Ashok Kumar Meena	Excise & Taxation Commissioner-cum-Secretary to Government
74	Haryana	Shri Siddharth Jain	Additional Commissioner, GST, Excise and taxation Department
75	Himachal Pradesh	Shri Subhasish Panda	Principal Secretary (Excise & Taxation)
76	Himachal Pradesh	Shri Yunus	Commissioner of State Tax and Excise
77	Himachal Pradesh	Shri Rakesh Sharma	Additional Commissioner of State Tax and Excise
78	Jammu and Kashmir	Dr. Rashmi Singh	Commissioner of State Taxes
79	Jammu and Kashmir	Ms. Namrita Dogra	Additional Commissioner of State Taxes
80	Jammu and Kashmir	Shri Waseem Raja	Assistant Commissioner of Taxes
81	Jharkhand	Ms. Aradhana Patnaik	Secretary (Commercial Tax)
82	Jharkhand	Shri Santosh Kumar Vatsa	Commissioner of Commercial Taxes
83	Karnataka	Shri ISN Prasad	Additional Chief Secretary , Finance Department
84	Karnataka	Ms. C. Shikha	Commissioner of Commercial Taxes
85	Karnataka	Dr. M.P. Ravi Prasad	Additional Commissioner of Commercial Taxes
86	Karnataka	Ms. C Pushpalatha	Additional Commissioner of Commercial Taxes
87	Kerala	Shri. Bishwanath Sinha	Additional Chief Secretary (Finance)

88	Kerala	Dr.Rathan U Kelkar	Secretary (Taxes)
89	Kerala	Shri. Ajit Patil	Commissioner of State Tax
90	Kerala	Dr. S Karthikeyan	Special Commissioner
91	Kerala	Shri. Abraham Renn S	Additional Commissioner
92	Madhya Pradesh	Ms. Deepali Rastogi	Principal Secretary (Department of Commercial Taxes)
93	Madhya Pradesh	Shri Lokesh Kumar Jatav	Commissioner Commercial Tax
94	Maharashtra	Shri Manoj Sounik	Additional Chief Secretary (Finance)
95	Maharashtra	Ms Shaila A	Secretary (Financial Reforms)
96	Maharashtra	Shri Rajeev Mital	Commissioner of State Tax
97	Maharashtra	Shri Rajendra Adsul	Joint Commissioner of State Tax
98	Maharashtra	Ms VishakhaBorse	Joint Commissioner of State Tax, HQ-V
99	Manipur	Ms. Mercina R. Panmei	Commissioner of Taxes
100	Manipur	Shri Y. Indrakumar Singh	Assistant Commissioner of Taxes
101	Meghalaya	Ms S ASynrem	Commissioner & Secretary, Excise, Registration, Taxation and Stamp Department
102	Meghalaya	Shri. L Khongsit	Additional Commissioner of State Taxes

103	Meghalaya	Shri. B Wahlang	Deputy Commissioner of State Taxes
104	Meghalaya	Shri. J L Kharwanlang	Assistant Commissioner of Taxes
105	Meghalaya	Shri M C Sangma	Assistant Commissioner of Taxes
106	Meghalaya	Shri. V R Challam	Assistant Commissioner of Taxes
107	Meghalaya	Shri. M K Phanbuh	Assistant Commissioner of Taxes
108	Meghalaya	Shri. TrysterSangma	Superintendent
109	Meghalaya	Shri. BhutoMarak	Superintendent
110	Mizoram	Shri VanlalChhuanga	Principal Secretary, Taxation Department
111	Mizoram	Shri R. Zosiamliana	Additional Commissioner of State Taxes
112	Mizoram	Shri Hrangthanmawia	Assistant Commissioner of Taxes
113	Nagaland	Shri. C Lima Imsong	Additional Commissioner of State Taxes
114	Nagaland	Ms. N Areni Patton	Joint Commissioner of State Tax
115	Odisha	Shri Sanjay Kumar Singh	Commissioner of Commercial Tax and GST
116	Punjab	Shri Ajoy Sharma	Secretary (Taxation)
117	Punjab	Shri Kamal Kishor Yadav	Commissioner of State Taxes

118	Punjab	Shri Ravneet Khurana	Additional Commissioner of State Taxes (Audit)
119	Puducherry	Shri. M. Raju	Commissioner-cum-Secretary to Government - Finance
120	Puducherry	Shri. M. RajeSaker	Commissioner of State Tax
121	Rajasthan	Shri K. K. Pathak	Finance Secretary (Revenue)
122	Rajasthan	Dr. Ravi Kumar Surpur	Chief Commissioner of State Tax
123	Rajasthan	Shri Satish Kumar Upadhyay	Additional Commissioner of State Taxes
124	Rajasthan	Shri Arvind Mishra	Additional Commissioner of State Taxes
125	Sikkim	Shri Manoj Rai	Commissioner to the Commercial Taxes
126	Tamil Nadu	Shri N. Muruganandam	Additional Chief Secretary (Finance)
127	Tamil Nadu	Ms B. Jothi Nirmalasamy	Secretary to Government, Commercial Tax & Registration
128	Tamil Nadu	Shri Thiru Dheeraj Kumar	Principal Secretary/Commissioner of Commercial Taxes
129	Telangana	Shri Somesh Kumar	Chief Secretary/Special Chief Secretary, Revenue(CT& Excise)Department
130	Telangana	Ms Neetu Prasad	Commissioner of Commercial Taxes
131	Telangana	Shri N Sai Kishore	Additional Commissioner of State Taxes
132	Telangana	Ms. K Rupa Soumya	Deputy Commissioner of State Taxes

133	Telangana	Ms. VDN Sravanthi	Deputy Commissioner of State Taxes
134	Tripura	Shri Brijesh Pandey	Secretary, Finance
135	Tripura	Shri Ashin Barman	Nodal Officer (GST)
136	Uttarakhand	Dr. Ahmed Iqbal	Commissioner of State Tax
137	Uttarakhand	Shri I. S. Brijwal	Additional Commissioner of State Taxes
138	Uttarakhand	Shri Anil Singh	Additional Commissioner of State Taxes
139	Uttarakhand	Shri Amit Gupta	Additional Commissioner of State Taxes
140	Uttarakhand	Dr. Sunita Pandey	Joint Commissioner of State Taxes
141	Uttarakhand	Shri Anurag Mishra	Joint Commissioner of State Taxes
142	Uttarakhand	Shri Praveen Gupta	Joint Commissioner of State Taxes
143	Uttarakhand	Shri S.S. Tiruwa	Deputy Commissioner of State Taxes
144	Uttarakhand	Shri Ranjit Singh	Assistant Commissioner of State Taxes
145	Uttar Pradesh	Shri Nitin Ramesh Gokaran	Principal Secretary, State Tax
146	Uttar Pradesh	Ms. Ministhy S	Commissioner of State Tax
147	Uttar Pradesh	Shri Harilal Prajapati	Joint Commissioner(GST), State Tax HQ

148	Uttar Pradesh	Shri Paritosh Kumar Mishra	Deputy Commissioner(GST), State Tax HQ
149	West Bengal	Shri Rajib Sankar Sengupta	Senior Joint Commissioner of State Taxes
150	West Bengal	Shri JoyjitBanik	Senior Joint Commissioner of State Taxes
151	West Bengal	Shri BarunGayen	Assistant Commissioner of State Taxes
152	West Bengal	Shri Shantanu Naha	OSD to Minister

Recommendations of Fitment Committee on Goods and Services

(Agenda item 3)

48th GST Council Meeting

17th December 2022

Goods

- **Total 19 issues examined.**
 - ✓ recommendations for making changes in GST rates/ issuing clarifications- **9** (*Volume 1, Pages 190 to 203*)
 - ✓ recommendations for making no change -**8** (*Volume 1, Pages 204 to 209*)
 - ✓ Issues deferred for further examination -**2** (*Volume 1, Pages 210 to 211*)

Services

- **Total 27 issues examined.**
 - ✓ recommendations for making changes in GST rates/issuing clarifications -**7** (*Volume 1, Pages 212 to 226*)
 - ✓ recommendations for making no change -**16** (*Volume 1, Pages 227 to 256*)
 - ✓ Issues deferred for further examination – **4** (*Volume 1, Pages 257 to 260*)

Recommendations of the Fitment Committee in relation to Goods

Agenda 3

1. Remove inconsistency in the GST rate on pencil sharpeners: (*Volume 1, Pages 190-192*)

- The 47th GST Council recommended increase in GST rate on pencil sharpeners from 12% to 18% based on recommendations of GoM on rate rationalization;
- Accordingly, entry 188 of Schedule II was omitted to give effect to the decision of the GST Council. However, pencil sharpeners inadvertently continued under entry 180 of Schedule II which prescribes rate of 12%
- To remove this inconsistency, the entry of pencil sharpeners from entry 180 of the Schedule II may be omitted.

Agenda 3(a)

2. Exempt byproducts of milling of dal/pulses like khanda, churi, chilka from GST irrespective of end use: (*Volume 1, Pages 192-195*)

- In its 47th GST Meeting, the Council had approved issue of clarification that by-products of milling of Dal/ Pulses such as Chilka, Khanda and Churi are used as ingredient for manufacture of cattle feed and attract GST at the rate of 5%.
- By products of milling of dal/ pulses like Khanda, Churi, Chilka have dual use- as animal feed and animal feed ingredients attracting Nil GST when used as cattle feed and attracting 5% when used for manufacture of cattle feed translating to an end use based exemption
- To obviate implementation issues, husk of pulses including Chilka and concentrates including chuni/ churi, khanda may be unconditionally exempt from GST.
- Clarification may be to regularise the matter of the intervening period on "as is" basis from the date of issuance of last circular (3.08.2022) on account of genuine doubts.

Agenda 3(a) (contd.)

3. Issue Clarification for applicability of higher rate of compensation cess of 22% on supply of SUV:(Volume 1, Pages 195-199)

- The GST Council in its 21st Meeting held in Sept, 2017 had recommended a higher rate of compensation cess of 22% for SUV.

"Sports Utility Vehicles(SUVs) (of length more than 4-metre, engine capacity more than 1500cc and ground clearance 170 mm): To increase the rate of cess from the present 15% to 22%."

- To clarify that the higher rate of compensation cess of 22% is applicable on motor vehicle fulfilling all four conditions, namely, it is popularly known as SUV, has engine capacity exceeding 1500 cc, length exceeding 4000 mm and ground clearance of 170 mm or above (entry 52B of notification no. 1/2017-CC).

4. RCM for *Mentha arvensis* :

- To include *Mentha arvensis* supplied by unregistered person to registered person under RCM as has been done for Mentha Oil.

Agenda 3(a) (contd.):

5. GST rate on Carbonated beverages of fruit drinks or carbonated beverages with fruit juice with carbon Dioxide added as Preservative/additive":(Volume 1, Pages 199)

- 45th GST Council recommended that separate entry be created for 'carbonated beverages of fruit drinks or carbonated beverages with fruit juice' attracting GST at 28% and compensation cess at 12%.
- Few suppliers are still clearing their products under fruit pulp or fruit juice based drinks attracting 12% GST though they contain carbon dioxide.
- Exclusion is proposed to be inserted in the entry no. 48 of Schedule-II of notification no. 1/2017-CTR, covering fruit pulp or fruit juice based drinks to exclude " carbonated beverages of fruit drink or carbonated beverages of fruit juice".

Agenda 3(a) (contd.)

6. Clarification on classification and appropriate rate of GST on Rab (salawat) - whether under 1701 Or 1702: *(Volume 1, Pages 199-200)*

- The issue for clarification was whether Rab is classifiable under CTH 1701 or 1702
- Cane or beet sugar and chemically pure sucrose in **solid form** is classified under 1701 and attract 5% GST.
- Rab is in liquid or semi-solid form
- Molasses fall under 1703 and attract 28% GST.
- It may be clarified that Rab (salawat) falls under 1702 which currently attracts GST at the rate of 18%.

Agenda 3(a) (contd.)

7. Clarification regarding Fryums manufactured using extrusion process attract 18% GST: *(Volume 1, Pages 200-201)*

- The classification dispute was between entry no. 46 of the Schedule II covering goods of CTH 2106 at 12% and entry no. 16 of the Schedule III covering goods of CTH 1905 at 18%.
- Entry no. 46 of the Schedule II covering goods Namkeens, bhujia, mixture, chabena and similar edible preparations in ready for consumption form pre-packaged and labelled
- CTH 1905 90 30 specifically includes extruded products, savoury or salted.
- It may be clarified that fryums are thus covered under 1905 90 30 which attract 18%.

Agenda 3(a) (contd.)

8. Clarification on applicable IGST rate on items imported for petroleum operations: *(Volume 1, Pages 201-202)*

- Based on GoM report, 5% concessional rate of GST for goods of all chapters imported for petroleum operations was increased from 5% to 12% (Notification no. 3/2017-ITR)
- However, certain goods including those used for petroleum operations attract 5% GST by virtue of their entry in Schedule I of notification no. 1/2017 of the ITR .
- To clarify that if any goods imported for petroleum operations fall in specified list of goods eligible for 12% GST under notification no. 3/2017-ITR but are also eligible for a lower rate under Schedule I of notification no. 1/2017-CTR or any other notification, the importer may claim the lower rate.

Agenda 3(a) (contd.)

9. Extend GST rate of 5% on ethanol supplied for blending with Motor Spirit to petroleum refineries: *(Volume 1, Pages 202-203)*

- In line with the National Policy on Biofuels – 2018, to promote blending, concessional GST rate of 5% on ethyl alcohol has already been provided to Oil Marketing Companies (OMCs) like IOCL, BPCL and HPCL for blending with Motor Spirit (petrol) under Schedule I of Notification No. 1/2017-Central Tax (Rate) dated 28.6.2017.
- The concessional GST rate of 5% on ethanol may be extended to standalone petroleum refineries for blending with motor spirit (petrol).

Agenda 3(b)
Recommendations for making no change:
(Volume 1, Pages 204-209)

The Committee has recommended no change with respect to GST rates on the following goods:

- Water Pump Sets;
- Milling Machinery for cereals, Kitchen ware, spoons;
- Gold, Silver, Diamond;
- Newsprint(for newspaper), Uncoated copier paper(for books);
- Components of battery energy storage system;
- Parts and accessories of aircraft and aircrafts engines;
- LD Slag used cement industry and
- FTTH (Fibre to the home) equipment and related services used for fixed line internet/broad band.

Agenda 3(c):
Issues deferred for further examination
(Volume 1, Pages 210-211)

The Committee has deferred following issues for further examination:

- To clarify that Khari and cream roll should get covered under “similar toasted products” which attracts 5% GST.
- To reduce GST rate on heavy feedstock, Vaccum Gas Oil (VGS), Reformates etc.

Recommendations of the Fitment Committee in relation to Services

Agenda 3(d):Recommendations for making changes in GST rates/ issue clarification

1. Extend validity of GST exemption on Viability Gap Funding (VGF) paid to Selected Airline Operators (SAOs): *(Volume 1 Page no 212)*

- S. No. 16 of Notification 12/2017-CTR exempts services provided to the Central Government, by way of transport of passengers, by air, embarking from or terminating at an Regional Connectivity Scheme (RCS) airport, against consideration in the form of VGF.
- Section 15(2) sub-clause (e) specifically excludes subsidies provided by Central and State Government from taxable value.
- MoCA may be advised, that subsidy in the form of VGF paid by government to airlines for operating RCS flights is not taxable in terms of the said provision of GST Act.

Agenda 3(d) (contd.)

2. Omission of the Entry 23A of Notification No. 12/2017-CTR:

(Volume 1 Page no 212)

- Entry 23A of Notification No. 12/2017-CTR exempts services, by way of providing *access to a road or a bridge, against consideration in the form of annuity.*
- Based on recommendations of the 43rd GST Council, it was clarified that entry 23A of said notification does not exempt GST on the annuity (deferred payments) paid for construction of roads.
- However, the Hon'ble Karnataka High Court has held that entry 23A of said notification covers services of construction of road where consideration is paid in the form of annuity.
- Access to road or bridge is allowed against consideration in the form of toll which is already exempt under entry at Sr. No. 23.
- Entry 23A may be omitted to prevent its misuse.

Agenda 3(d) (contd.)

3. Taxability of revenue apportioned by Indian Railways (IR) to Special Purpose Vehicles (SPVs) and O&M costs charged by Indian Railways from SPVs :

(Volume 1 Page no 213)

- Indian Railways and the SPV are distinct persons. Supply of services by SPV to Indian Railways by way of allowing Indian Railways to use infrastructure built and owned by them during the concession period against consideration in the form of pro rata share of revenue is a taxable supply. GST paid on the said supply of services is available to Indian Railways as ITC.
- Similarly services of maintenance supplied by Indian railways to SPV is a taxable supply. ITC of the same is available to SPV.
- May be clarified accordingly.

Agenda 3(d) (contd.)

4. Applicability of GST on Air Force Officers Mess: *(Volume 1 Page no 215)*

- All services supplied by government to individuals other than business entities except a few specified services such as services of postal department, transportation of goods and passengers etc. are exempt from GST vide Sl. No. 6 of notification No. 12/2017 – Central Tax (Rate) dated 28.06.2017
- Accommodation services provided by Air Force Mess to Air Force personnel would be exempt in terms of above entry, provided services supplied by Air Force Mess qualify to be considered as services supplied by Central Government.
- May be clarified accordingly.

Agenda 3(d) (contd.)

5. Taxability of the incentive paid by MEITY for promotion of RuPay Debit Cards and low value BHIM-UPI transactions: *(Volume 1 Page no 216)*

- The Payments and Settlements Systems Act, 2007 prohibits banks and system providers from charging any amount from a person making or receiving a payment through RuPay debit card or BHIM UPI. Instead, the Government pays them incentive
- The payment of incentive is not a consideration paid by the central government for service supplied by the acquiring banks as it is paid contingent upon the banks achieving a minimum yearly growth rate in the number of transactions, to promote digital transactions through RuPay/BHIM UPI
- The entire arrangement is voluntary
- The incentive is nothing but a subsidy directly linked to the price of the service paid by the central government and the same is not taxable in view of the provisions of section 2 (31) and section 15 of the CGST Act, 2017.
- May be clarified accordingly.

Agenda 3(d) (contd.)

6. GST on renting of residential dwelling by the proprietor of a proprietorship firm in his personal capacity: (Volume 1 Page no 217)

- As recommended by 47th GST Council, renting of residential dwelling to a business entity for use of its employees etc. has been made taxable and the present entry in the notification reads as under

“Services by way of renting of residential dwelling for use as residence except where the residential dwelling is rented to a registered person”.

- An issue has arisen whether GST would be payable on renting of a residential dwelling by the proprietor of a proprietorship firm in his personal capacity for use as his residence when the firm is a registered person.
- Where the residential dwelling is rented by a person who is the proprietor of a proprietorship firm who rents it in his personal capacity for use as his own residential dwelling, (and such renting is not on account of its business, i.e., not accounted for in the books of account of the firm but is on personal account) the exemption should be available to him.

Agenda 3(d) (contd.)

- To avoid litigation on this matter, it is proposed that the entry at Sr. no. 12 of notification no. 12/2017-CTR be amended as
 - An explanation may be inserted that if a residential dwelling is rented to a registered person who is proprietor of a proprietorship firm and who rents it in his personal capacity for use as his own residence and such renting is on his own account and not that of the proprietorship firm, it shall be exempt from tax. The same will apply mutatis mutandis to partners of partnership firms.

Agenda 3(d) (contd.)

7. To specify a positive list of services under Sr. No. 3 & 3A of notification No. 12/2017-CTR (Volume 1, Page no 219)

- Vide Notification 14/2017 supply of services by Central Government, State government, UT, local authority by way of any municipal and panchayat function specified in Schedules 11 and 12 of the Constitution read with Article 243G and 243W have been declared as neither a supply of goods nor a supply of services .
- The list under Sr No 3 and 3A is in the context of input services procured by Central Government, State government, UT, local authority for performance of municipal and panchayat functions.

Agenda 3(d) (contd.)

- In the 47th GST Council meeting, the GST Council had directed that the proposal to specify a positive list of services under Sr. No. 3 & 3A of notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 may be reconsidered by the Fitment Committee taking into account the inputs from all the States which had voiced their concerns in the said council meeting.
- **Currently Sr. No 3 reads as under:**
Pure services (excluding works contract) provided to Central of State Government, Local Authority by way of any activity in relation to any function entrusted to a panchayat (under Article 243G) or to a municipality (under Article 243W)

Agenda 3(d) (contd.)

- Sr. No 3A reads as under:

“Composite supply of goods and services (goods 25% or less)”

- The positive list of services to be specified in Sr no 3 and 3A placed before the 47th GST Council is as under:
 1. *Water treatment & /or supply*
 2. *Public health activities, sanitation, conservancy and solid or liquid waste management*
 3. *Slum improvement and upgradation*
 4. *Maintenance and operation of streetlights, bus stops. Public conveniences, public parks and garden, burial ground and crematorium*
 5. *Renting of motor vehicles for carrying out functions listed at Sr. No. 1 to 4 above;*
 6. *Supply of manpower service for carrying out functions listed at Sr. No. 1 to 4 above*

Agenda 3(d) (contd.)

- Views were sought from the States of Telangana, Andhra Pradesh and Delhi, as per decision of 47th GST Council meeting.
- Based on the inputs from the states, the following positive list of services is proposed to be specified in in Sl. No. 3 and 3A of notification No. 12/2017-CTR as follows :
 1. *Water treatment and/or supply;*
 2. *Public Health activities, Sanitation Conservancy and Solid or Liquid Waste management;*
 3. *Slum Improvement and Up gradation;*
 4. *Maintenance and operation of street lights, bus stops, public conveniences, public parks and gardens, burial ground and crematorium;*
 5. *Education, including primary and secondary schools;*

Agenda 3(d) (contd.)

6. *Technical training and vocational education;*
7. *Adult and non-formal education;*
8. *Libraries;*
9. *Social Forestry and Farm Forestry;*
10. *Fire Services;*
11. *Renting of motor vehicles for carrying out functions listed at Sr. No. 1 to 10 above;*
12. *Supply of manpower services for carrying out functions listed at Sr. No 1 to 10 above."*

Agenda 3(d) (contd.)

- Presently the exemption is applicable on pure services and composite supply of goods and services (value of goods more than 25%) supplied to Central Government, State Government, Union Territory or a local authority. The exemption may be extended to Public Authority.
- Public authority may be defined as under :
"Public Authority means an authority or a board or any other body established and controlled by the Central or State Government to carry out the functions listed in Sl. No. 1 to 10 of the entry."

Agenda 3(e):

Recommendations for making no change

(Volume 1 page no 227 – 242)

Committee has recommended no change on the following proposals:

- To extend the validity of GST exemption on transport of goods by air from India to Outside, which was valid till 30.9.2022.
- To reduce GST rates on construction of commercial apartments from 18% with ITC to 7.5% without ITC and other proposals.
- Request for exemption on works contract services supplied to Assam Cancer Care Foundation (ACCF).
- To exempt GST on leasing/renting/transfer of right to use the Energy Storage Systems (ESS).
- Credit of GST paid on O&M services used for metro, monorail etc., may be allowed to be used against other taxable services and the remaining unutilized credit may be allowed to be refunded.

Agenda 3(e)(contd.)

- To expand the exemption available on services supplied to educational institutions.
- To align GST rate for construction of ARHCs (Affordable Rental Housing Complexes) with other PM AWAS Yojana schemes.
- To reduce GST rates on supply of goods and services consumed in the entire value chain of Petroleum operations to 5%.
- To extend GST exemption to service provided by sub-contractor to main contractor providing services to run electrical vehicles (buses) for Local Authorities or State Transport Undertakings.
- The tax regime applicable to the travel and tourism sector may be reviewed holistically.

Agenda 3(e)(contd.)

- Proposal for granting exemption to the services supplied by electricity transmission utilities by way of construction and erection of transmission assets for providing power supply to the pump houses which are constructed under a Lift Irrigation Scheme (LIS).
- To remove exemption limits on renting of premises by a religious/charitable trust.
- Formulating a Margin Scheme for Tour Operators in consultation with stakeholders.
- GST on economy class fare may be increased to 12% and on business class to 18% provided ATF is brought under ambit of GST.
- To bring parity between express and transport sector.
- To exempt GST on All India Permit fee paid for grant of authorization or permit for plying Tourist Vehicles throughout India w.e.f 01.04.2021.

Agenda 3(f):

Issues deferred for further examination *(volume 1, page no 257-260)*

Committee deferred following issues for further examination:

- To notify a mechanism for availment of ITC where AC bus services are supplied through e-commerce operator (ECO) or to shift the onus of discharging GST on the registered bus operators instead of ECOs.
- To clarify the nature and taxability of various supplies in relation to crypto eco-system.
- Proposal to clarify that GST is not applicable on flying training courses run by flying training institute. Fitment committee has recommended that the issue may be referred to GoM on rate rationalization for taking a comprehensive view on definition of educational institutions.
- To bring renting of residential dwellings by a registered persons to another registered persons under forward charge mechanism.

THANK YOU

Telangana suggested addition of following services to the positive list:

- Public Distribution and the related activities including Custom Milling and transportation services
- Minor Irrigation
- Social forestry and Farm forestry
- Roads and bridges

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- Social forestry and Farm forestry
- Roads and bridges

Agenda 3(d) (contd.):

Andhra Pradesh, suggested to include the following services in addition to those suggested by Telangana:

- Man power services by Government Agencies/bodies to Government/Government agencies/government bodies & to Local bodies
- Endowment related Services like all darshan tickets , sale of prasadam etc.
- All the activities enlisted in 11th & 12th Schedule.

Delhi suggested that the exemption on services mentioned in Article 243 G & 243 W of Constitution of India should be continued.



**Ratification of Notifications
and Circulars**

**Ratification of Notifications
and Circulars**

**Ratification of Notifications
and Circulars**

Agenda 2: Ratification of Notifications, Circulars etc.

[Vol 1- Pg. 147-189]

Act/Rules	Notifications/Circulars Nos	Description/Remarks
CGST Act CGST Rules	Seventeen (17) Central Tax Notifications issued (No. 09/2022 to 25/2022) & Nine (09) Central Tax (rate) Notifications issued (No. 03/2022 to 11/2022)	4 amendments to CGST Rules carried out; notifications to implement various decisions of GST Council taken in 47th meeting & to implement other GIC decisions. Some of the important decisions are: i. To notify the provisions of the Finance Act, 2022. ii. To exempt taxpayers having AATO upto Rs. 2 crores from the requirement of furnishing annual return for FY 2021-22. iii. To extend due date of furnishing FORM GST CMP-08 for the quarter ending June, 2022 till 31.07.2022. iv. To extend the waiver of late fee for delay in filing FORM GSTR-4 for FY 2021-22. v. To extend dates of specified compliances in exercise of powers under section 168A of CGST Act. vi. To implement e-invoicing for the taxpayers having aggregate turnover exceeding Rs. 10 Crore from 1 st October, 2022. vii. To empower the Competition Commission of India to handle anti-profiteering cases under CGST Act, 2017 w.e.f. 01.12.2022.
UTGST Act	Two (02) Union Territory Tax Notifications issued (No. 03/2022 to 04/2022) & Nine (09) Union Territory Tax (rate) Notifications issued (No. 03/2022 to 11/2022)	Notifications to implement various decisions of GST Council taken in 47th meeting

Agenda 2: Ratification of Notifications and Circulars

[Vol 1- Pg. 147-189]

Act/Rules	Notifications/Circulars Nos.	Description/Remarks
IGST Act	Nine (09) Integrated Tax (rate) Notifications issued (No. 03/2022 to 11/2022)	Notifications to implement various decisions of GST Council taken in its 47th meeting
Circulars	Thirteen (13) Circulars issued (No. 170/02/2022-GST dated 06.07.2022 to 182/14/2022-GST dated 10.11.2022)	<p>Circulars to implement various decisions of GST Council in its 47th meeting & to implement other GIC decisions. Some of the important issues in the circulars are:</p> <ol style="list-style-type: none"> Mandatory furnishing of correct and proper information of inter-State supplies and amount of ineligible/ blocked Input Tax Credit and reversal thereof in return in FORM GSTR-3B and statement in FORM GSTR-1 Clarification on various issues relating to applicability of demand and penalty provisions under the CGST Act, 2017 in respect of transactions involving fake invoices Clarification on issues pertaining to refund under inverted duty structure Manner of re-credit in electronic credit ledger using FORM GST PMT-03A Manner of filing refund of unutilized ITC on account of export of electricity Clarifications regarding applicable GST rates & exemptions on certain services GST applicability on liquidated damages, compensation and penalty arising out of breach of contract or other provisions of law Clarification regarding GST rates & classification (goods) based on the recommendations of the GST Council in its 47th meeting Guidelines for filing/revising TRAN-1/TRAN-2 and verification thereof in terms of order dated 22.07.2022 & 02.09.2022 of Hon'ble Supreme Court.

Agenda 2: Ratification of notifications and circulars

[Vol 1- Pg. 147-189]

- ❖ Some of these notifications and circulars have been issued based of decisions of GST Implementation Committee (GIC) taken during the period from **01.08.2022 to 13.12.2022**.
- ❖ The important decisions **taken by GIC** are as below :
 - Threshold for issuance of e- invoice has been reduced to Rs 10 crore with effect from 01.10.2022.
 - Issuance of guidelines for filing/revising TRAN-1/TRAN-2 in terms of order dated 22.07.2022 & 02.09.2022 of Hon'ble Supreme Court in the case of Union of India vs. Filco Trade Centre Pvt. Ltd.
 - Issuance of guidelines for verifying the Transitional Credit in light of the order of the Hon'ble Supreme Court in the Union of India vs. Filco Trade Centre Pvt. Ltd., SLP(C) No. 32709-32710/2018, order dated 22.07.2022 & 02.09.2022.
 - Notifying the provisions of Finance Act, 2022 and consequential amendment of CGST Rules, 2017.
 - To settle IGST amount of Rs. 22,000 crores for the Financial Year 2022-23 on ad-hoc basis.
 - Extension of the due date for filing FORM GSTR-3B for the month of September, 2022, by registered person from 20th October, 2022 to 21st October, 2022.
 - Amendment in instructions to FORM GSTR-9.
 - Issuance of clarification regarding the issues relating to refund of unutilised ITC on account of inverted rated structure.
 - To empower the Competition Commission of India to handle anti-profiteering cases under CGST Act, 2017 w.e.f. 01.12.2022 (as per decision of GST Council in 45th meeting).
 - Extension of due date of filing FORM GSTR-1 for month of November, 2022 by taxpayers in 13 districts of State of Tamil Nadu till 13th December, 2022.

**Recommendations of the
Law Committee**

**Recommendations of the
Law Committee**

**Recommendations of the
Law Committee**

**Law Committee
Recommendations
for
Trade facilitation and
Reducing litigation**

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Agenda 7(ii): Refund to the unregistered persons in certain cases

[Vol 1- Pg. 291-296]

Issue:

- ❖ There are cases where **unregistered buyer** enters into contract with a builder for supply of services of **construction of flats/ building** and have paid the amount for such service, fully or partially, along with applicable tax, and the said **contract/agreement is subsequently cancelled** due to any reason.
- ❖ Similar situation may arise in cases of **long-term insurance policies** where premium is paid upfront for entire policy period, while the **policy is terminated prematurely**.
- ❖ In some cases, the **period for issuance of credit note under section 34 of CGST Act**, on account of cancellation of service, **gets expired by that time** and therefore, the supplier/ insurance companies may refund the amount to the buyer net off GST.
- ❖ **No procedure for refund to an unregistered person** for amount of tax borne by him has been prescribed presently.

Proposal

- ❖ **LC recommended the following:**
 - To make an **amendment in sub-rule (2) of rule 89** of the CGST Rules, 2017 to prescribe the documents which would be required to be furnished along with the refund claim by an unregistered person in order to establish that refund is due to the said applicant.
 - Insertion of **Statement 8 in FORM RFD-01** for refund by unregistered persons.
 - To issue a **circular to clarify the procedure** for filing application of refund by the unregistered persons in such cases and processing of such refunds thereof.
- **This would help the unregistered persons to claim refund of tax paid in case of cancellation/ termination of agreement/contract of such services.**

Agenda 7(xii): Issuance of clarification on various issues pertaining to GST (1/2)

[Vol 1- Pg. 378-384]

Issue 1: Treatment of No Claim Bonus offered by insurance companies under GST

- ❖ **No Claim Bonus ('NCB') under GST** is a discount given by insurance companies on the premium payable by the customer/insured for a particular year, if the insured has not made any claim during the previous year.
- ❖ Some field formations/ investigation agencies are treating NCB as a supply by the customer to the insurance company.
- ❖ **Doubts are being raised as to whether -**
 - NCB is a consideration paid to the customer by the insurer for **agreeing to the obligation to refrain from the act of lodging insurance claim** during the policy period and therefore tax is payable by the insurance company on the **gross amount** without deducting NCB from the premium amount; or
 - Alternatively, whether it should be treated as a **discount by insurance company, to be deducted from the gross premium**, for the purpose of calculation of value of supply made by insurer to the insured.

Proposal:

- ❖ **LC has recommended that it may be clarified through a circular that**
 - **NCB is not a consideration in respect of any service rendered by the insured to the insurance company**, rather it is an **upfront discount** from the premium payable by the insured for the supply of insurance services by the insurance company to the insured; and therefore,
 - **NCB is deductible** for the purpose of calculation of value of supply of insurance services under section 15 of CGST Act, 2017.

Agenda 7(xii): Issuance of clarification on various issues pertaining to GST (2/2)

[Vol 1- Pg. 378-384]

Issue 2: Applicability of e-invoicing with respect to an entity

- ❖ Notification No. 13/2020-Central Tax dated 21.03.2020, as amended, provides the **class of registered persons to whom e-invoicing shall be applicable** under Rule 48(4) of the CGST Rules, 2017.
 - SEZ units, government departments, local authority and those referred in sub-rules (2), (3), (4) and (4A) of rule 54 of the CGST Rules have been **exempted from e-invoicing**.
- ❖ Representations have been received from **banking companies** for clarifying the matter as banks are being subjected to investigation by some tax authorities -
 - Tax officers are insisting that **e-invoices are required** to be generated by banks **for movement of goods, including bullion**;
 - Tax officers are claiming that said exemption from generation of e-invoices is available to a banking company **only with respect to the banking services** provided by it and **not for goods or for the Banking Company as a whole**.

Proposal:

- ❖ LC has recommended to **clarify through a circular** that the exemption from mandatory issuance of e-invoices is **with respect to the entity as a whole** and **not just** with respect to the **nature of supply/transaction**.
- **Issuance of circular would provide clarity to the trade and field formations and remove ambiguities on these issues.**

Agenda 7(iii): Decriminalization of CGST Act, 2017(1/2)

[Vol 1- Pg. 297-303]

Issue:

- ❖ Sub-clauses (g), (j), (k) of section 132(1) of CSGT Act cover **offences** like obstructing or preventing any officer in discharge of his duties or deliberate tempering of material evidence or failing to supply the information, which are pure criminal offences and are **also punishable under Indian Penal Code**.
- ❖ **Minimum threshold** of amount of tax evaded (amount of tax evaded or the amount of input tax credit wrongly availed or utilized or refund wrongly taken) for launching **prosecution** for offences under GST as per section 132(1) of CGST Act is **Rs One Crore**. However, as per section 69 of CGST Act, **arrest** for offences under GST can be made only in cases involving minimum amount of tax evaded of **Rs Two crore**.
- ❖ It is felt that that the provisions of prosecution under GST need to be reviewed so as **to align the threshold for prosecution with the threshold of arrest**, and also to **review some of the offences to decriminalize them**.
- ❖ There is also a need to review provisions of **compounding of offences** under section 138 of CGST Act to make compounding provisions more attractive.

Agenda 7(iii): Decriminalization of CGST Act, 2017(2/2)

[Vol 1- Pg. 297-303]

Proposal:

❖ LC recommended the following:

- **Deletion of the offences mentioned in clause (g), (j) and (k)** of sub-section (1) of section 132 of CGST Act and consequential amendment in clause (i) of sub-section (1) and clause (iv) of sub-section (1) of section 132 of CGST Act.
 - The **minimum threshold** for launching prosecution to be increased to **Rs two crore from the current Rs one crore** and accordingly, the clause (iii) of sub-section (1) of Section 132 to be deleted.
 - Consequential amendment in sub-section (3) of section 132 of CGST Act to be carried out.
 - **Range of compounding amount** in section 138(2) of CGST Act **to be reduced** suitably to **minimum of 25%** of the tax amount to **maximum of 100%** of tax amount, to make it easier for trade to resort to compounding of offences in GST.
 - To **remove anomalies in section 138(1)** of CGST Act regarding the exclusion of persons for availing the benefit of compounding provisions who have been accused of committing an offence under CGST Act which is also an **offence under any other law in force**.
 - To modify the language of clause (a) and (b) of first proviso to section 138(1) to **simplify** the same.
 - To **exclude mastermind of issuance of fake invoices** from compounding by inserting a suitable clause in section 138(1).
 - **Subsequent amendment** to be carried out by Law Committee in **CGST Rules** inter alia providing for different amount of compounding for different type of offences.
- The proposal would help in decriminalizing certain offences in GST and would benefit the trade and industry to this extent

Agenda 7(xvii): Issues pertaining to the place of supply in terms of the proviso to sub-section (8) of section 12 of the IGST Act, 2017

[Vol 1- Pg. 406-411]

Issue:

- ❖ **Place of supply (PoS)** of services by way of **transportation of goods**, including by mail or courier, where location of supplier and recipient is in India, is specified in **section 12(8)** of the IGST Act, 2017.
- ❖ **Proviso to the section 12(8)**, inserted w.e.f. 01.02.2019, provides that where the transportation of goods is to a place outside India, the **PoS shall be the place of destination of such goods**, i.e. foreign country.
 - Accordingly, IGST would be payable on the said supply.
- ❖ As the PoS is different from the location of the recipient of services in such cases, **doubts are being raised in respect of the admissibility of input tax credit (ITC) to the recipient of such services**.

Proposal

- ❖ **LC has recommended for issuance of a circular for clarifying** that in such cases,
 - **ITC would be available** to the registered person located in India, in respect of such receipt of services of transportation of goods, where place of supply is outside India in terms of proviso to section 12(8)
 - PoS is to be declared in **FORM GSTR-1** on the common portal under the **state code “96- Foreign Country”** (and not under “97-Other Territory”).
- ❖ **LC has also recommended for omission of the proviso to section 12(8) of IGST Act, 2017**, as no useful purpose is being served by the proviso to section 12(8) of IGST Act, 2017 inserted w.e.f. 01.02.2019.
- This would provide clarity to the trade and field formations and remove ambiguities on the issue.

Agenda 7(xiii): Clarification for treatment of the difference in ITC available in GSTR-3B vis a vis that available in GSTR-2A for FY 2017-18 and 2018-19

[Vol 1- Pg. 385-390]

Issue:

- ❖ During the initial period of implementation of GST, especially **during the financial years 2017-18 and 2018-19, many suppliers failed to furnish** the correct details of outward supplies in their FORM GSTR-1.
- ❖ Because of such discrepancies, **FORM GSTR-2A** of their recipients **remained incomplete**.
- ❖ However, the concerned recipients may have availed input tax credit on the said supplies in their returns in **FORM GSTR-3B**, as restrictions in availment of ITC up to certain specified limit beyond the ITC available to the registered persons as per **FORM GSTR-2A** were provided under rule 36(4) only with effect from 9th October 2019.
- ❖ Such discrepancies between the amount of ITC availed in **FORM GSTR-3B** and the amount available in **FORM GSTR-2A** of the registered person are being noticed by the tax officers during proceedings such as scrutiny/ audit/ investigation etc. and are being **considered by them as representing ineligible ITC** availed by the registered persons.
- ❖ Various representations have been received from the trade as well as the tax authorities, **seeking clarification regarding the manner of dealing with such discrepancies**.

Proposal

- ❖ **LC has recommended** issuance of a **circular** for detailing the procedure for verification of ITC availed by the registered persons in such cases.
- **This would provide clarity to the trade and field formations and will reduce unnecessary litigation on the issue.**

Agenda 7(xiv): Clarification regarding the treatment of statutory dues under GST law in respect of the taxpayers for whom the proceedings have been finalised under Insolvency and Bankruptcy Code, 2016

[Vol 1- Pg. 391-395]

Issue:

- ❖ In cases where **proceedings are initiated under IBC** against corporate debtor, claims may be filed by the tax officers in respect of government dues pending against such person before the appropriate authority under IBC.
- ❖ On finalization of proceedings under IBC, the amount of **government dues**, payable by the said taxpayer, may be totally **extinguished or may be reduced** vis-à-vis the amount claimed by the tax officer.
- ❖ Doubts are being raised by tax authorities regarding the **modalities for implementation of the order of the adjudicating/appellant authority under IBC, after finalization of the proceedings thereof**, with respect to demand for recovery against such corporate debtor under CGST Act, 2017.

Proposal

- ❖ **LC has recommended :**
 - **issuance of a circular** clarifying that:
 - the proceedings conducted under IBC also adjudicate the government dues pending under the CGST Act or under existing laws against the corporate debtor, therefore, the same are covered under the term **'other proceedings'** in Section 84 of CGST Act;
 - in case the government dues under CGST Act are extinguished or reduced in IBC proceedings, an **intimation may be issued** by Commissioner under section 161 of CGST Rules for reducing the said dues.
 - **amendment to Rule 161 of CGST Rules** to align the same with Section 84 of CGST Act and **amendment to FORM GST DRC 25** to specifically include the authorities under IBC.
- **This would provide clarity to the trade and field formations on the issue.**

Agenda 7(x): Retrospective applicability of para 7, 8(a) and 8(b) of Schedule III of CGST Act (1/2) [Vol 1- Pg. 365-373]

Issue

- ❖ Para 7, para 8(a) and para 8(b) were inserted in Schedule III of the CGST Act vide CGST (Amendment) Act, 2018 and were made applicable vide Notification No. 02/2019-Central Tax dated 29.01.2019 with effect from 01.02.2019, to provide that:
 - supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India, is an activity which is to be treated as neither supply of goods or services - **para 7**
 - supply of warehoused goods to any person before clearance for home consumption, is an activity which is to be treated as neither supply of goods or services - **para 8(a)**
 - supply of goods by the consignee to any other person, by endorsement of documents of title to the goods after the goods have been dispatched from the port of origin located outside India, but before clearance for home consumption (usually termed a **High Sea Sales**) will be treated neither as supply of goods nor as supply of services - **para 8(b)**
- ❖ The said notification was not made applicable retrospectively from 01.07.2017 implying that before the said amendment of the CGST Act w.e.f. 01.02.2019, the activities specified in para 7, para 8(a) and para 8(b) of Schedule III of CGST Act were subject to GST.

Agenda 7(x): Retrospective applicability of para 7, 8(a) and 8(b) of Schedule III of CGST Act (2/2) [Vol 1- Pg. 365-373]

- ❖ However, the taxpayers are taking the plea that the insertion of the para 7, para 8(a) and para 8(b) in Schedule III of CGST Act is only for clarifying that such transactions are neither supply of goods nor supply of services, and therefore, **may be treated similarly before 01.02.2019 also.**
- ❖ In respect of High Sea Sales (HSS), taxpayers are also relying on the Circular No. 33/2017- Customs dated 01.08.2017 (*issued as per the recommendations of the GST Council in its 13th meeting held on 30.06.2017*) which states that IGST on HSS transactions of imported goods shall be levied and collected only at the time of importation of goods.
- ❖ Therefore, there are doubts and ambiguities regarding taxability of the transactions specified under para 7, para 8(a) and para 8(b) of Schedule III of CGST Act **during the period 01.07.2017 to 31.01.2019.**

Proposal

- ❖ **LC recommended the following:**
 - Para 7, Para 8(a) and Para 8(b) in Schedule III of CGST Act, inserted w.e.f. 01.02.2019, **should have retrospective effect w.e.f. 01.07.2017.**
 - However, in cases where any tax has already been paid in respect of transactions/supplies covered under Para 7, 8(a) and 8(b) of Schedule III of CGST Act **during the period 01.07.2017 to 31.01.2019, no refund shall be available in respect of such tax paid.**
- **The proposal will remove doubts and ambiguities regarding taxability of such transactions during the period 01.07.2017 to 31.01.2019.**

Agenda 7(vii): Supplies by unregistered person and composition dealers through e-commerce operators (1/2)

[Vol 1- Pg. 335-343]

Issue:

- ❖ GST Council in its 47th meeting gave in-principle approval for the following relaxations for suppliers making supplies through E-Commerce Operators (ECOs):
 - **Waiver of requirement of mandatory registration** under section 24(ix) of CGST Act for person supplying goods through ECOs, subject to certain conditions, such as, aggregate turnover not exceeding the turnover specified under section 22(1) of the CGST Act and notifications issued thereunder, and the said person not making any inter-State taxable supply.
 - **Composition taxpayers to be allowed to make intra-State supply** through ECOs subject to certain conditions.
 - The details of the scheme to be worked out by the Law Committee. The scheme to be tentatively implemented with effect from 01.01.2023, subject to preparedness on the portal as well as by ECOs.

Proposal:

- ❖ **LC has recommended that:**
 - **in respect of unregistered persons supplying goods through ECOs-**
 - **Notification may be issued under section 23(2) of the CGST Act for exempting unregistered persons from obtaining mandatory registration for supplying goods through ECOs.**
 - **Notification may be issued under section 148 of the CGST Act for providing special procedure to be followed by the ECOs in respect of supplies of goods through them by unregistered persons.**
 - **FORM GSTR-8 may be amended for capturing the information of supplies made by unregistered suppliers through electronic commerce operators.**

Agenda 7(vii): Supplies by unregistered person and composition dealers through e-commerce operators (2/2)

[Vol 1- Pg. 335-343]

- **Rule 67(2) of CGST Rules, 2017 to be amended** to provide that the details of TCS furnished by ECOs in FORM GSTR-8 shall be made available only to the registered suppliers.
 - **in respect of the composition taxpayers supplying through electronic commerce operators**
 - To remove the condition restricting registered persons engaged in supplying through electronic commerce operators from opting for the Composition Levy, **clause (d) to sub-section (2) and clause (c) to sub-section (2A) of section 10 of CGST Act, 2017 may be amended.**
 - **Notification may be issued under section 148 of the CGST Act, 2017 for providing special procedures to be followed by the electronic commerce operators in respect of supplies of goods through them by composition taxpayers.**
 - **sub-section (1B) may be inserted in section 122 of CGST Act, 2017** to penalize ECOs if they allow unregistered persons to supply goods through them without enrolment, or allow inter-State supplies by unregistered persons or composition taxpayers, or fail to report the details of supplies made by unregistered persons in FORM GSTR-8.
 - Considering the time required by GSTN to develop the relevant functionality on the portal as well as its testing by the ECOs, **the implementation of the scheme may be deferred till 01.10.2023.**
 - Wherever amendments in CGST Act/ SGST Act/ UTGST Act are required, the same may also be **carried out by the center and states/ UTs by that date.**
- **The proposal will bring parity between online and offline sellers of goods and has the potential of providing tremendous spurt in the growth of MSMEs, thus facilitating trade.**

Agenda 7(vi): Proposal for amendments to CGST Rules, 2017
(1/11)

[Vol 1- Pg. 319-320]

Amendment of Rule 87 of CGST Rules 2017:

- ❖ On payment of taxes by taxpayers through e-payment mode, the banks generate CIN for each payment and **send the same to GST System**, based on which GST System updates payment in Electronic Cash Ledger (ECL) of the taxpayer.
- ❖ In a few cases, **the bank fails to share CIN details with GST System**, but may share the CIN details and payment of such transaction with RBI subsequently.
- ❖ RBI after reconciliation of payment with CINs received from the banks, shares such transaction details with GST System and **ECL of such taxpayers are updated by GST system based on e-Scroll of RBI**.
- ❖ There is, however, **no provision in GST law presently providing for such updation of ECL of taxpayers in such cases based on e-Scroll of RBI**.
- ❖ **LC recommended insertion of a new proviso to sub-rule (8) of Rule 87 in CGST Rules, 2017 to provide for the process of updating ECL on the portal on the basis of e-Scroll data received from the RBI in cases, where banks fail to provide signed CIN to GST System.**
- **The amendment would facilitate updation of ECL of taxpayers based on e-scrolls of RBI, where banks fail to share CIN details with GST System, thus benefiting the taxpayers.**

Agenda 7(vi): Proposal for amendments to CGST Rules, 2017
(2/11)

[Vol 1- Pg. 332-334]

Amendment in FORM GST DRC-03:

- ❖ Circular No. 174/06/2022-GST dated 06.07.2022 has been issued **prescribing the manner of re-credit of amount of erroneous refund deposited by the taxpayer**, in terms of provisions of **sub-rule (4B) of rule 86**, in electronic credit ledger using FORM GST PMT-03A.
- ❖ Accordingly, certain changes are required in FORM GST DRC-03, for online transmission of intimation of payment of amount of erroneous refund through FORM GST DRC-03 to the jurisdictional proper officer so as to enable him to issue FORM GST PMT-03A for re-credit of amount in electronic credit ledger of the taxpayer.
- ❖ **LC recommended the proposed changes in FORM DRC-03 for capturing the details of erroneous refunds and for development of the functionality for re-credit of amount of erroneous refund in electronic credit ledger using FORM GST PMT-03A.**
- **The amendment would facilitate timely re-credit of amount in ECL of the taxpayer, on deposit of amount of erroneous refund through FORM DRC-03.**

Agenda 7(vi): Proposal for amendments to CGST Rules, 2017 **(3/11)**

[Vol 1- Pg. 324-325]

Insertion of Rule 109C and FORM GST APL-01/03W:

- ❖ Currently, there is no provision in CGST Act or CGST Rules to **provide for withdrawal of an appeal application filed under section 107 of CGST Act**, either by the aggrieved person or by the authorised officer.
- ❖ It was felt that an option for **withdrawal of appeal application upto a specified stage** before the issuance of Order-in-Appeal needs to be made available to the appellant.
- ❖ GSTN has developed a **functionality** for withdrawal of the appeal application by taxpayer as well by the tax officer.
- ❖ For enabling such functionality, requisite changes are required to be carried out in CGST Rules, 2017 and a new form for withdrawal of appeal application is also required to be introduced.
- ❖ **LC recommended to**
 - **insert Rule 109C** in CGST Rules, 2017 to provide for withdrawal of appeal.
 - **introduce FORM GST APL-01/03W** in CGST Rules, 2017, to enable the appellant to file application for withdrawal of appeal application.
- **This will reduce litigation at the level of appellate authorities by allowing the appellants to withdraw their appeal upto a specified stage.**

Agenda 7(vi): Proposal for amendments to CGST Rules, 2017 **(4/11)**

[Vol 1- Pg. 320-323]

Amendment in Rule 108 and rule 109:

- ❖ Sub-rule (3) of rule 108 and sub-rule (2) of rule 109 of the CGST Rules mandate **submission of a certified copy** of the decision or order appealed against within seven days of filing the appeal in FORM GST APL-01/ FORM GST APL-03.
- ❖ On receipt of such certified copy, the appellate authority is required to issue a **final acknowledgment** in FORM GST APL-02.
- ❖ **Doubts** are being raised on the requirement of submission of a certified copy of the decision or order appealed against for admissibility of appeal by an Appellate Authority.
- ❖ **LC observed that:**
 - When the copy of the order, which is appealed against, **has been uploaded** by the adjudicating authority on the common portal, the same can be viewed by the appellate authority and therefore, there **may not be any requirement of submission of a certified copy** of such uploaded order by the appellant.
 - However, where the decision or order **has not been uploaded** on the common portal, **submission of the certified copy by the appellant may be required.**
- ❖ **LC, accordingly, recommended for amendment in sub-rule (3) of rule 108 and in rule 109 of the CGST Rules, 2017 to provide clarity on the requirement of submission of certified copy of the order appealed against and the issuance of final acknowledgment by the appellate authority.**
- **This amendment will facilitate timely processing of appeals and ease the compliance burden for the appellants.**

Agenda 7(vi): Proposal for amendments to CGST Rules, 2017

(5/11)

[Vol 1- Pg. 328-331]

Amendment in FORM GST REG-17 and FORM GST REG-19:

Issue 1: Proposal for changes in FORM GST REG-19

- ❖ More scenarios need to be covered in **FORM GST REG-19** (order for cancellation of registration) in order to clearly bring out whether the reply to the show cause notice has been submitted or not and whether the concerned person has appeared for personal hearing or not.
- ❖ Further, “Determination of amount payable pursuant to cancellation” in **FORM GST REG-19** is not required in view of the provision that cancellation of registration does not affect the liability to pay tax and other dues under CGST Act or Rules for any period prior to the date of cancellation.
- ❖ **LC recommended that FORM GST REG-19 may be substituted to provide for the above.**

Issue 2: Proposal for changes in FORM GST REG-17

- ❖ Under rule 22(1) of CGST Rules, 2017, **FORM GST REG-17** is show cause notice for cancellation of registration. It is proposed that provision may be made in the said form for attaching supportive document(s) for case specific details.
- ❖ **LC recommended that FORM GST REG-17 may be amended to provide for the above.**
- **This amendment would provide bring more clarity in the said forms and reduce legal disputes in relation to the same.**

Agenda 7(vi): Proposal for amendments to CGST Rules, 2017

(6/11)

[Vol 1- Pg. 313-314]

Amendment in sub-rule (3) of rule 12 of CGST Rules:

- ❖ **Rule 12** of CGST Rules provides for procedure for registration and cancellation of registration of Electronic Commerce Operators (required to collect TCS under section 52) and the persons, who are required to deduct tax under section 51 of CGST Act.
- ❖ Though rule 12(3) provides for cancellation of such registration by proper officer, but there is no mechanism for the said person to apply for cancellation himself.
- ❖ **LC recommended that sub-rule (3) of rule 12 of CGST rules may be amended to provide for an option to the TCS and TDS operators to apply for cancellation of their registration.**
- **This amendment would provide facility for cancellation of registration to TDS and TCS operators.**

Agenda 7(vi): Proposal for amendments to CGST Rules, 2017

(7/11)

[Vol 1- Pg. 314-316]

Amendment in rule 37 :

- ❖ **2nd proviso to section 16(2)** of the CGST Act provides for payment of amount of ITC if the payment towards the value of supply along with tax payable is not made by the recipient to the supplier **within a period of 180 days**.
- ❖ **The manner for reversal of ITC in such cases is prescribed in rule 37(1), which was amended with effect from 01.10.2022** vide Notification No. 19/2022 - CT dated 28.09.2022 to align with GSTR1/2B/3B return filing system.
- ❖ Before the said amendments, sub-rule (1) of rule 37 required only that amount of ITC to be added to the output tax liability which was **proportionate** to the amount of payment withheld vis-à-vis the value of supply.
- ❖ However, the **amended rule 37(1)** requires the said recipient to pay an amount equal to the input tax credit availed in respect of such supply, **giving an impression that the whole of ITC pertaining to such supply is to be reversed** even though a part of the payment may have been made by the recipient to the supplier.
- ❖ **LC recommended that sub-rule (1) of rule 37 may be amended retrospectively with effect from 01.10.2022 to mandate reversal of ITC proportionate to the amount of payment withheld vis-à-vis the value of supply.**
- **This amendment would correct the anomaly and facilitate the taxpayers in compliance of the provision of 2nd proviso to section 16(2).**

Agenda 7(vi): Proposal for amendments to CGST Rules, 2017

(8/11)

[Vol 1- Pg. 316-317]

Insertion of rule 37A :

- ❖ **Sub-section (2) of section 41** provides for prescription of manner of reversal of ITC availed by a registered person where **the supplier has not paid the tax payable** on the said supply and re-availment of the said ITC where the supplier makes payment of the said tax.
- ❖ **LC recommended insertion of rule 37A** to the CGST Rules to provide the following mechanism for such reversal of credit and re-availment thereof—
 - Recipient may be allowed to avail credit in **FORM GSTR-3B** based on amount available as per his **FORM GSTR-2B** in a tax period (as he may not be aware of return filing status of supplier at the time of filing his return in **FORM GSTR-3B** as the due date of filing return for both the supplier and recipient is the same)
 - Where the supplier has furnished details of a supply in his **FORM GSTR-1** or using IFF for a tax period, but has not furnished the corresponding return in **FORM GSTR-3B** till **30th September of the next financial year**, the ITC in respect of such supplies shall be reversed by the registered person in a return in **FORM GSTR-3B** on or before **30th November of the next financial year**, **failing which** such amount shall be **payable along with interest** under section 50.
 - The registered person can **re-avail** the said credit in a subsequent return in **FORM GSTR-3B** when the concerned supplier files his return in **FORM GSTR-3B** for the corresponding tax period of the said invoice.
- **This amendment would ease the process for complying with the condition for availment of ITC under section 16(2)(c) of CGST Act and thus facilitate a large number of taxpayers.**

Agenda 7(vi): Proposal for amendments to CGST Rules, 2017 (9/11)

[Vol 1- Pg. 326-327]

Deletion of clause (d) of sub-rule (14) of rule 138:

- ❖ **E-way bill is not required to be generated for intra-state movement of goods** where the consignment value of goods being transported is less than the threshold value as notified by the respective Commissioner of State Tax as per the provisions of clause (d) of sub-rule (14) of the rule 138 of the respective SGST or UTGST Rules.
- ❖ Consequently, **different states/ UTs have notified different threshold limits for requirement of generation of e-way bill for intra-state movement of goods** within their state/ UT.
- ❖ Representations have been received from various quarters that different threshold for generation of e-way bill for intra-state movement of goods in different states/ UTs is creating confusion and difficulties for the trade and industry.
- ❖ **LC recommended:**
 - **deletion of clause (d) of sub-rule (14) of rule 138** for uniformity in the threshold for the generation of e-way bill throughout the country.
- **This will provide a single threshold value pan-India for generation of e-way bill for transportation of goods.**

Agenda 7(vi): Proposal for amendments to CGST Rules, 2017 (10/11)

[Vol 1- Pg. 327-327]

Amendment in Entry (5) of Annexure appended to Rule 138(14) :

- ❖ In terms of **clause (a) of sub-rule (14) of Rule 138** of the CGST/SGST Rules, 2017, **e-way bill is not required to be generated** in case of transportation of goods specified in the **Annexure** appended to the said sub-rule.
 - **Entry no. 4 & 5** of the aforesaid Annexure cover the entire Chapter 71 of the First Schedule to the Customs Tariff Act, 1975, including Imitation Jewellery, thereby exempting the generation of e-way bill for transportation of imitation jewellery.
- ❖ Field formations are contending that **imitation jewellery** does not fall in the same genre as jewellery made of Gold and Silver and there is no security concern for them.
- ❖ It has, therefore, been suggested by field formations to **exclude Imitation Jewellery** from the list of goods for which generation of e-way bill is not mandatory for their transportation.
- ❖ **LC recommended:**
 - **amendment in Entry (5) in Annexure appended to sub-rule (14) of rule 138** of CGST Rules, 2017 to **exclude imitation jewellery** from the list of goods for which generation of e-way bill is not mandatory.
- **Requirement of issuance of e-way bill for transportation of imitation jewellery will help in curbing tax evasion of this commodity.**

Agenda 7(vi): Proposal for amendments in CGST Rules, 2017 **(11/11)**

[Vol 1- Pg. 317-319]

Amendment to rule 46 :

- ❖ **Clause (f) of rule 46** provides that in case of supply by a registered person to an unregistered recipient with value of taxable supply **being less than Rs 50,000/-**, tax invoice shall contain the **name and address of the recipient** and the address of delivery, along with the name of the State and its code, **if such recipient requests that such details be recorded on the tax invoice.**
- ❖ **Sub-section (2) of section 12 of the IGST Act** provides that the place of supply of services made to an unregistered person shall be the location of the recipient, **where the address on record exists**, and the location of the supplier of services, in other cases.
- ❖ **LC recommended insertion of proviso in clause (f) of rule 46** to provide for **mandatory recording of address of unregistered recipients of services**, along with PIN code, when the said services are **provided through the online platform** by a registered person, even if value of taxable supply is less than Rs 50,000/-.

Amendment to rule 46A :

- ❖ Rule 46A of the CGST/SGST Rules provides that, notwithstanding anything contained in rule 46 or rule 49 or rule 54, a registered person supplying taxable as well as exempted goods or services or both to an unregistered person may issue a single "invoice-cum-bill of supply" for all such supplies.
- ❖ **LC recommended insertion of proviso in rule 46A** to prescribe including the relevant particulars as prescribed in rule 46 or rule 49 or rule 54, as applicable, in such single "invoice-cum-bill of supply".
- **The amendment would facilitate flow of revenue to the appropriate consuming State in respect of such supplies.**

Agenda 7(v): Clarifying the manner of re-determination of demand in terms of sub-section (2) of section 75

[Vol 1- Pg. 308-312]

Issue:

- ❖ **Section 75(2) of CGST Act, 2017** provides that the proper officer shall determine the tax payable by the noticee, **deeming as if the notice was issued under sub-section (1) of section 73**, in cases where the appellate authority or appellate tribunal or court **concludes that the notice issued by proper officer under sub-section (1) of section 74 is not sustainable** for reason that the charges of fraud/ wilful-misstatement/ suppression of facts etc. **have not been established.**
- ❖ Doubts have been raised by the field formations seeking clarification regarding -
 - the **time limit** within which the proper officer is required to re-determine the amount of tax payable considering notice to be issued under 73(1), specially in cases where time limit for issuance of order as per 73(10) has already been over; and
 - the **methodology for computation** of such amount payable by the noticee, deeming the notice to be issued under sub-section (1) of section 73.

Proposal:

- ❖ **LC has recommended for issuance of a circular in FAQ form for clarifying the same.**
- **Issuance of circular would provide clarity and remove ambiguities on the issue.**

**Agenda 7(iv): Amendment in section 56 of the CGST Act, 2017
and rule 94 of the CGST Rules, 2017**

[Vol 1- Pg. 304-307]

Issue:

- ❖ Section 56 of the CGST Act provides for **payment of interest @ 6% p.a.** to the applicant for **period of delay** if the sanctioned refund amount is not paid to the applicant **within 60 days** from the date of receipt of complete application of **refund**.
- ❖ There are cases where the payment of refund to the applicant gets delayed **due to the reasons attributable to the applicant**.
- ❖ There is a **need to exclude this amount of delay**, attributable to the applicant, **from the period for payment of interest on delayed refunds**.
- ❖ CAG has also made a recommendation in the matter in its report No. 5 of 2022, as below:

“The provisions regarding payment of interest on delayed refunds need to be amended to exclude the period of delays that is attributable to the taxpayers such as delay in reply to SCN or incorrect bank details for payment.”

Proposal

- ❖ **LC recommended the following:**
 - To make an **amendment in section 56** of the CGST Act to provide for **prescribing the manner of computation of period of delay** for calculation of interest payable on delayed refund in CGST Rules.
 - To make an **amendment in rule 94** of the CGST Rules to provide for **exclusion of period of delay attributable to taxpayer** for computation of time period of delay for payment of interest on delayed refunds.
- **This will ensure that interest is not required to be paid on delayed refunds if the delay is due to the reasons attributable to the applicant.**

Agenda 7(i): Biometric-based Aadhaar authentication for new registration and other Enhancements in GST Registration (1/3)

[Vol 1- Pg 286-290]

Issue 1: Biometric-based Aadhaar authentication and physical verification for new registration

- ❖ Sub-rule (4A) was inserted in rule 8 of the CGST Rules, 2017 to provide for biometric-based Aadhaar authentication. However, the said provision has not yet been notified.
- ❖ The Group of Ministers on GST System Reforms approved the proposal to improve the registration process by using mandatory biometric authentication for high-risk applicants for registration under GST.
- ❖ The pilot for the same is proposed to be conducted by the State of Gujarat.

Proposal:

- ❖ LC has recommended that –
 - sub-rule (4A) of rule 8 may be substituted to mandate biometric-based Aadhaar authentication for high-risk applicants who opt for authentication of Aadhaar number.
 - sub-rule (4B) may be inserted in rule 8 to provide for exemption from biometric-based Aadhaar authentication in states / UTs where the pilot is not being undertaken.
 - sub-rule (5) of rule 8 may be amended to provide that acknowledgement shall be issued to the applicant only after completion of biometric-based Aadhaar authentication.
 - rule 9 may be amended to provide for mandatory physical verification of an applicant who has undergone biometric-based Aadhaar authentication and is identified on the common portal, based on data analysis and risk parameters, for carrying out such physical verification of places of business.
 - For conducting pilot in the state of Gujarat:
 - amendments in rule 8(4A), 8(5) and rule 9 may be made at present **only in Gujarat SGST Rules and in CGST Rules** but not in SGST / UTGST Rules of other states / UTs at present.
 - rule 8(4B) may be introduced in **CGST Rules only**. Subsequently, a **notification may be issued by the Centre under Rule 8(4B)** for specifying all states/ UTs, except Gujarat, where provisions of rule 8(4A) will not apply.

Agenda 7(i): Biometric-based Aadhaar authentication for new registration and other Enhancements in GST Registration (2/3)

[Vol 1- Pg 286-290]

Issue 2: Incorporation of details of electricity bill and property registration in FORM GST REG-01

- ❖ The Group of Ministers on GST System Reforms also approved the proposal for **inclusion of Electricity Bill Meta data (CA No.) as a data field during registration** by new taxpayers. CA Number shall be verified to improve the quality of registered addresses in GST System.
- ❖ The State of Maharashtra agreed to carry out the **pilot** project in this regard.
- ❖ The State of Madhya Pradesh also volunteered for the same as well as for the validation of **property registration** details from Land Revenue Department and Urban Administration Department.

Proposal:

- ❖ LC has recommended that –
 - Details of electricity consumer account number (CA Number) and Property registration may be sought under **State Specific Information** at S. No. 24 of **FORM GST REG-01**.
 - Details of Electricity CA Number may be notified under S. No. 24 by the State of **Maharashtra**.
 - Details of Electricity CA Number and Property registration may be notified under S. No. 24 by the State of **Madhya Pradesh**.

Agenda 7(i): Biometric-based Aadhaar authentication for new registration and other Enhancements in GST Registration (3/3)

[Vol 1- Pg. 286-290]

Issue 3: Enhancement in GST Registration to restrict misuse of PAN

- ❖ Presently, at the time of registration, OTP-based verification in **Part-A of FORM GST REG-01** is done to verify only the mobile number and email address **provided by the authorised signatory**.
- ❖ **No intimation is sent to the PAN holder** when a GST registration is applied, leading to cases where PAN of a person is misused for obtaining GST registration without his knowledge by unscrupulous elements.

Proposal:

- ❖ **LC has recommended that –**
 - **PAN-linked mobile number and email address** (fetched from CBDT database) may be captured and recorded in **FORM GST REG-01**.
 - **OTP based Verification of PAN-linked mobile and email address** in **Part-A of FORM GST REG-01** be made mandatory, instead of verification of authorised signatory's self-declared mobile number and email address.
 - **Sub-rule (1) of rule 8 and clause (a) to sub-rule (2) of Rule 8** may be amended to provide for OTP-based verification of PAN-linked mobile number and email address and verification of authorised signatory's self-declared mobile number and email address may be done away with.
 - **Part-A of FORM GST REG-01** may be amended accordingly.
- **This proposal would streamline the process of registration and help in protecting the interest of honest taxpayers.**

Agenda 7(viii): Proposal for amendments in the CGST Act(1/3)

[Vol 1- Pg. 344-345]

Issue 1: Amendment in second proviso to section 16 of CGST Act to align with GSTR-1/3B

- ❖ As per recommendations of GST Council, GSTR-1/3B return filing system has been made as the default return filing system and amendments have been carried out in CGST Act to this effect. However, 2nd and 3rd provisos to section 16(2) of CGST Act also require amendment to align with the GSTR-1/3B system.

Proposal

- ❖ **LC recommended that 2nd and 3rd provisos to section 16(2) of CGST Act may be amended to align with GSTR-1/3B return filing system.**

Issue 2: Amendment to section 23 of CGST Act to provide overriding effect over sections 22(1) & 24

- ❖ **Section 22** of CGST Act provides for persons liable for registration and **section 24** provides for compulsory registration in certain cases.
- ❖ **Section 23** provides for persons not liable for registration and exemption of specified categories of persons from obtaining registration.
- ❖ Existing section 23 does not have any clause **overriding** the registration requirement imposed vide section 24 and section 22(1), **creating doubts whether section 23 prevails over section 24 and 22(1) or not.**

Proposal:

- ❖ **LC has recommended that to avoid any conflict within the said provisions and to provide more clarity, section 23 of CGST Act may be amended retrospectively w.e.f. 01.07.2017 to provide section 23 an overriding effect over sections 22(1) & 24 of CGST Act.**

Agenda 7(viii): Proposal for amendments in the CGST Act(2/3)

[Vol 1- Pg. 345-346]

Issue 3: Amendments in CGST Act, 2017 to restrict filing of returns / statements after completion of specified time in view of data archival policy

- ❖ Huge data size is putting an excessive load on the server of GST system and compromising performance. Keeping massive data available online slows down the GST system applications and impacts return filing, especially during peak filing days.
- ❖ Keeping data in big data format for either taxpayers or tax officers involves considerable cost in terms of infrastructure requirements.
- ❖ Considering this, GSTN has proposed a **data archival policy** for the smooth functioning of the GST Portal and also to provide superior experience to the taxpayers.

Proposal:

- ❖ **LC has recommended that section 37, 39, 44 and 52 of CGST Act may be amended to provide maximum time limit of three years beyond the due date of filing for filing of the relevant returns / statements under the said sections of CGST Act.**

Agenda 7(viii): Proposal for amendments in the CGST Act(3/3)

[Vol 1- Pg. 346-347]

Issue 4: Amendment of sub-section (6) of Section 54 of CGST/SGST Act, 2017

- ❖ Sub-section (6) of Section 54 of the CGST/SGST Act, 2017, provides for **provisional refund** of ninety percent of the total amount claimed as refund on account of zero rated supplies of goods or services or both **excluding the amount of input tax credit provisionally accepted**.
- ❖ **Section 41** of the CGST/SGST Act, 2017, which provided for availment of eligible input tax credit as self assessed in the return on a provisional basis in terms of GSTR-1-2-3 system of return filing, **has been amended** through Finance Act, 2022 w.e.f. 01.10.2022 **by doing away with the provision of availing of input tax credit on a provisional basis.**

Proposal:

- ❖ **LC recommended to omit the words “excluding the amount of input tax credit provisionally accepted,” in sub-section (6) of section 54 of the CGST Act.**

➤ **These amendments will help in aligning various provisions of CGST Act.**

Agenda 7(ix): Amendment in the tables of GSTR-1 for reporting ECO Supplies attracting TCS under section 52 of CGST Act and those made under section 9(5) of CGST Act

[Vol 1- Pg. 347-364]

Issue:

- ❖ Supplies made by a registered person through e-commerce operators (ECOs) attracting TCS under section 52 of CGST Act are to be reported in various tables of **FORM GSTR-1** i.e. 4C, 5B, 7A(2), 7B(2), 10A(1) & 10B(1). However, these tables have not been made functional on GST Portal.
- ❖ Amendment has been made in **FORM GSTR-3B** to provide that the taxable supplies made by the registered person through ECO, on which ECO is required to pay tax under sub-section (5) of section 9 of CGST Act, are required to be reported by both the registered person as well as ECO in their respective returns in **FORM GSTR-3B**.
 - However, there is no separate table in **FORM GSTR-1** to furnish details of the aforementioned details.

Proposal:

- ❖ **LC has recommended certain changes in FORM GSTR-1 to provide for reporting of supplies made through ECO by the supplier in respect of section 52 and section 9(5) supplies as well as by ECO in respect of section 9(5) supplies.**
- **This proposal would ensure correct reporting and matching of supplies made through ECOs under section 52 of CGST Act as well under section 9(5) of CGST Act.**

Agenda 7(xi): Manner of dealing with difference in liability reported in statement of outward supplies and that reported in return (1/2)

[Vol 1- Pg. 374-377]

Issue:

- ❖ Law Committee deliberated upon ways to safeguard revenue by finding suitable manner of handling and controlling the difference in liabilities reported between **FORM GSTR-1** and **FORM GSTR-3B** by the taxpayers.
- ❖ Law Committee opined that:
 - where the tax liability as per **FORM GSTR-1** for a tax period exceeds the tax liability as per **FORM GSTR-3B** for that period by **more than a specified extent**, the **registered person may be intimated on the portal of such difference** and be directed to either pay the differential tax liability along with interest, or explain the difference.
 - **Unless** the taxpayer either deposits the amount specified in the said intimation or furnishes a reply explaining the reasons for any amount remaining unpaid, such a person may not be allowed to file **FORM GSTR-1/ invoice furnishing facility for the subsequent tax period.**

Agenda 7(xi): Manner of dealing with difference in liability reported in statement of outward supplies and that reported in return (2/2)

Proposal:

[Vol 1- Pg. 374-377]

- ❖ LC has recommended-
 - Insertion of new **rule 88C in CGST Rules for intimation to the taxpayer by the portal** the difference between liability in **FORM GSTR-1** and **FORM GSTR-3B** and to request payment of the differential liability or explain the difference.
 - Insertion of a new **clause (d) in sub-rule (6) of rule 59 of CGST Rules** to enable blocking of **FORM GSTR-1** for a subsequent tax period unless the taxpayer has deposited the amount specified in the intimation or has furnished a reply explaining the reasons for any amount remaining unpaid.
 - **FORM GST DRC-01B** may be inserted as required under rule 88C(1).
 - To begin with, difference between liability declared in **FORM GSTR-1** & that declared in **FORM GSTR-3B** of **more than 20% as well as more than Rs. 25 lakhs** may be taken for the purpose of intimation under proposed rule 88C(1).
 - **Law Committee to formulate a separate procedure** for examination of such cases by the proper officer, where the taxpayer deposits the differential tax liability only partly, with or without an explanation for such short payment, and for **further action for recovery** of the unpaid amount in accordance with the provisions of section 79, to the extent no satisfactory explanation has been provided by the taxpayer for such differential unpaid amount.
- **This proposal will help in reducing GSTR 1-3B gap by facilitating taxpayer to either pay the differential amount or explain the reasons for the same, without intervention of tax officers.**

Agenda 7(xvi): Amendment of section 17 of CGST Act regarding ITC in respect of CSR (Corporate Social Responsibility) expenditure

Issue:

[Vol 1- Pg. 402-405]

- ❖ Doubts have been raised by trade as well field formations in respect of **availability of input tax credit on CSR expenditure** incurred by companies in accordance with the provisions of Companies Act, 2013 **due to various contradictory advance rulings.**
- ❖ **One view** is that CSR expenditure is incurred to meet the obligations under section 135(5) of the Companies Act, and non-compliance on this count attracts penal action. Accordingly, **input tax credit should be available** in respect of inputs and input services for CSR activities in terms of section 16(1) of CGST Act.
- ❖ However, **another view** is that CSR does not include activities undertaken in pursuance of normal course of business of the company and **input tax credit may not be available** to the registered person on CSR expenditure under section 16(1) of CGST Act.
- ❖ **Explanation 2 to section 37(1) of the Income Tax Act, 1961** provides that the expenditure incurred by an assessee on CSR activities **shall not be deemed to be an expenditure incurred by the assessee for the purposes of business or profession.**

Proposal

- ❖ **LC has recommended that:**
 - **Input tax credit** in respect of CSR expenditure incurred by Companies under section 135 of Companies Act **may not be allowed.** To unambiguously state such position, such **CSR expenditure may be included in the list of blocked credit under section 17(5) of CGST Act.**
- **This would provide make the position of law regarding treatment of CSR expenditure for availment of ITC amply clear, thereby avoiding unnecessary litigation.**

Agenda 7(xv): Amendment in provisions related to OIDAR Services under IGST Act

[Vol 1- Pg. 396-401]

Issue:

- ❖ **OIDAR services** are digitally supplied services nature of which renders their supply impossible to ensure in the absence of information technology. With the growth of digital economy, the OIDAR services are expected to grow immensely in volume.
- ❖ Thus, steps may be required to be taken in due course regarding OIDAR services supplied by persons located in non-taxable territory by taking suitable measures such as, information returns by payment gateways/ AD banks or imposition of TCS liability of such payment gateways/ AD banks.
- ❖ **Amendments in law may be required** for exploring the abovementioned alternatives so as to **reduce the requirement of interpretation** for deciding whether the said supply is covered under the scope of OIDAR services or not for taxation under GST.

Proposal

- ❖ **LC has recommended amendment in:**
 - Definition of **non-taxable online recipient** in **section 2(16) of IGST Act** to **remove the condition** that service recipient uses the OIDAR services **for any purpose other than commerce, industry or any other business or profession.**
 - Definition of **online information and database access or retrieval services** in **section 2(17) of IGST Act** to **remove the condition** that the supply of such service must be essentially automated and **should involve minimal human intervention.**
- **This would provide clarity to the trade and field formations on the issue and will reduce litigations.**

THANK YOU



Agenda Item: Report of the committee on Levy of penal interest on delayed remittances of GST by the Banks to the Government Accounts in RBI during the initial period of GST implementation



1

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- ☐ Issue
- ☐ Constitution of Committee
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- ☐ Recommendation of Committee
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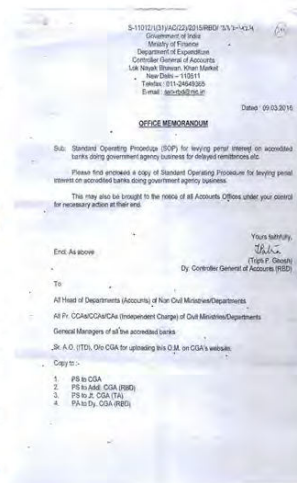


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Background



- 25 banks (21 Public Sector Banks and 04 Private Sector Banks) were authorized to collect GST on behalf of Government of India.
- Principal Chief Controller of Accounts, CBIC is designated as Chief Accounting Authority (CAA) for the purpose of accounting & reporting of Central Goods & Services Tax (GST).
 - The Business Logic and Workflow Designs for the authorized banks are duly documented by CAA in the form of detailed document called BARM (Banking Authorization Reference Model)
 - ✓ It stipulates that IT systems of the banks should be in place to prepare the luggage file of all transaction successfully credited in the Government account of the accredited bank till 20:00 hrs of the day. The same is to be uploaded to RBI on T + 1 day.
 - A SOP (Standard Operating Procedure) was issued by the Office of the CGA vide O.M. No. 5-11/12/1 (31)/AC22/2015/RBS/332-424 dated 09.03.2016, to monitor the delays in remittances by the agency Banks to the Government Account with RBI and to levy the penal interest on Agency Banks,-
 - ✓ It specifies that 'penal interest for delayed remittance beyond the prescribed time limit will be levied at the rate of Bank Rate +2%.
 - ✓ claims of delayed penal interest involving an amount of Rs.500/- or below per transaction to be ignored.



Issue



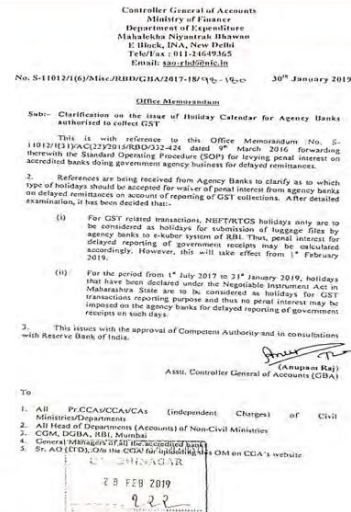
- Transaction (CIN) wise details of delayed remittance for collection were worked out by the office of Pr. CCA, CBIC.
- Penal Interest was calculated on the delayed period as per prescribed rate for the period from 1st July, 2017 to 31st December, 2017
- Demand letters for penal interest against 23 banks to the tune of Rs.7.62 crores were issued to the concerned banks in Feb/March, 2018 by the office of Pr. CCA, CBIC.
- Most of the banks represented for waiver of penal interest due to the reason of technical problems, EOD related issues, validation failure at RBI, GSTN, CBS problems etc.

Clarification Issued



- Before issuing final instruction on levy of penal interest, clarification was issued as to which type of holidays should be accepted for waiver of penal interest from agency banks on delayed remittances on account of reporting of GST collections.

- ✓ In this regard, Office Memorandum No. S-11012/1(6)/Misc./RBD/GBA/2017-18/98-180 dated 30/01/2019 issued by CGA may be referred

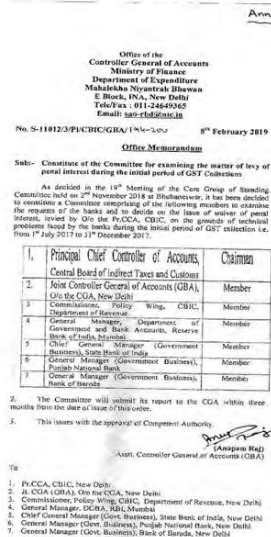


Constitution of Committee



- The Office of Pr. CCA, CBIC brought this issue as an agenda item before the 19th Meeting of the Core Group of Standing Committee held on 2nd November, 2018 at Bhubaneshwar.

- ✓ The meeting was chaired by CGA.
- ✓ constituted a committee vide OM No. S-11012/3/PI/CBIC/GBA/194-200 dated 08.02.2019 comprising the following members to examine the requests of the banks and to decide on the issue of waiver of penal interest



Proceedings of Committee



➤ The Committee had held three meetings as under:

- ✓ 1st Meeting was held on 12th March, 2019
- ✓ 2nd Meeting was held on 10th April, 2019
- ✓ 3rd Meeting was held on 11th June, 2019

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Recommendations of Committee:



➤ **Challenges faced by the banks:-**

- ✓ That remittance of funds could not be made timely as the IT system and the integration process was not robust initially.
- ✓ Failures of many receipt transactions from Banks at GSTN portal resulted into various course corrections on the basis of analysis of errors.
- ✓ Issues in the reconciliation between banks and GST portal of GSTN and also due to IT issues like up-gradation of banking software, and technical glitches

➤ **Observations of the Committee:-**

- ✓ That about 80% of total delayed transactions are having one to three days of delay and the pattern is seen in all the six month of transactions, across all 25 banks.
- ✓ Many transactions failures were because of unforeseen errors and IT glitches and while these transactions were successful at bank's end after debiting the taxpayers 'account', however, were not reported on real time to GSTN to credit the taxpayer's electronic cash ledger.

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Recommendations of Committee:



➤ Final Recommendation of the Committee:-

- ✓ Recommended a relaxation of 3 days for remittance of GST receipt by agency banks to Govt. account in RBI beyond T+1 for the CINs generated from 1st July to 31st October, 2017 and
- ✓ a relaxation of 1 day for the CINs generated from 1st November to 31st December, 2017
- ✓ The actual delay beyond T+1 day may be adjusted by the recommended period of 3 days or 1 day. If a transaction was delayed for more than 3 days/1 day, (as the case may be), then the interest on delayed remittance may be charged after adjustment of recommended days.

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Comments received from States



Sl. No.	Name of the States	Remark/Comments given by the States
1.	Rajasthan	Did not agree with report of Committee They want Bank Rate+2% Penal Interest for the period 01.07.2017 to 31.12.2017 on delay in payment beyond T+1 Day
2.	Meghalaya	Agreed with recommendation of the committee
3.	Nagaland	Agreed with recommendation of the committee
4.	Tamil Nadu	Agreed with recommendation of the committee
5.	Himachal Pradesh	They are in agreement with the proposal of CBIC for levy of penal interest on Banks for delay in the payment by T+1 days
6.	Odisha	Agreed with recommendation of the committee
7.	Chhattisgarh	Agreed with recommendation of the committee
8.	Manipur	Agreed with recommendation of the committee
9.	West Bengal	The report of the committee may be placed before the GST Council for deliberation
10.	Assam	Agreed with recommendation of the committee

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Comments received from States



Sl. No.	Name of the States	Remark/Comments given by the States
11.	Goa	Agreed with the recommendations of the committee.
12.	Punjab	No relaxation may be given due to late transfer of the amount of GST by bank to the RBI account and the state share of penal interest should be paid to the state Government. (Not Agreed)
13.	Uttar Pradesh	The State of Uttar Pradesh approved the recommendations of the committee. However, they opined that the SGST Component of the penal interest charged from the Banks after the adjustment of the recommended 3 Days/1 Day (as the case may be) shall be transferred to the respective states.
14.	Gujarat	Suggestions have been given on the recommendations of the Committee.

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THANK YOU!!



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Agenda Item 2: Report of Group of Ministers on constitution of Goods and Services Tax Tribunal

GOM CONSTITUTED VIDE OM NO. A-50050/150/2018-CESTAT-DOR

As per the provisions of the CGST Act, 2017, each bench of the Tribunal is composed of one Judicial Member, one Technical Member (Centre) and one Technical Member (State). However, in its order dated 20.09.2019 in WP 21147 of 2018 – Revenue Bar Association Vs. Union of India, Hon’ble High Court of Madras held that “*The number of expert members therefore cannot exceed the number of judicial members on the bench*” and struck down the relevant provisions of the law.

2. In addition to this, Hon’ble Supreme Court of India has laid down various principles with respect to appointment to Tribunals, conditions of service etc. in various other judgements.
3. Accordingly, certain draft amendments were placed before the GST Council in its 47th Meeting held on 28th -29th June, 2022 in Chandigarh and the Council decided that the matter be referred to a Group of Ministers.
4. The GoM was mandated to recommend necessary amendments required in the GST Laws to ensure that the legal provisions—
 - (a) maintain the right federal balance;
 - (b) are in line with the overall objective of uniform taxation within the country; and
 - (c) are in line with the principles outlined in various judgements of Courts in relation to various aspects of Tribunal and are legally sustainable.
5. The GoM held two meetings for detailed deliberation on a list of issues. The first meeting was held on 26th July 2022 in hybrid mode and deliberated and resolved many issues. The GoM considered the original draft discussed in the 47th meeting of the GST Council and the views expressed by Members during the meeting. The GoM took note of various judgments of Hon’ble Supreme Court in various cases pertaining to Tribunals in the country, including order of Supreme Court in CA 3067 of 2004 – R Gandhi Vs. Union of India, CA No. 8588 of 2019 – Rojer Mathews Vs. Union of India, WP (C) 804 of 2020 – Madras Bar Association Vs. Union of India. The GoM also took note of the Tribunal Reforms Act, 2021 passed by the Parliament, provisions of which govern the appointment of Members and Chairpersons of various Tribunals and their terms and conditions.
6. The GoM met the second time on 17th August 2022 in Bhubaneswar to discuss these issues and finalize its recommendations. The GoM has submitted its report with draft amendments to the CGST and SGST Acts.
7. It is submitted that the draft provisions state that the Chief Secretary of the State in which the Bench is located, shall be a member of the Selection Committee for selection of Technical Member (State) in the Bench. There could be a situation where the Council may constitute a Bench for more than one State. In such cases, it is proposed that Chief Secretary of one of the States to which the jurisdiction of the Bench extends may be nominated by the Council to the Selection Committee. Accordingly, following proviso is proposed to sub-section (5) of Section 110:

Provided that where the jurisdiction of a Bench extends to more than one State, the Council shall nominate Chief Secretary of one of such States to be the Member under sub-clause (i) of clause (c).

8. The final report and recommendations of the GoM is submitted before the GST Council for consideration and approval. It is also proposed that the draft amendments may be approved subject to changes during legislative vetting.



OCTOBER, 2022

**REPORT OF THE GROUP OF MINISTERS
ON CONSTITUTION OF THE GOODS AND
SERVICES TAX TRIBUNAL**
SUBMITTED TO THE GST COUNCIL

GOM CONSTITUTED VIDE OM NO. A-50050/150/2018-CESTAT-DOR

The Goods and Service Tax Appellate Tribunal (GSTAT) constituted under Section 109 of the Central Goods and Services Tax Act, 2017 provides for the GST Tribunal which is to be the second appellate authority within the GST framework. The process of original adjudication as well as the first appeal happens through individual officers under the Act but the second appeal against the orders of the first appellate authorities under Central as well as State GST Act lies with the GST Tribunal constituted under the CGST Act. GST Appellate Tribunal has been provided the responsibility to hear appeals under all the four GST laws namely the CGST Act, SGST Act, UTGST Act and the IGST Act passed by the Central as well as State tax officers. Therefore, this is the first common forum at which the dispute resolution process converges under all GST laws and both tax administrations.

1. Background

1.1 As per the provisions of the CGST Act, 2017, each bench of the Tribunal is composed of one Judicial Member, one Technical Member (Centre) and one Technical Member (State). In its order dated 20.09.2019 in WP 21147 of 2018 – Revenue Bar Association Vs. Union of India, Hon’ble High Court of Madras held that “The number of expert members therefore cannot exceed the number of judicial members on the bench” and struck down the relevant provisions of the law.

1.2 In addition to this, Hon’ble Supreme Court of India has laid down various principles with respect to appointment to Tribunals, conditions of service etc. in various other judgements.

1.3 Accordingly, certain draft amendments were placed before the GST Council in its 47th Meeting held on 28-29 June 2022 in Chandigarh and the Council decided that the matter be referred to a Group of Ministers.

2. Constitution of GoM

2.1 Based on the decision in the 47th meeting of the GST Council, the Group of Ministers (GoM) on Goods and Services Appellate Tribunal was constituted with following composition:

	Name	Designation and State	
1.	Sh Dushyant Chautala	Deputy Chief Minister, Haryana	Convenor
2.	ShBugganaRajendranath	Finance, Planning, Commercial Taxes, Skill Development & Training and Legislative Affairs Minister, Andhra Pradesh	Member
3.	ShMauvinGodinho	Transport, Industries, Panchayat and Protocol Minister, Goa	Member
4.	Sh Niranjana Pujari	Finance and Parliamentary Affairs Minister, Odisha	Member
5.	Sh Shanti Kumar Dhariwal	Local Self Government, Urban Development and Housing, Law & Legal Affairs and Legal Consultancy Office, Parliamentary Affairs Department Minister, Rajasthan	Member

	Name	Designation and State	
6.	Sh Suresh Kumar Khanna	Finance and Parliamentary Affairs Minister, Uttar Pradesh	Member

2.2 The GoM was mandated to recommend necessary amendments required in the GST Laws to ensure that the legal provisions—

- (a) maintain the right federal balance;
- (b) are in line with the overall objective of uniform taxation within the country; and
- (c) are in line with the principles outlined in various judgements of Courts in relation to various aspects of Tribunal and are legally sustainable.

2.3 The order of constitution of the GoM is placed at [Annexure A](#).

3. Meetings of the GoM

3.1 The GoM held two meetings for detailed deliberation on a list of issues. The first meeting was held on 26th July 2022 in hybrid mode and deliberated and resolved many issues. The GoM considered the original draft discussed in the 47th meeting of the GST Council and the views expressed by Members during the meeting. The GoM took note of various judgments of Hon'ble Supreme Court in various cases pertaining to Tribunals in the country, including order of Supreme Court in CA 3067 of 2004 – R Gandhi Vs. Union of India, CA No. 8588 of 2019 – Rojer Mathews Vs. Union of India, WP (C) 804 of 2020 – Madras Bar Association Vs. Union of India. The GoM also took note of the Tribunal Reforms Act, 2021 passed by the Parliament, provisions of which govern the appointment of Members and Chairpersons of various Tribunals and their terms and conditions.

3.2 The GoM met for the second time on 17th August 2022 in Bhubaneswar to discuss these issues. Various issues discussed by GoM and the decisions are listed in this report.

4. National Vs State Tribunals

4.1 The GoM recognized that this is the most critical issue that needs to be discussed and resolved, which will have an impact on decisions on various other issues as well. The GoM deliberated on whether GST Appellate Tribunal should be a National Tribunal with benches across the country or there should be independent State Tribunals with jurisdiction in individual States. During the 47th Council meeting and later through written comments, some States had argued for separate State Tribunals.

4.2 The GoM noted that when the GST law was originally considered by the Council, this issue was discussed at length and the Council had opted in favour of a National GST Appellate Tribunal. During the 7th GST Council meeting held on 22-23 December 2016, it was noted “*the Secretary to the Council explained that it was proposed to have a National Tribunal with State level benches to facilitate creation of coordinate benches whose judgments would have persuasive value for each other and this would help settle the jurisprudence faster*”. The GoM discussed the pros and cons of having one national tribunal vis-à-vis having thirty-one State Tribunals.

4.3 Hon'ble Minister from Goa stated that the GST legal framework has been designed in the spirit of cooperative federalism and the CGST/SGST Acts are *parimateria* in nature. Therefore, there should be one Tribunal at the national level with benches of the same in every State. The Convener of the GoM acknowledged that this argument is valid even today, more than ever, and there is a need to have one National Tribunal for GST since we have chosen for One Nation One Tax. The Convener

stressed on the need to have persuasive value of the orders passed by the GST Tribunal across the country for successful implementation of the GST Act. He further highlighted that while taking any decision, interest of the taxpayers should be kept at top priority and from taxpayers' perspective having a National Tribunal with State level benches will be extremely beneficial and taxpayer friendly.

4.4 During discussions, Members from Orissa, Andhra Pradesh and Goa agreed with the decision of the Convener to opt for a National Tribunal with such number of benches (discussed later in this report) as may be needed in each State based on their size. However, Members from Uttar Pradesh and Rajasthan argued for separate National Tribunal and State Tribunals and they expressed that their views may be recorded accordingly.

5. Search-cum-Selection Committee

5.1 The next important issue pertains to the method of selection. The GoM took note of the Search-cum-Selection Committee (ScSC) composition as mandated in the judgment of Hon'ble Supreme Court in Madras Bar Association (2020) case.

5.2 Many States had proposed that the ScSC for Technical Member(State) could be headed by the Chief Justice of the High Court of the State concerned rather than Chief Justice of India or a Judge of Supreme Court nominated by him. The GoM took note that the ScSC for Technical Member(State) and ScSC for other Members cannot be different for the same Tribunal. Since all Members of the Tribunal are equal in terms of their roles and responsibilities, they should all go through the same selection and appointment process.

5.3 GoM concluded that keeping in view the judgement of Hon'ble Supreme Court in Madras Bar Association (2020) case, the most legally tenable option would be to have ScSC chaired by Chief Justice of India or a Judge of Supreme Court nominated by him and the President of the Tribunal (with the President to be replaced by a retired Judge in cases where the President cannot be Members of ScSC) and two officers as members of ScSC.

5.4 The GoM concluded that while one of the officers in ScSC could be a Secretary of Central Government, the other should be the Chief Secretary of the State in which the bench is located for selection of Technical Member (State). For all other Members, Chief Secretary of any State may be nominated by the Council for a period of one year. The GoM acknowledged that this would give necessary representation of the State concerned in the ScSC and it would be as per the spirit of the order of Hon'ble Supreme Court.

5.5 The Chairman of the Committee shall have the casting vote and Revenue Secretary shall be the Member Convener of the Committee with no vote, as per the judgement of Apex court in Madras Bar Association (2020) case.

6. Composition of a bench of the Tribunal

6.1 This is one of the main points on which the legal provisions were struck down and have to be reformulated. The GoM discussed this issue in detail and concluded that the bench should consist of one Judicial and one Technical Member. The Technical Member should be a Technical Member (Centre) or a Technical Member (State) in a 50:50 ratio in every State.

6.2 In cases where there is a difference of opinion between two members, the President may add a third Member from another bench in the same State. If a Member in that State is not available, the same could be taken from a bench in another State. The GoM concluded that a bench larger than that would be impractical and inefficient in terms of speedier conclusion of cases.

6.3 Finance Minister, UP argued that having a 3-member bench with two Judicial Members and one Technical Member should be considered so that the question of 1-1 split does not arise. This proposal was deliberated and the GoM concluded that split verdicts would happen in relatively limited number of cases and it would be more efficient to have a third Member only in those cases rather than in all cases.

6.4 The GoM also considered the provision relating to cases that can be heard by a single Member and suggested that the same may be raised to Rs.50 lakh from current limit of Rs.5 lakh, where no question of law is involved.

7. Qualification of Members

Technical Members

7.1 The GoM considered the qualification of Technical Members (State) in great detail. The GoM took note that the minimum qualification that Hon'ble Supreme Court has laid down in R. Gandhi case is that of Additional Secretary/ Secretary in Central Government. It acknowledged that the requirement of experience of 25 years in Group 'A' posts in Central Government for Technical Member (Centre) would be in line with that judgment but officers of the same rank in State Government would not be available. The GoM concluded that keeping the spirit of the judgments of Apex Court on this matter, it would be advisable to mirror the same requirement for State officers as well, i.e. experience of 25 years in Group 'A' posts in State Government. Officers of the level of Additional Commissioner and above in the State are highly skilled and knowledgeable. They have spent considerable time in tax administration and have extensive experience and are fit for appointment in Tribunals.

7.2 However, the GoM also took note of the fact that in many States, the recruitment is not at Group 'A' level and even the senior most officer in the State hierarchy would not have spent 25 years in Group 'A'. The GoM concluded that, in such cases, the States should have flexibility to reduce this requirement of 25 years in Group 'A' on the recommendations of the Council. This would enable every State to offer their most experienced and competent officers for appointment as Technical Member (State). However, GoM concluded that while the experience in Group 'A' post could be reduced depending on the situation in a State, the officers should have total 25 years of Government service.

7.3 The GoM also noted that some flexibility may be required in fixing the rank as some States do not have the rank of Additional Commissioner altogether or may not have officers in the rank of Additional Commissioner due to various reasons. However, Finance Minister, Andhra Pradesh highlighted that there should be some limit below which the rank should not be allowed to be reduced. In this regard, GoM felt that the rank should be such that the officers are, at least one level senior to the First Appellate level as they would be hearing appeals against their orders.

7.4 The GoM is of the opinion that every State would ensure that the best and most experienced officers of their State are made available for appointment to the Tribunal and every State would ensure that the qualification is not diluted beyond what is required to meet this objective. Since, these actions will be taken after seeking necessary recommendation of the Council based on proposal of the State concerned, it would ensure that undue dilution of qualifications does not happen.

7.5 The GoM discussed in detail the issue of officers of only that State being appointed as Technical Member (State) in which the bench is located. The GoM saw value in this proposition as every State has its own local issue despite GST being a uniform tax system. GoM evaluated that one way could be to allow only officers of that State for appointment in that State and totally prevent officers of other States from even being eligible.

7.6 Hon'ble Minister from Goa opined that though this may be beneficial to larger States, smaller States which do not have large cadres of tax officers will face a challenge in finding the appropriate candidate. GoM accepted this view and also observed that for vacancies in a bench located in a State, making officers of other States ineligible could be overly restrictive and could even be open to legal challenge. GoM concluded that the better option would be that officers of the State could be given first preference in appointment for Technical Member (State) in benches in that State. If, for some reasons, officers of that State are not available, suitable officers from other States could be considered for appointment.

7.7 The GoM considered that All India Service officers that have requisite experience in tax administration are eligible for appointment as Technical Member (State), similar dispensation should be there for Technical Member (Centre) as well. The GoM concluded that such officers should also be considered eligible for appointment as Technical Member (Centre) as well. GoM felt that this would expand the pool of selection for Technical Member (Centre).

Judicial Members

7.8 Finance Minister, Orissa pointed out that the proposed qualification of District Judge/Additional District Judge qualified to be appointed as High Court Judge is vague and could cause issues. Accordingly, GoM considered and decided in favour of adoption of combined experience of 10 years as District Judge/Additional District Judge for appointment as Judicial Member, noting that, today, this qualification exists for eight Tribunals under Tribunal Reforms Act, 2021.

7.9 The GoM also discussed eligibility of Advocates for appointment as Judicial Members. The GoM noted that this point was examined by the Madras High Court in the Revenue Bar Association case and that Court held that *"the argument that section 109 & 110 of CGST Act, 2017 and TNGST Act, 2017 are ultra vires, in so far as exclusion of lawyers from the scope and view for consideration as Members of the Tribunal, is rejected."* The Court held that just because Advocates are eligible in some other Tribunals, the fact that the GST law does not make them eligible for appointment cannot be held to be against Article 14. However, Hon'ble High Court recommended that including lawyers for being eligible for appointment as Judicial Members should be considered.

7.10 The GoM acknowledged the recommendation made by the Hon'ble High Court and discussed that the eligibility conditions for Members of the Tribunal is a policy decision to be taken by the GoM and GST Council. The GoM discussed the issue in detail and concluded that at this stage there is no reason to depart from the original decision taken by the Council while finalizing the GST laws and a decision regarding the same may be taken later after seeing the experience of working of GST Appellate Tribunal for few years.

8. Term of appointment and re-appointment

8.1 The GoM discussed merits and demerits of re-appointment and having a retirement age of 67 years for Members and 70 years for Chairman. Member from Goa argued that reappointment is helpful in case of smaller States where enough eligible officers may not be available. Convener also argued that no scope for re-appointment would significantly shorten effective tenure and discourage talent from being attracted. However, GoM also noted that re-appointment may work against newer talent being inducted in the Tribunal.

8.2 GoM noted that currently proposed provisions of retirement age are in line with the Tribunal Reforms Act, 2021 and that the Apex Court in its Judgment in Madras Bar Association (2020) case has sought for reappointment to be provided. GoM discussed that these are policy issues and should be decided based on the requirement of this Tribunal. The GoM discussed that the retirement age and re-

appointment provisions should be such that they ensure availability of best candidates for the Tribunal. Therefore, the GoM concluded that it is better to have early retirement at the age of 65 years for Members and 67 years for President and recommends retirement age of 65 years against 67 years for Members and 67 years against 70 years for President.

8.3 Members of the GoM discussed that re-appointment is an important provision since there may be instances where new members may not be available for replacing the sitting Members and it is also important to provide suitable re-appointment opportunity to sitting Members. Therefore, a balanced view was adopted by the GoM and it was concluded that it is better to have a term of four years with possible re-appointment for another two years.

8.4 The issue of transfer of Members by the President was also considered by the GoM. The GoM discussed that since the entire set up of GST Tribunal is new, it was better if there is flexibility in the law for unforeseen circumstances. The GoM noted that while a situation of transfer of a Member appointed for four years may rarely arise, a complete bar on to transfer in the law may not be advisable as such exigencies may arise. After detailed discussion and evaluating the merits and demerits, the GoM concluded that the proposed provision ensures required balance and could be retained.

9. Number of Benches in each State

9.1 The Convenor proposed that for deciding number of benches in each State, Council should adopt a guiding formula. The GoM considered a formulation that States with population upto 2 crore may have one bench, States with population more than 2 crore and upto 5 crore may have upto two benches, States with population more than 5 crore and upto 10 crore may have upto three benches, States with population more than 10 crore and upto 15 crore may have upto four benches and States with population more than 15 crore may have upto five benches. Hon'ble Member from Rajasthan suggested that their State being a geographically big State may require three benches to avoid making people travel long distances.

9.2 Hon'ble Member from Andhra Pradesh expressed whether population is a better criterion or should the number of benches be linked to number of registered persons in a State. It was discussed that GST being a consumption-based tax, population would be a better proxy for consumption. Additionally, population is a steadier parameter as compared to number of registered persons, which would go up or down with registration and cancellation.

9.3 The GoM concluded that there should be some guiding principle for any State to request and the Council to recommend the number of benches in each State. The GoM finally concluded that States with less than 5 crore population may have upto maximum 2 benches and no State shall have more than 5 benches.

10. Summary of Recommendations

10.1 The recommendations of the GoM on various issues are finalised below:

- (i) There should be one National GST Appellate Tribunal with as many benches as may be required, in every State, depending on the size of the State.
- (ii) The Search-cum-Selection Committee should be chaired by the Chief Justice of India or a Judge of Supreme Court nominated by him. The other members of the Committee should be the President of the Tribunal (or a retired Judge of Supreme Court or Chief Justice of High Court nominated by Chief Justice of India if the President is not available), one Secretary of Central Government and Chief Secretary of the State in which the bench is located for selection to the post of Technical Member (State) or

Chief Secretary of a State to be nominated by Council for all other Members for a period of one year.

- (iii) Each bench should consist of a Judicial Member and a Technical Member, who could be Technical Member (Centre) or Technical Member (State) in 50:50 ratio in every State. Single Member bench should be empowered to hear cases with tax implication upto ₹ 50 lakh.
- (iv) Basic qualification for becoming Technical Member should be 25 years of experience in Group A posts. For Technical Member (State), State Government should have the flexibility to reduce the experience requirement in Group A service with the approval of Council due to certain State specific limitations but with total experience of 25 years of Government Service and rank not below that of First Appellate Authority in the State.
- (v) High Court Judges or Judges who have combined experience of 10 years as District Judge and/or Additional District Judge should be eligible for appointment as Judicial Member.
- (vi) President and Members should have retirement age of 67 and 65 years respectively and have term of four years with provision for re-appointment for another two years.
- (vii) States with less than 5 crore population should have maximum 2 benches and no State should have more than 5 benches.

10.2 The draft provisions as approved by GoM are at Annexure B.

A-50050/150/2018-CESTAT-DOR

**Government of India
Ministry of Finance
Department of Revenue**

New Delhi, dated 6th July, 2022OFFICE MEMORANDUM

Subject: Constitution of Group of Ministers (GoM) on Goods and Services Tax Appellate Tribunal (GSTAT).

In its 47th meeting held on 28-29 June 2022 in Chandigarh, the GST Council discussed the changes required in provisions pertaining to the GST Appellate Tribunal in the GST Laws to bring it in conformity with judgements of the Courts in relation to various aspects concerning Tribunals. In the aforesaid meeting, the Council has decided to constitute a GoM to look into the issues involved.

2. Accordingly, a Group of Ministers on Goods and Services Tax Appellate Tribunal is being constituted with following composition:

Sl.No	Name	Designation and State	
1.	Shri Dushyant Chautala	Deputy Chief Minister, Haryana	Convenor
2.	Shri Buggana Rajendranath	Minister for Finance & Planning, Commercial Taxes, Legislative Affairs, Skill Development and Training, Andhra Pradesh	Member
3.	Shri Mauvin Godinho	Minister for Transport, Industries, Panchayat and Protocol, Goa	Member
4.	Shri Shanti Kumar Dhariwal	Minister for Local Self Government, Urban Development and Housing, Law and Legal Affairs, Rajasthan	Member
5.	Shri Suresh Kumar Khanna	Minister for Finance and Parliamentary Affairs, Uttar Pradesh	Member
6.	Shri Niranjan Pujari	Minister for Finance and Parliamentary Affairs, Odisha	Member

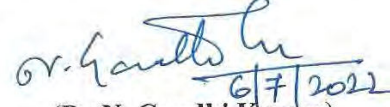
3. The GoM on GSTAT shall recommend necessary amendments required in the GST Laws to ensure that the legal provisions—

- (a) maintain the right federal balance;
- (b) are in line with the overall objective of uniform taxation within the country; and
- (c) are in line with the principles outlined in judgements of Courts in relation to various aspects of Tribunal and are legally sustainable.

-1-

4. The GoM shall submit its report for consideration of the Goods and Services Tax Council by 31.07.2022. While making its recommendations, the GoM may consult legal experts.

5. The GoM shall be assisted by Joint Secretary (Revenue).


(Dr.N. Gandhi Kumar)
Director (State Taxes)
Tel. 011-23092613

To,

1. All Members of GoM and Officers
2. Revenue Secretary, North Block, New Delhi
3. Chairperson, CBIC, North Block, New Delhi
4. GST Council Secretariat, New Delhi
5. PS to Hon'ble Minister of Finance, Government of India, North Block, New Delhi
6. PS to Hon'ble Minister of State (Finance), Government of India, North Block, New Delhi.

*Amended Section 109, 110 and 114 of CGST Act***109. Constitution of Appellate Tribunal and Benches thereof**

- (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.
- (2) The powers of the Appellate Tribunal shall be exercisable by Benches constituted under sub-section (3) and sub-section (5).
- (3) The Principal Bench of the Appellate Tribunal shall be situated at New Delhi which shall be presided over by the President and shall consist of a Technical Member (Centre) or a Technical Member (State).
- (4) The 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 shall lie only with the Principal Bench.
- (5) In addition to the Principal Bench, Government shall, by notification, constitute such number of Benches at such locations as may be recommended by the Council, based on the request of the State Government.
- (6) Benches, other than Principal Bench, 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 (4).
- (7) The President shall, by general or a special order, distribute the business or transfer cases among the Benches.
- (8) Each Bench of the Appellate Tribunal shall consist of a Judicial Member and a Technical Member (Centre) or a Technical Member (State).
- (9) The senior most Judicial Member within such Benches as may be prescribed, shall act as the Vice President for such Benches and he shall exercise such powers of the President as may be prescribed but for all other purposes shall continue to be considered as a Member.
- (10) Where the tax or input tax credit involved or the amount of fine, fee or penalty determined in any order appealed against, does not exceed fifty 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.
- (11) If the Members of a Bench differ in opinion on any point or points, they shall state the point or points on which they differ, and the case shall be referred by the President for hearing on such point or points to another Member from a Bench within the State or another State, where no such Member is available in a Bench within the State, 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.
- (12) The Government, in consultation with the President may, for the administrative convenience, transfer Members from one bench to the other.
- (13) No act or proceedings of the 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.

110. President and Members of Appellate Tribunal, their qualification, appointment, conditions of service, etc

- (1) A person shall not be qualified for appointment as—
- (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;
 - (b) a Judicial Member, unless he –
 - (i) has been a Judge of the High Court; or
 - (ii) has, for a combined period of ten years, been a District Judge or an Additional District Judge;
 - (c) a Technical Member (Centre) unless he is or has been a member of Indian Revenue (Customs and Central Excise) Service, Group A or of the All India Service with at least three years of experience in the administration of an existing law or goods and services tax, and has completed at least twenty-five years of service in Group A;
 - (d) a Technical Member (State) unless he is or has been an officer of State Government or an officer of the All India Service, not below the rank of Additional Commissioner of Value Added Tax or the State goods and services tax or such rank, higher than the First Appellate Authority, as may be notified by the concerned State Government, on the recommendations of the Council and has completed twenty-five years of service in Group A with at least three years of experience in the administration of an existing law or the goods and services tax or in the field of finance and taxation:

Provided that the State Government may, on the recommendations of the Council, by notification, reduce the requirement of completion of twenty-five years of service in Group A in respect of officers of such State where no person has completed twenty-five years of service in Group A, subject to such conditions, and till such period, as may be specified in the notification:

Provided further that the officer should have completed twenty-five years of service in the Government.

- (2) The President, Judicial Member, the Technical Member (Centre) and Technical Member (State) shall be appointed by the Government on the recommendations of a search-cum-selection Committee constituted under sub-section (5):

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 Technical Member of the Principal 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:

Provided further that where the President is unable to discharge his functions owing to absence, illness or any other cause, the Technical Member of the Principal Bench shall discharge the functions of the President until the date on which the President resumes his duties.

- (3) While making selection for Technical Member (State), first preference shall be given to officers who have worked in the State Government of the State to which the jurisdiction of the Bench extends.

- (4) In making appointments, the Government shall ensure that, over a period of time, there is adequate balance in the number of appointments as Technical Member (Centre) and number of

appointments as Technical Member (State), overall, as well as, in every State in such manner as may be prescribed.

- (5) The search-cum-selection Committee shall consist of—
- (a) the Chief Justice of India or a Judge of Supreme Court nominated by him—Chairperson of the Committee;
 - (b) Secretary of the Central Government nominated by the Cabinet Secretary — Member;
 - (c) Chief Secretary of
 - (i) the State in which the Bench is located, in case of appointment of Technical Member (State) in the Benches; or
 - (ii) a State to be nominated by the Council, in all other cases — Member;
 - (d) one Member, who—
 - (i) in case of appointment of a President of a Tribunal, shall be the outgoing President of the Tribunal; or
 - (ii) in case of appointment of a Member of a Tribunal, shall be the sitting President of the Tribunal; or
 - (iii) in case of the President of the Tribunal seeking re-appointment or where the outgoing President is unavailable or the removal of the President is being considered, shall be a retired Judge of the Supreme Court or a retired Chief Justice of a High Court nominated by the Chief Justice of India; and
 - (e) Secretary of the Department of Revenue in the Ministry of Finance of the Central Government — Member Secretary.
- (6) The Chairperson shall have the casting vote and the Member Secretary shall not have a vote.
- (7) Notwithstanding anything contained in any judgment, order, or decree of any court or any law for the time being in force, the Committee shall recommend a panel of two names for appointment to the post of Chairperson or Member, as the case may be.
- (8) 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 search-cum-selection Committee.
- (9) Notwithstanding anything contained in any judgment, order or decree of any court, or in any law for the time being in force, the salary of the President and the Members of the Appellate Tribunal shall be such as may be prescribed, and allowances and other terms and conditions of service shall be same as applicable to Central Government Officers carrying the same pay:
- Provided** that neither salary and allowances nor other terms and conditions of service of the President or Members of the Appellate Tribunal shall be varied to their disadvantage after their appointment:
- Provided** further that, if the President or Member takes a house on rent, he may be reimbursed a house rent higher than the house rent allowance as are admissible to a Central Government officer holding the post carrying the same pay, subject to such limitations and conditions as may be prescribed.
- (10) Notwithstanding anything contained in any judgment, order, or decree of any court or any law for the time being in force, the President of the Appellate Tribunal shall hold office for a term of four

years from the date on which he enters upon his office, or until he attains the age of sixty-seven years, whichever is earlier and shall be eligible for re-appointment for a period not exceeding two years.

(11) Notwithstanding anything contained in any judgment, order, or decree of any court or any law for the time being in force, Judicial Member, Technical Member (Centre) or Technical Member (State) of the Appellate Tribunal shall hold office for a term of four 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 for a period not exceeding two years.

(12) The President or any Member may, by notice in writing under his hand addressed to the Government resign from his office:

Provided that the President or Member shall continue to hold office until the expiry of three months from the date of receipt of such notice by the 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.

(13) The Government may, on the recommendation of the search-cum-selection Committee, remove from the office the President or a Member, who—

- (a) has been adjudged an insolvent; or
- (b) has been convicted of an offence which involves moral turpitude; or
- (c) has become physically or mentally incapable of acting as such President or Member; or
- (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as such President or Member; or
- (e) has so abused his position as to render his continuance in office prejudicial to the public interest:

Provided that the 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.

(14) The Government, on the recommendations of the search-cum-selection Committee, may suspend from office, the President or a Judicial or Technical Members in respect of whom proceedings have been initiated under sub-section (13).

(15) Subject to the provisions of article 220 of the Constitution, the President or other Members, on ceasing to hold their office, shall not be eligible to appear, act or plead before the Principal Bench or the Benches where he was the President or, as the case may be, a Member.

114. Financial and administrative powers of President

The President shall exercise such financial and administrative powers over the Appellate Tribunal as may be prescribed.

Amended Section 109, 110 and 114 of SGST Acts

109. Constitution of Appellate Tribunal and Benches thereof

Subject to the provisions of this Chapter, the Goods and Services Tax Tribunal constituted under the Central Goods and Services Tax Act, 2017 shall be the Appellate Tribunal for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority under this Act.

Sections 110 and 114 can be deleted

Common amendments in Sections 117, 118 and 119

Amendment required to harmonise the terminology – “National and Regional Benches” to be replaced with “Principal Bench” and “State and Area Benches” to be replaced with “Benches”.

Agenda Item 3: Ratification of the Notifications, Circulars issued by the GST Council

In the 22nd meeting of the GST Council held at New Delhi on 6th 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, till the 48th meeting held on 17th December 2022, the GST Council had ratified all the notifications, circulars and orders issued up to 13.12.2022.

2. In this respect, the following notifications and circulars issued after 13.12.2022 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/Subject
Notifications under CGST Act / CGST Rules	Central Tax	1. Notification No. 26/2022-Central Tax dated 26.12.2022	Seeks to make fifth amendment (2022) to the CGST Rules, 2017
		2. Notification No. 27/2022-Central Tax dated 26.12.2022	Notification under sub-rule (4B) of rule 8 of CGST Rules, 2017
Notifications under UTGST	Central Tax (Rate)	1. Notification No. 12/2022-Central Tax (Rate), dated 30.12.2022	Seeks to amend notification No. 1/2017-Central Tax (Rate)
		2. Notification No. 13/2022-Central Tax (Rate), dated 30.12.2022	Seeks to amend notification No. 2/2017-Central Tax (Rate)
		3. Notification No. 14/2022-Central Tax (Rate), dated 30.12.2022	Seeks to amend notification No. 4/2017-Central Tax (Rate)
		4. Notification No. 15/2022-Central Tax (Rate), dated 30.12.2022	Seeks to amend notification No. 12/2017- Central Tax (Rate)

Act / UTGST Rules	Union Territory Tax (Rate)	1. Notification No. 12/2022- Union Territory Tax (Rate), dated 30.12.2022	Seeks to amend notification No. 1/2017- Union Territory Tax (Rate)
		2. Notification No. 13/2022- Union Territory Tax (Rate), dated 30.12.2022	Seeks to amend notification No. 2/2017- Union Territory Tax (Rate)
		3. Notification No. 14/2022- Union Territory Tax (Rate), dated 30.12.2022	Seeks to amend notification No. 4/2017- Union Territory Tax (Rate)
		4. Notification No. 15/2022- Union Territory Tax (Rate), dated 30.12.2022	Seeks to amend notification No. 12/2017- Union Territory Tax (Rate)
Notifications under IGST Act / IGST Rules	Integrated Tax (Rate)	1. Notification No. 12/2022-Integrated Tax (Rate), dated 30.12.2022	Seeks to amend notification No. 1/2017- Integrated Tax (Rate)
		2. Notification No. 13/2022- Integrated Tax (Rate), dated 30.12.2022	Seeks to amend notification No. 2/2017- Integrated Tax (Rate)
		3. Notification No. 14/2022- Integrated Tax (Rate), dated 30.12.2022	Seeks to amend notification No. 4/2017- Integrated Tax (Rate)
		4. Notification No. 15/2022- Integrated Tax (Rate), dated 30.12.2022	Seeks to amend notification No. 9/2017- Integrated Tax (Rate)
Circulars under CGST Act		1. Circular No. 183/15/2022-GST dated 27.12.2022	Clarification to deal with difference in Input Tax Credit (ITC) availed in FORM GSTR-3B as compared to that detailed in

		FORM GSTR-2A for FY 2017-18 and 2018-19
	2. Circular No. 184/16/2022-GST dated 27.12.2022	Clarification on the entitlement of input tax credit where the place of supply is determined in terms of the proviso to sub-section (8) of section 12 of the Integrated Goods and Services Tax Act, 2017
	3. Circular No. 185/17/2022-GST dated 27.12.2022	Clarification with regard to applicability of provisions of section 75(2) of Central Goods and Services Tax Act, 2017 and its effect on limitation
	4. Circular No. 186/18/2022-GST dated 27.12.2022	Clarification on various issue pertaining to GST
	5. Circular No. 187/19/2022-GST dated 27.12.2022	Clarification regarding the treatment of statutory dues under GST law in respect of the taxpayers for whom the proceedings have been finalised under Insolvency and Bankruptcy Code, 2016
	6. Circular No. 188/20/2022-GST dated 27.12.2022	Prescribing manner of filing an application for refund by unregistered persons
	7. Circular No. 189/01/2023-GST dated 13.01.2023	Clarification regarding GST rates and classification of certain goods
	8. Circular No. 190/02/2023-GST dated 13.01.2023	Clarification regarding GST rates and classification of certain services

3. The GST Council may grant ratification to the notifications and circulars as detailed in para 2 above.

Agenda Item 4: Issues recommended by the Law Committee for the consideration of the GST Council

Agenda Item 4(i): Amendment in Section 23 of the CGST Act, 2017

In the 47th meeting of GST Council, the Council gave in-principal approval for allowing intra-state supply of goods by unregistered persons and composition taxpayers through e-commerce operators (ECOs), subject to certain conditions and restrictions, and mandated the Law Committee to draft the requisite changes for implementation of the said scheme. Subsequently, this issue was deliberated by the GST Council in its 48th meeting, wherein the recommendations of the Law Committee for implementation of the scheme were deliberated vide Agenda item number 7(vii) of Vol.-I of the Agenda for the said meeting. It was also felt that there is a need to overcome the requirement of compulsory registration in respect of such persons, which is mandated by clause (ix) of Section 24 of CGST Act, for any person making supplies through ECOs who are required to collect tax at source under section 52 of CGST Act. It was, accordingly, proposed that a notification under section 23(2) of CGST Act will be required to be issued for conditional exemption from registration in respect of such persons making intra-State supply of goods through ECOs, with turnover within the threshold limit specified under section 22 of CGST Act.

2. It was observed that there is no non-obstante clause in section 23 of CGST Act and therefore some doubts/ ambiguities may emerge as to whether exemption granted by section 23 overrides the requirement of mandatory registration under section 24 of CGST Act. The recommendation of the Law Committee to make amendment in section 23 retrospectively to provide overriding effect to the same over sub-section (1) of section 22 and section 24 of CGST Act was put up for the approval of the Council vide Agenda item number 7(viii) of Vol.-I of the Agenda for the 48th meeting of the Council.

3. The aforesaid agenda was approved by the Council in its 48th meeting and, consequently, amendment in section 23 of CGST Act has been proposed vide the clause 131 of the Finance Bill, 2023. The said clause reads as under:-

'131. For section 23 of the Central Goods and Services Tax Act, the following section shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 2017, namely:—

"23. Persons not liable for registration. Notwithstanding anything to the contrary contained in sub-section (1) of section 22 or section 24,—

(a) the following persons shall not be liable to registration, namely:—

(i) any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act, 2017;

(ii) an agriculturist, to the extent of supply of produce out of cultivation of land;

(b) the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, specify the category of persons who may be exempted from obtaining registration under this Act. ”.

4. However, subsequent to presentation of Finance Bill, 2023, in post-Budget interactions with various stakeholders, doubts have been expressed regarding the impact of this amendment on taxpayers who are liable to pay tax on reverse charge basis. It is to be noted that clause (iii) of Section 24 of the Act mandates compulsory registration of persons required to pay tax under reverse charge irrespective of their turnover. The said provision reads as under:-

“24. Compulsory registration in certain cases.-Notwithstanding anything contained in sub-section (1) of Section 22, the following categories of persons shall be required to be registered under this Act,-

- (i)*
 - (ii)*
 - (iii) persons who are required to pay tax under reverse charge;*
-”*

4.1 It has been pointed out that after the amendment in section 23 of CGST Act proposed vide clause 131 of the Finance Bill, 2023 referred in para 3 above, a person dealing exclusively in exempt goods and/or services is no longer required to obtain registration under the Act even if he is liable to pay tax under reverse charge on some supply of goods or services received by him. It may be noted that this was never the intention behind proposing the amendments in Section 23. As stated in Para 1 and 2 above, the reason why the aforesaid amendment was proposed is to overcome the requirement of mandatory registration in respect of such small suppliers, with turnover less than the threshold, making intra-State supply of goods through ECOs.

5. The issue was deliberated by the Law Committee in its meeting held on 08.02.2023. The Law Committee recommended that in order to avoid the interpretation issues arising out of the said proposed amendment in section 23 of CGST Act as highlighted in Para 4.1 above, the proposed amendment in Section 23 be limited to giving over-riding effect to sub-section (2) of section 23 over sub-section (1) of section 22 and section 24 of CGST Act. Law Committee observed that the over-riding effect of sub-section (2) of section 23 over sub-section (1) of section 22 and section 24 of CGST Act is required to ensure that a person specifically exempted from registration vide a notification issued under sub-section (2) of section 23 of CGST Act, subject to the conditions specified in the said notification, may not be subjected to the requirement of the provisions of sub-section (1) of section 22 and section 24 of CGST Act for taking registration, as the same may in effect nullify the effect of the said notification.

6. The Law Committee, accordingly, recommended that the following further amendment may be made in the proposed amendment in section 23 of CGST Act vide clause 131 of Finance Bill, 2023:-

‘131. In section 23 of the Central Goods and Services Tax Act, sub-section (2) thereof shall be amended and shall be deemed to have been amended with effect from the 1st day of July, 2017, namely:—

***“23. Persons not liable for registration.**~~Notwithstanding anything to the contrary contained in sub-section (1) of section 22 or section 24, —~~*

~~(1)(a)~~ The following persons shall not be liable to registration, namely:—

- (i) any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act, 2017;*
- (ii) an agriculturist, to the extent of supply of produce out of cultivation of land;*

~~(2)(b)~~ Notwithstanding anything to the contrary contained in sub-section (1) of section 22 and section 24, the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, specify the category of persons who may be exempted from obtaining registration under this Act.”.

7. The agenda is placed before the Council for approval.

Agenda Item 4(ii): Proposal to extend time period mentioned in Section 62(2) of the CGST Act, 2017

Sub-section (1) of Section 62 of CGST Act provides for best judgment assessment of the tax liability of a registered person, where the said registered person fails to furnish the return under Section 39 or Section 45 of CGST Act, even after service of a notice under Section 46 thereof. Sub-section (2) of Section 62 provides that if the said registered person furnishes a valid return within 30 days of the service of the assessment order issued under sub-section (1) of section 62, the said assessment order shall be deemed to have been withdrawn. Section 62 of CGST Act is reproduced as below-

Section 62 of CGST Act, 2017:

62. Assessment of non-filers of returns-

(1) Notwithstanding anything to the contrary contained in section 73 or section 74, where a registered person fails to furnish the return under section 39 or section 45, even after the service of a notice under section 46, the proper officer may proceed to assess the tax liability of the said person to the best of his judgement taking into account all the relevant material which is available or which he has gathered and issue an assessment order within a period of five years from the date specified under section 44 for furnishing of the annual return for the financial year to which the tax not paid relates.

(2) Where the registered person furnishes a valid return within thirty days of the service of the assessment order under sub-section (1), the said assessment order shall be deemed to have been withdrawn but the liability for payment of interest under sub-section (1) of section 50 or for payment of late fee under section 47 shall continue.

2. It has been brought to the notice that in number of cases, the registered person furnishes the return under section 39 or section 45 after the period of 30 days of service of the assessment order issued under sub-section (1) of section 62 and therefore, such assessment order and the liability created by such order are not withdrawn and remain valid. Therefore, such liabilities remain as recoverable arrears in the books of the tax authorities and are liable to be recovered. The only option available with the registered person in such cases is to file appeal against the said assessment order under section 107 of CGST Act, after depositing the pre-deposit as per sub-section (6) of section 107.

3. Hon'ble Kerala High Court in the case of ***Softouch Health Care Pvt. Ltd. Vs. State Tax Officer, 1st circle, SGST Deptt. Tripunithura***, has also observed that if the registered person fails to file return within the period specified under sub-section (2) of section 62, the assessment order issued under sub-section (1) of section 62 cannot be set aside and the only remedy available with the registered person is to approach the statutory appellate authority against the said assessment order.

4. Representations have been received from various stakeholders to increase this time period of 30 days specified in Section 62(2) of CGST Act, 2017, as this will not only provide relief to the registered persons, who subsequently file their returns, without adversely affecting the interests of the revenue, but will also help in reducing the multiplicity of cases at appellate level. It has also been represented that a one-time amnesty may also be provided in respect of such past cases where the taxpayers have furnished returns after 30 days of the service of the assessment order under Section 62(1) of CGST Act, 2017.

5. The matter was deliberated by the Law Committee in its meeting held on 12.10.2022, 30.01.23 and 08.02.2023. After detailed deliberations, the Law Committee recommended the following:

- a) Time period of 30 days specified under section 62(2) may be increased to 60 days.
- b) A proviso may be inserted to section 62(2) to provide that assessment order shall also be deemed to have been withdrawn if the concerned returns are filed beyond this period of 60 days but within an additional period of 60 days, with an additional late fee of Rs. 100 per day during this additional period.
- c) An amnesty scheme may be provided through a notification under section 148 of CGST Act for deemed withdrawal of assessment orders for the past cases where the concerned returns have been filed along with due interest and late fee, and irrespective of whether appeal has been filed or not against the said assessment order, or whether or not the said appeal has been decided or is still pending.

6. The Law Committee recommended the following amendments in Section 62 of CGST Act, 2017:

62. Assessment of non-filers of returns-

(1) Notwithstanding anything to the contrary contained in section 73 or section 74, where a registered person fails to furnish the return under section 39 or section 45, even after the service of a notice under section 46, the proper officer may proceed to assess the tax liability of the said person to the best of his judgement taking into account all the relevant material which is available or which he has gathered and issue an assessment order within a period of five years from the date specified under section 44 for furnishing of the annual return for the financial year to which the tax not paid relates.

(2) Where the registered person furnishes a valid return within ~~thirty~~ sixty days of the service of the assessment order under sub-section (1), the said assessment order shall be deemed to have been withdrawn but the liability for payment of interest under sub-section (1) of section 50 or for payment of late fee under section 47 shall continue:

***Provided** that where the registered person fails to furnish a valid return within sixty days of the service of the assessment order under sub-section (1), but furnishes the same within a further period of sixty days, along with payment of an additional late fee of one hundred rupees for each day of delay in furnishing such return beyond sixty days of the service of the said assessment order, such assessment order shall be deemed to have been withdrawn, but the liability for payment of interest under sub-section (1) of section 50 or for payment of late fee under section 47 shall continue.*

6.1 The law Committee also recommended issuance of a Notification under section 148 of CGST Act as enclosed as **Annexure “A”**.

7. Accordingly, the recommendations of the Law Committee as detailed in **para 6 and 6.1 above** 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. --/2023 – CENTRAL TAX

New Delhi, the -- February, 2023

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) (hereinafter in this notification referred to as the said Act), the Central Government, on the recommendations of the Council, hereby notifies the registered person who has failed to furnish a valid return within a period of thirty days of the service of the assessment order issued on or before 31st day of January, 2023 under sub-section (1) of Section 62 of the said Act, as the class of registered persons, in respect of whom the said assessment order shall be deemed to have been withdrawn, if such registered person follows the special procedure specified hereinbelow, namely,-

- (i) the said registered person furnishes the aforesaid return on or before 31st day of May 2023,
- (ii) the return referred to in clause (i) above is accompanied by payment of interest due under sub-section (1) of Section 50 of the said Act and the late fee payable under Section 47 of the said Act,

irrespective of whether or not an appeal had been filed against the said assessment order under Section 107 of the said Act or whether or not the appeal, if any, filed against the said assessment order has been decided.

[F. No. CBIC-20006/24/2021-GST]

(Alok Kumar)
Director

Agenda Item 4(iii): Change in Place of Supply of transportation of goods under Section 13(9) of the IGST Act, 2017

Representation has been received from Indian National Shipowners' Association (INSA) mentioning that while export freight charged by Indian Shipping Line (ISL) to Indian exporter is taxable, the same charged by Foreign Shipping Line (FSL) is not taxable as supply by FSL to Indian exporter for transport of goods to a place outside India is neither an inter-state nor an intra state supply. As a result, Indian exporters would prefer FSL over ISL. INSA has also pointed out that a similar disparity exists in case of import freight service supplied to foreign consignors. ISLs charge GST on services supplied by them to foreign exporters for transportation of goods from outside India to India, whereas FSLs are not required to charge the same and therefore, the foreign consignors prefer to award contracts only to FSLs. INSA has *inter alia* requested to change the place of supply for such services under section 13 of IGST Act from 'place of destination of goods' to the 'location of recipient of service'. This request of INSA has been endorsed by the Ministry of Ports, Shipping and Waterways.

2. Section 13(9) of IGST Act, 2017 states that in cases where one of the supplier of the services or the recipient of services is located outside India, *"the place of supply of services of transportation of goods, other than by way of mail or courier, shall be the place of destination of such goods"*.

3. Import of Services has been defined under Section 2(11) of IGST Act as *"supply of any service, where –*

(i) the supplier of service is located outside India;

(ii) the recipient of service is located in India; and

(iii) the place of supply of service is in India."

4. In case of supply of goods transportation services provided by FSL to the Indian exporter for transportation of goods from India to outside India, as per provision of section 13(9) of IGST Act, Place of Supply (PoS) is outside India, and therefore, the same does not constitute import of service. It is thus not an inter-state supply in terms of Section 7(4) of IGST Act, 2017. It is also not an inter-state supply or intra-state supply in terms of any other provision of Section 7 or 8 of IGST law. As a result, transport services provided by a foreign shipping line located outside India to an Indian exporter for transport of goods from India to outside India is neither an inter-state supply nor an intra-state supply and is thus outside tax net.

5. While it is true that exporters based in India would be entitled to input tax credit on the tax paid by the ISL on the supply of goods transportation services by ISL to them for transportation of goods outside and would be able to claim either the refund of accumulated ITC if export is made without payment of tax, or will be able to claim refund of IGST paid on export goods. However, it is likely that they would prefer hiring foreign shipping lines rather than going through the process of first claiming ITC of tax paid by ISL and then claiming refund of the accumulated ITC or IGST paid.

6. The provision of section 13(9) of IGST Act, which declares PoS of transport services as the place of destination of goods, is also creating some other anomalies, such as the following:

Supply of transport services by an Indian Shipping Line located in Mumbai to an exporter located in New York for transporting goods from New York to Mumbai, is treated as an intra-state supply (as place of supply of such services is place of destination of goods, i.e. Mumbai) even though the service is provided to a recipient located outside India.

7. The matter was deliberated by the Law Committee in its meeting held on 30.01.2023 and 08.02.2023. The Law Committee took a view that in order to resolve the issue, Section 13(9) of the IGST Act may be amended to change the place of supply of transportation of goods from 'destination of goods' to the default rule under section 13(2) of IGST Act, i.e. 'location of the recipient' of services. This would ensure that both Indian Shipping Lines and Foreign Shipping Lines have identical liability to pay or to not pay IGST on transportation of goods by vessel from India to outside India and vice versa. Law Committee recommended that Section 13(9) of IGST Act, 2017 may accordingly be omitted so that the place of supply of transportation of goods is determined under the default rule of section 13(2) of IGST Act, i.e. 'location of the recipient' of services.
8. The matter is placed before the GST Council for approval.

Agenda Item 4(iv): Rationalisation of late fee for FORM GSTR-9 and amnesty for non-filers of FORM GSTR-4, FORM GSTR-9 and FORM GSTR-10

In GST regime, timely filing of relevant returns / statements forms the cornerstone of voluntary compliance. Taxpayers are required to furnish returns such as **FORM GSTR-4** (Return for financial year of registered person who has opted for composition levy) and **FORM GSTR-9** (Annual Return). Besides, every registered person who is required to furnish a return under sub-section (1) of section 39 of CGST Act and whose registration has been cancelled is required to furnish final return in **FORM GSTR-10**.

2. Owing to a variety of reasons, a number of taxpayers failed to furnish such returns. Under section 47 of the CGST Act, such persons become liable to levy of late fee, as under:

Section 47. Levy of late fee. –

(1) Any registered person who fails to furnish the details of outward or supplies required under section 37 or returns required under section 39 or section 45 or section 52 by the due date shall pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum amount of five thousand rupees.

(2) Any registered person who fails to furnish the return required under section 44 by the due date shall be liable to pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum of an amount calculated at a quarter per cent. of his turnover in the State or Union territory.

3.1 Requests have been received from various stakeholders that an Amnesty Scheme may be provided for non-filers of **FORM GSTR-4**, **FORM GSTR-9** and **FORM GSTR-10** so as to enable them to file the said returns without the burden of high late fee and allow them to continue their business by declaring their due tax liability. It has been represented that during the initial period of implementation of GST, small taxpayers failed to furnish these returns due to lack of knowledge or due to lack of funds. It has also been represented that during the COVID pandemic, small taxpayers faced difficulties in compliances despite certain relaxations extended during that period. Many such taxpayers have requested that heavy burden of late fee is now prohibiting them from furnishing the said returns and as a result, they continue to remain defaulters, which is adversely affecting their businesses.

3.2 Similarly, requests have also been received from tax authorities that continued non-compliance by such taxpayers is affecting revenues as well as compliance discipline and it has been requested that an amnesty scheme may be provided for non-filers of such returns.

3.3 Representations have also been received from various stakeholders that though late fee under section 47 of CGST Act has been rationalized for delayed filing of **FORM GSTR-1, FORM GSTR-3B, FORM GSTR-4** and **FORM GSTR-7**, by linking the same with the turnover as well as tax liability of the taxpayers, so as to reduce the burden of late fee on the smaller taxpayers. However, no such rationalization of late fee has been done for delayed filing of annual return in **FORM GSTR-9**. It has been represented that late fee under section 47 of CGST Act may also be rationalized for delayed filing of annual return in **FORM GSTR-9** so as to reduce burden of late fee on MSMEs.

4.1 In this regard, it may be noted that the following amnesty has been extended earlier for non-filers of **FORM GSTR-4**:

- (i) Late fee for delay in furnishing **FORM GSTR-4** for the quarters of July, 2017 to September, 2018 was waived, if the said return was filed between the period from 22.12.2018 to 31.03.2019.
- (ii) Late fee was waived in excess of Rs. 500/- (Rs. 250/- + Rs. 250/-), and fully waived where the total amount of central tax payable in the said return is nil, for the registered persons who failed to furnish the return in **FORM GSTR-4** for the quarters/ period from July, 2017 to March, 2020 by the due date but furnished the said return between the period from 22th day of September, 2020 to 31st day of October, 2020.

4.2 However, no amnesty has been provided in respect of late filing of **FORM GSTR-9** and **FORM GSTR-10** till now.

5.1 The issue was deliberated by the Law Committee in its meetings held on 30.01.2023, 08.02.2023 and 09.02.2023. The Law Committee took a view that despite previous amnesty schemes as detailed above, many taxpayers, especially MSMEs, have remained non-filers. This is affecting revenue as well as compliance discipline. An opportunity may be provided to such taxpayers to furnish pending returns in **FORM GSTR-4, FORM GSTR-9** and **FORM GSTR-10** and thereby regularise their businesses.

5.2 The Law Committee also felt that in line with the earlier rationalization of late fee for delayed filing of **FORM GSTR-1, FORM GSTR-3B, FORM GSTR-4** and **FORM GSTR-7**, there is also a need to rationalize the late fee under section 47 of CGST Act in respect of delayed filing of annual return in **FORM GSTR-9**, so as to reduce the burden of such late fee on MSMEs.

6.1 Accordingly, the Law Committee recommended as under:

(a) **Amnesty for non-filers of FORM GSTR-4:** Late fee may be waived which is in excess of Rs. 500/- (Rs. 250/- under CGST and Rs. 250/- under SGST) and may be fully waived where the total amount of central tax payable in the said return is nil, for the registered persons who failed to furnish

the return in **FORM GSTR-4** for the quarters from July, 2017 to March 2019 or for Financial years from 2019-20 to 2021-22 by the due date but furnish the said return between the period from **1st day of May, 2023 to 31st day of July, 2023.**

(b) Rationalisation of late fee for FORM GSTR-9: Late fee for annual return amounts to Rs 200/- (Rs. 100/- under CGST and Rs. 100/- under SGST/ UTGST) for every return subject to a maximum of 0.5% (0.25% under CGST and 0.25% under SGST / UTGST) of his turnover in the State or Union territory. No rationalisation of such late fee has been done, unlike late fee for **FORM GSTR-1, FORM GSTR-3B, FORM GSTR-4** and **FORM GSTR-7**. Accordingly, late fee for delayed filing of annual return in **FORM GSTR-9** may be rationalised **for the financial year 2022-23 onwards** as under:

S. No. (1)	Class of registered persons (2)	Amount of late fee (3)
1.	Registered persons having an aggregate turnover of up to rupees 5 crores in the said financial year	Twenty-five rupees per day, subject to a maximum of an amount calculated at 0.02 per cent. of his turnover in the State or Union territory.
2.	Registered persons having an aggregate turnover of more than rupees 5 crores and up to rupees 20 crores in the said financial year	Fifty rupees per day, subject to a maximum of an amount calculated at 0.02 per cent. of his turnover in the State or Union territory.

(c) Amnesty for non-filers of FORM GSTR-9: For the registered persons who failed to furnish the annual return by the due date for any of the financial years 2017-18, 2018-19, 2019-20, 2020-21 or 2021-22, but furnish the said return between **1st day of May, 2023 to 31st day of July, 2023**, the total amount of late fee may be waived which is in excess of Rs. 20,000/- (Rs. 10,000/- under CGST and Rs. 10,000/- under SGST / UTGST).

(d) Amnesty for non-filers of FORM GSTR-10: Late fee may be waived which is in excess of Rs. 1000/- (Rs. 500/- under CGST and Rs. 500/- under SGST) for the registered persons who failed to furnish the final return in **FORM GSTR-10** by the due date but furnish the said return between the period from **1st day of May, 2023 to 31st day of July, 2023.**

6.2 Accordingly, the following notifications may be issued to implement the aforementioned recommendations of the Law Committee:

- (i) Amnesty for non-filers of return in **FORM GSTR-4** as per draft notification at **Annexure I**
 - (ii) Rationalisation of late fee for annual return in **FORM GSTR-9** and amnesty for non-filers of annual return in **FORM GSTR-9** as per draft notification at **Annexure II**
 - (iii) Amnesty for non-filers of return in **FORM GSTR-10** as per draft notification at **Annexure III**
7. Accordingly, the proposal at para 6.1 and 6.2 is placed for approval of the Council.

[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. --/2023 – CENTRAL TAX

New Delhi, the -- February, 2023

G.S.R.....(E).— In exercise of the powers conferred by section 128 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 73/2017– Central Tax, dated the 29th December, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 1600(E), dated the 29th December, 2017, namely: —

In the said notification, after the sixth proviso, the following proviso shall be inserted, namely: —

“Provided also that late fee payable under section 47 of the said Act, shall stand waived which is in excess of two hundred and fifty rupees and shall stand fully waived where the total amount of central tax payable in the said return is nil, for the registered persons who failed to furnish the return in **FORM GSTR-4** for the quarters from July, 2017 to March 2019 or for Financial years from 2019-20 to 2021-22 by the due date but furnish the said return between the period from 1st day of May, 2023 to 31st day of July, 2023.”.

[F. No. CBIC-20006/24/2021-GST]

(Alok Kumar)

Director

Note: The principal notification No. 73/2017– Central Tax, dated the 29th December, 2017 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 1600(E), dated the 29th December, 2017 and was last amended *vide* notification number 12/2022 – Central Tax, dated the 5th July, 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 785(E), dated the 5th July, 2022.

[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. --/2023 – CENTRAL TAX

New Delhi, the -- February, 2023

G.S.R.....(E).— In exercise of the powers conferred by section 128 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), the Central Government, on the recommendations of the Council, hereby waives the amount of late fee payable under section 47 of the said Act, which is in excess of five hundred rupees for the registered persons who failed to furnish the final return in **FORM GSTR-10** by the due date but furnish the said return between the period from 1st day of May, 2023 to 31st day of July, 2023.

[F. No. CBIC-20006/24/2021-GST]

(Alok Kumar)

Director

[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. --/2023 – CENTRAL TAX

New Delhi, the -- February, 2023

G.S.R.....(E).– In exercise of the powers conferred by Section 128 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), the Central Government, on the recommendations of the Council, hereby waives the amount of late fee payable under section 47 of the said Act in respect of a return to be furnished under section 44 of the said Act for the financial year 2022-23 onwards, which is in excess of an amount as specified in column (3) of the Table given below, for the class of registered persons mentioned in the corresponding entry in column (2) of the said Table, who fails to furnish the said return by the due date, namely: —

Table

S. No. (1)	Class of registered persons (2)	Amount (3)
1.	Registered persons having an aggregate turnover of up to rupees 5 crores in the said financial year	Twenty-five rupees per day, subject to a maximum of an amount calculated at 0.02 per cent. of his turnover in the State or Union territory.
2.	Registered persons having an aggregate turnover of more than rupees 5 crores and up to rupees 20 crores in the said financial year	Fifty rupees per day, subject to a maximum of an amount calculated at 0.02 per cent. of his turnover in the State or Union territory.

Provided that for the registered persons who failed to furnish the return under section 44 of the said Act by the due date for any of the financial years 2017-18, 2018-19, 2019-20, 2020-21 or 2021-22, but furnish the said return between the period from the 1st day of May, 2023 to the 31st day of July, 2023, the total amount of late fee under section 47 of the said Act payable in respect of the said return, shall stand waived which is in excess of ten thousand rupees:

[F. No. CBIC-20006/24/2021-GST]

(Alok Kumar)

Agenda Item 4(v): Amendment in CGST Rules and Notification for biometric-based Aadhaar authentication of registration applicants

On the recommendations of the GST Council in its 48th meeting held on 17.12.2022, rules 8 and 9 of CGST rules have been amended w.e.f. 26.12.2022 vide Notification No. 26/2022-CT dated 26.12.2022 inter alia as under:

(i) to mandate biometric-based Aadhaar authentication for high-risk applicants who opt for authentication of Aadhaar number, sub-rule (4A) of rule 8 has been substituted as under:

“(4A) Every application made under sub-rule (4) by a person, other than a person notified under sub-section (6D) of section 25, who has opted for authentication of Aadhaar number and is identified on the common portal, based on data analysis and risk parameters, shall be followed by biometric-based Aadhaar authentication and taking photograph of the applicant where the applicant is an individual or of such individuals in relation to the applicant as notified under sub-section (6C) of section 25 where the applicant is not an individual, along with the verification of the original copy of the documents uploaded with the application in FORM GST REG-01 at one of the Facilitation Centres notified by the Commissioner for the purpose of this sub-rule and the application shall be deemed to be complete only after completion of the process laid down under this sub-rule.”

(ii) to provide for exemption from biometric-based Aadhaar authentication in states / UTs where the pilot is not being undertaken, sub-rule (4B) has been inserted in rule 8 of CGST Rules, as under:

“(4B) The Central Government may, on the recommendations of the Council, by notification specify the States or Union territories wherein the provisions of sub-rule (4A) shall not apply.”

(iii) to provide that acknowledgement shall be issued to the applicant only after completion of biometric-based Aadhaar authentication, sub-rule (5) of rule 8 has been amended as under:

*“(5) On receipt of an application under sub-rule (4) **or sub-rule (4A)**, as the case maybe, an acknowledgement shall be issued electronically to the applicant in **FORM GST REG-02**.”*

(iv) To provide for mandatory physical verification of an applicant who has undergone biometric-based Aadhaar authentication and is identified on the common portal, based on data analysis and risk parameters, for carrying out such physical verification of places of business, rule 9 has been amended as under:

“(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 seven working days from the date of submission of the application:

Provided that where –

(a) a person, other than a person notified under sub-section (6D) of section 25, fails to undergo authentication of Aadhaar number as specified in sub-rule (4A) of rule 8 or does not opt for authentication of Aadhaar number; or

(aa) a person, who has undergone authentication of Aadhaar number as specified in sub-rule (4A) of rule 8, is identified on the common portal, based on data analysis and risk parameters, for carrying out physical verification of places of business; or;

(b) the proper officer, with the approval of an officer authorised by the Commissioner not below the rank of Assistant Commissioner, deems it fit to carry out physical verification of places of business,

the registration shall be granted within thirty days of submission of application, after physical verification of the place of business in the presence of the said person, in the manner provided under rule 25 and verification of such documents as the proper officer may deem fit;

(2) Where the application submitted under rule 8 is found to be deficient, either in terms of any information or any document required to be furnished under the said rule, or where the proper officer requires any clarification with regard to any information provided in the application or documents furnished therewith, he may issue a notice to the applicant electronically in FORM GST REG-03 within a period of seven working days from the date of submission of the application and the applicant shall furnish such clarification, information or documents electronically, in FORM GST REG-04, within a period of seven working days from the date of the receipt of such notice.

Provided that where –

(a) a person, other than a person notified under sub-section (6D) of section 25, fails to undergo authentication of Aadhaar number as specified in sub-rule (4A) of rule 8 or does not opt for authentication of Aadhaar number; or

(aa) a person, who has undergone authentication of Aadhaar number as specified in sub-rule (4A) of rule 8, is identified on the common portal, based on data analysis and risk parameters, for carrying out physical verification of places of business; or

(b) the proper officer, with the approval of an officer authorised by the Commissioner not below the rank of Assistant Commissioner, deems it fit to carry out physical verification of places of business,

*the notice in **FORM GST REG-03** may be issued not later than thirty days from the date of submission of the application.*

...”

2. Moreover, Notification No. 27/2022-CT dated 26.12.2022 has also been issued under Rule 8(4B) for specifying that the provisions of sub-rule (4A) of rule 8 shall not apply in all the States and Union territories except the State of Gujarat.

3.1. It has been noticed that the said sub-rule (4A) was earlier substituted w.e.f. 01.04.2020 vide Notification No. 62/2020-CT dated 20.08.2020 as under:

(4A) Where an applicant, other than a person notified under sub-section (6D) of section 25, opts for authentication of Aadhaar number, he shall, while submitting the application under sub-rule (4), with effect from 21st August, 2020, undergo authentication of Aadhaar number and the date of submission of the application in such cases shall be the date of authentication of the Aadhaar number, or fifteen days from the submission of the application in Part B of FORM GST REG-01 under sub-rule (4), whichever is earlier.

3.2. Subsequently, vide Notification No. 94/2020-CT dated 22.12.2020, the said sub-rule (4A) was to be substituted w.e.f. a date to be notified as under:

(4A) Every application made under rule (4) shall be followed by—

(a) biometric-based Aadhaar authentication and taking photograph, unless exempted under sub-section (6D) of section 25, if he has opted for authentication of Aadhaar number; or

(b) taking biometric information, photograph and verification of such other KYC documents, as notified, unless the applicant is exempted under sub-section (6D) of section 25, if he has opted not to get Aadhaar authentication done,

of the applicant where the applicant is an individual or of such individuals in relation to the applicant as notified under sub-section (6C) of section 25 where the applicant is not an individual, along with the verification of the original copy of the documents uploaded with the application in FORM GST REG-01 at one of the Facilitation Centres notified by the Commissioner for the purpose of this sub-rule and the application shall be deemed to be complete only after completion of the process laid down under this sub-rule.”

3.3. However, the said substitution of sub-rule (4A) vide Notification No. 94/2020-CT dated 22.12.2020 has not been notified. The net effect is that before substitution of sub-rule (4A), vide Notification No. 26/2022-CT dated 26.12.2022, sub-rule (4A) existed as below:

(4A) Where an applicant, other than a person notified under sub-section (6D) of section 25, opts for authentication of Aadhaar number, he shall, while submitting the application under sub-rule (4), with effect from 21st August, 2020, undergo authentication of Aadhaar number and the date of submission of the application in such cases shall be the date of authentication of the Aadhaar number, or fifteen days from the submission of the application in Part B of FORM GST REG-01 under sub-rule (4), whichever is earlier.

4. It has been noticed that due to substitution of sub-rule (4A) vide Notification No. 26/2022-CT dated 26.12.2022, inadvertently, the mandate to undergo authentication of Aadhaar number while submitting the application under sub-rule (4) by an applicant, other than a person notified under sub-section (6D) of section 25, who opts for authentication of Aadhaar number, has been done away with. As a result, there is no requirement for authentication of Aadhaar now, other than high-risk applicants (identified by the portal), who have opted for authentication of Aadhaar Number, where Biometric authentication of Aadhaar will be required. Also, the provision that the date of submission of the application in such cases shall be the date of authentication of the Aadhaar number, or fifteen days from the submission of the application in Part B of FORM GST REG-01 under sub-rule (4), whichever is earlier, has also been omitted.

5. Since Notification No. 27/2022-CT dated 26.12.2022 issued under Rule 8(4B) specifies that the provisions of sub-rule (4A) of rule 8 shall not apply in all the States and Union territories except the State of Gujarat, it emerges that there does not remain any requirement of Aadhaar authentication in all the States and Union territories other than Gujarat. Further, even in the State of Gujarat, authentication of Aadhaar is not required now, other than the cases of high-risk applicants (identified by the portal) where Biometric authentication of Aadhaar will be required. This was never the intention while going ahead with the said amendment.

6. In order to rectify this inadvertent omission, the Law Committee in its meeting held on 30.01.2023 has recommended introducing the following amendments **with effect from 26.12.2022**:

(i) substitution of sub-rule (4A) of rule 8 as under:

~~(4A) Every application made under sub-rule (4) by a person, other than a person notified under sub-section (6D) of section 25, who has opted for authentication of Aadhaar number and is identified on the common portal, based on data analysis and risk parameters, shall be followed by biometric-based Aadhaar authentication and taking photograph of the applicant where the applicant is an individual or of such individuals in relation to the applicant as~~

~~notified under sub-section (6C) of section 25 where the applicant is not an individual, along with the verification of the original copy of the documents uploaded with the application in FORM GST REG-01 at one of the Facilitation Centres notified by the Commissioner for the purpose of this sub-rule and the application shall be deemed to be complete only after completion of the process laid down under this sub-rule.~~

(4A) Where an applicant, other than a person notified under sub-section (6D) of section 25, opts for authentication of Aadhaar number, he shall, while submitting the application under sub-rule (4), undergo authentication of Aadhaar number and the date of submission of the application in such cases shall be the date of authentication of the Aadhaar number, or fifteen days from the submission of the application in Part B of FORM GST REG-01 under sub-rule (4), whichever is earlier.

Provided that every application made under sub-rule (4) by a person, other than a person notified under sub-section (6D) of section 25, who has opted for authentication of Aadhaar number and is identified on the common portal, based on data analysis and risk parameters, shall be followed by biometric-based Aadhaar authentication and taking photograph of the applicant where the applicant is an individual or of such individuals in relation to the applicant as notified under sub-section (6C) of section 25 where the applicant is not an individual, along with the verification of the original copy of the documents uploaded with the application in FORM GST REG-01 at one of the Facilitation Centres notified by the Commissioner for the purpose of this sub-rule and the application shall be deemed to be complete only after completion of the process laid down under this proviso.

(ii) amendment of sub-rule (4B) of rule 8 as under:

(4B) The Central Government may, on the recommendations of the Council, by notification specify the States or Union territories wherein the ~~provisions of proviso to~~ sub-rule (4A) shall not apply.

(iii) amendment in notification no. 27/2022-CT dated 26.12.2022 as under:

In pursuance of the powers conferred by sub-rule (4B) of rule 8 of the Central Goods and Services Tax Rules, 2017, the Central Government, on the recommendations of the Council, hereby specifies that the ~~provisions of proviso to~~ sub-rule (4A) of rule 8 of the said rules shall not apply in all the States and Union territories except the State of Gujarat.

7. Accordingly, the proposal at para 6 is placed for approval of the Council.

Agenda Item 4(vi): Extension of timelimit for application for revocation of cancellation of registration

The GST law provides for cancellation of registration for various reasons including non-filing of returns for a continuous period of 6 months or more. The registrations of a number of small taxpayers, who could not file timely returns for 6 or more months, due to COVID-19 pandemic or due to various other reasons, get cancelled. Such taxpayers are required to file their application for revocation of cancellation of registration for getting their registrations revived again.

2. It is to be noted that section 30 of the CGST / SGST Act provides only 30 days for these taxpayers to apply for revocation. This period is further extendable by a period of 30 days by the Additional or Joint Commissioner and further 30 days by the Commissioner. Further as per proviso to Rule 23 of CGST Rules, 2017, where the registration has been cancelled due to non-filing of returns, such application for revocation can be filed only after such returns have been furnished and the due amount of tax, interest, penalty and late fee in respect of such returns has been paid. However, many small taxpayers could not file their pending returns within the time specified for filing of the application of revocation due to lack of funds or other reasons. Consequently, such taxpayers could not apply in time for revocation of cancellation of their registration.

3. The Law Committee in its meetings held on 30.01.2023 and 08.02.2023 deliberated upon the issue and noted that the time period of 30 days to apply for revocation is insufficient especially in cases where the registration is cancelled for non-filing of returns. In such cases, lack of funds for furnishing returns leads to delay in applying for revocation. Further, multi-stage extension of time period to file application for revocation of cancellation of registration by 30 and 60 days by senior officers causes delay in processing applications for revocation. Moreover, no significant benefit appears to accrue to the department by such procedure of graded extensions by senior officers.

4. The Law Committee accordingly recommended that:

(i) the time limit for making an application for revocation of cancellation of registration may be raised from 30 days to 90 days.

(ii) where the registered person fails to apply for revocation of cancellation of registration within 90 days, the said time period may be extended by the Commissioner or an officer authorised by him in this behalf, not below the rank of an Additional / Joint Commissioner, on sufficient cause being shown, and for reasons to be recorded in writing, for a further period not exceeding 180 days.

5. The Law Committee also took a view that such timelines for filing application of revocation of cancellation of registration and extension of the same, if any, may not be hard-coded in the Act and instead, there may be prescribed through the Rules only. Accordingly, the Law Committee

recommended that the enabling provision may be provided in sub-section (1) of section 30 of CGST Act for prescribing the time limit, manner, conditions and restriction for filing application of revocation of cancellation of registration through CGST Rules and thereafter, such time period, manner, conditions and restriction may be prescribed under Rule 23 of CGST Rules.

6. Accordingly, the Law Committee recommended that sub-section (1) of section 30 of the CGST Act may be amended as under:

Section 30. Revocation of cancellation of registration.-

(1) Subject to such conditions as may be prescribed, any registered person, whose registration is cancelled by the proper officer on his own motion, may apply to such officer for revocation of cancellation of the registration in such manner, within such time and subject to such conditions and such restrictions, as may be prescribed the prescribed manner within thirty days from the date of service of the cancellation order.

~~Provided that such period may, on sufficient cause being shown, and for reasons to be recorded in writing, be extended,-~~

~~(a) by the Additional Commissioner or the Joint Commissioner, as the case may be, for a period not exceeding thirty days;~~

~~(b) by the Commissioner, for a further period not exceeding thirty days, beyond the period specified in clause (a);~~

6.1. The Law Committee has also recommended that sub-rule (1) of rule 23 of the CGST Rules may be amended as under:

Rule 23. Revocation of cancellation of registration. –

*(1) A registered person, whose registration is cancelled by the proper officer on his own motion, may subject to the provisions of rule 10B submit an application for revocation of cancellation of registration, in **FORM GST REG-21**, to such proper officer, within a period of ~~thirty~~ ninety days from the date of the service of the order of cancellation of registration, ~~or within such time period as extended by the Additional Commissioner or the Joint Commissioner or the Commissioner, as the case may be, in exercise of the powers provided under the proviso to sub section (1) of section 30,~~ at the common portal, either directly or through a Facilitation Centre notified by the Commissioner:*

Provided that such period may, on sufficient cause being shown, and for reasons to be recorded in writing, be extended by the Commissioner or an officer authorised by him in this

behalf, not below the rank of Additional Commissioner or Joint Commissioner, as the case may be, for a further period not exceeding one hundred and eighty days.

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

Provided ~~further~~also that all returns due for the period from the date of the order of cancellation of registration till the date of the order of revocation of cancellation of registration shall be furnished by the said person within a period of thirty days from the date of order of revocation of cancellation of registration:

Provided also that where the registration has been cancelled with retrospective effect, the registered person shall furnish all returns relating to period from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration within a period of thirty days from the date of order of revocation of cancellation of registration.

6.2 Law Committee further recommended that an amnesty scheme may be provided for filing of application of revocation of cancellation of registration in all past cases where registrations have been cancelled upto 31st December, 2022 by allowing such persons to file application for revocation of cancellation of registration by 30th June, 2023. Law Committee recommended for issuance of a notification under section 148 of CGST Act in respect of such cases as detailed in Annexure-A.

7. Accordingly, the proposals at para 6, 6.1 and 6.2 are placed for the approval of the Council.

.....

[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. --/2023 – CENTRAL TAX

New Delhi, the --February, 2023

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) (hereinafter referred to as the said Act), the Central Government, on the recommendations of the Council, hereby notifies a registered person, whose registration has been cancelled under clause (b) or (c) of sub-section (2) of section 29 of the said Act on or before 31st day of December, 2022, and who has failed to apply for revocation of cancellation of such registration within the time period specified in section 30 of the said Act, as the class of registered persons who shall follow the following special procedure in respect of revocation of cancellation of such registration:

(i) such registered person may apply for revocation of cancellation of such registration upto 30th day of June, 2023;

(ii) the extension of time period for filing application for revocation of cancellation of registration as per proviso to sub-section (1) of section 30 of the said Act shall not be applicable for such application;

(iii) such application for revocation shall be filed only after furnishing of all the returns due upto the effective date of cancellation of registration, and after payment of any amount due as tax, in terms of such returns, along with any amount payable towards interest, penalty and late fee in respect of the said returns;

Explanation: For the purpose of this notification, the person who has failed to apply for revocation of cancellation of registration within the time period specified in section 30 of the said Act includes a person whose appeal against the order of cancellation of registration or the order rejecting application for revocation of cancellation of registration under section 107 of the said Act has been rejected on the ground of failure to adhere to the time limit specified under sub-section (1) of section 30 of the said Act read with proviso thereof.

[F. No. CBIC-20006/24/2021-GST]

(Alok Kumar)

Director

Agenda Item 5: Recommendations of the Fitment Committee for the consideration of the GST Council

This agenda note deals with proposals regarding GST rates on supply of goods and services. The proposed changes in GST rates emanate from the recommendations made by the Fitment Committee.

2. Briefly stated, representations/recommendations have been received from various stake holders including Ministries and other offices of Centre and States, seeking changes in GST rates and certain clarifications regarding GST rates applicable on supply of certain goods/services.

3. The Fitment Committee met on 3rd and 7th February, 2023 and had detailed discussions on recommendations received from various stakeholders seeking changes in GST/IGST rates or seeking clarification on supply of goods/services. After examination, the Fitment Committee has recommended changes in GST rates or issue of clarification, in relation to certain goods and services. Further, the Fitment Committee has recommended no change in respect of certain issues. On one issue, Fitment Committee was of the view that further examination would be required before making any recommendation to the GST Council.

4. Accordingly, Fitment Agenda for consideration of the GST Council is summarised as below:

a) Recommendations made by the Fitment Committee for making changes in GST rates or for issuing clarifications in relation to goods – Annexure-I

Annexure – I

S. No	Description/HSN	Present GST rate	Requested GST rate	Comments
1	Rab (1702)	18%	Nil/ 5% (pre-packaged and labelled)	<p>1) Based on the recommendations of the GST Council in its 48th Meeting held in December 2022, a clarification was issued that rab is classifiable under heading 1702 attracting GST rate of 18% (S. No. 11 in Schedule III of notification no. 1/2017-Central Tax (Rate), dated the 28th June, 2017).</p> <p>2) A request has been received to create a special entry for rab and to treat rab on similar lines of jaggery stating that it is a liquid form of jaggery.</p> <p>3) Currently, jaggery attracts nil rate of GST if sold in loose form and 5% if sold in pre-packaged and labelled form.</p> <p>4) Fitment Committee recommended that the GST rate on rab may be reduced to 5% if sold in pre-packaged and labelled form and nil, if sold in loose form.</p> <p>5) Fitment Committee also recommended clarifying that the issue for the past periods may be regularized on as is basis.</p>

S. No	Description/HSN	Present GST rate	Requested GST rate	Comments								
2	Pencil Sharpener (8214)	18%	12%	<div><div><div>1) Based on the report of GOM on Rate Rationalization, GST Council in its 47th Meeting recommended to increase GST rate on Pencil Sharpeners (falling under CTH 8214) from 12% to 18% in order to remove the inverted duty structure.</div><div>2) To remove an anomaly relating to pencil sharpener which continued to reflect the rate of 12% in another entry, on the recommendations made by GST Council in its 48th meeting, the anomalous entry for pencil sharpeners covered under Sr. No. 180 of Schedule II of GST Rate Notification No. 1/2017-Central Tax (Rate) was amended to remove pencil sharpener from that entry.</div><div>3) However, during discussion in 48th meeting, a few members of the Council requested to reconsider the recommendations to increase the GST rate of pencil sharpener on the ground that these are items used by school children. The Council directed that the same may be examined by the Fitment Committee and presented in the next meeting.</div><div>4) Accordingly, the issue was examined by Fitment Committee.</div><div>5) A domestic manufacturer has also represented that although the supply of erasers attract 5% and pencils, pastels, drawing charcoal etc attract 12%, due to 18% rate on pencil sharpener, they have to discharge 18% when sharpeners are supplied together along with pencils, erasers as this constitute a mixed supply. Accordingly, the rate applicable on pencil pack (including pencils, erasers and sharpeners) is now 18% as pencil sharpeners will now have the highest rate of tax of 18%, resulting in rise in prices of basic stationary item. It has also been stated that for a mixed pack costing INR 125, the price of sharpener is in the range of INR 3 to INR 5, but GST on entire pack would be 18%. It has also been stated that domestic manufacturers would have to look at the option of removing the sharpener from the pencil pack and only sell it as an individual product which may not be in the interest of consumers.</div><div>6) Currently, GST rates on supply of pencils, erasers and sharpeners are as follows:</div></div><table><tr><th>S. No.</th><th>Product (CTH)</th><th>GST Rate</th><th>GST Notification</th></tr><tr><td></td><td></td><td></td><td></td></tr></table></div>	S. No.	Product (CTH)	GST Rate	GST Notification				
S. No.	Product (CTH)	GST Rate	GST Notification									

S. No	Description/HSN	Present GST rate	Requested GST rate	Comments			
					1. Pencils (including propelling or sliding pencils), crayons, pastels, drawing charcoals and tailor's chalk (9608/9609)	12%	Sr. No. 233 of Schedule II of GST Rate Notification No. 1/2017-Central Tax (Rate)
					2. Slate pencils and chalk sticks(9609)	Nil	Sr. No. 145 of GST Rate Notification No. 2/2017-Central Tax (Rate)
					3. Erasers (4016)	5%	Sr. No. 191 of Schedule I of GST Rate Notification No. 1/2017-Central Tax (Rate)
					4. Pencil Sharpeners (8214)	18%	Sr. No. 302A of Schedule III of GST Rate Notification No. 1/2017-Central Tax (Rate)
					5. Mathematical boxes, geometry boxes and colour boxes (7310 or 7326)	12%	Sr. No. 180 of Schedule II of GST Rate Notification

S. No	Description/HSN	Present GST rate	Requested GST rate	Comments			
							on No. 1/2017-Central Tax (Rate)
					6. Pencil pack including pencils, erasers and sharpeners	18%	Mixed Supply
				7) Fitment Committee recommended that GST rate on Pencil Sharpeners (falling under CTH 8214) may be reduced from 18 % to 12%.			
3	Tags-Tracking Devices and Data loggers for durable Containers [8526 91]	18 %	Nil	<p>1) Notification No. 104/94- Customs dated 16.03.1994 provides exemption from Customs Duty and IGST to imported containers of durable nature provided the same are re-exported within a period of 6 months.</p> <p>2) Request has been received from shippers stating they are planning to import Tags-Tracking Devices and Data loggers and equip its container fleet with these tracking devices. They have sought exemption from Customs duty and IGST as is available to import of containers under Notification 104/94-Customs on the ground that these goods will be fixed/installed on containers.</p> <p>3) They have made two requests – (i) exemption when these devices are imported for fixing on the containers and (ii) exemption after such devices are affixed/installed on containers.</p> <p>4) The GST rate on goods falling under CTH 8526 91 described as “Radio-navigational aid apparatus” is 18%.</p> <p>5) Fitment Committee observed that the principle of similarity with respect to container does not apply when these tracking devices are imported separately to be installed on containers. Therefore, the request for ‘Nil’ IGST on these devices imported separately for affixing on the containers does not merit consideration.</p> <p>6) However, Fitment Committee recommended that the issue may be clarified by way of inserting a proviso in the notification that if such duty paid devices are affixed with containers, no separate IGST shall be levied on the affixed devices and the ‘Nil’ IGST treatment available for the containers under notification No. 104/94-Customs shall also be available subject to existing conditions.</p>			

S. No	Description/HSN	Present GST rate	Requested GST rate	Comments
4	Coal rejects (27)	-	-	<p>1) Currently, vide Sl. no. 41A of notification no. 1/2017-Compensation Cess (Rate), exemption from compensation cess has been provided on coal rejects supplied by a coal washery arising out of coal, provided compensation cess has been paid on raw coal and no input tax credit thereof has been availed by any person.</p> <p>2) Principal users like power companies pay compensation cess on entire quantity of raw coal purchased and send the raw coal to coal washeries for beneficiation. Washed coal is sent back to the principal user while the coal rejects are sold by the power companies to the washeries which disposes off the coal rejects.</p> <p>3) Representation has been received regarding the demand of compensation cess on coal rejects sold by the principal user to the washery. In certain cases, the principal user has been availing credit of compensation cess to discharge the liability of compensation cess on coal rejects supplied to the coal washeries.</p> <p>4) However, in such a case, the washery is not able to get benefit of the exemption as principal user has availed input tax credit.</p> <p>5) The exemption was given to the washery to avoid a double taxation on coal on which compensation cess had already been paid. Payment of compensation cess again on coal rejects on which no ITC is available will be a cost to the washeries.</p> <p>6) Fitment Committee has recommended to amend the entry at Sl. No. 41A of notification No. 1/2017-Compensation Cess (Rate), so that exemption benefit covers both coal rejects supplied <u>to</u> and <u>by</u> a coal washery, arising out of coal on which compensation cess has been paid and no input tax credit thereof has been availed by any person.</p>
5	Millet-based health mix products consisting at least 70% of millets	18%	Nil/ 5% (pre-packaged and labelled)	<p>1) Currently, there is no specific entry for millet-based health mix products. Therefore, this product currently attracts GST rate at 18% under the residual entry, i.e. Sl. No. 453 of Schedule III of notification No. Central Tax (Rate) – 1/2017 for goods covered under any chapter.</p> <p>2) Representation has been received for reduction of tax rate on millet- based health mix products made on firewood stoves in village households.</p>

S. No	Description/HSN	Present GST rate	Requested GST rate	Comments
				<p>The product predominantly consists of millets, whether or not germinated, which are roasted. Small quantities of flour, meal or powder of products such as groundnuts, pulses etc, roasted in the same manner as millets, are added to the millets. Certain goods such as cardamom, pepper etc may also be added in minute quantities just to add flavour. All these products are mixed, powdered and packed for sale.</p> <p>3) The request is to keep these products on par with sattu/ chhatua (HS 1106).</p> <p>4) Circular 80/54/2018-GST dated 31.12.18 clarified that Chhatua or Sattu is a mixture of flour of ground pulses and cereals which includes the flour, meal and powder made from peas, beans or lentils(dried leguminous vegetables falling under 0713).</p> <p>5) In the instant case, the product contains not only millets or pulses but also cardamom, pepper etc to enhance the flavour. Therefore, the product is a food preparation of flour, groats, meal etc.</p> <p>6) HS Explanatory Notes show that HS 1901 covers food preparation of flour, meal and grouts of Chapter 11 but it excludes flour, meal or powder of dried vegetables (heading 0712), of potatoes (heading 1105) or of dried leguminous vegetables (heading 1106). In case pulses (covered under heading 1106) are added to the millets during preparation, then the product may be classified under HS 2106, which covers food preparations not elsewhere specified or included. Thus, depending on the substances added to the millet flour, goods may be appropriately classifiable under 1901 or 2106.</p> <p>7) Since UN is celebrating the International Year of the Millets in 2023, the Fitment Committee recommended to reduce the rate to nil if any millet-based health mix consisting at least 70% of millets is sold in loose form and 5%, if it is sold in pre-packaged and labelled form.</p> <p>8) Further, the Fitment Committee recommended that the goods may be appropriately classified under HS 1901 or 2106.</p>

b) Issues where no change has been proposed by the Fitment Committee in relation to goods – Annexure-II

Annexure-II

S. No	Description /HSN	Present GST rate	Requested GST rate	Comments
1	Bidi wrapper leaves- Tendu (14049010)	18% (RCM on supply by agriculturist to any registered person)	Nil	<ol style="list-style-type: none"> 1) Representation has been received for reduction in GST rate on tendu leaves stating that GST rate of 18% is affecting the tendu trade which is a minor forest produce. 2) Currently, supply of tendu leaves by an agriculturist to any registered person attracts 18% GST under reverse charge mechanism. 3) GST rate on tendu leaves had been discussed in the 14th and 15th GST Council meetings. Though Fitment Committee had proposed the GST rate of 5%, the GST Council decided in its 15th meeting to tax tendu leaves at 18%. 4) The matter of rate reduction was also placed before the Council in its 22nd and 37th meetings but the Council did not recommend any change in the rate. 5) During the Fitment Committee meeting, the members felt that all the affected States should be invited to present their case for the Fitment Committee to examine the issue. Accordingly, the States of Orissa, Chhattisgarh and Madhya Pradesh were invited to make a presentation. 6) The State of Orissa presented that tax rate on tendu leaves pre- GST was 5.91% and that the tendu trade is being affected with the high GST rate. 7) The State of Madhya Pradesh reiterated their stand that tax rate on tendu leaves should not be reduced. It was presented that they have a three-tier cooperative system of collection of leaves which works on a profit -sharing model where almost 60-70% of the profit is given back to the tendu leaf pluckers and the average procurement of tendu leaves has increased compared to pre-GST era. 8) Similarly, Chhattisgarh represented that status-quo be maintained. It was stated they also have a three-tier cooperative system of collection of leaves and that prices are passed on to tendu leaf pluckers as bonuses. 9) After consideration of the views, the FC recommended to maintain status quo.
2	Ships and vessels for breaking up [HSN 8908]	18%	Less than 10%	<ol style="list-style-type: none"> 1) Currently, vessels and ships for breaking up attract GST @ 18%. This rate was recommended by the GST Council in its 14th meeting based on the pre-GST tax incidence. 2) Ministry of Shipping has represented that the cost of

S. No	Description /HSN	Present GST rate	Requested GST rate	Comments
	00 00]			<p>ship breaking in India has gone up since Indian ship breaking yards have upgraded to EU standards and are also now in consonance with the Hongkong Convention. This is making India un-competitive vis-à-vis neighbouring countries like Bangladesh and Pakistan and emerging ship breaking yards in countries like Turkey. The final product of ship breaking activity is ferrous waste and scrap, which also attracts GST @ 18%. Thus, if the GST on ships/vessels for breaking up is reduced to less than 10%, it would not lead to an inverted duty structure.</p> <p>3) The Fitment Committee observed that the ITC of the GST paid while importing ships for breaking up is available to the shipbreakers and the same can be used to set off the liability which arises when the shipbreaker sells the scrap generated from the ship breaking process.</p> <p>4) Accordingly, the Fitment Committee recommended to maintain status quo.</p>

c) Issues deferred by the Fitment Committee for further examination in relation to goods –
Annexure-III

Annexure – III

S. No	Description/HSN	Present Compensation cess rate	Requested compensation rate	Comments			
1	Utility vehicles like SUV/MUV	22% for SUV with specifications	22% for other utility vehicles apart from SUVs and all motor vehicles with length >4000mm, ground clearance of 170 mm and engine capacity >1500cc by whatever name called shall be charged with compensation cess rate of 22%.	<p>1) During the discussion in 48th meeting of GST council on agenda relating to issuance of clarification on compensation cess leviable on SUVs, it was suggested by few of the members to deliberate about compensation cess on other utility vehicles such as MUV, XUV etc. State of Haryana was to submit a proposal which the Council desired that the Fitment Committee may examine.</p> <p>2) Accordingly, the issue was taken up by the Fitment Committee.</p> <p>3) Briefly by way of background, the levy of higher excise duty on SUVs was brought in the Finance Act, 2013, where the basic excise duty rate was increased for SUVs qualifying some specifications.</p> <p>4) This was done by inserting Entry No. 284A in the Central Excise tariff as below:</p>			
				S. No	Heading	Description	Rate
				284A	8703	Motor vehicles of engine capacity exceeding 1500cc, popularly called as Sports Utility Vehicles (SUV) including utility vehicles. Explanation: For the purposes of this	30%

S. No	Description/HSN	Present Compensation cess rate	Requested compensation rate	Comments			
						entry, SUV includes a motor vehicle of length exceeding 4000mm and having ground clearance of 170mm and above.	
				<p>5) The GST Council in its 21st Meeting held in Sept, 2017 had recommended a higher rate of compensation cess of 22% for SUVs. The extract of the decision is reproduced as below:</p> <p><i>The Council approved the increase in the rate of Compensation Cess for the following categories of motor vehicles:</i></p> <p><i>i. Sports Utility Vehicles (SUVs) (of length more than 4-metre, engine capacity more than 1500cc and ground clearance 170 mm):</i></p> <p><i>To increase the rate of cess from the present 15% to 22%.</i></p> <p>6) Based on the said recommendation of the GST Council, the same was notified and the entry No. 52B of compensation cess rate notification No. 1/2017-Compensation Cess (Rate) dated 28.06.2017 (as amended) reads as under:</p>			
				S. No	Heading	Description	Rate of Compensation Cess
				52 B	8703	Motor vehicles of engine capacity exceeding 1500cc,	22%

S. No	Description/HSN	Present Compensation cess rate	Requested compensation rate	Comments			
						<p>popularly called as Sports Utility Vehicles (SUV) including utility vehicles.</p> <p>Explanation:</p> <p>For the purposes of this entry, SUV includes a motor vehicle of length exceeding 4000mm and having ground clearance of 170mm and above.</p>	
				<p>7) Thus, the current entry for Compensation Cess in the GST regime is the same as entry in erstwhile Central Excise regime.</p> <p>8) State of Haryana presented two issues.</p> <p>(i) Inclusion of all utility vehicles in the said entry 52 B</p> <p>(ii) Inclusion of all vehicles currently attracting 20% Compensation Cess under Entry 52A in the entry 52B covering Sports Utility Vehicles for charging higher compensation cess of 22%.</p>			
				S. No	Heading	Description	Rate of Compensation Cess
				52A	8703	Motor vehicles of engine	20%

S. No	Description/HSN	Present Compensation cess rate	Requested compensation rate	Comments			
						capacity exceeding 1500 cc, other than motor vehicles specified against entry at Sl no. 52B.	
				<p>The following examples of some other utility vehicles that satisfy the conditions of Length greater than 4000 mm, Engine capacity greater than 1500 cc and Ground clearance more than 170 mm, but are popularly called as Multi Utility Vehicles (MUV) or Crossover Utility Vehicles (XUVs) include the Toyota Innova (Length: 4755mm, Engine capacity: 1987cc, Ground clearance: 176mm), Kia Carnival (Length: 5115mm, Engine capacity: 2200cc, Ground clearance: 180mm), Isuzu V-cross and Hi-Lander (Length: 5295 mm, Engine capacity: 1898cc, Ground clearance: 210 mm) etc. However, owing to them being not popularly called as SUVs, the segment of vehicles mentioned in above para are not being charged a compensation cess at a rate of 22%. They also raised the issue of that there is no clarity on whether ground clearance mentioned in the notification is laden weight or un-laden weight.</p> <p>9) Fitment Committee examined the matter in detail in meeting dated 03.02.2023 and 07.02.2023 including with respect to the issue that all utility vehicles provided they satisfy the specifications of engine capacity > 1500cc, length > 4000mm and ground clearance > 170mm and also other motor vehicles covered under 52A , for levy of compensation cess rate of 22%.</p> <p>10) After deliberation, Fitment Committee recommended that the issue need to be decided only after detailed study in</p>			

S. No	Description/HSN	Present Compensation cess rate	Requested compensation rate	Comments
				consultation with all stakeholders and accordingly, recommended it to be deferred.

d) Recommendations made by the Fitment Committee for making changes in GST rates or for issuing clarifications in relation to services – Annexure-IV

Annexure – IV

Sr. No.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations
1.	To exempt services supplied by National Testing Agency (NTA) by way of conduct of entrance examinations for admission to educational institutions.	<p>Ministry of Higher Education has requested for a clarification whether National Testing Agency (NTA) which conducts entrance examinations for admission to educational institutions is exempt from payment of GST.</p> <p>NTA has stated that it is incurring heavy expenditure on account of GST being charged by the vendors for various services (Technical Support for Registration of Application/ Issuance of Admit Card/Score Card, CBT, CCTV, Mobile Jammers, Third Party Audit, etc.) provided by them for conduct of various examinations. NTA has requested for GST exemption on entrance examinations conducted by it as well as the input services procured for conduct of such examinations along the lines given to Central and State educational boards.</p>	<p>1. Conduct of entrance examinations by educational institutions is exempt from GST. [Notification No. 12/2017-CT(R) dated 28.06.2017 S.No. 66 (aa)]</p> <p>2. Conduct of entrance examinations by Central and State Educational Boards for admission to educational institutions is also exempt form GST.</p> <p>3. The exemption to Central and State Educational Boards was extended by inserting an explanation in the said notification in 2018 that <i>“the Central and State Educational Boards shall be treated as Educational Institutions for the limited purpose of providing services by way of conduct of examination to the students.”</i></p> <p>4. As a result, entrance examinations conducted by both Government and private universities and colleges as well as by Central and State Educational Boards are exempt from GST. However, entrance examinations conducted by NTA such as JEE (Mains), NEET (UG), CMAT, GPAT for admission to educational institutions are not exempt from GST. NTA has been set up as a registered society.</p> <p>5. It is also relevant to mention in this regard that exams like JEE and NEET for admission to engineering and medical colleges were earlier conducted by CBSE. State educational boards continue to conduct entrance examinations to the educational institutions under the State Governments.</p> <p>6. In view of the above, conduct of entrance examinations by NTA for admission to educational institutions merits exemption on the grounds of parity.</p> <p>7. The 28th GST council meeting which had</p>

Sr. No.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations
			<p>extended the said exemption to Central and State Educational Boards decided to do so through insertion of an explanation in the notification so that field formations do not issue demand notices for the past period. NTA has not paying GST on the entrance fee collected for entrance examinations conducted by them so far.</p> <p>8. In view of the above, an explanation may be inserted in notification No. 12/2017-CT(R) dated 28.06.2017 along the following lines:</p> <p><i>“For removal of doubts, it is clarified that any authority, board or a body set up by the Central Government or State Government for conduct of entrance examination for admission to educational institutions shall be treated as an ‘educational institution’ for the limited purpose of providing services by way of conduct of entrance examination for admission to educational institutions.”</i></p>
2.	To examine whether the services supplied by Courts/Tribunals can be taxed under Reverse Charge Mechanism (RCM).	<p>Asst. Registrar cum DDO of the Hon’ble Supreme Court has requested to clarify whether registration under GST is required to be obtained by the Hon’ble Supreme Court of India for rendering services of renting. During the meeting of officials with Registrar of the Apex Court, clarification on following two non-core activities of the Hon’ble Court were sought:</p> <p>(i) Renting of space</p>	<p>1. Services by Courts and Tribunals have been declared as neither a supply of goods nor a supply of service. [Schedule III, para 2 of CGST Act, 2017]</p> <p>2. Courts and Tribunals besides judicial functions, also perform certain commercial activities such as renting of their premises to telecommunication companies for installation of telecommunication towers, renting of chambers to lawyers etc.</p> <p>3. Law Committee has recommended that while services supplied by courts and tribunals in exercise of their judicial functions are not taxable, those in the nature of commercial activities such as renting of immovable property are taxable. While making this recommendation, the Law Committee has suggested that the Fitment Committee may</p>

Sr. No.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations
		<p>within court's premise to various lawyer's chambers for which a monthly/annual-license fees is collected by the office of the Registrar, Hon'ble Supreme Court of India.</p> <p>(ii) Renting out space to telecom companies for installation of telecom towers within court premises in lieu of certain fees.</p>	<p>examine whether the services supplied by Courts/Tribunals can be taxed under Reverse Charge Mechanism (RCM).</p> <p>4. Relevant facts in this regard are as under:</p> <ul style="list-style-type: none"> • Services supplied by government to business entities are taxable under RCM with a few exceptions such as services by way of transportation of goods and passengers, postal services and renting of immovable property. • Ministry of Railways and Department of Posts pay GST on their services under Forward Charge. • GST on renting of immovable property by Central or State Governments or local authorities to unregistered persons is taxable under Forward Charge. • GST on renting of immovable property by Central Government, State Government, or local authority to a registered person is taxed under Reverse Charge Mechanism. <p>5. In its 31st GST Council meeting dated 22.12.2018, it was decided that the dispensation with regard to payment of GST under RCM as available to Central and State Governments may be extended to Parliament and State Legislatures.</p> <p>6. In view of the above, we may extend the same dispensation with regard to payment of GST under RCM as available to Central and State Governments to the courts and tribunals also.</p>

5. The proposals, as contained in para 4 above are placed before the GST Council for consideration.

Agenda Item 6: Report of Group of Ministers (GoM) on Capacity Based Taxation and Special Composition Scheme in certain sectors on GST

The GST Council, in its 42nd Meeting, held on 5th and 12th October 2020, decided that a **Group of Ministers (GoM)** may be formed to discuss and analyze the issues pertaining to the Capacity based taxation on Pan Masala, Reverse Charge Mechanism in mentha oil, special composition scheme on brick kilns, stone crushers, etc.

2. Accordingly, a Group of Ministers (GoM) on Capacity-based Taxation and Special Composition Scheme in Certain Sectors in GST had been constituted on 24.05.2021, with **Shri Niranjan Pujari, Hon'ble Minister for Finance, Odisha, as the Convener of the GoM**. The GoM comprises of Ministers from Delhi, Haryana, Kerala, Madhya Pradesh, Uttar Pradesh and Uttarakhand. The Group of Ministers had three detailed meetings on 6th July, 2021, 31st August, 2021, and 07th July, 2022. Inputs to GoM were also provided by a Group of Officers after its meeting that was held on 17.08.2021.

3. The Interim Report on two issues, namely, special composition scheme for brick kiln sector and imposition of levy of GST on reverse charge basis on mentha oil & allowing its exports only against LUT with the consequential refund of accumulated input tax credit was placed and considered by the GST Council in its 45th Meeting held on 17th September, 2021 [Agenda Item 9: Volume 2].

4. Thereafter, the 3rd detailed meeting of GoM was held on 07th July, 2022, wherein the GoM deliberated comprehensively including on challenges associated with and complexities involved in the implementation of capacity based levy on pan masala, gutkha, chewing tobacco and other similar tobacco products, need to curb evasion to plug the tax leakages with a view to augment the revenue and study alternate possible systemic & administrative mechanisms to enhance compliance & enforcement measures. The Final Report of the Group of Ministers (GoM) on capacity-based taxation and Special Composition Scheme for certain sectors is placed in the **Annexure** for the consideration of the Council.

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I. Context

1. In the existing GST legal framework, GST is a destination-based tax that is levied on supply of goods or services or both as per the Article 366(12A) of the Constitution of India.
2. However, on the basis of the observations made by certain states regarding the fall in the revenue realization after the roll-out of the GST regime from certain evasion prone commodities, a need was felt to examine the possibility to levy GST based on the capacity of manufacturing unit and introduce special composition schemes in such evasion-prone sectors like pan masala, gutkha, brick kilns, sand mining etc., and to explore any other suitable administrative or systemic mechanism(s) to plug the existing leakages in these sectors in order to augment the revenue realised from such sectors.
3. Further, certain other issues were raised pertaining to the Mentha Oil sector. These issues were regarding fraudulent exports/fake invoicing menace, tax incidence falling on the mentha farmers, among others, a need was felt to examine the impact of levy of GST on reverse charge basis on mentha oil, with a view to augment the revenue from the sector.
4. While discussing these issues in its 42nd Meeting, held on 05th October, 2020, the GST Council considered it appropriate to form a Group of Ministers (GoM) for looking into the possibility of Capacity based taxation and Special Composition Scheme in certain sectors in GST.

II. Group of Ministers and its Terms of Reference

5. On the basis of the recommendation made by the GST Council in its 42nd Meeting, a Group of Ministers (GoM) was constituted under the Chairmanship of Shri Niranjana Pujari, Hon'ble Finance Minister of Odisha. The constitution of GoM is given at **Annexure - A**.
6. As per the Terms of Reference (ToR) given to the GoM, it has to—
 - 6.1. *To examine the possibility to levy GST based on the capacity of manufacturing unit and special composition schemes in certain evasion-prone sectors like pan masala and gutkha, brick kilns, sand mining, etc. with reference to the current legal provisions.*
 - 6.2. *To examine whether any change is required in the legal provisions to allow such levy.*
 - 6.3. *To examine the impact of such levy on the destination nature of the current GST design.*
 - 6.4. *To examine any other administrative or systemic mechanism to plug leakages in these sectors.*
 - 6.5. *To examine the impact of levy of GST on reverse charge on mentha oil and to examine if there could be other class of supplies that could be subjected to reverse charge to augment revenue.*

III. Deliberations of the GoM

7. The Group of Ministers had three detailed meetings on 6th July, 2021, 31st August, 2021, and 07th July, 2022. Inputs to GoM were also provided by a Group of Officers after its meeting that was held on 17.08.2021.

8. In the 2nd Meeting of the GoM, held on 31st August 2021, it was decided that an Interim Report containing the recommendations of the GoM on two issues, namely, special composition scheme for brick kiln sector and imposition of levy of GST on reverse charge basis on mentha oil & allowing its exports only against LUT with the consequential refund of accumulated input tax credit may be submitted to the GST Council. It was felt that further discussion is required on the remaining mandate of the GoM regarding the capacity-based taxation on pan masala, gutkha, chewing tobacco, etc., and the same may be included in the final report of the GoM to be issued at a subsequent date after further deliberations.

9. Accordingly, an Interim Report was placed for the consideration of the GST Council in its 45th Meeting held on 17th September, 2021 [Agenda Item 9: Volume 2]. The Interim Report of the GoM is placed at **Annexure-B**.

10. Thereafter, the 3rd detailed meeting of GoM was held on 07th July, 2022, to deliberate on the remaining mandate of the GoM.

11. The Group of Ministers while emphasising the rampant evasion in the sector consisting of pan masala, gutkha, chewing tobacco, etc., felt an immediate need to put in additional intervention(s) to plug the tax leakages with a view to augment the revenue from these commodities.

12. The GoM extensively deliberated on the issues like broad challenges associated with and complexities involved in the implementation of capacity based levy in the sector and the alternate possible systemic & administrative mechanisms to curb evasion and enhance compliance & enforcement measures; the revenue realization figures [pre and post GST rollout] and the inferences thereof; the international best practices to curb illicit trade in tobacco sector like track and trace mechanism; specific tax based compensation cess levy to boost first stage [manufacturer level] collection of revenue.

13. The deliberations held in the GoM in its third meeting, leading up to its recommendations, are summarized in the foregoing paragraphs.

IV. Capacity based taxation

14. The following challenges associated with, and complexities involved in the implementation of capacity-based taxation were considered by the GoM:

- a) The current legal framework for GST, including the relevant constitutional provision, provides supply as the taxable event and does not appear to provide authority for capacity-based levy;
- b) Capacity-based levy enhances the interface between the taxpayer unit and the officers and such interface confines to jurisdictional officers only, that is therefore distortionary and could be a cause of collusion.
- c) Capacity-based taxation is extremely complex and requires frequent changes in rate

structure, without any guarantee of commensurate increase in the revenue [as was observed in the Central Excise regime];

- d) It suppresses competition and goes against the small producers, who are not capable of making huge investment in capital infrastructure.;
- e) Experience of capacity-based regime in excise regime was not encouraging. It leads to disputes/litigations, tapering followed by a sharp fall in revenue after initial jump in revenue. In later years, revenue improved for the reason that the duty was raised manifold.
- f) It is the evasion prone industry that is seeking imposition of capacity-based levy and mostly pushed by the larger players in the sector. This in itself does not provide assurance as regards to the effectiveness of the capacity-based taxation, and in fact, it could be construed otherwise; and
- g) Globally, other countries are also facing challenges of tax evasion in tobacco products. However, capacity-based levy is not resorted to for curbing such evasion. Instead, countries have opted for technological solution to track and trace such products in the entire supply chain.

15. It was observed by the GoM that the overall revenue realization from the sector after the rollout of GST has increased significantly, wherein most of the major producing and consuming states have witnessed a sizable increase in their revenue realization from the sector in comparison to the VAT regime. In view of these revenue figures, it was inferred that the effectiveness of GST with its inherent supply chain tracking nature and associated technological mechanisms like e-way Bill, e-invoicing, etc. was superior in comparison to the erstwhile capacity-based levy of the central excise regime for strict enforcement and to augment the revenue from this evasion-prone sector. It was also seen from the experience of the erstwhile capacity-based taxation, which was in place during the Central Excise regime, that the revenue realisation from these products from FY 2009-10 to FY 2014-15 reflected a negative Compound Annual Growth Rate (CAGR), despite frequent restructuring and upward revision of the then duty structure. Thus, to summarize, it was observed by the GoM that the features that has come in with the roll-out of GST has not only helped to overcome most of the above-mentioned challenges associated with and complexities involved in the erstwhile capacity-based taxation but has also significantly boosted the revenue realisation from these products in comparison to the Central Excise and VAT regime.

16. The Members echoed the view that the idea behind examination of the issue was to suggest measures to plug leakages as there is rampant evasion in the sector. In this context, the option of capacity-based levy came up as an idea in absence of any better option before the GoM. However, if there are better options available, it would be prudent to deploy those measures rather than going for capacity-based levy, which, as felt, does not fit with GST and also may not be in tune with the Constitutional mandate in GST.

17. The GoM deliberated the whole issue at length and examined all possible options for enhancing the compliance in the sector. The GOM identified certain additional compliance measures with respect to different aspects of production and supply, namely: -

- a. **Registration and Details of Machines:** Any person who deals with pan masala, chewing tobacco and such other tobacco products, as specified, in any manner, shall in addition to his registration, take registration of the machines used in relation to such goods, in the manner as prescribed;
- b. Thus, **there would be a mandatory registration of each machine;** this would require disclosure of the details like make and model of each machine, number of tracks, packing

capacity of each track, total packing capacity of each machine, total number of machines installed in the factory;

- c. **Special Monthly Return:** Maintaining of records and periodic filing of Special Monthly Return with details such as Machine wise production, Shift wise production, machine disposed off with all its details, machine added with all its details, Inputs procured and utilized in quantity and value terms, Product-wise and brand-wise details of clearance in quantity and value terms, shift-wise records of reading of electricity meters and DG set meters, waste generation stock, etc., in the manner as prescribed;
- d. **Certification of production capacity:** Production capacity and quantity in unit per pouch/container shall be duly certified by registered Chartered Engineer.
- e. **Copy of declaration in respect of production capacity** submitted to other department/agency/organization (if any), etc.;
- f. **Disclosure of details of non-working**/partially working machines, etc.;
- g. If required, installation of 24*7 CCTV cameras by the manufacturers [it was however felt that this may be intrusive and be considered carefully];
- h. Prescribing a heavy penalty for running any unregistered machine.
- i. Gradually, the requirement of unique identification marking such as QR code or stamps, on each packet/pouch will be prescribed. The unique identifier shall enable determination of the following:
 - (a) the date, place and factory of manufacture;
 - (b) the machine used to manufacture;
 - (c) the production shift or time of manufacture;
 - (d) the product description, quantity and maximum retail sale price;
 - (e) any other relevant information, as may be prescribed.

18. The GoM also suggested that there is a need to further strengthen the tracking measures along the supply chain of these evasion-prone commodities through measures like mandatory e-invoicing [irrespective of turnover], mandatory e-way bill [irrespective of invoice value], mandatory FAST tag/RFID on the vehicle, vehicle tracking through Vahan app & GPS installation, priority alert in E-Way Bills for such products, and mandatory e-invoicing including B2C invoices under GST for such suppliers. These features would help for stricter enforcement in these sectors.

19. The issue of fake invoicing and fraudulent exports thereof for claiming undue refund was also taken up for discussion by the GoM and it was suggested that for commodities like pan masala, gutkha, chewing tobacco, and similar other goods, the IGST refund route on exports be closed, similar to the recommendation made for Mentha Oil and if necessary, exports may only be allowed against LUT with the consequential refund of accumulated input tax credit.

20. The GoM simultaneously emphasized that the Ease of Doing Business shall not be hampered on account of above suggested measures, and they shall be implemented on system based interface, to the maximum extent feasible, in order to avoid any potential harassment of the concerned suppliers.

V. Track and Trace Mechanism

21. Since illicit trade in tobacco sector is a global phenomenon, the GoM deliberated on the international best practices to tackle this menace.

22. In this Context, it was observed by the GoM that, in June 2018, India has submitted its instrument of accession to the Protocol to Eliminate Illicit Trade in Tobacco Products, which builds upon and complements Article 15 [Measures relating to the reduction of the supply of tobacco: Illicit trade in tobacco products] of the WHO Framework Convention on Tobacco Control (WHO FCTC), and that has entered into force on 25th September, 2018. The Article 8 of the said Protocol requires a time bound action under which India is committed to put in place a technology driven Track and Trace system for Cigarettes by September, 2023, and for all tobacco products by September, 2028. The objective of the Protocol is the elimination of all forms of illicit trade in tobacco products.

23. The basic requirements of implementation of Track and Trace Mechanism was taken note of by the GoM like a unique, secure and non-removable identification markings, such as codes or stamps on all unit packets of tobacco; date and location of manufacture; manufacturing facility; machine used to manufacture tobacco products; production shift or time of manufacture; the name, invoice, order number and payment records of the first customer who is not affiliated with the manufacturer; the intended market of retail sale; product description; any warehousing and shipping; the identity of any known subsequent purchaser; the intended shipment route, the shipment date, shipment destination, point of departure and consignee, etc.

24. An illustration of the tobacco tracking and tracing mechanism is depicted in the picture below:

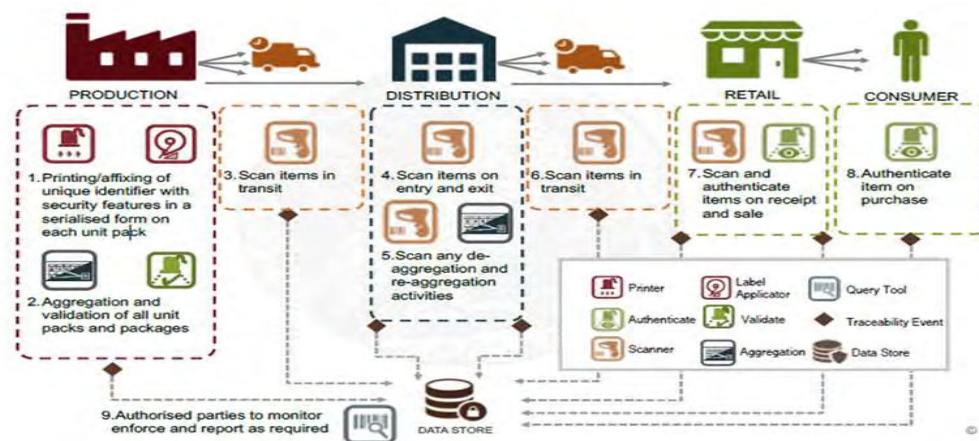


Figure 14: Tobacco Traceability Solution

Source: Guidebook on Implementing Article 8: Tracking & Tracing, WHO FCTC

25. It was further observed that the Track and Trace is a technology driven mechanism that has successfully been adopted by European Union, countries in Latin America, Africa (like Kenya) to curb tax evasion in the tobacco sector.

26. Accordingly, GoM suggested that efforts shall be made to implement Track and Trace Mechanism for all the tobacco products, preferably by the end of 2023, while carrying out the associated infrastructural, systemic & legal feasibility studies to implement the same.

VI. Conversion of *ad valorem* compensation cess rate to specific rate

27. The GoM observed that there exist greater leakages in the revenue at the later stages of the supply chain of such products and most of the end retailers of these products are below the threshold limit for mandatory GST registration. Consequently, the GoM recommended that the compensation cess levied on such evasion-prone commodities like Pan masala, gutkha, chewing tobacco, etc., shall

be changed from the current *ad valorem* tax to specific tax based levy to boost the first stage [manufacturer level] collection of the revenue. Additionally, such a specific tax shall be linked to the retail sale price to maintain revenue buoyancy. Further, the tax structure for compensation cess levied on such commodities shall be further simplified by reducing the number of tax slabs and associated differential tax rates.

28. The GOM , in its extensive deliberations, also observed that these changes can be made in the compensation cess component of tax, as in the subsequent stages, there is no other ITC than the compensation cess paid in the previous stages.

29. An illustration of the same is depicted below:

<i>Assuming a pouch of Pan Masala [HS 2106 90 20] with Retail Sale Price of Rs. 5</i>	
EXISTING	PROPOSED
<i>Ad valorem tax</i> <i>[GST @ 28%, Compensation Cess @ 60%]</i>	<i>Specific tax</i> <i>[GST @ 28%, Compensation Cess @ 'x' specific tax]</i>
(i) <i>Retail price (incl of GST) = Rs 5</i>	(i) <i>Retail price (incl. of GST) = Rs 5</i>
(ii) <i>The distribution and retail margin (@ 20% of retail price), including all post manufacturing expenses ~Rs 1</i>	(ii) <i>The distribution and retail margin and post manufacturing expense (@ 20% of retail price) ~Rs 1/-</i>
(iii) <i>Tax amount on the above margin (@ 88%)= Rs 0.88</i>	(iii) <i>Only GST rate being ad valorem, the GST on distributor and retailer margin= (ii)*0.28=0.28</i>
(iv) <i>Factory gate price = (i)- (ii +iii) = Rs 3.12</i>	(iv) <i>Factory gate price=(i)- (ii +iii) = Rs 3.72</i>
(v) <i>Manufacturer pays GST+CC= (iv)*0.88/1.88=Rs 1.46</i>	(v) <i>Tax that will be paid by manufacturer: GST at ad valorem rate of 28% and Compensation cess at specific rate.</i>
(vi) <i>Distributor and retailer to pay GST+CC=(iii)=Rs 0.88</i>	<i>(I)Thus CC, specific rate = (i)*0.6/1.88=1.6=32% of RSP</i>
(vii) <i>Total tax=(iii)+(v)=2.34</i>	<i>(II)GST by manufacturer = ((i)-(ii+iii+1.6))*0.28/1.28=0.46</i>
(viii) <i>However, this Rs 0.88 (refer v) may not be getting collected in several cases because of the fact that it is evaded, or retailer is small.</i>	<i>Thus, manufacturer will pay GST plus Cess equal to Rs 1.6 (CC) + 0.46 (Cess)= Rs 2.06</i>
(ix) <i>It may be feasible to convert CC to specific rate, like cigarettes. Doing so may not be feasible for GST because of ITC chain.</i>	(vi) <i>Distributor to pay addl. tax= 0.28</i>
	(vii) <i>Therefore, in this instance a tax of Rs 2.06 is collected from manufacturer instead of Rs 1.46 in the existing payment mechanism [41.1% extra] Hence feasibility of post manufacturing leakage is quite less. Hence under specific rate for CC, in the case of these items, i.e., pan masala, tobacco, etc., the tax collection is likely to increase significantly.</i>

30. The details of the tax structure for such evasion-prone commodities along with the suggested specific tax-based levy is given in **Annexure-C**.

VII. Recommendations of the GoM

31. Based on the discussions outlined above, with a view to plug the leakages and improve the revenue collection from the concerned evasion-prone commodities like pan masala, gutkha, chewing tobacco, etc., the GoM has made the following recommendations:
- a. Measures needs to be taken on priority to curb evasion on pan masala, chewing tobacco and similar products.
 - b. Capacity based levy may not be prescribed. Capacity based levy is not in the spirit of GST levy and may not be permissible in terms of the Constitutional mandate in GST and statutory provisions thereof.
 - c. To plug leakages/evasion of GST for these items, the measures as stated in Para 17 & 18 be taken on priority. These measures essentially entail registration of machines; special monthly return with details of machine, inputs, clearance, etc.; special compliance requirements like mandatory e-invoicing, mandatory e-way bill, mandatory FAST tag/GPS installation, mandatory unique identification marking, installation of CCTV cameras (after careful consideration), etc.; heavy penal action.
 - d. The exports shall only be allowed against LUT with the consequential refund of accumulated input tax credit, similar to the recommendation made for Mentha Oil, to curb fake invoicing and fraudulent exports [Para 18].
 - e. The Compensation Cess levied on such evasion-prone commodities like pan masala, gutkha, chewing tobacco, etc., shall be changed from the current *ad valorem* tax to specific tax-based levy to boost the first stage [manufacturer level] collection of the revenue [Details in Annexure-C].
 - f. Efforts shall be made for implementation of Track and Trace Mechanism for all the tobacco products, preferably by the end of year 2023, while carrying out the associated infrastructural, systemic & legal feasibility studies to implement the same. and
 - g. To ensure that interface remains minimal, the above measures may, to the extent feasible, be implemented on system-based interface in order to avoid any potential harassment of the concerned suppliers.

S-31011/12/2021-DIR(NC)-DOR

Government of India
Ministry of Finance
Department of Revenue

New Delhi, dated 24th May, 2021**OFFICE MEMORANDUM**

Subject: Constitution of Group of Ministers (GoM) on Capacity based taxation and Special Composition Scheme in Certain Sectors on GST- reg.

In pursuance of the decision of the GST Council a Group of Ministers (GoM) on Capacity based taxation and Special Composition Scheme in Certain Sectors in GST has been constituted. The GoM shall consist of the following members:

Sl. No.	Name	Designation and State	
1.	Sh. Niranjan Pujari	Minister for Finance, Odisha	Convener
2.	Sh. Manish Sisodia	Deputy Chief Minister, Delhi	Member
3.	Sh. Dushyant Chautala	Deputy Chief Minister, Haryana	Member
4.	Sh. K N Balagopal	Minister for Finance, Kerala	Member
5.	Sh. Jagdish Devda	Minister for Finance, Madhya Pradesh	Member
6.	Sh. Suresh Kumar Khanna	Minister for Finance, Uttar Pradesh	Member
7.	Sh. Subodh Uniyal	Minister for Agriculture, Uttarakhand	Member

2. The terms of reference (ToR) for the GoM on capacity based taxation and special composition schemes in certain sectors in GST shall be as follows:

- To examine the possibility to levy of GST based on the capacity of manufacturing unit and special composition schemes in certain evasion prone sectors like pan masala and gutkha, brick kilns, sand mining etc with reference to the current legal provisions.
- To examine whether any change is required in the legal provisions to allow such levy.
- To examine the impact of such levy on the destination nature of the current GST design.
- To examine any other administrative or systemic mechanism to plug leakages in these sectors.

ANNEXURE-A

- e. To examine the impact of levy of GST on reverse charge on mentha oil and to examine if there could be other class of supplies that could be subjected to reverse charge to augment revenue.
3. The GoM on Capacity based taxation shall be assisted by a Committee of officers from Centre and States as convened by the GoM.
4. The secretarial assistance to this GoM will be provided by Joint Secretary (TRU-I, CBIC).
5. The GoM shall submit its recommendation to the Council within six months for consideration of GST Council.


(Dipen Boudh)
Director
Tel.011-23092686

To

1. All Members of GoM and Officers
2. Revenue Secretary, North Block, New Delhi
3. Chairperson, CBIC, North Block, New Delhi
4. Joint Secretary, TRU-I, Department of Revenue, North Block, New Delhi
5. GST Council Secretariat, New Delhi
6. PS to Hon'ble Minister of Finance, Government of India, North Block, New Delhi
7. PS to Hon'ble Minister of State (Finance), Government of India, North Block, New Delhi.

Agenda Item 9: Agenda Note on the basis of the Interim Report of the Group of Ministers (GoM) on capacity-based taxation and special composition scheme for certain sectors

The GST Council, during its 42nd Meeting held on 05th and 12th October 2020, decided that a Group of Ministers may be formed to discuss and analyse the issues pertaining to the Capacity based taxation on Pan Masala, Reverse Charge Mechanism in mentha oil, special composition scheme on brick kilns, stone crushers, etc.

1.2 Accordingly, a Group of Ministers (GoM) on Capacity-based Taxation and Special Composition Scheme in Certain Sectors in GST has been constituted on 24.05.2021, comprising of the following members:

S.No.	Name (Shri)	Designation and State
1.	Niranjana Pujari	Minister for Finance, Odisha (Convener)
2.	Manish Sisodia	Deputy Chief Minister, Delhi
3.	Dushyant Chautala	Deputy Chief Minister, Haryana
4.	K N Balagopal	Minister for Finance, Kerala
5.	Jagdish Devda	Minister for Finance, Madhya Pradesh
6.	Suresh Kumar Khanna	Minister for Finance, Uttar Pradesh
7.	Subodh Uniyal	Minister for Agriculture, Uttarakhand

1.3 The Terms of Reference (ToR) provided to the GoM are as follows:

- i. To examine the possibility to levy of GST based on the capacity of manufacturing unit and special composition schemes in certain evasion prone sectors like pan masala and Gutkha, brick kilns, sand mining etc. with reference to the current legal provisions.
- ii. To examine whether any change is required in the legal provisions to allow such levy.
- iii. To examine the impact of such levy on the destination nature of the current GST design.
- iv. To examine any other administrative or systemic mechanism to plug leakages in these sectors.
- v. To examine the impact of levy of GST on reverse charge on Mentha oil and to examine if there could be other class of supplies that could be subjected to reverse charge to augment revenue.

2. **Meetings of the GoM: -**

2.1 In pursuance to the mandate provided to the GoM, the GoM has met twice till date through video conferencing mode. The first meeting of GoM was held on 06th July, 2021, which was followed by a meeting of Group of Officers deputed to assist the GoM on 17th August, 2021. Thereafter, the second meeting of the GoM was held on 31st August, 2021.

2.2 During these meetings, there was a lengthy deliberation and broad based consideration by the GoM, assisted by the Officers of DoR and the member states, on the proposals formulated on the basis of the Terms of Reference.

3. Based on the above, the GoM has submitted an Interim Report. The main proposals based on the Interim Report are as under:

a Capacity Based levy on Pan Masala and Tobacco products:

- The GoM has at length discussed the feasibility of Capacity based levy on pan masala and tobacco products.
- It was felt by the GoM that there exists a need for a deeper data analysis in this respect, through comparative state wise and product wise revenue figures in the pre and post GST regime in order to draw a clearer picture on revenue implications of such a move. In pursuance to this, such figures have been sought from all the states and UTs.
- Accordingly, considering the sensitivity of the matter and the quantum of revenue involved, the Group of Ministers has requested for an extension of three months for submitting its report on the issue of Capacity Based levy on Pan Masala and Tobacco products.

b. Special Composition Scheme in the sector of Brick Kiln, Sand mining, etc.: -

- The GoM, after long deliberation, and taking into account the various options including capacity based levy on production, decided that in order to augment the revenue realization from the sector, the most appropriate solution would be introduction of a special composition scheme in the brick kiln sector.
- Accordingly, the GoM has made the following recommendations in the brick kiln sector:
 - i. Special composition scheme may be instituted in the Brick Kiln sector prescribing a GST rate of 5%/6% (without ITC), along with a revised GST rate of 12% (with ITC);
 - ii. Threshold exemption limit in the sector may be reduced to Rs. 10 lakhs in order to increase the tax base, keeping in view the fact that majority of the firms in the sector are small and unorganized;
 - iii. This scheme may be instituted with effect from 01.04.2022;
- The feasibility of imposition of a similar special composition scheme in the sector of stone crushing/sand mining is still under examination by the GoM.

c. Reverse Charge Mechanism in Mentha Oil: -

- The proposal for implementation of Reverse Charge Mechanism (RCM) on Mentha oil to curb irregular refunds on exports was examined in a detailed manner by the GoM.
- Accordingly, the GoM has made the following recommendations:
 - i. Reverse Charge Mechanism on the first stage in the sector, as a measure to improve compliance;
 - ii. IGST refund route may be closed for mentha, and only refund by ITC route may be allowed with a predetermined ceiling on refund of ITC (in terms of per kg of Mentha exports, to be determined in an objective manner), as and when an amendment in the section 16 of the IGST Act comes into effect;
 - iii. The modalities for implementation of such changes may be worked out by the state of Uttar Pradesh.

4. **Accordingly, an Agenda is placed before the GST Council for approval to the following proposals:**

- i. Introduction of a Special Composition Scheme in the Brick Kiln sector with effect from 01.04.2022, prescribing a GST rate of 6%, without ITC, similar to the rate in the services sector. **The Council may deliberate on the GST rate;**
- ii. Increasing the GST rate on supply of bricks from 5% to 12% (with ITC), with effect from 01.04.2022;

ANNEXURE-B

- iii. Introducing the payment of GST liability under Reverse Charge Mechanism on the supply of Mentha, at the first stage of the supply;
- iv. Blocking of the IGST refund route on export of mentha, and allowing refund by ITC route only with a predetermined ceiling on refund of ITC (in terms of per kg of Mentha exports, to be determined in an objective manner), as and when amendment in the section 16 of the IGST Act comes into effect. In the interim, the exact modalities would be worked out by the state of Uttar Pradesh;
- v. Extension of the term of the GoM by **another 3 months** in order to further examine the remaining issues.

ANNEXURE-C

Sl. No. of notification No. 1/2017-Compensation Cess (Rate) dated 28.06.2017	Chapter / Heading / Subheading / Tariff item	Description of Goods	Current <i>ad valorem</i> rate	Proposed specific rate for compensation cess*
1	2106 90 20	Pan Masala	60%	0.32R
5	2401	Unmanufactured tobacco (without lime tube) – bearing a brand name	71%	0.36R
6	2401	Unmanufactured tobacco (with lime tube) – bearing a brand name	65%	0.36R
7	2401 30 00	Tobacco refuse, bearing a brand name	61%	0.32R
19	2403 11 10	Hookah or gudaku tobacco bearing a brand name	72%	0.36R
20	2403 11 10	Tobacco used for smoking 'hookah' or 'chilam' commonly known as 'hookah' tobacco or 'gudaku', not bearing a brand name	17%	0.12R
21	2403 11 90	Other water pipe smoking tobacco, not bearing a brand name	11%	0.08R
22	2403 19 10	Smoking mixtures for pipes and cigarettes	290%	0.69R
23	2403 19 90	Other smoking tobacco bearing a brand name	49%	0.28R
24	2403 19 90	Other smoking tobacco not bearing a brand name	11%	0.08R
25	2403 91 00	“Homogenised” or “reconstituted” tobacco, bearing a brand name	72%	0.36R
26	2403 99 10	Chewing tobacco (without lime tube)	160%	0.56R
27	2403 99 10	Chewing tobacco (with lime tube)	142%	0.56R
28	2403 99 10	Filter khaini	160%	0.56R
29	2403 99 20	Preparations containing chewing tobacco	72%	0.36R
30	2403 99 30	Jarda scented tobacco	160%	0.56R
31	2403 99 40	Snuff	72%	0.36R
32	2403 99 50	Preparations containing snuff	72%	0.36R
33	2403 99 60	Tobacco extracts and essence, bearing a brand name	72%	0.36R
34	2403 99 60	Tobacco extracts and essence, not bearing a brand name	65%	0.36R
35	2403 99 70	Cut tobacco	20%	0.14R
36	2403 99 90	Pan masala containing tobacco	204%	0.61R

		‘Gutkha’		
37	2403 99 90	All goods, other than pan masala containing tobacco 'gutkha', bearing a brand name	96%	0.43R
38	2403 99 90	All goods, other than pan masala containing tobacco 'gutkha', not bearing a brand name	89%	0.43R

* "R" stands for retail sale price

Explanation 1. - For the purposes of this Annexure, "retail sale price" means the maximum price at which the above-mentioned goods in packaged form may be sold to the ultimate consumer and includes all taxes, local or otherwise, freight, transport charges, commission payable to dealers, and all charges towards advertisement, delivery, packing, forwarding and the like and the price is the sole consideration for such sale:

Provided that in case the provisions of the Legal Metrology Act, 2009 (1 of 2010) or the rules made thereunder or under any other law for the time being in force require to declare on the package, the retail sale price excluding any taxes, local or otherwise, the retail sale price shall be construed accordingly.

Explanation 2. - For the purposes of this Annexure, -

(a) where on the package of any above-mentioned goods more than one retail sale price is declared, the maximum of such retail sale prices shall be deemed to be the retail sale price.

(b) where the retail sale price, declared on the package of any above-mentioned goods at the time of its clearance from the place of manufacture, is altered to increase the retail sale price, such altered retail sale price shall be deemed to be the retail sale price.

Agenda Item 7: Closure of Group of Ministers (GoM) on levy of Covid Cess on Pharma and Power in Sikkim.

In pursuance of the decision of the GST Council at its 43rd meeting on 28th May, 2021, a Group of Ministers (GoM) was constituted on levy of Covid Cess on Pharma and Power in Sikkim vide OM dated 11.06.2021 issued by Department of Revenue (DoR) vide F. No. S-31011/12/2021-DIR(NC)-DOR. The GoM consisted of the following members:

Sl. No.	Name	Designation & State	
1	Sh. Basavaraj Bommai	Minister for Home Affairs, Karnataka	Convenor
2	Sh. Manish Sisodia	Deputy Chief Minister, Delhi	Member
3	Sh. T S Singh Deo	Minister for Commercial Taxes, Chhattisgarh	Member
4	Sh. K.N. Balagopal	Minister for Finance, Kerala	Member
5	Sh. Niranjan Pujari	Minister for Finance, Odisha	Member
6	Sh. B.S. Panth	Minister for Tourism & Industries, Sikkim	Member
7	Sh. Suresh Kumar Khanna	Minister for Finance, Uttar Pradesh	Member

2. The GoM examined the proposal moved by Government of Sikkim on levy of Covid Cess on Pharma and Power in Sikkim and made the following recommendations:

- a. State of Sikkim may levy a cess of 1% on of the turnover of pharmaceutical sector (excluding the unorganized sector) restricted to only intra-State supplies.
- b. Since levy of cess on power generation does not fall within the purview of GST, this call may be taken by the State of Sikkim.
- c. Regarding the special package of assistance by Government of India, the matter was under the ambit of Central Government and not the GST council so a decision would be taken by Central Government.

3. The GoM submitted its final report in the 45th GST Council Meeting held on 17th September, 2021. Consequently, the GoM has completed its mandate. Accordingly, Agenda for closure of the GoM is placed before the GST Council.

Agenda Item 8: Closure of Group of Ministers (GoM) to examine the feasibility of implementation of e-way bill requirement for movement of gold and other precious stones.

In pursuance of the decision of the GST Council at its 37th meeting on 20th September, 2019, a Group of Ministers (GoM) was constituted to examine the feasibility of implementation of e-way bill requirement for movement of gold and other precious stones vide OM dated 22.11.2019 issued by GST Council Secretariat vide F. No. 591/GOM/Mvmt Of Gold & Pre. Stones/GSTC/2019.

2. The Terms of Reference for the GoM were to examine the feasibility of implementation of e-Way bill requirement for movement of Gold and precious Stones or otherwise and to suggest a mechanism for controlling tax evasion without compromising on security aspects that may arise from its implementation.

3. The GoM examined the feasibility of implementation of e-way bill requirement for movement of gold and other precious stones. The final report of the GoM was tabled in the 47th GST Council Meeting held on 28th-29th June, 2022. The following recommendations were made by the GoM:

A. E-way bill for intra-state movement of gold and precious stone:

- i.
 - i. The states should be allowed to decide about imposition of the requirement of e-way bill for intra-state movement of gold and precious stones within their states.
 - ii. There will be a minimum threshold value of Rs.2 Lakh, and the states can decide any amount including or above this amount as minimum threshold for generation of E-way bill for intra-state movement of gold/precious stones in their state.
 - iii. Only part 'A' on the e-way bill will be required to be filled in such cases, without any need for filling Part 'B' of the e-way bill.
 - iv. Further, modalities of generation of e-way bill for intra-state movement of gold/precious stones will be as suggested by NIC/GSTN.
 - v. For deciding about implementation of such a system of e-way bill for intra-state movement of gold and precious stones within the state as well as regarding the threshold value to be adopted for generation of such e-way bill within the state, the procedure of consultations with the jurisdictional Principal Chief Commissioner/Chief Commissioner of Central Tax, or any Commissioner authorized by him, should be followed by the States.
 - vi. Once e-way bill requirement for movement of gold and precious stones is decided, the corresponding suitable amendment in CGST Rules, 2017 would have to be carried out. While finalizing amendment in Rules, it is to be ensured that in case of supply of gold by registered persons to unregistered buyers, the requirement of e-way bill generation is mandated on registered supplier only.

B. E-invoicing for gold and precious stones:

i. E-invoicing should be made mandatory for B2B transactions by all taxpayers supplying gold/precious stones (goods of HSN 71) and having annual aggregate turnover above Rs.20 Crore.

II. GSTN, in consultation with NIC, to work out the modalities and timelines for implementation of the proposed requirement of e-invoicing for gold/precious stones.

C. Levy of GST on RCM basis on Old Gold:

- i. (i.) The issue of levy on GST on reverse charge mechanism (RCM) basis on purchase of

old gold by registered dealers/jewellers from unregistered persons may be referred to Fitment Committee for detailed examinations.

4. The recommendations made by the GoM were accepted by the GST Council and it was decided that the States are at liberty to implement the said recommendations in their respective States. Consequently, the GoM has completed its mandate. Accordingly, Agenda for closure of the GoM is placed before the GST Council.

Agenda Item 9: Issues recommended by GSTN

Agenda Item 9 (1) :Proposed Changes in HR Policies and Transition Management from GSTN

1.1 The GST Council in its 27th meeting held on 4th May 2018 and the Union Cabinet in its meeting held on 26th September 2018 decided to convert GSTN into a fully-owned Government company. As per this decision, 50% equity of the company is held by the Central Government and the balance 50% is held by the various States and Union Territories. The due process for the same has been completed on **30th June 2022**.

1.2 Union Cabinet in its meeting dated 26th September 2018 gave following directions in relation to the HR policy of GSTN as a government company.

Flexible hiring & appropriate remuneration policy may be evolved by GSTN considering criticality of the IT manpower, prevailing market compensation etc. and placed before the GST council for its approval in due course.

1.3 The decision of the Union Cabinet was subsequent to similar directions which were given by GST Council in its meeting dated 4th May 2018.

1.4 A transition period of five years was provided to the company to work under the old HR policy. Accordingly, now the new HR policy is being placed before GST Council for approval.

1.5 The HR policy has been made taking into consideration that the compensation of employees hired from the Market was fixed in the year 2014 and since then 8 years have elapsed without any change. This has led to difficulty in hiring new talent, old executives moving out of GSTN for better salaries and stagnation of existing executives.

1.6 GSTN followed three step process to finalize the proposal. First, the compensation benchmarking study was done by M/s Deloitte. Second, the HR and Remuneration Committee (a Sub-Committee of GSTN Board) went through the proposal and finalized its report on HR policies and Transition Management with suitable changes. Third, the Board of GSTN approved the proposal on HR policies and Transition Management in its 51st Meeting held on 16th Nov 2022.

1.7 Summary of the proposal approved by the GSTN Board:

1.7.1 The policy has been made by the GSTN board to cater to the needs of a lean and dynamic IT company providing services to taxpayers and tax administrations. An executive summary of the same is presented below for the approval of GST Council. Further, the entire document from Annex I to Annex XI is placed for reference and approval.

1.7.2 New Grade Structure

- a. The management levels are proposed to be revised to three instead of existing four (i.e. Senior, Middle and Junior).
- b. It is proposed to introduce designations prevalent in IT industry for hiring technical manpower and corresponding equivalent non-tech designations. Both kind of designations shall be implemented for future hiring after approval.
- c. Addition of two grades is proposed i.e. 5 c – Executive / Associate Engineer at level 5 and 4 b – Associate VP/Principal Engineer at level 4 is proposed.
- d. The employees of GSTN (both regular and tenured) would be placed in 5 levels and 10 grades. The levels and grades to be followed in future are shown in Table below:

Table - 1

Level	Existing Grades	New Grades	Designation	Years of Experience
Level 1	G1	1	Chairman CEO	20 years +
Level 2	G2	2	EVP	18 years
Level 3	G3	3a	SVP	15-18 years
	G4	3b	VP	14-16 years
Level 4	G5	4a	Assistant VP / Chief Engineer	12-14 years
	New	4b	Associate VP / Principal Engineer	10-12 years
	G6	4c	Sr. Manager/ Technical Lead	8-11 years
Level 5	G7	5a	Manager /Sr. Engineer	7-10 years
	G8	5b	Assistant Manager/ Engineer	5-9 years
	New	5c	Executive / Associate Engineer	0-5 years

**Senior Management
Grades in Level 1, 2 &3**

**Middle Management
Grades in Level 4**

**Junior Management
Grades in Level 5**

1.7.3 New Pay Ranges:

- a. The pay ranges applicable as per the approved proposal for employees of **GSTN hired from the market** (not on Deputation) is detailed in the table below.

Table – 2 New Ranges* Annual Cost to Company (CTC) and Existing Pay Ranges					
Level	Grade	Designation	Min	Median	Max
1	1	Chairman CEO	93,13,000	1,46,17,000	2,09,30,000
	(Old Range)		1,00,00,000	-	-
2	2	EVP	58,20,000	88,59,000	1,22,40,000
			45,69,396	60,92,528	76,15,660
3	3a	SVP	41,57,000	61,95,000	84,41,000
			33,12,902	44,17,302	55,21,503
	3b	VP	29,70,000	42,43,000	61,62,000
			22,95,628	30,60,837	38,26,046
4	4a	Assistant VP /Chief	22,80,000	34,30,000	48,83,000

Table – 2 New Ranges* Annual Cost to Company (CTC) and Existing Pay Ranges					
Level	Grade	Designation	Min	Median	Max
		Engineer			
			15,02,615	20,03,487	25,04,359
	4b	Associate VP /Principal Engineer	18,24,000	27,44,000	42,47,000
	Newly introduced Grade	-	-	-	-
	4c	Sr. Manager/ Tech Lead	15,41,000	23,33,000	36,92,000
			10,41,943	13,89,258	17,36,572
5	5a	Manager / Sr. Engineer	11,67,000	17,15,000	26,37,000
			7,12,500	9,50,000	11,87,500
	5b	Assistant Manager/ Engineer	9,84,000	14,66,000	22,42,000
			4,57,500	6,10,000	7,62,500
	5c	Executive/ Associate Engineer	7,03,000	10,86,000	16,37,000
	Newly introduced Grade	-	-	-	-

*The pay ranges shown above are inclusive of monetised benefits.

Note: The rows in white are the new pay ranges and the grey coloured rows are the existing pay ranges. The new salary of the existing executives will be fixed as per the transition management policy referred at **para 1.7.4** (complete details at Annexure- IV)

- b. The CTC figures in the Pay ranges are exclusive of Gratuity as per the provisions of the Gratuity Act. Gratuity will be paid to regular employees only, tenured employees shall not be paid Gratuity as the tenure shall be of 4 years.
- c. Welfare Benefits viz. Medical Insurance shall be over and above the CTC.
- d. The regular, tenured and employees on deputation from Government Departments on the pay roll of GSTN will be eligible for being paid the monetised benefits. The monthly monetised benefits/entitlements shall be in the range of 14,000 to 75,000 per month depending on the rank.
- e. Hot Skills Allowance (HSA) for any Hot Skill prevalent in the IT industry and required in GSTN may be offered as a payment of discretionary amount. Based on the market trends and study/reports by consulting firms, the HSA list shall be revised annually. It is to be given to not more than ten percent of the sanctioned strength. (Shall be proposed by GSTN HR and approved by CEO, GSTN).

1.7.4 Transition Management:

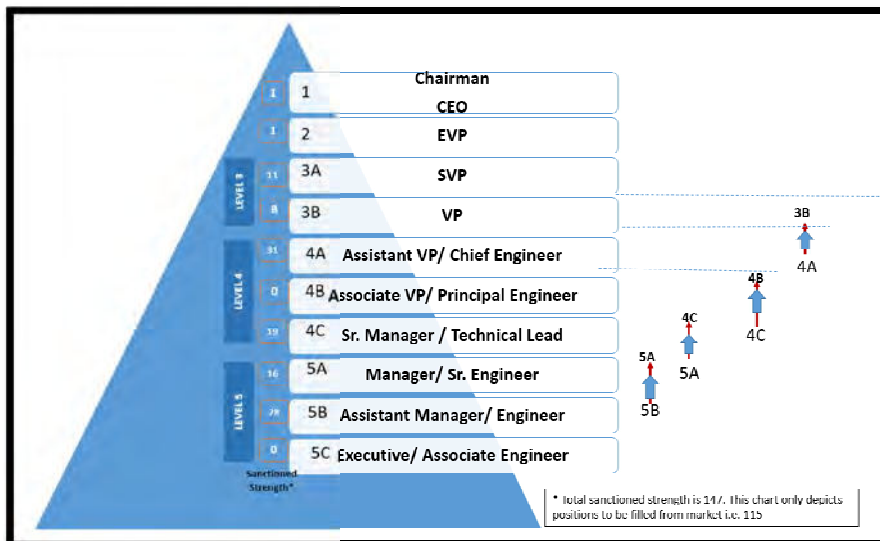
- a. In future, GSTN shall hire employees on a tenure basis with each tenure being of four years. Based on performance of an employee, a new tenure may be granted. The details of this policy are provided under the heading recruitment guidelines.
- b. Existing employees of GSTN would not be converted to tenure employee and would be mapped to the new grade structure on as is where basis (i.e. designation) and the salary correction shall be done by granting the following benefits:
 - Transition Increment
 - Progression along with an Increment to eligible employees at the time of transition (FY 2022-23).
 - Outlier Management at the time of transition (FY 2022-23).

1.7.5 Transition increment shall be based on the following table:

Table - 3

No	Criteria	Particulars of Transition Increment
1	All existing regular employees with more than 4 years tenure at same grade.	Transition increment with amount equivalent to one increment- as per the Remuneration Committee approved percentage for corresponding management level.
2	All existing regular employees with more than 6 months (should have completed probation period successfully) but less than 4 years at same grade.	Transition increment on pro rata basis - as per the RC approved percentage for corresponding management level.

1.7.6 Progression: The grade up to which each grade of employees in the organization can progress



during transition is depicted in the chart below:

- a. Eligibility at the time of transition for progression shall be as follows:
 - i. All existing employees up to Senior Manager level, with more than 4 years tenure at same grade and having secured 18 & above merit points in past four years subject to the condition that the employee has been awarded a rating of “A” in Financial Year 2021-22.
 - ii. Existing employees at Assistant Vice President level with 7 years or more tenure at same grade having secured 32 & above merit points in the past seven years and have been awarded a rating of “A” in the Financial Year 2021-22 to be given one time progression to the level of Vice President.
- b. Employees with less than 4 years at same grade at all levels shall not be eligible for progression at the time of transition.
- c. Employees of the Level of 2 & 3 i.e. VP, SVP & EVP shall not be eligible for progression to next grade.

1.7.7 Outlier Management: During the time of progression in the process of transition, employees shall be given increment so that their salaries reach the minimum of the new pay range. Similarly, while giving either transition or progression increment, if an employee’s salary has reached or breached the maximum, his/her salary would be capped at the maximum of the pay range or shall not be given an increment at all.

1.7.8 Transition of NISG employees: The positions occupied by NISG employees shall be advertised and the positions shall be filled up after interviews. If any employee on NISG payroll gets selected he/she shall be offered a new contract of 4 years directly with GSTN as per the Recruitment Guidelines of GSTN (Part II). They shall also be eligible for transition increment as per Table-3 above.

1.7.9 Performance Management Policy:

In the performance management policy it is envisaged that suitable changes be made in rating scale, rating distribution and variable pay etc. which in turn shall bring meritocracy in the organization.

- a. A bell-shaped curve would be followed for rating distribution to achieve performance differentiation and rewarding good performance while finalizing the performance ratings for Variable Pay and Progression Increment. The distribution of various appraisal grading proposed to be achieved is as follows:

Table - 4

Final Score in Appraisal Process	Performance Rating	% of ratings to be awarded in each group (i.e. Technology & Non Technology)
85.1 and Above	A+	20%
70.1 to 85	A	40%
60.1 to 70	B	30%
50.1 to 60	C	5%
Below 50	D	5%

- b. The employees shall be paid PLI based on their individual ratings in the performance appraisal process after moderation of ratings to fit the bell shaped curve defined in above table. The percentage of PLI disbursement at each rating is detailed in the following table (**Table 5**):

Table- 5

Final Score in Appraisal	Mod. Perf. Rating	Rating Description	% PLI disbursement
85.1 and Above	A+	Exceeds Performance Standards	110
70.1 to 85	A	Achieves Performance Standards	100
60.1 to 70	B	Slightly Below Performance Standards	80
50.1to 60	C	Barely Achieves Performance Standards	70
Below 50	D	Needs to Improve Performance	50

- c. Outlier Management: The following guidelines (**clause d to h**) would apply to those employees whose pay does not fall within the new pay range for their respective grade after giving the annual/progression increment.
- d. If employee's salary is below their grade minimum after giving annual/progression increment; such employees would be given pull to minimum increment to bring the employee to the minimum of the pay range.
- e. If employee's salary goes above their new grade's maximum pay while giving the annual/progression increment the following would be adopted:
- f. In such cases, the quantum of annual/progression increment shall be capped at the maximum of the grade pay range.
- g. Such employees would be given minimum salary increase (i.e. 50%) based on the rating only for next 2 years.
- h. Also, in case the employee's salary has already reached or breached the maximum pay of the new grade while awarding progression, no progression increment would be admissible to him/her.

1.7.10 Recruitment Guidelines for Hiring Market Recruits

Following new policy elements are proposed to be added to the existing recruitment guidelines.

- In future, hiring of tenured employees shall be for a contract period of 4 (four) years directly with GSTN.
- A balance shall be maintained between the number of regular employees of GSTN and tenured employees of GSTN. The ratio shall be reviewed from time to time.
- After completion of existing contract of employees (4 years), it shall be examined if the role performed by the concerned employee is required or not. If the role is required in GSTN, it shall be further examined if the concerned employee has rendered meritorious service before initiating the rehiring process.

- d. GSTN proposes to engage independent Consultants for its various verticals, for a tenure of 2 years for specific projects. The remuneration of the independent consultants shall be in the range of 60,000 to 3, 80,000.
- e. A maximum of 25 number of Independent Consultants may be engaged by GSTN. The hiring shall however, depend on the actual requirement at a particular point of time. These engagements shall be above the sanctioned strength of 147 positions in GSTN.

1.7.11 Revision in Miscellaneous Entitlements and Leave Rules:

- a. The proposal is to revise number of leave admissible as per present policy (EL 20 to 30), (SL 7 to 8), (CL 7 to 8) and accumulation limits to be revised for earned leave (30 to 50) and sick leave (21 to 30). For serving employees, option will be given to employees for encashment of 50% of the EL balance at the end of calendar year.
- b. All reimbursements viz. telephone bill, newspaper, OPD etc. are proposed to be dis-continued and a fixed monetised value shall be paid on a monthly basis to the employees. It would form a part of CTC but would be shown separately as monetised benefits. This amount would also be admissible to deputationists.
- c. The official tour related entitlements such as daily allowance and room tariff etc. are also proposed to be revised to offset inflation.

1.7.12 Allowances to Deputationists:

Allowances admissible to deputationists are also proposed to be revised as they were fixed in the year 2014. These officers are business process specialists who are needed for two reasons. First, to convert law into a viable and programmable business process, and second, to interact with tax administrations, tax payers and technologists as a bridge to deliver the product and services to the satisfaction of these stakeholders.

- a. Deputationists would continue to be paid their parent cadre Basic pay and DA.
- b. The PLI paid to deputationists shall be replaced by an IT and Professional Allowance. The rate shall vary between 40% - 50% of the Basic Pay plus DA.
- c. There would be an increase of 10 to 20 percent in the HRA of deputationists to offset inflation as GSTN is not an authorized office for allotment of Govt. quarters.
- d. There would be an increase of ₹ 6000/- to ₹ 11000/- in the fuel allowance of deputationists as cars in GSTN are provided only to the senior most officers. The senior officer's including Joint Secretary level officers shall be given an option to either avail company car or receive ₹ 50,000/- as fuel allowance using which they can hire a car themselves.
- e. Fixed monetised amount per month in lieu of LTC and CEA shall be paid.

1.7.13 Dates of Implementation: The new HR Policy shall be implemented from 1st Jan 2023 onwards in a staggered manner, over the first quarter of the calendar year 2023.

1.7.14 Estimated Cost: The Estimated Cost of the proposed changes based on present manpower strength in GSTN would be approximately ₹ 5.66 crore per annum which is an increase of around 12 percent in the total wage budget of GSTN which at present stands at ₹ 46.53 crore.

1.8 Accordingly, the following proposal is placed before the GST Council for consideration and approval:

- a. The new HR policy (Annexures I to X1) approved by the GSTN Board in its 51st meeting held on 16th Nov 2022, for which the summary has been presented in this agenda, may please be approved.
- b. The power to review and approve operational, HR and administrative matters from time to time may kindly be delegated to the Board of GSTN as these are regular Company matters requiring intervention based on market conditions.
- c. In case of deputationists from Central and State Government, any review or change in these approved proposals shall also need approval of the Union Finance Minister.

Agenda Item 9(2): Proposal for Changes in the Revenue Model of GSTN and transition to the new Revenue Model

2.1 The present revenue model of GSTN was approved by the empowered committee of States finance ministers in the year 2016. On GSTN becoming a government company a review of this model was done and it was felt that there are limitations in the present model and change is required.

2.2 To briefly recapitulate, presently, GSTN receives funds from Central and State governments based on the invoices it raises as per the present revenue model. The present Revenue Model of GSTN has the following limitations, which need to be addressed:

- a. Existing Revenue Model does not provide any funding options for the capital expenditure post-go-live of the GST Project. This is a serious gap for an evolving project as periodic CAPEX would be needed in the foreseeable future also. Currently, the user charges received from the Centre and States Governments (OPEX) are being used for CAPEX also.
- b. For the daily operation of GSTN, there are no provisions for minimum working capital that should be maintained.
- c. There is no clarity on the treatment of Interest earned on the surplus funds available with GSTN, i.e. whether it should be treated as GSTN's income or the Government's contribution.

2.3 To address the above limitations a new Revenue Model has been designed and placed before the Audit Committee of GSTN (a subcommittee of the GSTN Board) for deliberation and suggestions. The Audit Committee of GSTN is chaired by the independent Director Shri Anand Sinha (Ex-Deputy Governor of RBI). The suggestion and guidance of the committee have been incorporated in the new revenue model. The same has approval of the GSTN management also.

2.4 The salient aspects of the four important changes proposed in the existing revenue model are as follows:

2.4.1 Funding for Capital Expenditures

2.4.1.1 GSTN is an evolving technology platform which needs regular capital expenditure. Funding for future capital expenditure can be arranged by multiple methods. Options for meeting the capital expenditure of GSTN have been evaluated, and funds for capital expenditure by way of Grant-in-Aid from the Centre and States Governments is the best option available in terms of ease of the procedure and also the accounting treatment.

2.4.1.2 In the case of term loans from banks, the cost of Interest would be an additional cost to the Governments. **Therefore Grant in Aid for CAPEX is proposed for the approval of the GST council. For the past i.e. till FY 2021-22, the accounting treatment for CAPEX shall not be changed.**

2.4.2 Working Capital Requirement for Smooth day-to-day Operations

2.4.2.1 For working capital requirements, GSTN will follow the current model of collecting the Advance User Charges in future also. **The Users Charges demand cycle would managed in a way that enough funds for regular operation of six months are available at all times.** Thus it will cater to the working capital requirement of six months of operations which is presently assessed at Rs 300 crore (It will be reviewed by GSTN Board periodically).

2.4.3 Treatment of Interest Earned on Surplus Funds

2.4.3.1 **GSTN proposes to adjust the Interest earned to reduce the invoice raised to the Centre and States Governments.** The Interest earned will be adjusted in the invoices based on the weighted

average balance of Advance User Charges received from the respective Governments during the years. For the Interest earned in the earlier years GSTN would follow the same methodology.

2.4.4 Continuity of Credit Facility

2.4.4.1 GSTN would continue to keep the Credit Facility to the tune of Rs. 500 Crore or as assessed by the GSTN Board from the commercial banks to cater for the emergency needs of either Capital Expenditure or Revenue Expenditure. Such Credit Facility will be backed by the Government Guarantee from the Central Government.

2.5 The Revised Revenue Model (Annexure-A) is placed for approval of the GST Council. Any incidental changes further needed shall be approved by the Chairman GSTN.

Agenda Item 9(3): Waiver of Interest on delayed receipt of Advance User Charges (AUC) from a few states and CBIC.

3.1 As per the Revenue Model of GSTN approved by the Empowered Committee of State Finance Ministers (EC) in its meeting held on 30th August 2016, cost incurred on the project along with GSTN's own expenses are shared equally by the Centre and States in the form of User Charges to be remitted by them in two (2) installments on a half-yearly basis by 1st March and 1st September of the year.

3.2 Further, as per Para iii (b) of the Revenue Model "Any Government that fails to pay the Advance User Charges (AUC) before the due date will pay the defaulted amount together with interest at the rate at which GSTN borrows money from the banks for this purpose".

3.3 Status of Payment of AUC as on 07th December 2022

3.3.1 As per the approved Revenue Model, GSTN had raised demand for the payment of AUC to the Central and State Governments for the FY 2020-21 and 2021-22. The status of AUC demanded and received (as on date) is given below:

(Rs. in Crores)

Financial Year	Amount demanded	Amount received	Amount Pending	Pending States
2020-21	539.36	539.36	-	NIL
2021-22	474.46	474.27	0.19	Ladakh – 0.10 Mizoram – 0.09

3.4 Waiver of Interest on late payment of AUC for FY 2020-21 and 2021-22

3.4.1 Late payment of AUC for FY 2020-21

- The GST Council in its 42nd & 43rd meeting held on 5th /12th Oct 2020 and 28th May 2021 respectively approved the extension of payment of AUC of FY 2020-21 till 31st March 2021 and subsequently till 31st Dec 2021.
- However, some of the States remitted the amount of AUC for FY 2020-21 after expiry of extension period i.e. 31st December 2021. No payment for FY 2020-21 is pending now.
- The interest payable on the delay remittance of AUC has worked as Rs.0.087 crore (**Annexure-B**), the interest is calculated considering the rate of interest @8.25%, the lending rate of IDFC bank, which is as per the Revenue Model.

3.4.2 Late payment of AUC for FY 2021-22

- For the FY 2021-22, there were no extension granted on the remittance of AUC for FY 2021-22. Accordingly, the interest on delayed remittance of AUC has been worked out for the periods after the due date i.e. 1st May 2021 and 1st September 2021 for 1st Instalment and 2nd Instalment respectively.
- The details of Interest payable of Rs.15.27 Crores by the State Governments and CBIC for delay in remitting the amount of AUC or for amount yet to be paid by State Governments are placed at **Annexure-C**.

3.5 **Proposal:** Keeping into consideration the above and past practice of waiver of the interest amount payable on AUC, following proposal is submitted for the kind consideration and approval of the Council:

- The interest payable by the defaulting Governments of Rs.0.087 Crores for FY 2020-21 due to delayed payment of AUC till 07th December 2022 may be waived of.
- The interest payable by the defaulting Governments of Rs.15.27 Crores for FY 2021-22 due to delayed payment of AUC till 07th December 2022 may be waived of.

- c. It is also requested that State and Central Governments may pay their due in time so that in future there is no need for waiver of interest by the GST Council.

Agenda Item 9 (4): Data Archival Policy for the GST System

4.1 GST data has been increasing rapidly every year on account of increase in taxpayer base, improved compliance and introduction of new initiatives by the GST Council such as EWB & e-invoice. Further, in consideration of the time limitation under Section 73 and 74, the data of 2017 has to be retained in production up to 2025. This is a huge data which leads to GST System performance issues and hence, a data archival policy is needed.

4.2 The issue was deliberated by the LC and a sub-committee consisting of Bihar, Gujarat, Maharashtra, GSPTW and GSTN was formed to suggest a data archival policy for the GST system. The recommendations of the subcommittee were submitted to LC on 24 September 2022.

4.3 In its meeting dated 12 October 2022 LC deliberated upon the recommendations of the subcommittee and approved the archival policy. The salient features of the policy are as follows:

- a. All data which may be needed under section 73 and 74 to issue SCN (Show Cause Notice), for which the time period has not expired, will be kept in a live production environment. This data would be available to both taxpayers and tax officers for download.
- b. A separate archival data lake shall be created. After the expiry of the period in clause (a), data will be kept in the archival data lake in the following manner:
 - (i) In granular form for taxpayers having cases under litigation during the period of litigation.
 - (ii) In summary form for the rest of the taxpayers.
- c. Further, for cases under litigation and cases not under litigation, two different formats has been finalized and the data in such format would be removed from production and kept in a separate data lake.
- d. Data shall be deleted from the archival lake after **seven** years where there is no litigation and on the conclusion of the litigation where there is litigation. The facility would be given to the jurisdictional officers to report the conclusion of litigation.
- e. Tax officers shall have access to the archival data lake. Taxpayers shall also have access to archival data lake in cases where there is an ongoing litigation.
- f. Clause (a) shall also apply to the data stored in the BIFA Lake.

4.4 **The above draft data archival policy is submitted before GST Council for its kind information.**

Agenda Item 9 (5): Implementation of facility to Generate Document Identification Number in GST Back Office for Model 2 States in compliance with the Supreme Court judgement in W.P 320 of 2022.

5.1 Hon'ble Supreme Court in its judgement of W.P. No. 320 of 2022 dated. 18.07.2022 directed Union of India/**GST council** to issue advisories to the states for implementing Document Identification Number (DIN) generation system. It was felt that the system generated Document Identification Number (DIN) will bring transparency and accountability in the tax administrations.

5.2 In this regard, the operating para of the judgement is reproduced as under for ease of reference:

Para 7 of Writ Petition, “ *In view of the implementation of the GST and as per Article 279A of the Constitution of India, **the GST Council** is empowered to make recommendations to the States on any matter relating to GST. The GST council can also issue advisories to the respective states for implementation of the DIN system, which shall be in larger public interest and which may bring in transparency and accountability in the indirect tax administration. Therefore, we dispose of the present writ petition by directing the Union of India / **GST council** to issue advisory/ instructions/ recommendations to the respective states regarding implementation of the system of electronic (digital) generation of a DIN in the indirect tax administration, which is already being implemented by the States of Karnataka & Kerala. We impress upon the concerned State Tax Officers to taxpayers and other concerned persons so as to bring in transparency and accountability in the indirect tax administration at the earliest.*

5.3 In relation to generation of DIN, it was discussed in LC on 07th September, 2022. Following directions were received by GSTN from the law committee:

- a. A facility for electronic generation of DIN for manual communications, similar to that available with CBIC, be made available by GSTN to states.
- b. An advisory may also be issued by GSTN that the reference number generated on the documents issued on the common portal is also an identification number of the document. GSTN may also examine providing a facility for verifying the reference number without logging on the portal.

5.4 GSTN is in process of development of this functionality and currently it is in the documentation for coding stage. The functionality will be having the following features:

- a. The Back Office automation of GSTN regarding all important business processes uses “case management system” and for each case generates reference numbers. Therefore, the requirement as directed in the judgment of Hon'ble Supreme Court applies only to communications outside the case management system.
- b. In case of such manual communications (Outside case management system) from tax officers to taxpayers, basic information would be required to be entered by the tax officer to generate a reference number (RFN) for that communication. The reference number can be used by the Tax administration as an identification number of the document issued manually.
- c. A facility will be provided to the taxpayers on the GST portal to verify the authenticity of the RFN mentioned in the manual communication. The facility will display the details of RFN.
- d. It will work in the same way as DIN functionality of CBIC, except that it will be called RFN instead of DIN.

5.5 **The status is submitted before the GST Council as Hon'ble Supreme Court had given the direction to the GST Council.**

Revised Revenue Model of GSTN

1) Sharing of User Charges between Centre and States:

- i. The GST System infrastructure managed by GSTN will be used by taxpayers, tax administrations, banks etc. but the user charges will be paid entirely by the Central Government and the States Governments in equal proportion i.e. 50:50 on behalf of all the users. The States share will be apportioned to individual States in proportion to the number of active dealers in the respective States at the end of period (month/quarter/year). For calculation of the Advance User Charges, number of active dealers in the States as on 31st December of the previous year or any date specified by GSTN will be considered.

2) Operating Expenses:

- i. On 1st January or a suitable date, of every financial year, GSTN will issue demand letters for payment of Advance User Charges for the next financial year to the Central and the States Governments.
- ii. Advance User Charges will be paid by the respective Governments in two equal instalments. First Instalment will be paid on or before 31st March or any other date as decided by GSTN, of the financial year in which the demand letters are issued for the next financial year. Second Instalment will be paid on or before 30th September or any other date as decided by GSTN, of the relevant financial year for which the demand is raised.
- iii. User Charge for the next year will be comprised of the following components:
 - a. Operating expense payments to be made to the Managed Service Provider next financial year-(as per contract).
 - b. Payments of Revenue Expenditures to be made in the next financial year on account of Change Request issued to MSP or any Service provider.
 - c. Payments of Revenue Expenditures to be made in the next financial year on account of new projects/activities based on the new requirements.
 - d. GSTN's own estimated annual operational expenditure for the next financial years.
 - e. Depreciation amount as per the Company Law on the assets purchased other than through Grant-in-Aid.
 - f. Amount of Interest Cost payable to the bank in the next financial year, if any.
 - g. Guarantee fee payable to the GoI next financial year, if any.
- iv. Amount calculated above will be apportioned to Centre and States Government in the ratio of 50:50 and portion of the States Governments will be apportioned between the States on the basis of number of active dealers in the respective State.
- v. GSTN will raise the user charges bills periodically (monthly /quarterly/half yearly/annual) as per below mechanism:
 - a. Bills for the use of GST Portal and Services (the Front End):
 - i. For this purpose, the periodic per dealer user charge will be calculated by subtracting expenses on backend system as per contract from total amount of user

- charges as defined above and dividing this amount by two (since this expense is to be shared equally by the Central and State Governments) and further dividing the amount so obtained by total number of active dealers.
- ii. Bill for the Central Govt. will be raised by multiplying per dealer periodic charges as derived above with the total number of active dealers as on the last day of the period.
 - iii. Bill for each State Govt. will be raised by multiplying per dealer periodic charges as derived above with the numbers of active dealers of the respective State as on the last day of the period.
- b. Bills for the use of Back End of GST System:
- i. For this purpose, per dealer user charge will be calculated by dividing total expenses on backend system as per contract by total number of active dealers in Model-2 states.
 - ii. Bill for each Model 2 state will be raised by multiplying per dealer user charge as derived above with the number of active dealers in that state as on the last day of the period.
- vi. The amount of these bills will be set off against the advance user charges paid by the respective Government in the manner indicated below:
- a. If the advance user charges paid by a Government exceeds the total amount of the bills for the year, the excess amount will be adjusted against the advance payment to be made by that Government for the next year.
 - b. If the advance user charges paid by a Government is less than the total amount of the bills for the year, the amount of shortfall will be paid by that Government by 30th April of the following year.
 - c. In case States/centre fails to pay the Advance users charges within stipulated time, interest will be levied @12% per annum on the due amount.

3) Working Capital Requirements:

- i. GSTN will raise demand letters for Advance User Charges post finalization of Annual Budget for the next financial year. GSTN will request the Governments to pay Advance User Charges in two equal instalments with the interval of six months. For smooth functioning of the GST System Project (including e-way bill and e-invoicing), GSTN would require sufficient funds in advance atleast for the next six months of operations. The billing cycle would be so managed that GSTN has adequate funds for smooth functioning for next six months.
- ii. In case, requirement of additional working capital requirement arises, governments would be approached for the additional amount.

4) Treatment of Interest earned on Surplus Funds:

- i. Interest earned on the surplus funds available with GSTN will be apportioned between the Governments and adjusted against the invoices on the basis of weighted average balance of Advance User Charges received from the respective Governments during the years.

5) Funding for Future Capital Expenditures:

- i. GSTN may request for funds for capital expenditure from the Centre and States Governments based on the approved capital expenditure plan for the year in the form of Grant-in-Aid. In case any urgent need of capital expenditure arises, which was not part of Budget, a separate request would be made to the Governments. Such funds request would be on the basis of 50% from Centre Government and 50% from the States Governments. Each State's share would be calculated based on the number of active dealer in the respective States.
- ii. Unutilized amount of Grant-in-Aid along with the interest earned thereon will be carried forward to the next financial year and will be adjusted against the demand of next year.

6) Credit Facility from the Commercial Banks:

- i. GSTN would continue to keep the Credit Facility to the tune of Rs. 500 Crore from the commercial banks to cater the emergency needs of either Capital Expenditure or Revenue Expenditure. Such Credit Facility would be backed by the Government Guarantee.

Annexure-B

Calculation of Interest on pending payment of Advance User Charges for FY 2020-21 as on 07/12/2022:

Sl. No.	CENTRE/STATE/ UT	Interest Liability for Instalment of FY 2020-21 (Rs. In Crores)
1	Andhra Pradesh	0.084
2	Dadra & Nagar Haveli and Daman & Diu	0.000
3	Mizoram	0.000
4	Andaman & Nicobar	0.002
	Total	0.087

Annexure-C

Calculation of Interest on pending payment of Advance User Charges for FY 2021-22 as on 07/12/2022

Sl. No.	CENTRE/STATE/ UT	Interest Liability for Instalment of FY 2021-22	Interest Liability for Instalment of FY 2021-22
		First Instalment	Second Instalment
1	CBIC	3.24	4.67
2	Andhra Pradesh	0.32	0.18
3	Arunachal Pradesh	0.01	0.01
4	Assam	-	0.05
5	Bihar	0.39	0.23
6	Chhattisgarh	0.03	-
7	Goa	0.03	0.03
8	Gujarat	0.23	0.40
9	Haryana	0.06	0.03
10	Himachal Pradesh	0.07	0.03
11	Jharkhand	0.16	0.10
12	Jammu & Kashmir	-	0.03
13	Karnataka	0.09	0.02
14	Kerala	0.24	0.14
15	Ladakh	0.007	0.005
16	Madhya Pradesh	0.08	0.04
17	Maharashtra	0.41	0.18
18	Manipur	0.01	0.01
19	Meghalaya	0.013	0.003
20	Mizoram	0.01	0.01
21	Nagaland	0.01	0.01
22	Punjab	0.29	0.17
23	Sikkim	0.002	0.004
24	Tamil Nadu	0.42	0.15
25	Tripura	-	0.01
26	Telangana	0.36	0.21
27	Uttar Pradesh	0.55	0.77
28	Uttarakhand	0.003	0.028
29	West Bengal	0.04	0.06
30	Chandigarh	0.011	0.002
31	Daman & Diu and Dadra & Nagar Haveli	0.001	0.003
32	Delhi	0.15	0.39
33	Puducherry	0.003	0.002
34	Andaman & Nicobar	0.001	0.004
35	Lakshadweep	0.0004	0.0002

	Total	7.26	8.02

Index of Annexures I to XI

Annexure No	Topic
I	Presentation Before the Board
II	Background to HR Policy Change
III	Compensation and Remuneration policy
IV	Transition Management
V	Performance Management Policy
VI	Recruitment Guidelines for Hiring Market Recruits (Part-II)
VII	Engagement of Independent Consultants
VIII	Leave Rules
IX	Miscellaneous Entitlements
X	Compensation rules for deputationists
XI	Dates of implementation & Difficulty Removal

Annexure-I



SCHEME OF PRESENTATION		
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3. Financial Impact of Revision in HR Policies	5	B. Variable Pay: Performance Linked Incentive (PLI)
4. Existing and Proposed Grade Structure	6-7	C. Progression Policy (FY 2023-24 onwards)
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A. Proposed Composition of CTC		11. Engagement of Independent Consultants
B. Proposed Pay Ranges		12. Leave Policy
C. Comparison of Proposed Pay Range & CPSE Pay Range		13. Miscellaneous Benefits
7. Introduction to Proposed Progression Policy	15-17	14. Recognising Talent for Exemplary Performance
8. Transition Management	18-19	15. Revision in Allowances for Employees on Deputation
A. Transition of Existing Employees:		16. Dates of implementation
Step (i) Transition Increment	20	17. Saving and Difficulty Removal during implementation
Step (ii) Progression along with an increment to eligible employees at the time of transition	21-22	
Step (iii) Outlier Management at the time of transition (FY 2022-23)	23	
B. Transition Of NISG Employees to GSTN as tenured employees	24-25	

Background

- The GST Council in its 27th meeting held on 4th May 2018 and the Union Cabinet in its meeting held on 26th September 2018 have decided to convert GSTN into a fully-owned Government company. 50% equity of the company to be held by the Central Government and the balance 50% to be held by the various States and Union Territories. The transition was completed on 30th June 2022.
- Extracts from the minutes of the decision by Union Cabinet on 26 Sep 2018 are given below:
 - Since the current staff are hired on market driven salaries as regular employees of GSTN, their continuation at the current terms & conditions may not be possible after change in the ownership structure of GSTN. Therefore, for ensuring continuity of operation without any disruption, existing regular employees may be allowed to be continued for a period up to 5 years on the same terms & conditions on which they were appointed. For these years, GSTN may be given the flexibility of hiring people through contract on the terms & conditions similar to those used by GSTN earlier while hiring regular employees.
 - The existing employees on deputation may be continued on the same terms & conditions till the completion of their tenure. Also, for the next 5 years, new employees on deputation will be continued to be hired on the terms & conditions similar to those earlier used by GSTN.
 - Flexible hiring & appropriate remuneration policy may be evolved by GSTN considering criticality of the IT manpower, prevailing market compensation etc. and placed before the GST council for its approval in due course.

Background

- GSTN is not a CPSE because share of Centre is 50% i.e. less than 51%. Confirmation in this regard has been received from DPE. Hence, all decisions would rest with GSTN Board and GST Council.
- The Board of GSTN in its meeting dated 30th June 2022 decided that the HR and Remuneration committee shall jointly deliberate on the HR Policy of GSTN and recommend the policies for the approval of the Board. Accordingly, the Committee deliberated on the HR Policy on 15th & 23rd September 2022. The salient features of the policy, as approved by the Committee, is detailed in Para 2 of the Agenda for the Board. It has been detailed in the following slides for approval.

Rationale for the proposed changes in the HR Policy

- Attrition:** The compensation of employees hired from the Market had been fixed in the year 2014 and since 8 years have elapsed without any change, the salary ranges have become redundant. The fallout can be seen from the attrition data given below which is progressively increasing over the years:

Attrition data	2018-19	2019-20	2020-21	2021 - 22	2022-23 (Up to Sep 2022)
Market Hire Attrition	7	4	11	14	10
Attrition %	6%	5%	10%	14%	15%

- Stagnation:** Besides the above, most of the employees who have joined GSTN in the years 2014/2015 are still in their respective grades as there is no provision for career progression. At present it is also getting difficult to hire technical manpower in GSTN in the existing grades and pay ranges. Therefore, a revision is warranted.

Financial Impact of Revision in HR Policies

- Total Revenue budget of GSTN for 2022-23 - 602.75 Crore
- Total Salary Budget (SB) of GSTN for 2022-23 (Excluding Deputation Salary) - 35.85 Crore
(a) GSTN payroll 15.42 + (b) Third Party Payroll 17.85 + (c) Welfare Benefits 2.58
- Total increase in wage bill on account of proposed revision - 4.89 Cr
- Management fee savings from discontinuation of NISG - 0.88 Crore (Annual)
- Net percentage increase in wage bill (Excluding Deputation Salary) - 11.18%
- Salary budget for employees on deputation (FY 2022-23) - 10.67 crore
- Total increase in wage bill on account of revision in allowances for deputationists - 0.56 Cr
- Total Present Salary Bill (Market + Deputation) - 46.52 Cr
- Total increase in expenditure of the filled positions (4.89 + 0.56) i.e. (5.45 Cr)
- Total expected increase in expenditure if all vacancies were filled - 8.30 Cr
- Total percentage of increase in wage bill with the filled positions (Market + Deputation) - 11.71%
- Total percentage of increase in wage bill if all vacancies are filled - 17.84%
- Revised Salary bill would be (46.52 + 5.45) - 51.97 Cr

For kind consideration

The decision on issues involved should be seen from good HR Practice and not from the perspective of budget, as the expenditure involved on the issues is quite low. The effort should be to hire and retain best talent from market as well as deputation.

(All calculations are based on person in position as on 1st July 2022)

Existing and Proposed Grade Structure

The grade and designation structure was defined for employees sourced through both deputation and through private channels in the 8th Board meeting in 2014 as shown alongside.

Level	Grades	Designation	Pay
L1	G1	Chairman & CEO	
L2	G2	Executive Vice President	
L3	G3	Senior Vice President	
L4	G4	Vice President	
L5	G5	Assistant Vice President	
L6	G6	Senior Manager	
L7	G7	Manager	
L8	G8	Assistant Manager	

- The management levels are proposed to be revised to three instead of existing four keeping in view the industry practices in the IT sector.
- It is proposed to introduce designations prevalent in IT industry for hiring technical manpower and corresponding equivalent non-tech designations. Both kind of designations shall be implemented for future hiring after approval.
- Addition of two grades is proposed i.e. 5c - Executive / Associate Engineer at level 5 and 4b - Associate VP/Principal Engineer at level 4 in line with generally accepted designations in the industry.
- The proposed grade structure is detailed in the following slide.

Existing and Proposed Grade Structure

Level	Existing Grades	Proposed Grade	Designation	Years of Experience
Level 1	G1	1	Chairman	-
Level 1	G1	1	CEO	20 years +
Level 2	G2	2	EVP	18 years
Level 3	G3	3a	SVP	15-18 years
Level 3	G4	3b	VP	14-16 years
Level 4	G5	4a	Assistant VP / Chief Engineer	12-14 years
Level 4	-	4b	Associate VP / Principal Engineer	10-12 years
Level 4	G6	4c	Sr. Manager / Technical Lead	8-11 years
Level 4	G7	5a	Manager / Sr. Engineer	7-10 years
Level 5	G8	5b	Assistant Manager / Engineer	5-9 years
Level 5	-	5c	Executive / Associate Engineer	0-5 years

Senior Management : Grades in Level 1, 2 & 3 Middle Management : Grades in Level 4 Junior Management : Grades in Level 5

Existing and Proposed Pay Ranges (Details Later)

Existing pay ranges in Table 1 were approved 8 years ago and market aligned pay ranges are in Table 2 below (Figures represent the Yearly Emoluments – CTC per annum). The "Broad Pay Range Approach" was being followed in GSTN which is proposed to be retained as all the levels encompass different roles and therefore the salaries are paid to each role based on IT industry benchmarking and last drawn salary of individual incumbent.

Table 1 : Existing Pay Ranges					Table 2 : Proposed Pay Ranges				
Level	Grades	Designation	Min	Maximum	Level	Grade	Designation	Min	Max
L1	G-1	Chairman	Person Specific		Level 1	1	CEO	93,11,096	2,09,30,423
L1	G-1	CEO	1,00,00,000		Level 2	2	EVP	58,20,373	1,22,49,019
L2	G-2	EVP	45,69,306	76,15,660	Level 3	3a	SVP	41,57,096	82,61,269
L2	G-3	SVP	33,12,902	55,21,503	Level 3	3b	VP	29,69,378	61,64,861
L3	G-4	VP	22,95,698	38,26,046	Level 4	4a	Assistant VP / Chief Engineer	22,85,363	48,81,561
L3	G-5	AVP	15,02,615	25,03,359	Level 4	4b	Associate VP / Principal Engineer	18,24,782	42,46,861
L4	G-6	SM	10,41,941	17,36,572	Level 4	4c	Sr. Manager / Technical Lead	15,40,828	36,61,023
L4	G-7	Manager	7,12,500	11,87,500	Level 5	5a	Manager / Sr. Engineer	11,67,294	26,57,802
L5	G-8	AM	4,57,500	7,02,500	Level 5	5b	Assistant Manager / Engineer	9,84,239	22,43,723
L5	G-8	AM	4,57,500	7,02,500	Level 5	5c	Executive / Associate Engineer	7,03,668	14,37,033



PROPOSED COMPENSATION STRUCTURE

A. Proposed Composition of CTC

CTC will comprise of the following components:

- Fixed Base Salary :** Basic Pay (30-40% of CTC)
- Fixed Cash Allowances:**
 - HRA, PF and LTA as a percentage of CTC
 - Conveyance Allowance, CEA, Medical Reimbursement, Fuel Allowance and Driver's Salary as fixed amounts
 - Special Allowance as a balancing figure
- Variable Pay:** Performance Linked Incentive (PLI) as a percentage of CTC viz. 10%, 15% and 20% at Junior, middle and Senior management levels respectively.
- Gratuity, Insurance premium, Reimbursement for Mobile Phone, Periodicals, Internet, Newspaper etc. are **exclusive** of the CTC.

Illustration of Monthly Basic Pay & Yearly Emoluments

Grade	Designation	Basic Pay (Monthly)		Yearly Emoluments (CTC)	
		Min	Max	Min	Max
3a	Manager/ Engineer	26,097	59,466	8,94,763	20,38,850
3b	Assistant Manager/ Engineer	18,641	43,406	6,39,116	14,88,212

Compensation Structure	Existing Structure	Proposed Structure
Basic (A)	30-40% of CTC	
Basic Pay		
Cash Allowances (B)		
Metro	50% of Basic	
Non-Metro	40% of Basic	No Change
House Rent Allowance		
Conveyance Allowance	INR 15,000 p.a.	
Child Education Allowance	INR 2,400 p.a.	
Special Allowance	Balancing Figure	
Medical Benefits (C)		
Medical Insurance	12% of Basic	No Change
Gratuity	4.81% of Basic	To be included from CTC
Other benefits and incentives (D)		
Long Term Allowance	INR 15,000 - 75,000 p.a.	8.33% of Annual Basic Pay
Medical Reimbursement	INR 15,000 p.a.	
Fuel Allowance	Up to INR 2,47,500 p.a.	No Change
Driver's Salary	INR 1,44,000 p.a.	
Performance Linked Incentive	10-20% of CTC	Fully variable
Cost to Company (E)		
Stability		4.81% of Basic (Over and above CTC)
Insurance (Government for Medical, Accident & Life Insurance)	Over and above CTC	
Reimbursement for out-of-pocket expenses like Mobile, Life, Periodicals, Internet, Newspaper	Over and above CTC	No Change

Proposed Changes

- Gratuity** – At present it is offered at the standard 4.81% & is included in the CTC. As per the Gratuity Act, this is proposed to be excluded from the CTC to comply with the law.
- Leave Travel Allowance** – It is proposed to pay 8.33% of Basic salary (without any change in the CTC) as per industry practice instead of current practice of paying fixed amounts.
- Hot skills allowance** – A discretionary amount for Hot Skills to be paid during hiring for niche skills. This would cease when the skills are easily available.
- Joining Bonus** – A discretionary payout negotiated with the candidate and not necessarily paid to all. To be recovered proportionately as per the guidelines in case the executive resigns within 2 yrs.
- Additional components** – would continue to be paid. Insurance premium, Reimbursement for Mobile Phone, Periodicals, Internet, Newspaper etc. are **exclusive** of the CTC.

B. Proposed Pay Ranges

Level	Grade	Designation	Min	P25	Median	P75	Max
Level 1	1	CEO	93,12,596	1,19,61,977	1,46,17,496	1,79,37,662	2,09,30,433
Level 2	2	EVP	58,20,373	70,77,561	88,59,063	1,06,77,180	1,22,40,019
Level 3	3a	SVP	41,57,409	48,84,897	61,95,349	74,14,708	84,41,392
	3b	VP	29,69,578	34,86,452	42,43,253	51,34,322	61,61,601
Level 4	4a	Assistant VP / Chief Engineer Associate VP /	22,80,365	26,68,805	34,30,508	41,32,352	48,83,891
	4b	Principal Engineer Sr. Manager /	18,24,292	21,69,760	27,44,107	35,95,147	42,46,861
	4c	Tech Lead Manager /	15,40,828	18,93,221	23,33,547	30,98,172	36,92,923
	4d	Sr. Engineer	11,67,294	14,12,852	17,45,916	22,58,900	26,37,802
Level 5	5b	Assistant Manager/ Engineer	9,84,239	11,20,211	14,66,596	18,45,852	22,42,735
	5c	Executive/ Associate Engineer	7,03,028	8,48,645	10,86,367	13,18,466	16,37,033

Note: Pay Ranges are the CTC figures exclusive of Gratuity, Health Insurance etc.



C. Comparison of Proposed Pay Range & CPSE Pay Range

Comparison		Proposed Pay Ranges		CPSE Aligned Pay Ranges (Excluding Cafeteria Benefits*)	
Grades	Designation	Min	Max	Min	Max
Chairman (Sbtr-A)	Chairman	Person Specific		61,84,560	1,14,41,436
Director (Sbtr-A)	CEO	93,12,596	2,09,30,433	55,66,104	1,05,13,752
Ea	EVP	58,20,373	1,22,40,019	42,78,420	85,56,840
Eb	SVP	41,57,409	84,41,392	37,10,736	86,08,384
Ec	VP	29,69,578	61,61,601	30,52,280	78,83,928
Ed	AVP/ Pr. Engineer	22,80,365	48,83,891	27,29,052	72,77,472
Ef	Chief Manager/ Sr. Tech Lead	18,24,292	42,46,861	24,20,824	66,73,016
Eq	Sr. Manager/ Tech Lead	15,40,828	36,92,923	20,80,596	59,44,580
Er	Manager/ Sr. Engineer	11,67,294	26,37,802	17,83,368	53,60,104
Es	Deputy Manager/ Sr. Engineer	9,84,239	22,42,735	14,86,140	47,55,648
Et	Assistant Manager/ Engineer	7,03,028	16,37,033	11,64,012	40,77,192

* Generally the Cafeteria Benefits are equivalent to 35% of Basic Pay. CPSEs don't operate in IT Sector which has higher spend in pay ranges



C. Comparison of Proposed Pay Range & CPSE Pay Range

Grade	Designation	Min		Max	
		Difference	%	Difference	%
1	CEO	37,18,492	+40%	1,03,16,653	+56%
2	EVP	15,41,951	+26%	36,83,179	+30%
3a	SVP	4,46,673	+11%	2,16,892	+3%
3b	VP	69,789	-2%	17,28,327	-28%
4a	Assistant VP / Chief Engineer	4,48,687	-20%	13,83,581	-49%
4b	Associate VP / Principal Engineer	8,01,532	-33%	24,24,153	-57%
4c	Sr. Manager / Technical Lead	5,39,768	-33%	22,51,637	-64%
5a	Manager / Sr. Engineer	8,16,074	-53%	27,12,382	-103%
5b	Assistant Manager / Engineer	5,01,691	-51%	25,12,893	+112%
5c	Executive / Associate Engineer	4,61,884	-66%	24,40,159	+149%

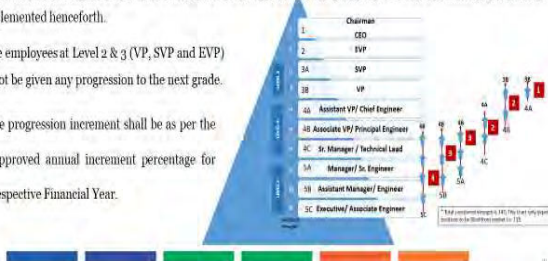
Note: Pay Ranges are the CTC figures exclusive of Gratuity, Health Insurance etc. The CTC figures of CPSE excludes Cafeteria benefits.
(+) denotes Proposed Ranges are more and (-) denotes that CPSE Ranges are more



INTRODUCTION TO PROPOSED PROGRESSION POLICY

Introduction to Proposed Progression Policy

- The eligible employees up to Senior Manager level, who have completed four years, will be given progression to the next grade along with an increment during the transition process. The same policy shall be implemented henceforth.
- Similarly, the eligible employees at Assistant Vice President level will be given progression to the next grade (VP) along with an increment if they have completed seven years during the transition process. The same policy shall be implemented henceforth.
- The employees at Level 2 & 3 (VP, SVP and EVP) will not be given any progression to the next grade.
- The progression increment shall be as per the RC approved annual increment percentage for the respective Financial Year.



Introduction to Proposed Progression Policy

- The effect of progression increment at the time of transition shall be given as per the date approved by the Board of GSTN/ GST Council.
- Irrespective of progression given to individual employees to higher grade, the level wise sanctioned positions approved initially by the Board will be followed for the purpose of filling the positions in future. Eg. An AVP might be given a progression to the level of VP. However, on his resignation the post will be filled up as AVP.





TRANSITION MANAGEMENT

Transition Management

A. Transition of Existing Employees :

The following three steps are proposed during transition of existing regular employees and those on NISG payroll:

- Transition Increment
- Progression along with an Increment to eligible employees at the time of transition (FY 2022-23).
- Outlier Management at the time of transition (FY 2022-23).

B. The increase in salary for existing employees during transition is proposed to be an average of 11 percent (0.2% to 11% - 52 employees), (11.1% to 28% - 10 employees) and (45% - only 2 employees) as their salaries are very low and therefore, requires correction. It is less than what is often being given to Government employees during Pay commission.

C. Transition of employees on NISG Payroll to GSTN as tenured employees.

Step (i) Transition Increment

The tenure based scenarios of existing employees who will be eligible for transition increment shall be as per the table below:

No.	Employees to be transitioned	Proposed Transition Increment
1	All existing employees with more than 4 years tenure at same grade (i.e. employees on regular employment & those on NISG Payroll)	Transition increment with amount equivalent to one increment - as per the RC approved percentage for corresponding management level.
2	All existing employees with more than 6 months (should have completed probation period successfully) but less than 4 years at same grade (i.e. employees on regular employment & those on NISG Payroll)	Transition increment on prorata basis - as per the RC approved percentage for corresponding management level.
3	Existing Consultants hired on GSTN payroll prior to implementation of Recruitment Guidelines would be offered a new Contract with a tenure of 2 years as per the new guidelines of hiring consultants at appropriate Level when their existing contract gets over.	No transition increment is proposed.

The proposed transition increment shall be given as per the RC approved % for FY 2021-22 (i.e. 13.13, 10.6, 9.7 at the respective management levels from bottom to top). Transition increment shall be restricted to the maximum of the pay range of the respective employee.

The formula for calculating transition increment for employees at point No. 2 shall be:

$(\text{Tenure in months}) \times (\text{RC approved level wise percentage increase})$

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Step (ii) Progression along with an increment to eligible employees at the time of transition (FY 2022-23)

The existing employees who will be eligible for progression shall be done as per the table below:

No.	Criteria for Progression	Summary of Proposed considerations
1	Existing employees up to Senior Manager level: • with more than 4 years tenure at same grade and • have secured 18 & above merit points in past 4 years and • also have been awarded a rating of "A" in FY 2021-22.	Progression to the next grade in the proposed grade structure along with an increment. The rate of progression increment would be the percentage approved by the RC* for the grade from which the employee is being progressed. (In total such employee gets grade change and two increments i.e. Progression + Transition).
2	Existing employees at Assistant Vice President level: • with 7 years or more tenure at same grade and • have secured 32 & above merit points in past 7 years and • also have been awarded a rating of "A" in FY 2021-22 to be given one time progression to Vice President level.	Progression to Vice President level in the proposed grade structure along with an increment. The rate of progression increment would be the percentage approved by the RC* for the grade of Assistant Vice President. (In total such employee gets grade change and two increments i.e. Progression + Transition).
3	Existing employees at the level of VP & above	No progression is proposed as it will make the organisation top heavy.
4	Employees with less than 4 years at same grade at all levels	No progression is proposed.

*RC approved percentage for FY 2021-22 - 13.13, 10.6, 9.7 from bottom to top management levels

Step (ii) Progression along with an increment to eligible employees at the time of transition (FY 2022-23)

Grade wise ageing of employees

Rank	0 - 6 months	6 months - 4 years	4 years - 7 years	7 years and above
SVP	1	1	1	4
VP	4	6	2	1
AVP	1	3	2	5
SM	1	4	2	1
Manager	1	6	3	2
Assistant Manager	1	10	3	0
Total	9	30	13	13

Note: The number of eligible employees for progression during transition are shown in green (i.e. 16 employees)

Step (iii) Outlier management at the time of transition (FY 2022-23)

Outlier management at the time of progression during transition shall be done with following guiding principles:

- If employee's salary is below the new grade's minimum pay after giving progression increment:** Such employees would be given pull to minimum increment to bring the employee close to the minimum of the pay range.
 - Pull to minimum increment shall be given at the time of transition to only those employees who are progressing to the next grade.
 - Pull to minimum increment at the time of progression during transition shall be looked into with reference to the minimum of the pay range to which the employee is being progressed.
 - The pull to minimum increment shall be capped such that it is not more than the RC approved average increment percentage for the employee's current grade.
 - As a result of above, it is not necessary that the employee will reach to the minimum of the pay range.
- If employee's salary goes above their new grade's maximum pay while giving the progression increment:** In such cases the quantum of progression increment shall be capped at the maximum of the new grade of the employee. Also, in case the employee's salary has already reached or breached the maximum pay of the new grade while awarding progression, no progression increment would be admissible to him/her.

B. Transition Of NISG Employees to GSTN as tenured employees



Guidelines for transition:

- The employees on NISG payroll will be offered a new contract of four years directly with GSTN by revising terms & conditions of the contract (to legally make it strong). The contract for hiring of NISG employees shall be suitably drafted to protect the interest of the company.
- It shall be examined if the role performed by the concerned employee is required or not. If the role is required in GSTN, it shall be further examined if the concerned employee has rendered meritorious service. The following steps would be taken in this regard:
 - If the above conditions are fulfilled, the employee may be offered next tenure based contract for 4 years with GSTN directly after internal review.
 - If the role is not needed or the performance of employee is below par, CEO may decide to relieve the employee concerned on any date decided by the management. If the management decides to relieve the employee, he/she shall be given three months notice.
 - The position shall be advertised if the role is needed in the organization.
- The tenure on the payroll of NISG and tenure on contract directly with GSTN shall be considered in conjunction as relevant experience for the purpose of giving progression.

The transition plan of NISG employees is detailed in the next slide.



SECTION 2

B. Transition Of NISG Employees to GSTN as tenured employees



The employees on NISG Payroll shall be transitioned to four years tenured employment with GSTN in four batches as per the following schedule.

Transition Plan	Number of employees	Schedule of batch wise transition of employees on NISG payroll to be considered for on boarding
Employees who have gone through at least one annual performance appraisal cycle.	16	1. First batch of 10 employees in the order of tenure (who have served max. tenure with GSTN), basis the past performance appraisal ratings shall be transitioned to GSTN Payroll after the approval of the Board. 2. Second batch of 6 employees in the order of tenure (who have served max. tenure with GSTN), basis the past performance appraisal ratings shall be transitioned to GSTN Payroll w.e.f. 1st April 2023 .
Employees who would complete probation period by 31st Oct 2022	7	3. Such employees (7 in nos.) shall be transitioned to GSTN payroll w.e.f. 1st July 2023 , basis the performance report submitted by their respective reporting manager for confirmation of the employee.
Employees who will not complete probation period on 31st Oct 2022	7	4. Such employees shall be transitioned to GSTN payroll w.e.f. 1st Oct 2023 .

Performance Management Policy



The Performance Appraisal process would have the following steps:

- Employees joining on or before 31st Dec in a FY shall be eligible for Annual Appraisals for the period worked.
- The appraisal shall be initiated at the beginning of the financial year by goal setting process.
- Performance assessment would comprise of KRAs (70%) Behavioral Competencies (15%) & Functional Competencies (15%).
- Thereafter at the end of the financial year Self assessment would done by the employee, then reporting manager would give the evaluation and the reviewing manager awards the final rating.
- A Performance Management Committee (PMC) headed by the CEO would be formed annually to moderate the payment of PLI and Progression Increment.
- A bell shaped curve would be introduced in order to moderate the payment of Variable Pay (PLI) and Progression along with increment. All eligible employees shall be divided into two groups viz. Technology and Non-Technology for moderation.

Performance Management Policy



- The employees shall be entitled to the following based on the ratings awarded in the Annual Appraisals:
 - Annual Increment – based on rating awarded by reviewing manager
 - Variable Pay: Performance linked incentive (PLI) - based on moderated rating awarded by PMC
 - Progression along with an Increment - based on moderated rating awarded by PMC.
- The rating scale is proposed as below:

Final Score in Annual Appraisals	Existing Rating Scale	Proposed Rating Scale
85.1% and Above	A	A*
70.1% to 85%	B	A
60.1% to 70%	C	B
50.1% to 60 %	D	C
Below 50%	E	D

Performance Management Policy



(A) Annual Increment:

- The Annual increments will be given based on ratings awarded by the reviewing manager.
- The RC may decide the increment percentage across levels in the range of 0.8 to 1.8 times of the industry average increment taking into account the industry practice and attrition observed by GSTN in the last financial year.
- The formula for calculation of Annual Increment shall be weightage of rating awarded to the employee multiplied by RC approved percentage increase (Level wise).
- Full increment would be given to the employee who have joined in the first quarter of the FY i.e. 1st April to 30th June.
- Pro-rata increment would be given to those employees who have joined in the period of 1st July to 31st Dec.
- No Increment would be given to the employees who join in the last quarter i.e. 1st Jan to 31st March. The increment for this period shall be paid as arrears in the next evaluation cycle on pro rata basis as per rating.

Performance Management Policy



Outlier management at the time of annual increment will be done with following guiding principles in future, for FY 2022-23 for which assessment would be done in FY 2023-24 and thereafter:

- If employee's salary is below their grade's minimum pay after giving annual increment:** Such employee would be given pull to minimum increment to bring the employee close to the minimum of the grade's pay range.
 - Pull to minimum increment shall be given to only those employees who have secured top rating of A+ in the appraisals.
 - The pull to minimum increment shall be capped such that it is not more than the RC approved average increment percentage for the respective management level.
 - As a result of above, it is not necessary that the employee will reach to the minimum of the pay range.
- If employee's salary goes above their grade's maximum pay while giving the annual increment:** In such cases the quantum of annual increment shall be capped at the maximum pay of the grade of the employee. Such employees would be given minimum increase of 50% based on the rating from next FY which shall be available only for 2 years. Thereafter, salary of such employees shall freeze.



Performance Management Policy



(B) Variable Pay - Performance Linked Incentive (PLI) :

- The proposed compensation structure will have the Variable Pay component fully variable as opposed to existing practice of disbursing 50% of variable pay at the end of Financial Year without assessment.
- PLI will be fully variable and impacted by the performance rating (bell-shaped distribution) as per table below after creating two groups viz. Technology & Non-technology functions.

Bell Shaped Distribution (Percentages)				
A+	A	B	C	D
30	50	10	5	5

- The employees who have joined on or before 31st Dec in the respective FY, will be paid on the basis of assessment for the period worked on prorata basis.
- The employees who have joined in last quarter (1st Jan - 31st March) will be paid 75% of the PLI for the period worked without assessment (i.e. less than or equal to a quarter) on prorata basis.
- The PLI would be paid based on ratings of employees decided by the PMC. The amount of PLI would range between 50 and 110 per cent.



Performance Management Policy



(C) Progression Policy (FY 2023-24 onwards)

Progression will allow an employee to progress one grade above along with one increment, if he/she meets the eligibility criteria, detailed below:

Particulars	Criteria for Progression (FY 2023-24 onwards)
	i. For the employees from Grade 5c up to Grade 4b (Associate Vice President) min 4 years at the same grade as on 31 st March of the

Performance Management Policy



Salient Features of Grade Progression Policy for future:

- List of eligible employees shall be prepared by HR based on defined eligibility criteria.
- Performance Management Committee (PMC) shall be constituted annually for every appraisal cycle and would comprise of CEO, Head of Support, EVP and any other member nominated by CEO. The PMC shall be headed by the CEO.
- Performance Management Committee would select employees for progression based on interview.
- The administrative reporting after progression may continue to a person at same grade.
- The tenure on the payroll of NISG and tenure on contract directly with GSTN shall be considered in conjunction as relevant experience for the purpose of giving progression.
- Irrespective of progression given to individual employees to higher grade, the level wise sanctioned positions approved initially by the Board will be followed for the purpose of filling the positions. E.g. An AVP might be given a progression to the level of VP. However, on his resignation the post will be filled up as AVP. Overall total sanctioned strength shall not be breached within the organization.



Performance Management Policy



	Chairman
1	CEO
2	EVP
3A	SVP

Performance Management Policy



Outlier management at the time of progression shall be done with following guiding principles in future for FY 2022-23 and assessment in FY 2023-24 onwards:

- If employee's salary is below the new grade's minimum pay after giving progression increment:** Such employees would be given pull to minimum increment to bring the employee close to the minimum of the pay range.
 - Pull to minimum increment shall be given at the time of progression to only those employees whose salary is below the minimum.
 - Pull to minimum increment at the time of progression shall be looked into with reference to the minimum of the pay range to which the employee is being progressed.
 - The pull to minimum increment shall be capped such that it is not more than the effective increment percentage for employee's current grade.
 - As a result of above, it is not necessary that the employee will reach to the minimum of the pay range.
- If employee's salary goes above their new grade's maximum pay while giving the progression increment:** In such cases the quantum of progression increment shall be capped at the maximum of the new grade of the employee. Also, In case the employee's salary has already reached or breached the maximum pay of the new grade while awarding progression, no progression increment would be admissible to him/her.



Performance Management System (PMS)



(D) Other Guidelines for PMS

- The employees at Level 2 & 3 (VP, SVP and EVP) who have spent more than six years (to be counted from the date of implementation of the policy) and secured 27 & above merit points in the past will only be given one extra increment but the designation will not change. The increment percentage will be as per the RC approved percentage for that level.
- The pull to minimum shall be given at the time of annual increment/progression and shall be given only once in a financial year at the earliest opportunity i.e. it shall be given either on increment or on progression to employees who are progressed in a financial year (either of that described in slide no. 30 or 35).
- In case value added by the employee is not commensurate with the salary being paid by the employer, the termination process may be initiated to bring fresh knowledge about the technology within the organization by hiring younger talent. GSTN may authorise HR to negotiate termination of service on case to case basis, paying one time severance pay which shall not be higher than one year salary of the executive.

Recruitment Guidelines for Hiring Market Recruits (Part II)



- After four years, it shall be examined if the employees have rendered meritorious service and can be offered next tenure based on review by a Committee comprising of internal members of GSTN. External members can also be co-opted in the Committee, if deemed necessary by CEO.
- A search committee would be formed for recruitment of positions at VP & above level and Executive Search firms would be engaged to search and identify the best suitable candidates for the profile.
- The existing employees shall be eligible to apply for the advertised vacancies.
- The Retirement age for employees in GSTN shall be 60 years. If hiring is done at age greater than that provided in Recruitment guidelines it shall be clearly brought out before the approving authority for the hiring.
- The employment through NISG shall be discontinued to save the extra cost incurred except for specific reasons of role being temporary, to be approved by CEO. GSTN will continue hiring Technical Assistants/Executive Assistants/MTS from agencies like NISL, Nippon which provide hiring as a service

Recruitment Guidelines for Hiring Market Recruits (Part II)



The recruitment guidelines was approved by Hon'ble Finance Minister in March 2021. The same shall be called as recruitment guidelines (Part I) hereinafter and the provisions in it shall continue to be followed. The proposed changes to the Recruitment guidelines (Part I) shall be termed as Part II.

Hiring in future would be for a contract period of four years directly with GSTN, thereafter the following process shall be followed:

- The salary range for future hiring of engineers at levels 4&5 shall start at P25 of the proposed pay ranges for technology positions subject to negotiations & last drawn salary of the prospective candidates.
- Experienced candidates for technology & non-technology positions, on being hired from market would be given a minimum of 20% increase from last salary drawn and this can lead to offered salary being less than the minimum/P25 of the proposed pay range defined for that level. This is the current industry practice.
- The proposal for hiring in future on 4 year tenure (contract) shall be reviewed from time to time to

Recruitment Guidelines for Hiring Market Recruits (Part II)



- GSTN would start brand building initiatives for establishing GSTN as employer of choice for attracting good talent.
- If the contract ends, the employee shall be eligible for rehiring after a cooling off period of one week to one month provided there is continued need for that role within the company and the performance of the employee is satisfactory.
- In case of resignation, the employee may be relieved before three months by either buying out the notice period or obtaining waiver from the CEO, GSTN.

Engagement of Independent Consultants



A maximum of 25 number of Independent Consultants for a short tenure may be engaged in GSTN based on requirement over and above the sanctioned strength of 147.

- The engagement shall be initially for a period of two years which may be extended up to three years, depending on the performance evaluation.
- The Guidelines have been drawn up on the same pattern that is being followed by various Ministries in the Government of India.
- They shall be engaged only for fixed periods of time for short term projects or works in GSTN; they shall be paid fixed amounts of money and there would be no employer-employee relationship with these manpower. The Maximum age limit is 67 years.
- Approving authority for hiring may be decided (Chairman or CEO).

Engagement of Independent Consultants



v. Experience, Age and Qualification Remuneration for engaging Independent consultants:

Position	Upper Age Limit	Post qualification Experience Years	Relevant experience (No. of years)
Young Professionals	33 years	Minimum 0 - 1 year	0
Associate	43 years	Minimum 2 - 7 years	2
Consultant	50 years	Minimum 8 years	3
Senior Consultant	65 years	15 years and above	5

vii. The remuneration will be inclusive of all applicable taxes and no other facility or allowance will be allowed.

Position	Remuneration per month (Rs.)*	IT Skills Allowance**
Young Professional	60,000	20,000
Associate	80,000 - 1,15,000	30,000
Consultant	1,43,000 - 2,35,000	40,000
Senior Consultant	2,65,000 - 3,50,000	50,000

*Same as per the latest Circular of Ministry of Commerce

**TBA: is an additional allowance to Non-IT Skills

*** Remuneration over and above the rates mentioned in the table for deserving candidates may be paid with the approval of Chairman GSTN.

ix. Remuneration for any selected candidates shall be fixed, based on the following:

- The range of Remuneration proposed in the above table for the position in which the candidate has been selected.
- Years of Experience
- Last Pay Drawn

Leave Policy



- Revision in number of leave admissible as per present policy (EL 20 to 30), (SL 7 to 8), (CL 7 to 8)
- Accumulation limits revised for earned leave (30 to 50) and sick leave (21 to 30)
- Option to be given to employees for encashment of 50% of the EL balance at the end of calendar year
- The policy to be adopted for allowing employees to Work from home shall be decided at CEO level.

An appropriate SOP for the same shall be put in place.

Miscellaneous Benefits



The proposed revision in benefits shall be applicable to all employees (i.e. Market Hires & Deputationists).

- 20% increase in the existing limits as per the grade for purchasing mobile handset but it shall be replaced after three years from the last purchase against the existing practice of two years.
- Employees can claim food allowance amounting to 25% of Hotel rates on production of bills or only 15% of Hotel rates without production of bills while on tour.
- 20% revision is proposed for room tariff in Tier 1 cities like Delhi, Mumbai, Bangalore, Chennai, Kolkata, Pune & Ahmedabad.
- The OPD reimbursement policy started during COVID shall continue.

Recognising Talent for Exemplary Performance



To reward the excellence in performance, two awards as follows are proposed:

- Employee of the month:** One employee from each function (i.e. Technology, Services & Support/others) shall be given buffet dinner coupons for up to 4 family members.
- Best team of the quarter:** Module & Function wise best performing team will be selected for the reward. Company sponsored buffet dinner coupons for all the concerned team members.
- A committee will be formed to decide the winners and GSTN will negotiate the coupon rates with nearby hotels.

**Revision in Allowances for Employees on Deputation**

- The allowances for employees on deputation would be implemented after due approval from the competent authority. Till the time the same is approved the allowances being paid to deputationists shall be continued.
- The following Allowances admissible to deputationists in GSTN require revision as in some cases the amounts paid in GSTN are less than what is admissible in Government currently as the allowances in GSTN are static whereas the allowances in Government are linked to Dearness Allowance:
 - Fuel Allowance
 - Leave Travel Allowance (LTA)
 - Children Education Allowance (CEA)
 - Medical Reimbursement
- PLI being paid to deputationists shall be discontinued.
- Employees on deputation in GSTN shall be given IT and Training Allowance as per the new proposed policy.
- The HRA is proposed to be revised by approximately 10-20%.

**Revision in Allowances for Employees on Deputation****Transition policy for deputationists:**

- The old policy to continue till the new policy is approved;
- New deputationists to be on boarded as per the new policy after the same has been approved;
- Existing deputationists (20) were on boarded as per the advertised old policy and therefore would be given option to change their perks as per the new policy or stay with old policy for balance of their tenure.

**Revision in Allowances for Employees on Deputation****1. Fuel Allowance**

Details	Chairman (L.16)	CEO (L.15)	EVP (L.14)	SVP (L.13)	VP (L.12)	AVP (L.11)	Associate VP (Level 10 with 3 yrs in the Level)	SH (L.10)	Manager (L.9)	AM (L.8)	Executive (L.7)
GSTN (Old Fuel Allowance)	Company Car	Company Car	Company Car	Company Car	14000	12000	-	10000	-	9000	8000
GSTN (Proposed Fuel Allowance per month)	Company Car	Company Car	Company Car	Company Car	25000	21000	30000	17500	16500	15500	14000
Proposed fractional hike (times)	+	+	+	+	1.79	1.75	+	1.75	+	1.72	1.75

2. Leave Travel Allowance

The reimbursement of LTA as practiced in the Government of India shall be followed based on block years' adopted by the Government.

**Revision in Allowances for Employees on Deputation****2. House Rent Allowance**

Designation	Pay Level	Basic Pay Range (As on Date)	Present HRA paid in GSTN	Proposed
Chairman	L-16	205400-224400	1,25,000	1,50,000 *
CEO	L-15	182200-224100	1,10,000	1,25,000 *
EVP	L-14	144200-218200	80,000	1,00,000
SVP	L-13	123100-215900	70,000	85,000
VP	L-12	78800-209200	60,000	80,000
Assistant VP	L-11	67700-208700	50,000	75,000
Associate VP	L-10 (with 5 years experience in the level)	56100-177500	-	70,000
Senior Manager	L-10	56100-177500	40,000	65,000
Manager	L-9	53100-167800	-	60,000
Asst. Manager	L-8	47600-151100	40,000	55,000
Executive	L-7	44900-142400	40,000	50,000

* Company lease facility along with maintenance and GST may be provided by GSTN for Chairman & CEO.
Lesse can be considered for other levels as an optional facility.
* GSTN employees are not entitled to General Pool Accommodation.

**Revision in Allowances for Employees on Deputation****3. IT and Training Allowance**

- The PLI being paid to deputationists shall be done away with as it is a not for profit company and an IT and Training Allowance introduced which shall be similar to Training Allowance paid in the Government.
- Payment of Training Allowance is followed in the Government in Training Institutes where officials are paid 30 per cent of basic pay without levy of Income Tax on the amount which effectively adds up to nearly 40 percent of Basic Pay (30% + IT of 31.2%).
- GSTN is a critical network for collection of revenue and therefore attracting talent is necessary for its success. GSTN platform is responsible for collecting revenues every month of 1 lakh cr, and filing of returns to the tune of 1.8 cr. every month.
- Unlike field revenue officers who have statutory process and functions. GSTN roles are very service and facilitation oriented. Therefore GSTN needs to attract talent by paying IT and Training allowance

**Revision in Allowances for Employees on Deputation**

v. The IT and Training Allowance shall be introduced in GSTN for deputationists as per table in the subsequent slide to compensate the deputationists for the following:

- GSTN imparts regular training to the trade directly and through preparation of audio-visual training material and officials not only monitor development but also are exclusive faculty to impart trainings to tax officers on the modules and therefore, are entitled to training allowance as admissible in Training Institutes.
- Working 24 x 7 on the system at individual level without any support unlike in the Government;
- Performing integrated roles in the Company on account of very less sanctioned strength;
- Working under stress for completion and proper running of modules and introducing changes/fixes in the system which develops high pressure amongst the employees;
- Handling very high volumes of the transactions;
- Attending Bridge Calls at odd hours for emergencies.



Revision in Allowances for Employees on Deputation



Proposed IT and Training Allowance

Designation	Pay Level	Basic Pay Range (As on Date)	Present PLI paid in GSTN (Percentage of Basic Pay & DA)	Proposed (Percentage of Basic Pay & DA)
Chairman	L-16	205400-224400	50	40
CEO	L-15	182200-224100	50	40
EVP	L-14	144200-218200	50	45
SVP	L-13	123100-215900	50	45
VP	L-12	78800-209200	50	45
AssistantVP	L-11	67700-208700	50	50
Associate VP	L-10 (with 5 years experience in the level)	56100-177500	-	50
Senior Manager	L-10	56100-177500	50	50
Manager	L-9	53100-167800	-	50
Assistant Manager	L-8	37600-151100	50	50
Executive	L-7	44900-142400	50	50

Dates of implementation



Particulars	Dates of implementation
Transition <ul style="list-style-type: none"> Transition Increment Progression Increment during transition Full to near minimum for progression cases 	First day of the month after BOD & GST Council approves the proposal for transition or any other date decided by the BOD
Performance Management Policy <ul style="list-style-type: none"> Annual Increment PLI Based on Bell Curve for the Year 2022-23 & onwards Progression Based on Bell Curve for the Year 2022-23 & onwards 	FY 22-23 onwards (Assessment in FY 23-24 onwards) <ul style="list-style-type: none"> 1 April 23 1 April 23 1 Oct 23
Recruitment Policy	First day of the month after BOD & GST Council approves the proposal for transition or any other date decided by the BOD
Leave Rules	1 Jan 2023
Entitlements for Mobile Handset & other allowances	First day of the month after BOD & GST Council approves the proposal for transition or any other date decided by the BOD
Reward and Recognition	1 Jan 2023
Allowances for Deputations	After approval by competent authority. Till such time old practices to be continued.

Saving and difficulty removal during implementation



- The issues not listed in the proposal shall continue to be guided as per the existing clauses in the HR Manual viz. Joining, Attendance, Grievance & Disciplinary procedures etc. After the in-principle approval of BOD/ Council, the HR Manual would be revised to incorporate the changes and all policies would be consolidated for adherence in future.
- All existing decisions of the Board and Management taken prior to the date on which these policies become operational shall continue to apply for the specific case in which it was taken notwithstanding any conflict with the present policies provided that specific decision taken in relation to any of the past decisions to overrule the past decision shall lead to the new specific decision prevailing.
- Difficulty removal clause: Any difficulties/challenges during implementation of the transition process/policy shall be resolved by CEO, GSTN.
- Where there is a conflict or lack of clarity in this presentation, details as provided in the Annexures II to XI shall prevail.



Thank you

Background, Rationale for the changes in the proposed HR Policy, Financial Impact of Revision in HR Policies and Existing and Proposed Grade Structure.

1. Background

1.1 The GST Council in its 27th meeting held on 4th May 2018 and the Union Cabinet in its meeting held on **26th September 2018** decided 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 the various States and Union Territories. The transition was completed on 30th June 2022.

1.1.1 Extracts from the minutes of the decision by Union Cabinet on 26th September 2018 are given below:

1.1.2. Flexible hiring & appropriate remuneration policy may be evolved by GSTN within the next five years considering criticality of the IT manpower, prevailing market compensation etc. and placed before the GST council for its approval in due course.

1.1.3. GSTN is not a CPSE because share of Centre is 50% i.e. less than 51 %. Confirmation in this regard has been received from DPE. Hence, it is proposed that all decisions would be approved by GSTN Board and GST Council.

1.1.4. The Board of GSTN in its meeting dated 30th June 2022 decided that the HR and Remuneration committee shall jointly deliberate on the HR Policy of GSTN and recommend the policies for the approval of the Board. Accordingly, the Committee deliberated on the HR Policy on 15th & 23rd September 2022. The salient features of the policy as approved by the Committee is detailed in the following slides for approval.

2. Rationale for the proposed changes in the HR Policy

2.1 Attrition: The compensation of employees hired from the Market had been fixed in the year 2014 and since 8 years have elapsed without any change, the salary ranges have become redundant. The fallout can be seen from the attrition data given below which is progressively increasing over the years:

Table-1

Attrition data	2018-19	2019-20	2020-21	2021 - 22	2022-23 (Up to Sep 2022)
Market Hire Attrition	7	4	11	14	10
Attrition %	6	5	10	14	15

2.2 Stagnation : Besides the above, most of the employees who have joined GSTN in the years 2014/2015 are still in their respective grades as there is no provision for career progression. At present it is also getting difficult to hire technical manpower in GSTN in the existing grades and pay ranges. Therefore, a revision is warranted.

3. Financial Impact of Revision in HR Policies

- a. Total Revenue budget of GSTN for 2022-23 – 602.75 Crore
- b. Total Salary Budget (SB) of GSTN for 2022-23 (Excluding Deputation Salary) – 35.85 Crore
- (i) GSTN payroll 15.42 + (ii) Third Party Payroll 17.85 + (iii) Welfare Benefits 2.58)
- c. Total increase in wage bill on account of proposed revision – 4.89 Cr
- d. Management fee savings from discontinuation of NISG – 0.88Crore (Annual)
- e. Net percentage increase in wage bill(Excluding Deputation Salary) – 11.18%
- f. Salary budget for employees on deputation(FY 2022-23) – 10.67 crore
- g. Total increase in wage bill on account of revision in allowances for deputationists – 0.56 Cr
- h. Total Present Salary Bill (Market + Deputation) - 46.52 Cr
- i. Total increase in expenditure of the filled positions (4.89+0.56) i.e. (S.no. 3+ 7) - 5.45 Cr
- j. Total expected increase in expenditure if all vacancies were filled – 8.30 Cr
- k. Total percentage of increase in wage bill with the filled positions (Market + Deputation) - 11.71%
- l. Total percentage of increase in wage bill hypothetically, if all vacancies are filled - 17.84%
- m. Revised Salary bill would be (46.52 + 5.45) - 51.97 Cr

3.1 For kind consideration: The decision on issues involved should be seen from good HR Practice and not from the perspective of budget, as the expenditure involved on the issue is quite low. The effort should be to hire and retain best talent from market as well as deputation.

Note: (All calculations are based on person in position as on 1st July 2022)

4. Existing and Proposed Grade Structure

4.1 The grade and designation structure was defined for employees sourced through both deputation and through private channels in the 8th Board meeting in 2014 as shown alongside.

Table-2

Levels	Grades	Designation	
L 1	G1	Chairman & CEO	Top
L 2	G2	Executive Vice President	
L 3	G 3	Senior Vice President	Senior
	G 4	Vice President	
L 4	G 5	Assistant Vice President	Middle
	G 6	Senior Manager	
L 5	G 7	Manager	Junior
	G 8	Assistant Manager	

- i. The management levels are proposed to be revised to three instead of existing four keeping in view the industry practices in the IT sector.
- ii. It is proposed to introduce designations prevalent in IT industry for hiring technical manpower and corresponding equivalent non-tech designations. Both kind of designations shall be implemented for future hiring after approval.
- iii. Addition of two grades is proposed i.e. 5 c – Executive / Associate Engineer at level 5 and 4 b – Associate VP/Principal Engineer at level 4 in line with generally accepted designations in the industry.
- iv. The existing and proposed grade structure as well as pay ranges is detailed in the following paragraphs.

5. Existing and Proposed Grade Structure

Table - 3

Level	Existing Grades	Proposed Grade	Designation	Years of Experience
Level 1	G1	1	Chairman & CEO	20 years +
Level 2	G2	2	EVP	18 years
Level 3	G3	3a	SVP	15-18 years
	G4	3b	VP	14-16 years
Level 4	G5	4a	Assistant VP / Chief Engineer	12-14 years
	-	4b	Associate VP / Principal Engineer	10-12 years
	G6	4c	Sr. Manager/ Technical Lead	8-11 years
Level 5	G7	5a	Manager /Sr. Engineer	7-10 years
	G8	5b	Assistant Manager/ Engineer	5-9 years
	-	5c	Executive / Associate Engineer	0-5 years

**Senior Management:
Grades in Level 1, 2 &3**

**Middle Management:
Grades in Level 4**

**Junior Management:
Grades in Level 5**

5.1 Existing and Proposed Pay Ranges

5.1.1. Existing pay ranges in Table 1 were approved 8 years ago and market aligned pay ranges are in Table 2 below (**Figures represent the Yearly Emoluments – CTC per annum**). The “Broad Pay Range Approach” was being followed in GSTN which is proposed to be retained as all the levels encompass different roles and therefore the salaries are paid to each role based on IT industry benchmarking and last drawn salary of individual incumbent.

Table -4

Existing Pay Ranges				
Level	Grades	Designation	Min	Max
L1	G-1	Chairman	Person Specific	
	G-1	CEO	1,00,00,000 (Person specific)	
L2	G-2	EVP	45,69,396	76,15,660
L3	G-3	SVP	33,12,902	55,21,503
	G-4	VP	22,95,628	38,26,046
L4	G-5	AVP	15,02,615	25,04,359
	G-6	SM	10,41,943	17,36,572
L5	G-7	Manager	7,12,500	11,87,500
	G-8	AM	4,57,500	7,62,500

Table - 5

Proposed Pay Ranges				
Level	Grade	Designation	Min	Max
Level 1	1	CEO	93,13,000	2,09,30,000
Level 2	2	EVP	58,20,000	1,22,40,000
Level 3	3a	SVP	41,57,000	84,41,000
	3b	VP	29,70,000	61,62,000
Level 4	4a	Assistant VP / Chief Engineer	22,80,000	48,83,000
	4b	Associate VP / Principal Engineer	18,24,000	42,47,000
	4c	Sr. Manager/ Technical Lead	15,41,000	36,92,000
Level 5	5a	Manager / Sr. Engineer	11,67,000	26,37,000
	5b	Assistant Manager/ Engineer	9,84,000	22,42,000
	5c	Executive/ Associate Engineer	7,03,000	16,37,000

Compensation and Remuneration Policy

1. APPLICABILITY:

The changes in the grade structure and compensation structure approved by the Board shall be effective from the date proposed in Annexure XI.

2. GRADE STRUCTURE

2.1. The employees of GSTN (both regular and tenured) would be placed in 5 levels and 10 grades. The levels and grades to be followed in future are shown in **Table-1**.

2.2. The designations for technology and non- technology roles are also shown below which shall be followed henceforth.

Table - 1

Level	Existing Grades	New Grades	Designation	Years of Experience
Level 1	G1	1	Chairman CEO	20 years +
Level 2	G2	2	EVP	18 years
Level 3	G3	3a	SVP	15-18 years
	G4	3b	VP	14-16 years
Level 4	G5	4a	Assistant VP / Chief Engineer	12-14 years
	New	4b	Associate VP / Principal Engineer	10-12 years
	G6	4c	Sr. Manager/ Technical Lead	8-11 years
Level 5	G7	5a	Manager /Sr. Engineer	7-10 years
	G8	5b	Assistant Manager/ Engineer	5-9 years
	New	5c	Executive / Associate Engineer	0-5 years

Senior Management
Grades in Level 1, 2 &3

Middle Management
Grades in Level 4

Junior Management
Grades in Level 5

2.3. Definition of responsibilities at each level has been defined in the table-2 below:

Table - 2

Level	Profile of a typical role in the Grade at this Level
1	Provides strategic leadership. Visioning, Goal setting & Strategy Formulation. Works with the Board and the GST council to define the future for the organisation and takes accountability for the goals defined
2	Provides operational leadership and drives goals, objectives, and culture. Contributes towards strategy formulation. Integrates and leads complex units and functions. Develops operating frameworks for the respective units
3	Requires high domain exposure with direct and indirect leadership. Involved in designing operational processes, structures, systems or methods for strategy implementation. Would be responsible for delivery. Leads complex processes and contributes to business through personal, professional and technical leadership
4	Routine kind of work, requires domain expertise or high generalist exposure. May warrant some kind direct or indirect leadership. Involved highly in implementation. Oversee, coordinate and control functional processes towards departmental achievement of targets. Acts mostly as individual contributor or first line manager
5	Provides support in day-to-day operational activities. Works as individual contributor. Undertakes standardized routine processes and follow detailed instructions to complete the tasks assigned

3. Compensation Structure

3.1. The broad details of the constituents of CTC are enumerated below:

3.1.1. **Fixed Base Salary :** Basic Pay (30-40% of CTC)

3.1.2. **Fixed Cash Allowances:**

- i. HRA – 50% of Basic Salary in metro cities, 40% of Basic Salary in non-metro cities
- ii. PF – 12% of Basic Salary.
- iii. LTA – 8.33% of Basic Salary.
- iv. Special Allowance payable as a balancing amount.
- v. Conveyance Allowance – Payable as a fixed amount of ₹ 19,200/- per annum for the levels up to Manager in GSTN.
- vi. Child Education Allowance – Payable as a fixed amount of 2,400/- per annum.
- vii. Medical Reimbursement – Payable as a fixed amount of 15,000/- per annum.
- viii. Monetised benefits as detailed in Para 4.1.2 (Though included in CTC shall not be considered for any increments.)
- ix. Fuel Allowance and Driver's Salary is payable as fixed amounts to Senior Manager and above grades. Employees eligible for Fuel Allowance & Driver Salary can either claim reimbursement by producing bills or claim amounts without bill on payment of income tax. The amounts payable on this account grade-wise is shown in the table below:

Table – 3

Grade	Designation	Fuel Allowance Per Month (Rs.)	Driver Salary Per Month (Rs.)
1	Chairman CEO	20,625	12,000
2	EVP		
3a	SVP	15,000	10,000
3b	VP		
4a	Assistant VP / Chief Engineer	12,692	8,000
4b	Associate VP / Principal Engineer		
4c	Sr. Manager/ Technical Lead		
5a	Manager /Sr. Engineer	Conveyance allowance of 19,200 per annum	
5b	Assistant Manager/ Engineer		
5c	Executive / Associate Engineer		

3.1.3. Variable Pay: Performance Linked Incentive (PLI) is payable as a percentage of CTC and it will be fully variable. The percentage of variable pay will be 10%, 15% & 20% at Junior, middle and senior level respectively. PLI i.e. the variable portion of the CTC shall be disbursed after completion of the performance appraisal process. The methodology to be adopted for release of annual increments and payment of PLI are described in the Performance Management Policy.

3.1.4. Other components: There would be certain other benefits payable to the employees which would not form a part of the CTC as this would be paid as per Acts and Rules in vogue. Besides, certain welfare measures provided to the employees would also not form a part of the CTC. The details in this regard is given below:

- a) Gratuity shall be over and above the CTC to be paid as per the Payment of Gratuity Act. This will be only applicable for the regular employees of GSTN, as future hiring would be on contract for a tenure of four years and would not come under the ambit of Gratuity.
- b) Insurance premium shall be exclusive of the CTC.
- c) Hot Skills Allowance (HSA) may be offered while hiring the candidate for the required skill set as the percentage of Basic Pay. It is a discretionary amount which shall be given for the tenure of 4 years.
 - i. The eligibility for HSA will be for individuals who not only possess a hot skill but also use that skill at least 50% of the time when performing their jobs.
 - ii. HSA would not be taken into consideration while calculating the ceiling for freezing the salary.
 - iii. HSA will be decided at the time of hiring the candidate for the required skill set, if it is a Hot Skill for GSTN.
 - iv. Individuals must continue securing 'A+' or 'A' rating to maintain their eligibility for HSA for the entire tenure.

- v. HSA will not be a part of CTC for the purpose of annual increments, PLI and retiral benefits like PF.
- vi. Based on the market trends and study/reports by consulting firms, the HSA list shall be revised annually. It is to be given to not more than ten percent of the sanctioned strength based on the criteria listed above (Shall be proposed by GSTN HR and approved by CEO).

The list of Hot Skills presently identified by the Consulting firms in the context of GSTN is given in below table:

Table - 4

Identified Hot Skills for GSTN	Percent of Basic Pay
BIFA - Scrum Master	18%-20%
BIFA - Architects (platform & data)	18%-20%
BIFA - UI/UX	15%-17%
BIFA - Data Science Lead	15%-17%
Business Analyst	12%-14%
Data Science Lead	15%-17%
Data Modelers	15%-20%

- d) Joining Bonus may be offered while hiring the candidate. It is a discretionary payout negotiated with the candidate and not necessarily to be paid to all. This shall be paid based on the need of GSTN to hire and retain critical resources for its functioning. It may be recovered if the new employee quits early.
- i. The value of joining bonus to be paid level wise would be in the range of INR 1,00,000 to INR 3,50,000 as shown in Table below:

Table - 5

Level	Grade	Designation	Joining Bonus
1	1	Chairman CEO	-
2	2	EVP	3,50,000
3	3a	SVP	3,00,000
	3b	VP	3,00,000
4	4a	Assistant VP / Chief Engineer	2,50,000
	4b	Associate VP / Principal Engineer	
	4c	Sr. Manager/ Technical Lead	2,00,000
5	5a	Manager /Sr. Engineer	1,50,000
	5b	Assistant Manager/ Engineer	
	5c	Executive / Associate Engineer	1,00,000

- ii. The employee would have to serve the organization for a minimum period of 2 years failing which he/she would have to return the joining bonus. The amounts of recovery on this account is given in the table below:

Table - 6

Tenure with GSTN	Percentage recovery of the bonus
Less than 6 months	100%
6 months – 1 year	75%
1 – 1.5 years	50%
1.5 – 2 years	25%

Note: The payment of Hot skills Allowance and Joining bonus shall be decided on individual basis by the Management of GSTN depending on the business need or requirement for certain kinds of skills at particular point of time. All the factors for recruitment of a particular resource viz. urgency of GSTN to hire for a particular position, the criticality of the role in GSTN etc. would be considered critically in order to arrive at the decision whether the hot skills allowance and/or joining bonus would be paid to a particular candidate. There would be no bar to pay both the Hot Skills Allowance and the Joining Bonus to the same candidate in case he/she is very deserving as decided by the Management of GSTN.

4. PAY RANGES

The pay ranges applicable for employees of GSTN hired from the market has been detailed in the table below.

Table – 7 New Pay Ranges *- Annual Cost to Company (CTC)							
L e v e l	Grade	Designation	Min	P25	Median	P75	Max
1	1	Chairman CEO	93,13,000	1,19,61,000	1,46,17,000	1,79,38,000	2,09,30,000
2	2	EVP	58,20,000	70,78,000	88,59,000	1,06,77,000	1,22,40,000
3	3a	SVP	41,57,000	49,84,000	61,95,000	74,15,000	84,41,000
	3b	VP	29,70,000	34,85,000	42,43,000	53,34,000	61,62,000
4	4a	Assistant VP /Chief Engineer	22,80,000	26,68,000	34,30,000	41,32,000	48,83,000
	4b	Associate VP /Principal Engineer	18,24,000	21,69,000	27,44,000	35,95,000	42,47,000
	4c	Sr. Manager/ Tech Lead	15,41,000	18,93,000	23,33,000	30,98,000	36,92,000
5	5a	Manager / Sr. Engineer	11,67,000	14,12,000	17,15,000	22,28,000	26,37,000
	5b	Assistant Manager/ Engineer	9,84,000	11,20,000	14,66,000	18,45,000	22,42,000
	5c	Executive/ Associate Engineer	7,03,000	8,48,000	10,86,000	13,18,000	16,37,000

***The pay ranges shown above are inclusive of monetised benefits.**

4.1. The CTC figures in the Pay ranges are exclusive of Gratuity. Gratuity will be paid to regular employees only, tenured employees shall not be paid Gratuity.

4.1.1 Welfare Benefits

- i. Group Medical Insurance
- ii. Group Term Life Insurance
- iii. Group Personal Accidental Insurance

These would be over and above the CTC as a welfare measure for the employees of GSTN.

4.1.2 Monetised Benefits Payable Monthly:

- a) The regular, tenured and employees on deputation from Government Departments on the pay roll of GSTN are eligible for being paid the monetized benefits detailed in the table below on a monthly basis.

Table – 8

Designations (Grades)	Existing Grades (Pay Level- Deputationists)	Monthly monetised benefits payable*
Chairman (1)	G1	75000
CEO (1)	G1 (Level 15)	70000
EVP (2)	G2 (Level 14)	65000
SVP (3a)	G3(Level 13)	60000
VP (3b)	G4(Level 12)	50000
Assistant VP/Chief Engineer (4a)	G5(Level 11)	40000
Associate VP/ Principal Engineer (4b)	(Level 10+ 5 yrs exp in that level)	33000
Sr. Manager /Tech Lead (4c)	G6(Level 10)	28000
Manager / Sr. Engineer (5a)	G7(Level 9)	22000
Assistant Manager / Engineer (5b)	G8(Level 8)	17000
Executive / Associate Engineer (5c)	G9 (Level 7)	14000

**The monthly monetised benefits/entitlements comprise of the following:*

- *Mobile Handset*
- *Mobile/Broadband Bill*
- *Newspaper/Periodicals*
- *Hospitality*
- *Health & Wellness Allowance (OPD)*
- *Office Bag*

Hereafter, the reimbursements on the above elements shall be discontinued.

- b) The amounts mentioned in the above table would be payable to the employees on a monthly basis and would form a part of CTC but would be shown separately as monetised benefits.
- c) CTC including the monetised benefit shall be capped at the maximum of the pay range of the concerned employee. While granting annual increment or progression increment, monetised benefits shall not be taken into account.
5. The Pay, Allowances and Monetised Benefits shall be revised once there is a gap of 33 percent based on the market trends and study/reports by consulting firms. Revision shall be approved by the Board of GSTN.

Transition

1. **Applicability:** The transition management plan shall be implemented from the date of approval by the GST Council.

1.1 Purpose & Scope:

1.1.1. Since the company is being converted into a Government owned company, the future hiring has to be appropriately aligned so as to maintain the flexibility for GSTN to hire appropriate talent for the Company. Existing employees would also be mapped to the new grade structure and the salary correction shall be done by giving the following:

- a. Transition Increment
- b. Progression along with an Increment to eligible employees at the time of transition (FY 2022-23).
- c. Outlier Management at the time of transition (FY 2022-23).

1.1.2. The existing employees on the payroll of GSTN shall be transitioned into the new grade structure on as is and where is basis (i.e. by designation).

1.1.3. The monetised benefit shall not be considered while arriving at new pay during transition and would be included in the CTC even in cases where the employee's pay reaches or breaches the maximum of the pay range. However, after transition the amount would be considered as part of CTC and policy of outlier management shall be applicable thereafter.

1.1.4. The positions occupied by NISG employees shall be advertised and the positions shall be filled up after interviews. If any employee on NISG payroll gets selected he/she shall be offered a new contract of 4 years directly with GSTN as per the recruitment guidelines of GSTN. The employees on NISG payroll who are not selected in the interview process shall either be continued till their existing contract with NISG completes or may be given three months' notice as per the contract of the employees with NISG.

1.1.5. Hiring through NISG may not be continued in future.

1.2 New Grade Structure and Transition to new grades:

New pay band, grade wise is provided in **(Table -1)** with the following salient features:

1.2.1 Two new grades would be introduced in GSTN in order to align the grades to the Industry practices. These are: Grade 5 c – Executive / Associate Engineer at level 5 and Grade 4 b – Associate VP at level 4. The grades are detailed in **Table-1** below. The designations for Tech & non- tech levels & grades have also been given in **Table-1** below.

1.2.2 There will be a total of 5 levels and 10 grades in the Company. The roles that would be performed by each level of employee in the Company has been defined in **Table -2** below.

Table - 1

Levels	Existing Grades	New Grades	Designations
1	G1	1	Chairman & CEO
2	G2	2	EVP
3	G3	3a	SVP

	G4	3b	VP
4	G5	4a	Assistant VP / Chief Engineer
	-	4b	Associate VP / Principal Engineer
	G6	4c	Sr. Manager / Technical Lead
5	G7	5a	Manager /Sr. Engineer
	G8	5b	Assistant Manager/ Engineer
	-	5c	Executive / Associate Engineer

Senior Management
Grades in Level 1, 2 &3

Middle Management
Grades in Level 4

Junior Management
Grades in Level 5

Table - 2

Level	Profile of a typical role in the Grade at this Level
1	Provides strategic leadership. Visioning, Goal setting & Strategy Formulation. Works with the Board and the GST council to define the future for the organisation and takes accountability for the goals defined
2	Provides operational leadership and drives goals, objectives, and culture. Contributes towards strategy formulation. Integrates and leads complex units and functions. Develops operating frameworks for the respective units
3	Requires high domain exposure with direct and indirect leadership. Involved in designing operational processes, structures, systems or methods for strategy implementation. Would be responsible for delivery. Leads complex processes and contributes to business through personal, professional and technical leadership
4	Routine kind of work, requires domain expertise or high generalist exposure. May warrant some kind of direct or indirect leadership. Involved highly in implementation. Oversee, coordinate and control functional processes towards departmental achievement of targets. Acts mostly as individual contributor or first line manager
5	Provides support in day-to-day operational activities. Works as individual contributor. Undertakes standardized routine processes and follow detailed instructions to complete the tasks assigned

1.3 Compensation and remuneration guidelines for future hiring and transition

1.3.1. The guidelines for compensation and remuneration will be applicable as per Annexure III (Compensation & Remuneration Policy of GSTN) for the purpose of transitioning the existing employees to new grade structure and pay ranges.

1.3.2. The existing practice in GSTN is that gratuity forms a part of the CTC for regular employees which is paid at the time of their exit. However, after the transition, as per the new policy their compensation structure shall be modified such that gratuity shall be excluded from CTC to comply with the law. In case employees are on boarded for a period of four years, Gratuity shall not be applicable as per the Act.

1.3.3. It is also proposed to pay LTA as 8.33% of Basic salary, instead of current practice of paying fixed amounts.

1.3.4. Performance Linked Incentive (PLI) will be fully variable and impacted by the performance rating (bell-shaped curve) as opposed to existing practice of giving 50% of variable pay at the end of Financial Year without assessment. The percentage of variable pay will be 10%, 15% & 20% at Junior, middle & senior levels respectively.

1.4 Process and methodology of transition increment:

1.4.1. The compensation & remuneration policy has not been revised since 2014 and employees who have spent a considerable amount of time in GSTN have stagnated in their current roles due to lack of revision in pay ranges. A transition increment shall be given to all the regular employees as per the RC approved percentage for FY 2021-22 (i.e. 13.13, 10.6, 9.7 at the junior, Middle and Senior management levels respectively). The increment at the time of transition shall be given to the employees considering need for the salary correction so that the employees are brought into the new pay ranges. The details of how employees would be brought into the pay ranges are detailed in the subsequent paragraphs.

1.4.2. The tenure based scenarios of existing employees who will be eligible for transition increment is shown in following **Table:**

Table -3

No	Criteria	Particulars of Transition Increment
1	All existing regular employees with more than 4 years tenure at same grade.	Transition increment with amount equivalent to one increment- as per the RC approved percentage for corresponding management level -refer para 1.4.1.
2	All existing regular employees with more than 6 months (should have completed probation period successfully) but less than 4 years at same grade.	Transition increment on pro rata basis* - as per the RC approved percentage for corresponding management level -refer para 1.4.1.

**The calculation of the effective increment on pro rata basis shall be based on the below formula:*

Transition increment = {Tenure (In Months) / 48 Months} x {RC approved increment percentage for the respective management level}

1.4.3. The transition increment shall be given to all the employees of GSTN as per above Table. However, transition increment shall be restricted to the maximum of the pay range of the respective employee.

1.4.4. The process of recruiting employees on NISG payroll to GSTN Payroll as tenured employees

- i. The positions occupied by NISG employees in GSTN shall be advertised. The employees currently working in GSTN will also be given the option to apply for advertised vacancies. This process shall be completed within the next one or two months as per the Recruitment Rules of GSTN and actual induction shall be done after the approval of the GST Council.
- ii. If any employee is selected he/she shall be offered a new contract for 4 years on GSTN payroll.
- iii. If any employee is not selected he/she may be relieved after giving three months' notice or allowed to be continued till completion of his contract with NISG.
- iv. Progression of NISG executives only after contract with GSTN. The period worked under NISG to be considered relevant experience for the purpose.
- v. During the recruitment process, if any NISG employee is selected for any position to be recruited in GSTN as tenured employee, he/she shall be given one transition increment proportionately as detailed in Para 1.4 above. However, if any external candidate is selected for the position, he/she shall be inducted as per the recruitment guidelines of GSTN.

1.4.5. Consultants hired on GSTN payroll prior to implementation of Recruitment Guidelines would be offered, on a case to case basis, a new contract with a tenure of 2 years as per the new guidelines of hiring consultants for short tenure at appropriate level when their existing contract gets over.

2. Career Progression during transition

2.1. Introduction:

During the formation of GSTN as a Section 8 company and thereafter during the initial phase of its functioning, career progression was not envisaged as the project was in its nascent stage. After conversion of GSTN into a fully owned Government company and also due to the fact that the GST System has now stabilised substantially, keeping in view that the employees hired laterally who joined the company in its initial phase have completed more than 6/7 years in the company without any career progression, the career progression for employees on regular employment as well as tenured employees have been contemplated during the transition process of the company from a Private Limited company to a fully owned Government company. The details and methodology of career progression is detailed below:

2.2. Salient Features:

2.2.1. The progression shall be based on the eligibility criteria consisting of performance and minimum service at the same grade.

2.2.2. On the basis of defined eligibility criteria at each grade existing employees shall be considered for progression, which will allow an employee to move to one grade above if he/she meets the eligibility criteria of spending 4 years tenure or more at same grade (for employees up to Senior Manager grade), 7 years or more at the same grade (for employees at Assistant VP grade) with top performance ratings.

2.2.3. There would be change in designation as per the proposed grade structure.

2.2.4. The eligible employees shall be given one increment as approved by the Remuneration Committee for the financial year 2021-22 for the current grade (i.e. grade from which the employee is being progressed) as a progression increment during transition.

2.2.5. The eligible employees up to Senior Manager will be given one progression increment on progression to the next grade after completion of four years (Progression policy is explained later).

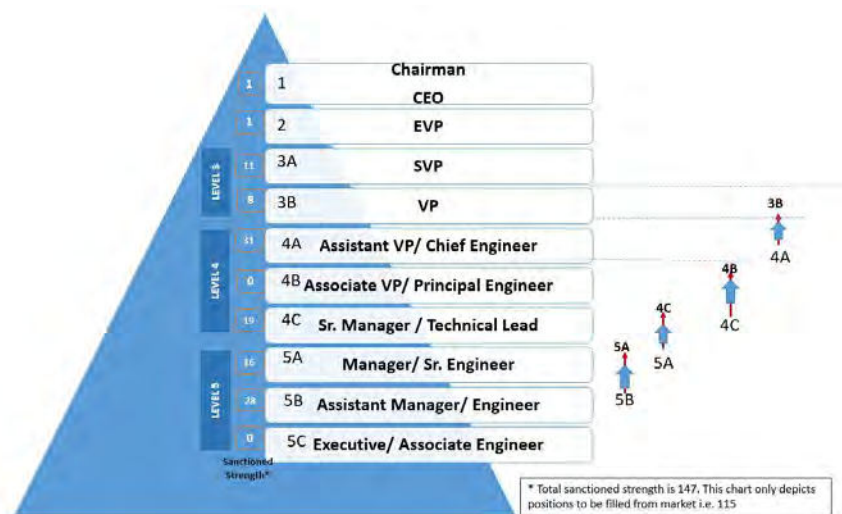
2.2.6. The eligible employees at Assistant Vice President Grade will be given one progression increment on progression to the next grade (VP) if they have completed seven years in the organization.

2.2.7. The employees at Level 2 & 3 (VP, SVP and EVP) will not be given any progression to the next grade.

2.2.8. The effect of progression increment shall be given as per the date approved by the GST Council for implementing the transition.

2.2.9. Irrespective of progression given to individual employees to higher grade, the level wise sanctioned positions approved initially by the Board will be followed for the purposes of filling the position. eg. An AVP might be given a progression to the level of VP. However, on his resignation the post will be filled up as AVP.

2.2.10. The grade up to which each grade of employees in the organization can progress during transition is depicted in the chart below:



2.3. Merit Points:

Merit points would be considered for preparing the list of eligible employees for progression as given in Column (3) in following **Table**.

Table – 4

Existing Rating Scale (1)	Rating Description (2)	Merit Points (3)
A	Exceeds Performance Standards	5
B	Achieves Performance Standards	4
C	Slightly Below Performance Standards	3
D	Barely Achieves Performance Standards	2
E	Needs to Improve Performance	1

2.4. Eligibility Criteria for one time progression at the time of transition:

Table – 5

Sl. No.	Employee to be progressed	Particulars of Progression
1	All existing employees up to Senior Manager level, with more than 4 years tenure at same grade and having secured 18 & above merit points in past four years subject to the condition that the employee has been awarded a rating of “A” in Financial Year 2021-22.	<ul style="list-style-type: none"> i. Progression to the next grade in the proposed grade structure with amount equivalent to one increment. ii. The rate of the progression increment would be the percentage approved by the Remuneration Committee for the grade from which the employee is being progressed. iii. In total such employees shall get grade change and two increments (i.e. transition and progression increment).
2	Existing employees at Assistant Vice President level with 7 years or more tenure at same grade having secured 32 & above merit points in the past seven years and have been awarded a rating of “A” in the Financial Year 2021-22 to be given one time progression to the level of Vice President.	<ul style="list-style-type: none"> i. Progression to Vice President Level in the proposed grade structure with amount equivalent to one increment. ii. The rate of the progression increment would be the percentage approved by the Remuneration Committee for the grade from which the employee is being progressed. iii. In total such employees shall get grade change and two increments (i.e. transition and progression increment). Such employees shall be required to sign an undertaking that the administrative reporting after progression may continue to an employee of the same grade (i.e. VP). iv. Role and responsibilities shall continue to be the same in most cases.
3	Employees with less than 4 years at same grade at all levels	No progression is proposed.
4.	Employees of the Level of 2 & 3 i.e. VP, SVP & EVP	No progression is proposed.

2.5. Salary & Emoluments

Pay, Allowances & benefits which are linked to the pay drawn by an employee at higher grade shall become applicable after the progression to next grade.

2.6. Outlier Management at the time of transition: The following guidelines would apply to those employees whose pay does not fall within the new pay range for their respective grade after giving the progression increment. This could either be below the minimum of the pay range or above the maximum of the pay range.

2.6.1. If employee's salary is below the new grade's minimum pay after giving progression increment: Such employees would be given pull to minimum increment to bring the employee to the minimum of the pay range.

- a) Pull to minimum increment shall be given at the time of transition to only those employees who are progressing to the next grade.
- b) Pull to minimum increment at the time of progression during transition shall be looked into with reference to the minimum of the new pay range to which the employee is being progressed.

2.6.2. If employee's salary goes above their new grade's maximum pay while giving the progression increment: In such cases the quantum of progression increment shall be capped at the maximum of the new grade of the employee. Also, In case the employee's salary has already reached or breached the maximum pay of the new grade while awarding progression, no progression increment would be admissible to him/her.

Performance Management Policy

1 Applicability: The new performance management policy and its terms & conditions shall apply from FY 2022-23.

The management by objectives (which essentially means that Manager and the employee agree on specific performance goals and then develop a plan to reach the same) approach shall be followed for Performance Management System for existing employees i.e. the regular and tenured employees on the pay rolls of GSTN.

1.1 Performance Planning

1.1.1. Goal setting process: At the beginning of the financial year the Departmental Head should communicate Goals/Objectives/ Key Result Areas (KRAs) to the employees through the immediate reporting manager at all levels.

- a) Ideally the key result areas and work output should be defined at this stage. Any modifications in the KRAs should be completed at this stage.
- b) This is to be done through discussions and by keeping in view the individual role objective /function.
- c) The KRAs should be measurable & objective.

1.1.2. Components of Performance Assessment: There shall be a prescribed performance appraisal form for all levels of employees in GSTN and the same shall be used for assessing the performance as per the defined parameters in the form. The prescribed percentages for assessment of each employee is given below:

- a) **Key Result Areas** - This aspect would be accorded 70% weightage.
- b) **Assessment of Functional Competencies** – This aspect would be accorded 15% weightage
- c) **Assessment of Behavioural Competencies** - This aspect would be accorded 15% weightage

1.1.3. Performance Rating Description: Overall ratings must be provided against the following five point rating scale.

Table - 1

Final Score in Appraisal Process	Performance Rating	Rating Description
85.1 and Above	A+	Exceeds Performance Standards
70.1 to 85	A	Achieves Performance Standards
60.1 to 70	B	Slightly Below Performance Standards
50.1 to 60	C	Barely Achieves Performance Standards
Below 50	D	Needs to Improve Performance

1.1.4. Performance Management Committee: A Performance Management Committee (PMC) shall be constituted annually at the beginning of each financial year and would comprise of CEO, Head of Support, EVP (Technology & Services) and any other member nominated by CEO. The PMC shall be headed by the CEO. The terms of reference of the Committee would be as follows:

- a) Moderate the performance ratings awarded by the reviewing manager after the Annual Appraisal process of all the employees in order to achieve the prescribed bell shaped curve for the purposes of paying PLI and to implement Career Progression.
- b) The moderated performance ratings would be used for deciding PLI disbursement.
- c) Based on the moderated performance ratings the eligible employees for progression would be decided.
- d) They could either award an overall higher or lower percentage in any of the rankings than what is prescribed in the following guidelines depending upon the circumstances of the organisation and individual contributions of the employees (for e.g. the percentage of A is prescribed at 50 percent which can either be reduced or increased based on due justification). Thus, the Committee shall have the power to make any exception to the percentages prescribed for the bell shaped curve depending on the performance of the individual contributors.
- e) The exception so granted shall not be more than 5% of the total number of performance ratings in each group.
- f) The Committee shall exercise the power to moderate the performance ratings of the employees such as either one level higher or lower, based on the detailed deliberations and after discussions with the employee, his reporting manager or reviewing manager, if need be.
- g) The Performance Management Committee would conduct the interviews of the candidates to be considered for Progression.
- h) The Committee would also deliberate & decide on the representations submitted by the employees detailing their grievances, if any, on the performance rating.
- i) The meeting of the Committee shall be convened as and when required during the year.

1.2 Performance Evaluation Process :

1.2.1. All employees who have **joined on or before 31st December** shall be considered for the Performance Appraisals.

1.2.2. At the end of each financial year, the performance of an employee shall be reviewed against the Objectives / Key Result Areas set at the beginning of the year in the performance planning phase as detailed in Para-1.1.1 above.

1.2.3. The employee should fill a Performance Appraisal Form as a part of self-assessment and submit the same to the Reporting Manager.

1.2.4. The Reporting Manager shall hold a formal discussion with the Employee and record his/her observations/comments and ratings in the form.

1.2.5. It should then be submitted to the reviewing manager who shall review, and if required, hold necessary discussions with the Employee and his/her Reporting Manager and record his observations and ratings based on the overall performance of the employee.

1.2.6. Identification of performance gaps must be done and training need identification must be recorded in the appraisal forms by the reporting manager/reviewing manager. Training needs identified through this process shall be fulfilled as per the training policy.

1.2.7. The performance ratings given by the reviewing manager shall be moderated by the PMC.

1.2.8. The ratings awarded by the reviewing manager as well as moderated by the PMC would be communicated to the employee and would serve in the process for providing the following:

- a) **Annual increment** – based on Ratings awarded by the reviewing manager.
- b) **PLI** – based on the moderated rating awarded by the PMC.
- c) **Career Progression** on fulfilment of the eligibility criteria (Para – 2.4) based on the moderated rating awarded by the PMC.

1.2.9. These appraisals should give a feedback to the employee on his/her performance and would also enable the employee to focus, if need be, on the areas which require development.

1.2.10. The employees may appeal against the rating of the reviewing manager and/or the moderated rating given by the PMC.

1.2.11. The PMC shall review and deliberate on the appeals received and convey their decision which shall be final.

1.2.12. The decision of the PMC shall be communicated to the concerned employee and all benefits that accrue to the employee, based on revised rating shall be given, if required.

1.2.13. Employees on deputation will follow the appraisal process (APAR) laid down by their parent departments and guidelines issued by GoI/State Governments concerned.

1.2.14. Guidelines for Managing Annual Appraisal Process

- a) The three level assessment shall be followed viz. Self-Assessment by the employee, Reporting Manager Evaluation, final evaluation by the Reviewing Manager.
- b) The Appraisal forms & formats shall be made available by HR after announcing the appraisal cycle timelines from time to time during the year.
- c) The KRAs/Objectives defined at the beginning of the year can be modified in situations like change of reporting manager, matrix reporting structure, change in role/grade due to progression or getting hired for a different role through Internal Job Posting (IJP) etc.
- d) In case of matrix reporting there will be provision for incorporating KRAs & resulting feedback from concerned reporting managers.
- e) A lenient bell-shaped curve would be followed for rating distribution to achieve performance differentiation and rewarding good performance while finalizing the

performance ratings to start with. However, the employees on deputation will not be considered for rating distribution and application of bell-shaped curve.

- f) Irrespective of the level, the moderation shall be done after dividing the number of employees of all levels into two groups viz. Technology & Non-Technology as detailed below:

Table-2

Technology Roles	Non - Technology Roles
Software & IT Infrastructure	Finance & Accounts
Governance, Risk , Compliance	HR
Project Management	Administration
BIFA - Technical	Procurements & Contracts
	Services
	Legal
	Other functions

- g) The maximum percentage of employees to be placed in a particular rating (viz. A+, A etc.) has been detailed in the **Table-3** below.
- h) The Performance Management Committee shall decide the moderation percentages of employees' ratings as per the adapted bell shaped rating distribution detailed in **Table 3** given below.
- i) Rounding-off at each rating (viz. A+, A etc.) shall be done on the higher side i.e. any decimals arrived at during calculation of the percentage shall always be taken to the higher numeral.
- j) The exception may be so granted by PMC that it shall not be more than 5% of the total number of performance ratings in each group.
- k) The impact of the bell shaped curve will be on calculation of the PLI as it is performance based. It shall also apply to career progression.
- l) Annual increment will be based on the performance rating given by the reviewing manager and it will **not be impacted** by changes in the performance ratings due to application of adapted bell shaped curve.

Table -3

Final Score in Appraisal Process	Performance Rating	% of ratings to be awarded in each group (i.e. Technology & Non Technology)
85.1 and Above	A+	20%
70.1 to 85	A	40%
60.1 to 70	B	30%
50.1to 60	C	5%
Below 50	D	5%

1.2.15. Determination of Annual Increment Percentage

- a) **Remuneration Committee (RC):**Based on the industry benchmark and other factors the agenda for determining the Annual Increments would be prepared by HR and approved by the Remuneration Committee.
- b) **Eligibility & applicability:**
- i) Full increment would be given to the employees who have joined in the first quarter of the FY i.e. 1st April to 30th June.
 - ii) Pro-rata increment would be given to those employees who have joined during the period from 1st July to 31st Dec.
 - iii) No Increment would be given to the employees who join in the last quarter i.e. 1st Jan to 31st March. The increment for this period shall be paid as arrears in the next evaluation cycle on pro-rata basis as per performance rating.
 - iv) Annual increment will be based on the performance rating given by the reviewing manager and it will not be impacted by the moderation of rating to achieve the defined bell shaped distribution of ratings.
 - v) The effect of annual increment shall be given to only those employees who were working with GSTN on 30th April or thereafter. Any employee who is relieved from GSTN before 30th April of the financial year shall not be eligible for annual increment.
- c) **Factors to be considered for deciding yearly salary increments:**
- i) Previous year's performance rating of the employee.
 - ii) The exact salary increment percentage for every level will be determined annually by HR as per the data published in Salary Increase Survey Report for IT Sector (i.e. product companies, IT Application Development etc.) by consulting firms and placed before the Remuneration Committee (RC) for their approval.
- d) **Guiding principle for grant of annual increment:**
- i)The salary increase percentage for each level to be adopted in GSTN (either higher or lower than percentage proposed in Salary Increase Survey Report) shall be approved by the RC. The annual increment or progression increment shall be granted exclusive of monetised benefits.
 - ii)The salary increase percentage for each level to be adopted in GSTN on the higher side may only range between 1.1 and 1.8 times of the percentage increase proposed in the Salary Increase Survey Report to be decided by the RC. On the lower side, the percentage would not be less than 0.8 per cent.
 - iii)The differential of 1.1 – 1.8 from the average salary increase of the IT industry may be approved by RC upon considering the attrition rate for a small sized organization like GSTN. Whenever, the attrition rate is above 10%, such a differential in the range of 1.1-1.8 may be approved by RC.
 - iv)Once the percentage to be adopted in GSTN for each level is decided by the RC (**termed as X**), the following rating based weightages given in **Table -4** would be adopted for granting increments to employees.

Table -4

Rating	Weightage of Rating	Rating Description
A+	1.1	Exceeds Performance Standards
A	1	Achieves Performance Standards

B	0.80	Slightly Below Performance Standards
C	0.70	Barely Achieves Performance Standards
D	0.50	Needs to Improve Performance

- v) Effective percentage increase for every employee shall be based on the rating awarded by the reviewing manager.
- vi) Formula for the calculation is:
Effective Salary Increment Percentage = Weightage of rating (As per the Table-4 above) multiplied by X.
- vii) This effective salary increment percentage will be applied to current CTC to arrive at the annual increment amount.
- viii) Illustration for calculation of Effective salary Increment percentage based on rating is given below:

Level	Average IT Industry Salary Increase	RC Approved Percentage	Effective Salary Increment Percentage based on Performance Rating				
			Exceeds Performance A+	Satisfactory Performance A	Slightly Below Satisfactory B	Barely Meets Performance Standard C	Needs Improvement D
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
		(1.2 times of column 2)	Weightage of rating				
			1.1	1.0	0.8	0.7	0.5
Sr. Management	5%	6	6.6%	6%	4.8%	4.2%	3%
Middle Management	8%	9.6	10.56%	9.6%	7.68%	6.72%	4.8%
Junior Management	9%	10.8	11.88%	10.8%	8.64%	7.56%	5.4%

1.2.16. Outlier Management at the time of Annual Increment: The following guidelines would apply to those employees whose pay does not fall within the new pay range for their respective grade after giving the annual increment. This could either be below the minimum of the pay range or above the maximum of the pay range.

1.2.17. If employee's salary is below the grade minimum after giving annual increment: Such employee would be given pull to minimum increment to bring the employee to the minimum of the grade's pay range. It shall be given if employee scores a rating of A+ in the current appraisal cycle.

- a) Increment given for addressing the pull to minimum cases shall be such that it is at least taking the salary of the employee to the minimum of the respective pay range.
- b) Pull to min approach shall not be followed at the time of hiring or hired through IJP (i.e. internal candidate is hired against the advertised position).

1.2.18. If employee's salary goes above their grade's maximum pay while giving the annual increment: In such cases the quantum of annual increment shall be capped at the maximum pay of the grade of the employee. The maximum pay of the grade shall be calculated inclusive of the monetised benefit. Such employees would be given minimum salary increase i.e. 50% based on the rating from next financial year to offset inflation.

- a) Performance rating awarded by reviewing manager would be used to calculate the 50% increment.
- b) This increase shall be available only for 2years.

c) The salary of such individuals shall freeze after 2years.

1.2.19. Any exception to be given to employees on account of exceptional achievements/skills etc. shall be approved by the Performance Management Committee.

1.3. Performance Linked Incentive (PLI)

1.3.1. CTC of an employee will be a combination of fixed pay and variable pay. The proposed compensation structure will have the Variable Pay component, fully variable. Variable Pay would be called as Performance Linked Incentive (PLI).

1.3.2. Level wise PLI percentages will be as follows:

Table - 5

Level	Grade	Existing Designation	PLI = Percent of CTC
Level 1	1	CEO	20%
Level 2	2	EVP	
Level 3	3A	SVP	
	3B	VP	
Level 4	4A	Assistant VP / Chief Engineer	15%
	4B	Associate VP / Principal Engineer	
	4C	Sr. Manager/ Technical Lead	
Level 5	5A	Manager / Sr. Engineer	10%
	5B	Assistant Manager/ Engineer	
	5C	Executive/ Associate Engineer	

1.3.3. PLI Disbursement Percentages: The employees shall be paid PLI based on their individual ratings in the performance appraisal process after moderation of ratings to fit the bell shaped curve defined. The percentage of PLI disbursement at each rating is detailed in the following table:

Table-6

Final Score in Appraisal Process	Moderated Performance Rating	Rating Description	PLI disbursement (Percent of Variable Pay)
85.1 and Above	A+	Exceeds Performance Standards	110
70.1 to 85	A	Achieves Performance Standards	100

60.1 to 70	B	Slightly Below Performance Standards	80
50.1to 60	C	Barely Achieves Performance Standards	70
Below 50	D	Needs to Improve Performance	50

1.3.4. Eligibility & applicability for PLI:

- a)** The employees who have joined **on or before 31st Dec of the financial year** shall be paid on the basis of assessment for the period worked on pro-rata basis.
- b)** The employees who have joined in last quarter (**1st Jan – March 31st**) shall be paid 75% of the PLI for the period worked on pro-rata basis without assessment (i.e. less than or equal to a quarter).

1.3.5. Eligibility for PLI in case of separation from the company:

- a)** If the employee has worked for the entire previous FY and has served till 31st March then PLI will be paid for the financial year on the basis of moderated performance rating.
- b)** If the employee is relieved anytime during the financial year, he /she shall be eligible for PLI on the basis of performance rating by the reviewing manager for the duration worked on pro rata basis.

1.4. Performance Improvement Plan (PIP): The non- performing employee shall be given 3 months' time to improve and if there is no improvement in performance he/she may be terminated after following the process of documenting the whole procedure.

- a)** Employees may be put on PIP, if they fail to achieve the minimum objective/KRA set for them i.e. upon securing a rating of “D” in the annual appraisal process. Such employee will be asked to improve his/her performance within a period of three months, which may be extended for another three months based on recommendations of the Unit Head.
- b)** The reporting manager should initiate the PIP by explicitly sending an email stating the KRAs where improvement is required and the time period given for showing improvement.
- c)** Such employee shall be given a fair chance to improve his/her performance and will be monitored very closely by his/her Reporting Officer against the set parameters for improving his/her performance. They would also be given mentoring and counselling.
- d)** The periodic review of performance also should be documented by the reporting manager and report must be submitted at the end of each month to HR. Any written warnings thereafter shall be issued by HR.
- e)** At the end of the period, if the performance of the employee kept on watch list is found to have improved and duly verified by unit head, his/her services would be continued without any change in terms & conditions of his/her employment.
- f)** In case an employee fails to improve, his/her services would be terminated as per the relevant clause in his/her appointment letter.

1.5. Termination Policy

- a)** In case value added by the employee is not commensurate with the salary being paid by the employer, the termination process may be initiated to bring fresh knowledge about the technology within the organization by hiring younger talent.
- b)** GSTN may authorise HR to negotiate termination of service on case to case basis, paying one time severance pay which shall not be higher than one year salary of the executive.

2 Career Progression

2.1. Introduction:

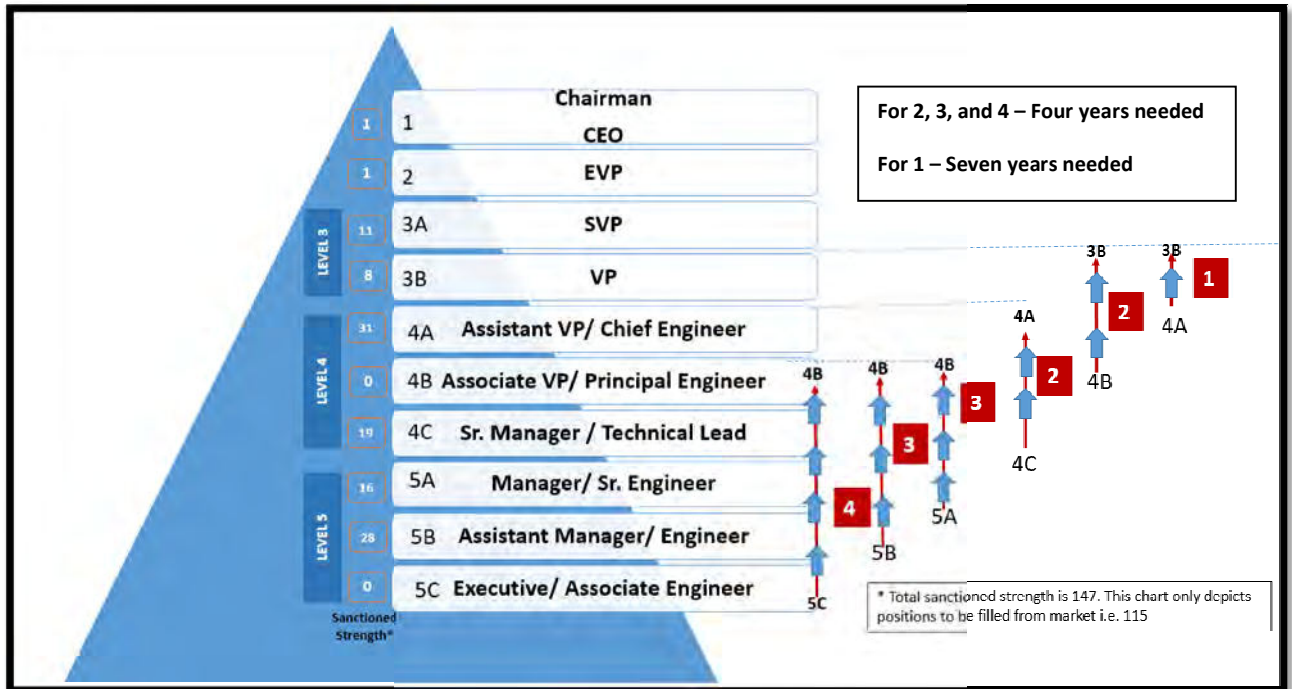
During the formation of GSTN as a Section 8 company and thereafter during the initial phase of its functioning, career progression was not envisaged as the project was in its nascent stage. After conversion of GSTN into a fully owned Government company and also due to the fact that the GST

System has now stabilised substantially, keeping in view that the employees hired laterally who joined the company in its initial phase have completed more than 6/7 years in the company without any career progression. Hence, the career progression for employees on regular employment as well as tenured employees have been contemplated during the transition process of the company. This shall be implemented w.e.f. 1st Oct. 2023. The details and methodology of career progression is detailed below:

2.2. Salient Features:

- a) The progression shall be based on the eligibility criteria of exemplary performance and minimum service at the same grade. The final decision for progression will be based on the interview by Performance Management Committee (PMC) after employees have been shortlisted on the basis of defined eligibility criteria at each grade.
- b) Progression will allow an employee to move to one grade above if he/she meets the eligibility criteria of spending 4 years tenure or more at same grade (for employees up to Associate Vice President grade) and 7 years or more at the same grade (for employees at Assistant Vice President grade) with top performance ratings.
- c) There would be change in designation as per the proposed grade structure.
- d) Administrative reporting after progression may continue to an employee at the same grade.
- e) The eligible employee shall be given one progression increment based on the percentage approved by the Remuneration Committee for the corresponding financial year {Effective percentage increase = Weightage of Rating (refer Table 4 above) multiplied by X i.e. the RC approved percentage}.
- f) The progression increment would be the effective percentage increase for the grade from which the employee is being progressed.
- g) The employees from Grade 5c up to Grade 4b (Associate Vice President) will be given one extra increment on progression to the next level after completion of four years.
- h) The employees at Grade 4a (Assistant Vice President) will be given one extra increment on progression to the next level (VP) after completion of seven years.
- i) The employees at Level 2 & 3 (VP, SVP and EVP) who have spent more than six years and secured 27 and above merit points in the past will only be given one extra increment without any progression to next grade. The counting of the six years would commence only from the date of implementation of the new policy. The increment percentage will be as per the effective percentage increase for that grade. This increment shall be effective from 1st October.
- j) The tenure on the payroll of NISG and tenure on contract directly with GSTN shall be considered in conjunction as relevant experience for the purpose of giving progression increment.
- k) The effect of progression increment shall be given from 1st October.
- l) Pay & benefits which are linked to the pay drawn by an employee at higher grade shall become applicable.
- m) Irrespective of progression given to individual employees to higher grade, the level wise sanctioned positions approved initially by the Board will be followed for the purposes of filling the position e.g. an AVP might be given a progression to the level of VP. However, on his resignation the post will be filled up as AVP.

- n) The grade up to which each grade of employees in the organization can progress is depicted in the chart below:



2.3. Merit Points:

The employees who have been rated as per the rating scale in Column (1) till FY 2021-22, will be given the merit points as defined in Column (4) in the table below. In future column (2) & (4) would be considered for the purpose of eligibility for progression. Since there is a change in the rating scale, equivalent merit points as given in the table below shall be considered for preparing the list of eligible employees for progression by HR:

Table - 7

Old Rating Scale (1)	New Rating Scale (2)	Rating Description (3)	Merit Points (4)
A	A+	Exceeds Performance Standards	5
B	A	Achieves Performance Standards	4
C	B	Slightly Below Performance Standards	3
D	C	Barely Achieves Performance Standards	2
E	D	Needs to Improve Performance	1

2.4. Eligibility Criteria:

Table -8

Items	Criteria for Progression
Qualifying Service	i. For the employees from Grade 5c up to Grade 4b (Associate Vice President) min 4 years at the same grade as on 31 st March of the respective year ii. For the employees at Grade 4a (Assistant Vice President) min 7 years at the same grade as on 31 st March of the respective year
Performance Rating in Current Year	iii. Top Rating of A+ in the current year
Merit Points	iv. 18 and above up to Associate VP in last 4 years v. 32 and above for Assistant VP in last 7 years
Alternative avenues of progression	Applying and competing with external candidates as per IJP policy

Note:

1. Eligibility shall be determined upon fulfilling **ALL** the conditions listed at point no. (i) to (iv)/(v) in the above table.
2. The progression increment shall be effective from 1st October each year.

2.5. Selection process for Progression:

- a) The HR would prepare the list of eligible employees for progression on the basis of the eligibility criteria defined in para 2.4, after the completion of Annual Appraisal process.
- b) The performance ratings after the application of bell shaped distribution as defined in Table Nos. 2 and 3 shall be used to arrive at the potential employees to be interviewed for progression.
- c) The eligible employees will be interviewed by the Performance Management Committee and final decision will be declared thereafter.

2.6. Outlier Management: The following guidelines would apply to those employees whose pay does not fall within the new pay range for their respective grade after giving the progression increment.

2.6.1. If employee's salary is below their grade minimum after giving progression increment: Such employees would be given pull to minimum increment to bring the employee to the minimum of the pay range.

- a) Pull to minimum increment at the time of progression shall be looked into with reference to the minimum of the pay range to which the employee is being progressed.
- b) Pull to min approach shall not be followed at the time of hiring or hired through IJP (i.e. internal candidate is hired against the advertised position).

2.6.2. If employee's salary goes above their new grade's maximum pay while giving the progression increment: In such cases the quantum of progression increment shall be capped at the maximum of the new grade of the employee. Also, In case the employee's salary has already reached or breached the maximum pay of the new grade while awarding progression, no progression increment would be admissible to him/her.

2.6.3. **Any exception** to be given to employees on account of exceptional achievements/skills etc. shall be approved by the Performance Management Committee.

3 Appeal process: The employees can submit their grievance, if any, in writing to Head HR. However, it would be a time bound process i.e. within 15 days of declaration (or last date notified by HR department) of the performance evaluation results i.e. after the completion of the moderation process (fitting of the Bell-shaped Curve).

- a) The representations made by the employees will be reviewed by the Performance Management Committee and final decision on representations will be taken.
- b) The proceedings of the Performance Management Committee will record all representations and facilitate the resolution.
- c) The Performance Management Committee members may speak with the employee, reporting manager and reviewing manager to satisfy the concerns raised by the employee.
- d) Resolution of the Performance Management Committee will be communicated to the employee by Head HR.

Recruitment Guidelines for Hiring Market Recruits (Part-II)

1. Short Title and Commencement

1.1 This policy will be called as Recruitment Guidelines for hiring Market Recruits (Part-II) (For GSTN from private sector). This shall be read with the Recruitment Guidelines approved by the Hon'ble Finance Minister in March 2021 (to be called Part-I hereinafter). The Recruitment Guidelines (Part-I) were also approved by the Board of GSTN in its 44th meeting held on 11th January 2021 before being placed before the Hon'ble Finance Minister for approval. This was subsequently got approved in the GST Council as well in the 43rd Meeting on 28th May 2021.

1.2 All the provisions of the Recruitment Guidelines (Part-I) would remain unchanged and be followed except (i) tenure of market recruits which are proposed to be changed as was envisaged in Para 7 (iii) (b) of the Recruitment Guidelines (Part-I) and (ii) the Pay Ranges of the Market Recruits as envisaged in Schedule-III of the Recruitment Guidelines (Part-I) which mentioned that the pay ranges to be aligned with market as required for market recruits from time to time. Comparison of change from Recruitment Guidelines (Part-I) and (Part-II) is detailed in Table 1 below:

Table 1

Sl. No.	Subject	Para No. of Recruitment Guidelines (Part-I)	Para No. of Recruitment Guidelines (Part-II)
1.	Tenure of Market Recruits	7 (iii) (b)	Para No. 2
2.	Pay Ranges of the Market Recruits	Schedule III	Included in Para No. 4 of Annexure-III (Compensation and Remuneration Policy)

1.3 The policy shall come into force from the date it is approved by the GST Council.

Guidelines for Selection and Recruitment

Hiring of tenured employees shall be for a contract period of 4 (four) years directly with GSTN.

- a. The policy for hiring in future on 4 years tenure (contract) shall be reviewed from time to time to maintain appropriate balance between regular (37 Nos.) & tenured employees.
- b. The selection process shall comprise of an objective skill-based test for positions in Technology functions.
- c. Job rotation within Technology, Support & Services every 3 years shall be done upon acquiring new skills. Executives are expected to acquire new skills.

- d. A search committee would be formed for recruitment of positions at VP & above level and Executive Search firms would be engaged to search and identify the best suitable candidates for the profile.
- e. GSTN would do brand building initiatives for establishing GSTN as employer of choice for attracting good talent. This would involve showcasing its work at various IT forums/conferences.
- f. If any position occupied by any employee in GSTN becomes vacant, the same shall be filled by 4 year tenured employment.
- g. In order to have a balance between the regular and tenured employees in GSTN, if any position occupied by regular GSTN employee becomes vacant due to whatever reason, it shall be filled from amongst the existing tenured employees hired on contract. The decision as to whom to induct into GSTN regular rolls shall be taken by CEO, GSTN after assessing the requirement as well as the antecedents of the employees.

Sourcing Channels

3.1 The Company shall adopt one or more of the following methods while recruiting:

- Channel 1: Sourcing from Company's internal resources (Through internal job posting i.e., IJP)
- Channel 2: Recruitment and Manpower Agency(s)
- Channel 3: Campus Recruitment
- Channel 4: Sourcing through advertisements in company website, job portals, newspapers, professional social media platforms like LinkedIn etc.
- Channel 5: Direct Applications
- Channel 6: Employee Referrals

3.2 The HR department will receive applications from all the channels used, shortlist candidates by assessing their academic qualifications and experience and organize screening of candidates through initial round of interview by the appropriate Screening Committee and submit a panel of shortlisted candidates for Interview.

3.3 The selection shall be made by the Selection Committee. The selection shall be based on written examination, if required, for the post, performance in the interview or both, as the case shall be. All appointments shall be made from the list prepared by the Selection Committee.

3.3.1 Channel 1: Sourcing from Company's Internal Resources Internal Job Posting (IJP)

- a. The purpose is to nurture high potential talent within the organization by providing them suitable career growth opportunities. Priority and efforts should always be made to fill in specific vacancies from its existing human resource pool.
- b. The process for internal recruitment would be enforced through **Internal Job Posting (IJP) Policy** by inviting job applications from existing employees along with external candidates for advertised positions and communication including the job profile, candidate profile, eligibility (who can apply), application deadline etc. would be made available by HR to the existing employees of the GSTN if they wish to apply for open positions.
- c. The guidelines as laid down in the IJP policy should be referred for internal recruitment.
- d. **Eligibility for Internal Job Posting (IJP):** All existing regular and tenured employees who have spent a minimum of two years in the current role/ Grade with a performance rating of at least A (i.e., Meets Performance Standards) or above in last two appraisal cycles can apply for IJP released for positions within GSTN. The tenure in the current role/ grade will be calculated on the basis of the date of communication of IJP.
- e. The Internal candidates shall compete with external candidates for the advertised post.
- f. Employee must also seek an approval from the HoD concerned and Reporting Manager before applying for the IJP both of whom shall reply within 3 working days failing which it shall be deemed approved.
- g. Any employee who holds any warning letter on disciplinary grounds in last one year shall not be eligible to apply through IJP.
- h. Applications from the concerned employee should be forwarded to HR department of GSTN for further processing.
- i. **Guidelines for employees:**
 - i) An employee can apply for only one vacancy at any point in time. However, the employee should be prudent while applying for roles that do not match his/her skills and experience. In case of any query regarding the role, employee should make efforts to seek all details/clarifications from the HR Team, before applying.
 - ii) An employee who has not been successful in the IJP can apply for another internal role only on the basis of the following guidelines:
 - For the same role - After six months. This duration is required to help the employee address the developmental needs identified for him/her during the assessment process. This period will be calculated on the basis of the date the IJP is closed.
 - For a different role - Can apply immediately after receiving the developmental feedback from the previous application.

3.3.2 Channel 2: Recruitment and Manpower Agency (s)

- a.** The job profile and eligibility criteria will be properly conveyed to the empanelled HR Agency(s).
- b.** The HR Agency would invite applications following its own procedures by giving reasonable publicity through print media, internet, headhunting etc. The vacancy announcement will be uploaded on GSTN website too.
- c.** The HR Agency will receive applications, shortlist candidates by assessing their academic qualifications, relevance of skills and experience, Age and after holding initial round of interview submit a panel of shortlisted candidates to GSTN's HR department.
- d.** The candidates' profiles provided by the Agency(s) will be screened by the GSTN's Screening Panel, which will prepare a panel of candidates for final round of Interview by GSTN along with the profiles received from other sourcing channels.
- e.** The Agency is expected to operate with the highest standards of accountability and integrity. In order to do so, the Agency should also declare any possible Conflict of Interest to the knowledge of GSTN beforehand.

3.3.3 Channel 3: Campus Recruitment

- a.** The HR Department shall make campus presentation in the reputed engineering colleges based on NIRF ranking. A graded policy for offering remuneration shall be adopted for campus hiring based on NIRF ranking i.e. the students from higher ranked colleges shall be offered a higher remuneration vis-vis students from lower ranked colleges who would be comparatively offered lesser remuneration.
- b.** The presentation shall comprise of the Company profile, Employee Value propositions, Career opportunity, the recruitment process, dates for written test, if any, and eligibility criteria.
- c.** Recruitment drive at the campus comprises of the pre-placement talk followed by sharing of the shortlisted list of interested students by the Campus placement coordinator basis the criteria shared by GSTN HR department. This is followed by technical round interview and personal interview.

3.3.4 Channel 4: Sourcing through Company Website, Job Portals, Print Media & Professional Social Media Sites like LinkedIn etc.

- a.** The HR department will upload the job openings on GSTN's website as well as on external job portals to which GSTN may subscribe to. The same may be published in the leading newspaper(s) (for EVPs and SVPs) and professional social media sites like LinkedIn etc (for all ranks)
- b.** Copies of the advertisements shall also be circulated internally.
- c.** The HR department will receive applications, shortlist candidates by assessing their academic qualifications and experience and organize screening of candidates through initial round of interview by the appropriate Screening Panel and submit a panel of shortlisted candidates for Interview along with the profiles received from other sourcing channels.

3.3.5 Channel 5 – Direct Applications

Direct applications received from time to time would be kept in the live databank of GSTN & whenever a vacancy arises, relevant applications from this data bank will be considered along with applications received through the other sourcing channels.

3.3.6 Channel 6 – Employee Referrals

We believe that our people, as employees of GSTN, are the best suited to recommend top talent to GSTN. Equipped with the knowledge of GSTN values, work culture and processes, our people know how to be selective about the candidates we hire. The Employee Referral Policy is our way of strongly encouraging our people to recommend their friends and ex-colleagues with whom they have personally interacted, to GSTN.

a. Who can recommend referrals?

The ‘**employee staff**’ category, which includes the following, is eligible to recommend candidates:

- i. Regular full-time employees (Market hires and deputationists)
- ii. Tenured Employees
- iii. Contract employees through third party
- iv. Independent consultants

b. Process :

- i. The HR department will upload the current openings on GSTN Intranet and also circulate the same among GSTN employees through email, notice boards etc.
- ii. The referral must be made against a relevant job requisition and should be shared with the HR department using an employee referral form.
- iii. All referral résumés will be valid and in active consideration only for a period of 90 days from the date of submission of the resume/ application against a relevant open job requisition.
- iv. No employee referral can be made in relation to a fresher.

c. Criteria for pay-out of referral bonus:

The employee referral will be considered valid for pay-out only if it has been made through the employee referral process.

- i. Referral bonus will be paid to the referrer subject to the following conditions:
 - The new hire completes 90 calendar days of service with the organisation,
 - The referrer should be working with GSTN at the time the new hire completes 90 calendar days of service, and
 - The new hire would not have resigned at the time of payment to the referrer.
- ii. The Referral bonus amount will be paid through the next payroll cycle and will be subject to deduction of tax as applicable.
- iii. Referrer will **NOT** be eligible for referral bonus if:
 - He/she is part of the selection process and has any influence in the hiring decision (e.g., hiring for own teams/project),

- The referred candidate is in the direct reporting line of the referrer
- iv.** If the referred candidate is selected for a different position than the original position against which the candidate was referred, the referral bonus will be paid to the referrer.
- v. Referral Bonus Pay-out Grid** - If the referred candidate is selected for an employment, the referrer will be eligible to get referral bonus as per the grid below, subject to fulfilment of the criteria for payment of referral

Table 2

S. No.	Referral Bonus Pay-out Grid	
	Grade at which referred candidate is hired	Referral Bonus (INR)
1	3 a, 3 b, 2,1	25,000
2	4 a, 4 b, 4 c	15,000
3	5 a, 5 b, 5 c	10,000

Pay Fixation and Offer Letter:

Following guiding principles are to be used as reference while deciding the hiring salaries of incumbents in the respective grades:

- a. Once a candidate is finally selected and is to be recruited, the HR Recruitment SPOC shall negotiate the CTC to be offered based on “grade -wise approved salary structure” of GSTN; salary level of existing employees similarly placed and the current compensation package of the candidate.
- b. Pay Fixation in the Grade Pay should consider i) Candidates Experience (in comparison to min threshold experience desired from the job as specified in the Job Description) and ii) Candidates last drawn Compensation.
- c. While deciding the offer, the time duration elapsed since their last appraisal or salary hike would also be considered.
- d. The salary range for future hiring of engineers at levels 4&5 shall start at P25 of the proposed pay ranges for technology positions subject to negotiations & last drawn salary of the prospective candidates.
- e. Experienced candidates for technology & non- technology positions, on being hired from market would be given a minimum of 20% increase from last salary drawn. This can lead to offered salary being less than the minimum/P25 of the proposed pay range defined for that level. This is the current industry practice.
- f. Once the CTC offered is accepted by the candidate, the selected candidate shall be issued a Letter of Offer/Intent in the prescribed format.
- g. The selected candidate may be considered for the payment of hot skills allowance (Over and above the CTC) and joining bonus as detailed below:

4.1 Hot skills allowance (HSA):

- a. The niche/hot skills are compensated with a higher pay through additional premium pay in

the IT application services sector. These skills being high in demand, a skill premium value is identified for each of them through the market compensation data analysis.

- b. It shall be a discretionary payout to be negotiated with the candidate and not necessarily to be paid to all.
- c. It is for salary differentiation for roles with a requirement for such niche skills. It shall be paid as 12%-20% of base salary, this premium is over and above the CTC.
- d. The premium value associated with each skill shall be tracked regularly to ensure that GSTN is able to offer compensation as per the market value of a concerned skill and at the same time avoid overpaying for urgent skill requirements which may be hard to hire for.
- e. The negotiated and decided HSA shall be paid for the entire tenure of 4 years.

4.1.1 Eligibility for HSA:

- a. The eligibility for HSA will be for individuals who not only possess a hot skill but also use that skill at least 50% of the time when performing their jobs.
- b. Based on the market trends and study/reports by consulting firms, the HSA list shall be revised annually with approval of the CEO.
- c. It is to be given to not more than ten percent of the sanctioned strength based on the criteria listed above (Shall be proposed by GSTN HR and approved by CEO).
- d. HSA would not be taken into consideration while calculating the ceiling for freezing the salary.

4.1.2 Methodology for HSA payment

- a. HSA will be decided at the time of hiring the candidate for the required skill set, if it is a Hot Skill for GSTN.
- b. Individuals must continue securing 'A+' or 'A' rating to maintain their eligibility for the HSA
- c. HSA not a part of CTC for the purpose of annual increments, PLI and retiral benefits like PF, Gratuity computation etc.
- d. The list of identified Hot Skills for GSTN and corresponding HSA percentages shall be paid as per the table below.

Table 3

Identified Hot Skills for GSTN	HSA percentages (at the rate of basic pay)
BIFA - Scrum Master	18%-20%
BIFA - Architects (platform & data)	18%-20%

BIFA - UI/UX	15%-17%
BIFA - Data Science Lead	15%-17%
Business Analyst	12%-14%
Data Science Lead	15%-17%
Data Modelers	15%-20%

4.2. Joining Bonus

- a. The candidates with niche/hot skills are paid Joining Bonus for attracting talent and ensuring joining after accepting the offer in the IT application services sector.
- b. Market Value of joining bonus level wise ranges from INR 1,00,000 to INR 3,50,000
- c. It is a discretionary payout negotiated with the candidate and not necessarily to be paid to all as per the table below:

Table 4

Level	Grade	Joining Bonus
Level 1	1	-
Level 2	2	3,50,000
Level 3	3a	3,00,000
	3b	3,00,000
Level 4	4a	2,50,000
	4b	
	4c	2,00,000
Level 5	5a	1,50,000
	5b	
	5c	1,00,000

d. Retention Clause for Joining Bonus:

Minimum service requirement of 2 years with clause for return of joining bonus in case of separation within 2 years; through the Full and Final Settlement shall be as per the below approach:

Table 5

Tenure with GSTN	Percentage recovery of the joining bonus
Less than 6 months	100%
6 months – 1 year	75%
1 – 1.5 years	50%
1.5 – 2 years	25%

Note: The payment of Hot skills Allowance and Joining bonus shall be decided on individual basis by the Management of GSTN depending on the business need or requirement for certain kinds of skills at particular point of time. All the factors for recruitment of a particular resource viz. urgency of GSTN to hire for a particular position, the criticality of the role in GSTN etc. would be considered critically in order to arrive at the decision whether the hot skills allowance and/or joining bonus would be paid to a particular candidate. There would be no bar to pay both the Hot Skills Allowance and the Joining Bonus to the same candidate in case he/she is very deserving as decided by the Management of GSTN.

Rehiring of tenured employees: After completion of existing contract of employees (4 years), it shall be examined if the role performed by the concerned employee is required or not. If the role is required in GSTN, it shall be further examined if the concerned employee has rendered meritorious service. The following steps would be taken in this regard:

- i. If the condition of rendering meritorious service, objectively determined, is fulfilled the employee may be offered next tenure-based contract for 4 years with GSTN directly after internal review and after giving one week to one month cooling off period;
- ii. A Committee shall be formed for such internal review, comprising of internal members of GSTN. External members can also be co-opted in the Committee, if deemed necessary by CEO.
- iii. If the role is not needed or the performance of the employee is below par, CEO may decide to relieve the employee concerned at the end of their contract with GSTN or by giving him three months' notice;
- iv. The employee shall be informed about the decision to retain/relieve him before three months of the termination of the contract, after internal review;
- v. If the employee concerned is relieved, the position shall be advertised and fresh recruitment initiated.
- vi. In case of resignation, the employee may be relieved before three months by either allowing the employee to buy out the notice period or obtaining waiver from the CEO, GSTN.

Re-hiring of Ex-Employees

- a.** Re-Hiring ex-employees brings along some benefits as the returnees benefit the company as they come with a fresh perspective, additional skills and wider experience. Additionally, they are familiar to organizations culture, systems and process and thus have a quick learning curve to hit the ground running. An employee who leaves the Company can be considered for re-hiring subject to the following:
- b.** The employee concerned must have had a good track record of performance and satisfactory conduct while he/she was in Company's employment;
- c.** Re-hiring will be treated as fresh employment and the past service will not be considered for any purpose whatsoever. The process for selection will remain the same and the individual candidate will have to go through the assessments/personal interviews as is the case with any other candidate.
- d.** There needs to be a cooling off period of 6 Months before employee can be considered for re-hiring.

Deserving Executive Assistants who have been serving in the organization for 4 years or more would be considered for tenured contract with GSTN based on requirement. Their engagement shall be based on open advertisement. Total number at any point shall not exceed 4 in numbers.

Guidelines for Engagement of Independent Consultants in the Goods and Services Tax Network

(NOTE: Para 10 of Recruitment Guidelines (Part I) shall be replaced by these guidelines)

1. Background: Goods and Services Tax Network (GSTN) has built Indirect Taxation platform for GST to help taxpayers in India to prepare, file returns, make payments of indirect tax liabilities and do other compliances. It provides IT infrastructure and services to the Central and State Governments, taxpayers and other stakeholders for implementation of the Goods and Services Tax (GST) in India.

1.1 The GST System Project is a unique and complex IT initiative as it established for the first time a uniform interface for the taxpayer under indirect taxes through a common and shared IT infrastructure between the Centre and States. The Centre and State indirect tax administrations which used to work under different laws, regulations, procedures and formats and consequently the IT systems worked as independent sites, were integrated into one system with uniform formats and interfaces for taxpayers and other external stakeholders. GSTN provides a strong IT Infrastructure and Service back bone which enables capture, processing and exchange of information amongst the stakeholders (including taxpayers, States and Central Governments, Accounting Offices, Banks and RBI).

1.2 The work of GSTN has been increasing over the period of time due to increase in the number of taxpayers, resulting in filing of increased number of returns by the taxpayers and substantial increase in collection of revenue. Interlinking of data with various other Government Agencies for efficient and effective monitoring of the taxpayers has further expanded the project.

1.3 The work of GSTN would expand over the next few years as the Government of India plans to achieve the \$5 trillion economy which would essentially mean an increase in the overall turnover of Goods and Services in the country. Besides, the digital and physical infrastructure of GSTN would also have to be increased to cope with the increase in number of taxpayers and tax collections.

1.4 Keeping in mind all these developments, GSTN needs to strengthen itself with high quality resources in the required areas. Therefore, GSTN proposes to engage independent Consultants for its various Verticals. This would also allow GSTN to make assessment of additional manpower vis-à-vis sanctioned strength by initially hiring Independent Consultants and eventually converting some of the roles of Independent Consultants into tenured executives.

2. Type and Tenure of Engagement

- a) The Engagements shall be at the level of Independent Consultants (ICs).
- b) The engagement will be purely on a contractual basis.
- c) Approving authority for hiring shall be at the level of CEO and a report of the same shall be submitted to the Board on periodical basis.
- d) These independent consultants would get lump sum payment and not get benefits of regular or tenured executives of GSTN.

- e) These engaged personnel shall have the status of an independent consultant vis-a-vis, GSTN and shall not be regarded, for any purposes, as being either a staff member or an 'official' of GSTN. Accordingly, nothing within or relating to the Contract shall establish the relationship of employer and employee, or of principal and agent, between GSTN and the Individual Consultants.
- f) The engagements shall be initially for a period of two years which may be extended up to three years, depending on the performance evaluation. After three years further extension in only exceptional cases shall be permissible based on the performance and organizational needs with the approval of the CEO, GSTN, keeping the Board informed of the number of independent consultants engaged periodically.
- g) No extension shall be given to an independent consultant after the age of 67 years has been attained by him/her.

3. Qualification, Experience and Vacancies: Applicants with following qualifications and experience would be considered for engagement as Independent Consultants.

3.1. Essential Education Qualification:

Table 1

Discipline	Education Qualification*
Services Department	Graduate or Masters (With extensive GST/Customs/Indirect Taxes knowledge)
Technology Department	Graduate (B.Sc, BE, B.Tech) or Masters (MCA, MBA, M.Tech) equivalent degree with adequate domain knowledge will be considered.
Support Department	Graduate or Master's Degree with adequate domain knowledge in the concerned Wing will be considered.

*For the candidates having degrees from universities/institutes from outside India, Times/OS ranking of such universities/institutes will be taken into account.

3.2 Experience, Age and remuneration:

Table 2

Position	Upper Age Limit	Post qualification Experience Years	Relevant experience (No. of years)
Young Professionals	35 years	Minimum 0 - 1 year	0
Associate	45 years	Minimum 1 - 3 years	1

Consultant	50 years	Minimum 8 years	3
Senior Consultant	65 years	15 years and above	5

*Experience includes upto 3 years for Ph.D.holder, provided no work experience is counted during those 3 years.

3.3. Number of Independent Consultants: A maximum of 25 number of Independent Consultants may be engaged by GSTN. The recruitment shall however, depend on the actual requirement at a particular point of time. These engagements shall be above the sanctioned strength of 147 positions in GSTN.

3.4 Independent Consultants shall be appointed for such projects which are short term in nature and requisite skill is either not available within GSTN or the workload of the project needs an Independent Consultant.

3.5. This would also allow GSTN to make assessment of need to augment sanctioned strength from time to time based on the use of these appointments as Independent Consultants as an interim arrangement.

3.6. Approving authority for hiring shall be at the level of CEO and a report of the same shall be submitted to the Board on periodical basis.

4. Remuneration and Annual Enhancement

4.1. Remuneration

- a) The remuneration will be inclusive of all applicable taxes and no other facility or allowance will be provided by GSTN except providing laptop for working in the office with policy on laptop being applicable. The range of remuneration for each of the positions are as given in the table below:

Table 3

Position	Remuneration per month(Rs.)	IT Skills Allowance
Young Professional	60,000	20,000
Associate	80,000-1,45,000	30,000
Consultant	1,45,000-2,65,000	40,000
Senior Consultant	2,65,000-3,30,000	50,000

- b) Remuneration for any selected candidates shall be fixed, based on the following:

- i) The range of Remuneration proposed in the above table for the position in which the candidate has been selected.
- ii) Years of Experience
- iii) Last Pay Drawn
- iv) Remuneration over and above the rates mentioned in the table for deserving candidates may be paid with the approval of Chairman GSTN.

4.2. TA/DA: The Independent Consultants may be required to travel to any place in India. While on tour, TA/DA will be admissible to Young Professional, Associate, Consultant and Senior Consultants as are admissible to Assistant Section Officer (Level 7), Section Officer (Level 10), Under Secretary (Level 11) and Director (Level 13) of the Central Government, respectively.

4.3. Annual Enhancement of Remuneration

- a) The remuneration of an independent consultant shall be reviewed after completion of every year of tenure of the independent consultant.
- b) The enhancement in remuneration will be based on his / her performance during the year after the recommendation of the Committee constituted for this, as per the following criteria: -
 - i) Performance shall be judged on the basis of Annual Performance Assessment grading.
 - ii) Performance management of the candidates would be based on clearly defined KPIs/KRAs for the relevant role and achievement of the same.
- iii) Total enhancement in remuneration shall not exceed 10% annually in any case.
- c) The Remuneration Enhancement shall be purely based on the Performance management methodology adopted by GSTN for all its employees.

5. Orientation and Training:

- a) A capacity building programme shall be designed for these resources for the modules on which they would work in association with an MSP. Each hired resource shall undergo the orientation-cum-training programme.
- b) There shall be an Induction Module which each of the hired resources shall go through where the Independent Consultants would be inducted within GSTN.
- c) Apart from this, there shall be role specific modules which the resources will go through after joining in their position on an intermittent basis.

6. Terms of Reference: The terms of reference shall include the outputs to be delivered and the functions to be performed. The outputs and functions shall be specific, measurable, attainable, results-based and time-bound. Detailed TOR will be drawn by respective divisions in GSTN to which ICs are posted. The TOR will be deemed to be part of the contract.

7. Payment:

- a) The Independent Consultants will be paid monthly remuneration within 7 days after completion of the month.
- b) The Income Tax or any other tax liable to be deducted, as per the prevailing rules will be deducted at the source before effecting the payment, for which GSTN will issue TDS certificates. Individual consultants shall be liable to pay Goods and Services Tax, as applicable. GSTN undertake no liability for taxes or other contribution payable by the Individual Consultant on payment made under this contract.

8. Working Hours and Leave:

- a) Working Hours shall normally be from 9.30 AM to 6.00 PM with flexi time of 1 hour on both sides during working days including half an hour lunch break in between. However, in exigencies of work, Independent Consultants may be required to sit late and may be called on Saturday / Sunday and other holidays also.
- b) Independent Consultants will be eligible for 08 days leave during the period of one year, on pro-rata basis subject to the prior written approval of the controlling officer. Unavailed leave cannot be carried forward to the next year. Further, leave up to one month can be considered without remuneration with the prior approval of controlling Officer. However, in exceptional cases like need for professional development, training etc., this condition may be relaxed with the approval of Chief Executive Officer, GSTN, subject to official exigencies.
- c) Apart from above, the women Independent Consultants may be eligible for maternity leave as per the Maternity Benefit (Amendment) Act, 2017 issued by Ministry of Labour & Employment vide letter No. S-36017/03/2015-SS-I dated 12th April, 2017.

9. Termination:

- a) The engagement can be terminated at any time by GSTN by giving 30 days' notice or pay in lieu thereof. Similarly, the Independent Consultant may also resign after giving notice for a similar period.
- b) GSTN reserves the right to terminate any Independent Consultant at any stage in the event of a serious failure to perform the task assigned or of failure to observe any standards of conduct.

10. Title Rights, Copyrights, Patents and Other Proprietary Rights:

- a) Title to any equipment and supplies that may be furnished by GSTN to the Independent Consultant for the performance of any obligations under the Contract shall rest with GSTN, and any such equipment shall be returned to GSTN at the conclusion of the contract or when no longer needed by Independent Consultant.
- b) GSTN shall be entitled to all intellectual property and other proprietary rights, including, but not limited to, patents, copyrights and trademarks with regard to products, processes, inventions, ideas, know-how or documents and other materials which the Independent Consultant has developed for GSTN.

11. Force Majeure and other Conditions:

- a) The Force majeure clause shall be applicable under this guidelines and any act arising from causes beyond the control and without the fault or negligence of the individual independent consultant shall not be attributable to the consultant.

12. Audits and Investigations: The Independent Consultants shall be liable to refund any excess amounts paid to them which are brought out/highlighted by auditors during post audit of GSTN.

13. Settlement of Disputes: GSTN and the Independent Consultant shall use their best

efforts to amicably settle any dispute, controversy or claim arising out of the Contract or the breach, termination or invalidity thereof.

14. Arbitration: Any dispute, controversy or claim between the parties arising out of the Contract, or the breach, termination, or in validity thereof, unless settled amicably, as provided above, shall be referred by either of the parties to the CEO, GSTN for arbitration. The CEO, GSTN may appoint an arbitrator for the settlement of the controversy.

15. Conduct of Independent Consultants and Conflict of Interest: The Individual Independent Consultant shall be expected to follow all the rules and regulations of GSTN which are in force. He/ she will be expected to display utmost honesty, secrecy of office and sincerity while discharging his / her duties. In case the services of the Individual Independent Consultant are not found satisfactory or found in conflict with the interests of the GSTN/ Government of India, his/her services will be liable for discontinuation without assigning any reason. Decision to terminate any such contract shall need approval of the CEO.

16. General terms and conditions:

- a) GSTN may require the Independent Consultant to submit a Statement of Good Health from a recognized physician prior to commencement of work in any offices or premises of GSTN.
- b) The Independent Consultant shall be solely responsible for taking out and for maintaining adequate insurance required to meet any of his/her obligations under the Contract, as well as for arranging, at the Individual Independent Consultant's sole expense, such life, health and other forms of insurance as the Independent Consultant may consider to be appropriate to cover the period during which the Individual Independent Consultant provides services under the Contract.
- c) The engagement as Independent Consultant is subject to verification of documents related to educational qualification and experience. If any information/ documents submitted by Independent Consultant are found false/ wrong at any stage, his/her engagement will be terminated immediately and appropriate action will be taken against him /her as per rules.
- d) In the unfortunate event of the death, injury or illness while serving GSTN, the Independent Consultant or the next of kin shall not be entitled to any compensation or Appointment.
- e) The period of engagement would commence from the date of joining at GSTN.
- f) The period of engagement as Independent Consultant will not confer any claim or right for subsequent engagement / employment with GSTN or any other Government Department at a later date.
- g) Where the CEO, GSTN is of the opinion that it is necessary or expedient to do so, he may by order and for reasons to be recorded in writing, relax any of the above provisions or impose more conditions which are reasonably required for the functioning of independent consultants and are in the interest of GSTN.

17. Consultants already working in GSTN desirous to avail the benefits of revised scheme will have option to close to enter into a new contract for the balance of their tenure under this policy.

Leave Rules

1. Short Title And Commencement

- 1.1.** These rules may be called the **GSTN Employees Leave Rules, 2023**.
- 1.2.** They shall come into force with effect from **1st Jan 2023**.

2. Extent Of Application

- 2.1.** These rules shall apply to all regular employees, tenured employees directly employed with GSTN for a period of four years but shall not apply to those on contract through third party, casual employment and those engaged as Independent consultants.
- 2.2.** Employees on deputation shall follow the leave rules of their parent department or the Central Government Rules as applicable.

3. Definitions

- 3.1.** In these rules, unless the context otherwise requires:
- a) "Company" means 'Goods & Services Tax Network'.
 - b) "Sanctioning Authority" with reference to the exercise of any powers under these rules means the officer or the authority to whom such powers are delegated in accordance with the schedule of delegation of powers and/or any other order issued in general or in particular.
 - c) "Employee" means a person appointed to any position in the Company and will include a person on probation, a deputationist in the Company, and a re-employed person but shall not include Apprentices.
 - d) "Month" means the calendar month.
 - e) "Year" means the calendar year.

4. General Conditions For Grant Of Leave

- 4.1.** An employee before proceeding on leave shall furnish in the application the details about his leave and get it approved from reporting manager.
- 4.2.** Unauthorised absence from duty will render an employee liable to disciplinary action.
- 4.3.** Except in an emergency, application for leave for three days or less shall be made at least twenty-four hours prior to the time from which it is required. Applications for leave for more than three days shall be made at least two days before the date from which the leave is required.
- 4.4.** An employee who desires to extend his leave shall apply to the sanctioning authority giving reasons for extension well in time so as to reach the sanctioning authority before the expiry of leave already granted. He shall not avail the same before it is sanctioned, except in case of an emergency.
- 4.5.** If the application for extension of leave is on the grounds of illness of the employee, it shall be accompanied by a Medical Certificate if the leave is for more than 3 days.
- 4.6.** Except as provided otherwise under these rules, any kind of leave may be granted in combination with or in continuation of any other kind of leave.

- 4.7. Holiday or a series of holidays including RH may be combined with any other type of leave. The rules do not restrict any type of combination.
- 4.8. Leave shall be sanctioned by reporting officer in accordance with delegation of authority. In case of special leave, approval from reviewing officer is also required.
- 4.9. Leave regularization in case of short leave or any missed punching cases, request to be submitted to manager for approval as defined in Attendance rules.
- 4.10. In case of resignation, employees shall ordinarily be allowed to avail EL and SL or CL with due approvals. However, the relieving of the employee may be extended by the number of leave availed by the employee during the notice period. The total number of leave shall not be in excess of five working days in total. In case of any exceptions the approving authority would be CEO, GSTN.
- 4.11. Any restricted holiday can be availed during the notice period after the approval of reporting manager.
- 4.12. When applying for a half day leave, employee is required to spend a minimum of 4 business hours at office. Half day leave can be used in the Casual Leave and Sick Leave category and in the Earned Leave category only if there is no other leave available.
- 4.13. In case of a Bandh/Voting/Natural calamity or any situation decided by the CEO, the affected special advisory may be issued for the same by HR with CEO's approval. Such periods will be treated as special casual leave.
- 4.14. The employee will be eligible for leave proportionate to the period of service computed from the date of joining.
- 4.15. In the event of separation, all forms of Leave that accrue on an annual basis will be computed on a pro-rata basis.
- 4.16. If the leave account of employee doesn't have sufficient leave balance, the notice period may be extended in case employee applies for leave during the notice period subject to salary deduction for the number of days leave is availed.
- 4.17. In case of any exceptions the approving authority would be CEO, GSTN.
- 4.18. Employees will need to seek approval (written/email/HRMS) in the prescribed format before proceeding for leave from the authority as specified.
- 4.19. The reporting manager shall be authorised to approve leave. However, if more than 5 days of leave is requested the approval will be required to be taken from the next level in the hierarchy.

5. Kinds and amount of leave admissible:

- 5.1. **Earned Leave** – Each employee will be entitled to **30 days of earned leave** in a calendar year. It will be credited on a monthly basis at the rate of 2.5 days per month.
- a) Only 10 days of accumulated ELs (earned in the respective calendar year) will be carried forward at the end of calendar year and rest of the accumulated ELs, if any, shall be encashed at the end of calendar year.
 - b) If the EL balance is less than 10 in that case all the ELs will be carried forward and it will not be encashed at the end of calendar year.

- c) Employee cannot accumulate more than **50 days** of ELs over the years. However, after reaching the maximum accumulation limit of 50, on 1st Jan in next calendar year employee will be eligible for 30 days of EL to be credited to leave account as per policy.
- d) For serving employees option will be given to employees for encashment of 50% of the EL balance at the end of calendar year. This facility would be available for each of the FY here after (i.e. 1st Jan 2023 onwards).
- e) If the employee who is in service chooses to take the encashment of EL, it shall be allowed only at the end of calendar year or on termination of service during the year.
- f) Maximum Earned Leave that can be availed continuously should not exceed 30 days. If due to any exigency, more than 30 days of continuous leave is required, in addition to the approval from reporting & reviewing officer, it should also be approved by the CEO.
- g) The accumulated EL up to a maximum of 50 days will be encashed only at the time of exit.

5.2. Casual Leave – Each employee will be entitled to Casual leaves of **8 days** in a Calendar year.

- a) CL shall be credited at the time of joining on prorata basis for a new employee depending on the date of joining.
- b) For the existing employee 8 CLs will be credited on annual basis on 1st of January.
- c) CL cannot be encashed and it cannot be carried forward.
- d) CL may be granted for half day also. If casual leave for half day is taken, the lunch interval shall be taken as a dividing line.

5.3. Sick Leave – An employee is entitled to **8 days** of Sick leaves (SL) in a Calendar year.

- a) SL shall be credited at the time of joining on prorata basis for a new employee depending on the date of joining.
- b) For the existing employee 8 SLs will be credited on annual basis on 1st of January.
- c) Maximum accumulation of SLs can be up to **30 days** which will **not be** encashable at the time of separation or at the end of calendar year.
- d) Even SL can be taken for half day. If SL for half day is taken, the lunch interval shall be taken as a dividing line.
- e) An application for grant of leave or extension of leave on medical grounds must be accompanied by a Medical Certificate if the leave is more than 3 days.

5.4. Special Leave –Maternity leave, Paternity Leave & Compensatory Off will be treated as Special Leave. The duration and other terms of the Maternity leave will be as per the Maternity Benefits Act.

5.4.1. Maternity Leave -Applicable to all eligible women employees as per Maternity Benefits Act-1961 and amendment in 2017. Women employees with less than two surviving children shall be entitled to Maternity Leave not exceeding **26 weeks**. Maternity leave will not commence earlier than **8 weeks** prior to the expected date of delivery.

- a) A women employee (with less than two surviving children) who legally **adopts** a child below the age of three months or a commissioning mother shall be entitled to maternity benefit for a period of **12 weeks** from the date the child is handed over to the adopting mother or the commissioning mother, as the case may be.

- b) During such period, she shall be paid leave salary equal to the pay drawn immediately before proceeding on leave.
- c) In case of miscarriage or medical termination of pregnancy, a woman employee shall, on production of the prescribed proof, be entitled to leave with wages at the rate of maternity benefit, for a period of **6 weeks** immediately following the date of her miscarriage or medical termination of pregnancy.
- d) Maternity leave shall not be debited against the leave account including adoption cases.
- e) Maternity leave will be non-encashable in nature.

5.4.2. Paternity Leave- A male employee with less than 2 surviving children, may be granted paternity leave to be approved by the reviewing manager for a period of up to 15 days, during the confinement of his wife for childbirth i.e. up to 15 days before or up to six months from the date of delivery of the child.

- a) Paternity leave will also be admissible on adoption of child.
- b) During such period of 15 days, he shall be paid leave salary equal to the pay drawn immediately before proceeding on leave.
- c) The paternity Leave may be combined with leave of any other kind if approved by the competent authority.
- d) If paternity leave is not availed of within the period specified above, such leave shall be treated as lapsed.
- e) The paternity leave shall not be debited against the leave account of the employee.
- f) Paternity leave will be non-encashable in nature.

5.4.3. Compensatory Off-

- a. Employees up to Assistant Vice President grade (with prior approval of Head of Unit) who are required to report for duty in order to attend regular office work on an official holiday/ weekly off/ weekends are entitled to compensatory off, If employee has worked for more than 6 hours.
- b. In order to avail compensatory off, employees will have to utilize the leave within the next 6 months, failing which Compensatory off will lapse.

6. Encashment of leave:

- a) In case of resignation/expiry of tenure, the employee shall be granted leave encashment for the leave balance of EL (up to a maximum of 50 days) as on the date of relieving and the same shall be paid with the full and final settlement of the employee. Any accumulated EL balance in excess of 50 days will be considered lapsed.
- b) Encashment of leave shall be calculated based on CTC.
- c) The Earned Leave will be encashed by the serving employee only at the end of the calendar year as per Para 5.1.
- d) In case an employee dies while in service, cash equivalent of the Earned leave that the deceased employee has accumulated would be paid to the employee's dependent as per the last drawn CTC.
- e) In case the services are terminated by serving notice, encashment may be allowed in respect of EL admissible to him/her.

7. Attendance Rules:

- a) Office Timings applicable for all employees will be 09:30 AM to 06:00 PM
- b) The above timings will include a 30 minute lunch break from 1:30 PM to 2:00 PM

- c) Employees may be required to work beyond office hours due to exigencies of work without any overtime allowance.
- d) Saturdays and Sundays will be non-working days.
- e) Attendance Recording: Regular record of attendance will be kept for all employees.
- f) Flexi Timing: A general flexi time of 30 minutes shall be allowed subject to the employee completing his scheduled working hours. Need based Flexible work timing can also be allowed on approval from Unit Head/CEO
- g) Work from Home will be allowed as per the defined Work From Home Policy (Annexure)
- h) An employee reporting late on a particular day, will be required to take prior permission from her/ his Reporting Manager
- i) Subject to the provisions of flexi time (clause vi above), late coming to office by an hour, twice a month may be ignored. Each subsequent late coming (beyond 15 minutes) would attract deduction of half-day leave from the employee's leave credit and in case there is no leave balance salary will be deducted.
- j) In case of unavoidable delays in reaching office, the employee must inform her/ his Reporting Manager through SMS/phone call/email.
- k) If an employee leaves before the closing time of office, without permission from her/ his Reporting Manager, he/ she will be penalized by half a day deduction from her/ his leave account and in case there is no leave balance then in that case salary will be deducted.

8. Leave Without Pay (LWP):

- a) An employee who has exhausted all his/her leave may be granted leave without pay for such number of days, either at a stretch or intermittently, as the Company deems fit. The employee will be required to obtain prior approval of the approving authority before proceeding on leave. The decision of the CEO will be final in all such cases.
- b) National Holidays, Paid Holidays, Saturdays and Sundays falling between Leave without Pay will be treated as Leave without Pay.
- c) An employee on LWP, will not be entitled to any compensation, including salary, allowances, retiral, leave accumulation and other benefits / entitlements. It shall also not be considered in reckoning the period of service for progression or confirmation after probation.

Miscellaneous Entitlements

1. Applicability:

The new entitlements shall be applicable after the proposal is approved by the GST Council (Date).

2. Recognizing Talent for Exemplary Performance

2.1 To reward the excellence in performance of employees and also to promote good and healthy team spirit in the organization, two awards as follows are proposed:

- a) Employee of the month:** One employee from each function (i.e. Technology, Services & Support/others) shall be given buffet dinner coupons for up to 4 family members every month.
- b) Best team of the quarter:** Module & Function wise best performing team will be selected for the reward. Company sponsored buffet dinner coupons for all the concerned team members every quarter.

3. Official Travel

3.1 Room Tariff

- a) The room tariff for Tier 1 cities viz. Delhi, Mumbai, Bangalore, Chennai, Kolkata, Ahmedabad, Pune room shall be as given in column 3 below.
- b) The remaining cities may be classified as Tier 2 and the existing limits given in column 2 below for room tariff may be continued.

Table - 1

Grades	Limits for Tier 2 Cities (inclusive of tax)	Room Tariff for Tier 1 Cities (inclusive of tax)
(1)	(2)	(3)
1	As per actual	As per actual
2	Not exceeding Rs. 12000/-	Not exceeding Rs. 17000/-
3a – 3b	Not exceeding Rs. 12000/-	Not exceeding Rs. 17000/-
4a – 4c	Not exceeding Rs. 7000/-	Not exceeding Rs. 10000/-
5a – 5c	Not exceeding Rs. 7000/-	Not exceeding Rs. 10000/-

3.2 Daily Allowance on Tour:

- a) The per diem shall be applicable as per column 2 in table below.

Table - 2

Grades	Per Diem/Daily Allowance (Rs.)
(1)	(2)
1	6000
2	4000
3a – 3b	4000
4a – 4c	3000
5a – 5c	3000

- b) The local conveyance shall be reimbursed on actual basis on production of bills.

3.3 Local Travel Entitlements

- a) Employees may avail the services of the vehicles hired by GSTN for official local travel. In case of exigencies, employees would get reimbursement of actual fare by public transport. In case employee is using own vehicle for Local travel due to official work, employee may claim conveyance as per rates proposed.
- b) The rates of transportation by four wheeler and two wheeler shall be as given in the table below:

Table - 3

Personal Conveyance Mode	Rates
Four Wheeler	Rs.24per Km
Two Wheeler	Rs. 12per Km

4. Relocation Expense

- a) Currently the entitlement of SVP & above is J class for work related travel. However, for relocation purposes the entitlement is economy class. The same is now being changed and the entitlement for relocation purposes for SVP and above shall be J Class.
- b) Entitlement for transportation of personal effects for all levels shall be Rs.50 per km as per the following table.

Table - 4

Grades	Rates for Transportation of personal effects	Air Travel Entitlements
1.	2.	3.
1	Rs. 50 per km	Air (J Class)
2	-do-	-do-
3a	-do-	-do-
3b	-do-	Air (Economy Class)
4a – 4c	-do-	-do-
5a – 5c	-do-	-do-

Compensation Rules for Deputationists

1. These rules shall be called the “compensation rules for deputationists in GSTN” and shall include all employees in GSTN who are on deputation irrespective of whether they join GSTN from the Central Government, State Government or from PSUs.

1.1 The following Pay and Allowances shall be paid to deputationists working in GSTN unless and otherwise the Pay and Allowances are defined and prescribed by the Department of Revenue while approving or processing the deputation or anytime thereafter:

- a) Basic Pay shall be as admissible in the parent department or fixed in GSTN based on Recruitment Guidelines of GSTN as per the Central Government Pay Matrix. The Basic Pay of State Government employees shall be fixed as per the Central Government Pay Matrix provided they give an undertaking that they opt for Central Government Pay Scales along with allowances admissible in GSTN. In case any employee opts for the State Government pay scales, they would be paid the Pay and allowances as admissible in the respective State Government.
- b) Dearness Allowance as admissible in the Central Government. This would be admissible to State Government Employees on deputation in GSTN only if they have opted for the Central Government pay scales otherwise they would be paid the dearness allowance admissible in their respective State Government.
- c) The following Allowances would be paid to the employees on deputation in GSTN. These allowances would be paid to the State Government employees only if they have opted for the Central Government Pay scales otherwise they would be paid the allowances as admissible in their respective State Governments.

1.2 **House Rent Allowance:** The employees would be paid house rent allowance at the following rates as they are not eligible for allotment of accommodation under the Central Government Pool of accommodation. However, no HRA would be admissible, if the Central Government allows General Pool Accommodation to any of the executives of GSTN on such representation being made as a special case:

Table - 1

Designation	Pay Level	Basic Pay Range (As on Date)	House Rent Admissible per month
Chairman	L-16	205400-224400	1,50,000 *
CEO	L-15	182200-224100	1,25,000 *
EVP	L-14	144200-218200	1,00,000
SVP	L-13	123100-215900	85,000
VP	L-12	78800-209200	80,000

Assistant VP	L-11	67700-208700	75,000
Associate VP	L-10 (with 5 years' experience in the level)	56100-177500	70,000
Senior Manager	L-10	56100-177500	65,000
Manager	L-9	53100-167800	60,000
Assistant Manager	L-8	47600-151100	55,000
Executive	L-7	44900-142400	50,000

Note (i) * Company lease facility along with maintenance and GST may be provided by GSTN for Chairman and CEO.

(ii) Lease shall include self-lease also.

1.3 Fuel Allowance: The fuel allowance shall be paid to the employees on deputation at the following rates:

Table-2

Details	Chairman (L 16)	CEO (L 15)	EVP (L 14)	SVP (L 13)	VP (L 12)	AVP (L 11)	Associate VP (Level 10 with 5 yrs in the Level)	SM (L 10)	Manager (L 9)	AM (L 8)	Executive (L 7)
Fuel Allowance (per month)	Company Car	Company Car	Company Car Or 50000	Company Car Or 45000	25000	21000	19000	17500	16500	15500	14000

1.3.1 EVPs and SVPs would be given an option to either avail a Company provided Car or opt for getting the monthly fixed amount mentioned in the table above.

1.4 Other Allowance: The employees on deputation to GSTN are neither entitled for Leave Travel Allowance nor for Children Education Allowance as is admissible to them in the Government. These allowances have been monetised and the same would be paid to the deputationists on a monthly basis to different grades of employees as detailed in the following table:

Table - 3

Designations	Other Allowance to be paid monthly (Rs.)
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SVP and above	17000
Up to VP	9000

1.5 IT and Professional Allowance: IT and Professional Allowance shall be paid to the employees on deputation in GSTN as per the following table:

Table - 4

Designation	Pay Level	Basic Pay Range (As per 7 th CPC)	Proposed (Percentage of Basic Pay & DA)
Chairman	L-16	205400-224400	40
CEO	L-15	182200-224100	40
EVP	L-14	144200-218200	45
SVP	L-13	123100-215900	45
VP	L-12	78800-209200	45
Assistant VP	L-11	67700-208700	50
Associate VP	L-10 (with 5 years' experience in the level)	56100-177500	50
Senior Manager	L-10	56100-177500	50
Manager	L-9	53100-167800	50
Assistant Manager	L-8	47600-151100	50
Executive	L-7	44900-142400	50

- a) The above rules shall be admissible to the employees on deputation in GSTN with effect from the date the same is approved by the GST Council. Till the time same is approved, the allowances being paid under the old policy shall be continued and if this is not approved exit option should be given in further consultation with competent authority (GST Council).
- b) New deputationists to be on boarded as per the new policy after the same has been approved;

- c) Existing deputationists were on boarded as per the advertised old policy and therefore, would be given option to change their perks as per the new policy or stay with old policy for the balance of their tenure.
- d) Any revisions to Pay, Allowances and Monetised Benefits for deputationists shall be as per the company policy after approval of the Board of GSTN.

Dates of implementation and saving & difficulty removal during implementation**1. Dates of implementation****Table - 1**

Particulars	Dates of implementation
Transition <ul style="list-style-type: none"> • Transition Increment • Progression Increment during transition • Pull to/near minimum for progression cases 	First day of the month after BOD & GST Council approves the proposal for transition or any other date decided by the BOD
Performance Management Policy <ul style="list-style-type: none"> • Annual Increment • PLI Based on Bell Curve for the Year 2022-23 & onwards • Progression Based on Bell Curve for the Year 2022-23 & onwards 	FY 22-23 onwards (Assessment in FY 23-24 onwards) <ul style="list-style-type: none"> • 1 April 23 • 1 April 23 • 1 Oct 23
Recruitment Policy	First day of the month after BOD & GST Council approves the proposal for transition or any other date decided by the BOD
Leave Rules	1 Jan 2023
Entitlements for Mobile Handset & other allowances	First day of the month after BOD & GST Council approves the proposal for transition or any other date decided by the BOD
Reward and Recognition	1 Jan 2023
Allowances for Deputationists	After approval by competent authority. Till the time same is approved, the allowances being paid under the old policy shall be continued and if this is not approved exit option should be given in further consultation with competent authority (GST Council).

2. Saving and difficulty removal during implementation

- a) The points not listed in the proposal shall be continued as per the existing clauses in the HR Manual viz. Joining, Attendance, Grievance & Disciplinary procedures etc. After the in-principle approval of BOD/ Council of these documents (Presentation & Agenda), the HR Manual would be revised to incorporate these changes and revised manual issued with the approval of the CEO, GSTN.
- b) All existing decisions of the Board and Management taken prior to the date on which these policies become operational shall continue to apply notwithstanding any conflict with the present policies provided that specific decision taken in relation to any of the past decisions to overrule the past decision shall lead to the new specific decision prevailing.
- c) Difficulty removal clause: Any difficulties/challenges during implementation of the transition process/policy shall be resolved by CEO, GSTN for employees up to the level of Senior Vice President and by Chairman, GSTN for employees of the level of EVP & above. The resolution shall be provided based on the generally accepted principles laid down in the policies.

Agenda Item 10: Recommendations of the 17th IT Grievance Redressal Committee for approval/decision of the GST Council:

The 17th meeting of the IT Grievance Redressal Committee (ITGRC) was held on 2nd December, 2022 at 10.30 AM in online mode over WebEx platform to resolve the grievances of the taxpayers arising out of the technical problems faced by them on the GSTN portal in relation to GST Compliance filings.

The agenda for the 17th ITGRC meeting covered the following issues:

1. Technical Issues requiring data fixes through back-end utilities
2. Agenda on reversal of interest on delayed filing of statement in Form GSTR-8 by e-commerce operators due to technical glitches

2. Recommendations of ITGRC on Data Fix issues:

As per the SOP approved in the 15th ITGRC meeting for Technical issues requiring data fix of the processed incorrect data through backend utilities, GSTN identified twenty-eight (28) cases which required data fixes. However, one case was withdrawn by the GSTN.

The ITGRC then took note of the aforementioned cases of which 10 (ten) cases were of Category-1 (Technical issues with no financial implication where data was known), 13 (thirteen) cases were of Category-2 (Technical issues where there was financial implications and the correct data was also known) and 04 (four) cases were of category-3 (Technical issues affecting locally with financial implication and where data was not known) and these were unanimously approved by the Committee.

3. Recommendations of ITGRC on Agenda on reversal of interest on delayed filing of statement in Form GSTR-8 by e-commerce operators due to technical glitches:

The Committee observed that while filing statement in Form GSTR-8 for the month of February 2022, three taxpayers who were registered on the same PAN in different States, could not file the said statement due to system glitches.

All three impacted operators have deposited the liability for the month of February, 2022 by due date. For the month March, 2022, all operators have deposited the liability after due date but before fixing the defect. For April, 2022, only one operator has deposited the liability before fixing the defect but this was after the due date of liability. Since, there was no glitch in depositing the liability through challan, therefore, interest paid on delayed filing of statement may not be refunded in those cases who have paid the liability while filing the statement or before filing the statement but after fixing of the glitch.

In earlier cases also, the 15th ITGRC had adopted this approach in its meeting held on 12-08-2021. Based on the decision, Government had issued Notification No. 08/2022 dated 07-06-2022 for refunding the interest to those who had deposited the liability before filing the statement.

The ITGRC took note of the data fix and that interest waiver be recommended to GST Council for these taxpayers.

The recommendations of ITGRC as per attached Minutes of the 17th meeting of the ITGRC are placed for information of the GST Council as Annexure - A (Attached below)

The GST Council may give its approval on the issues mentioned in Paras 2 and 3 above.

Minutes of the 17th Meeting of the IT Grievance Redressal Committee (ITGRC) held on dated 02.12.2022 in online mode over WebEx Platform

The 17th meeting of the IT Grievance Redressal Committee (ITGRC) was held in online mode over WebEx platform on 02nd December, 2022 at 10.30 AM. The list of officers who attended the meeting is attached as **Annexure-1**. The agenda and annexure to agenda circulated for the meeting are attached as **Annexure-2 and Annexure-4**.

2. The Joint Secretary, GST Council Secretariat, welcomed all the members and gave a brief introduction that there were two (02) agenda points which included Data fixes and waiver of interest due to delay in filing the form GSTR-8 for e-commerce operators because of technical glitches. She further informed that in the 15th ITGRC meeting, a SOP on the mechanism to fix various glitches by the GSTN was approved. She also informed that data fixes having global financial implications needed prior approval of the ITGRC where as data fixes which had local implications would be fixed by GSTN and after fixation would placed before the ITGRC and that all these data fixes had local nature with or without financial implications. That is why these were fixed by the GSTN and were being placed before the ITGRC for perusal. Thereafter JS, GSTCS requested the GSTN to present the agendas before the Committee.

3. Sh. Dheeraj Rastogi, Executive Vice President, GSTN informed the ITGRC that most of the return filing got affected because of some inconsistency in the data due to some unforeseen scenarios or duplicating the return which required data fixes and GSTN carried out these data fixes. Thereafter, he requested Shri Nirmal Kumar, Executive Vice President, GSTN to explain each of the cases regarding data fixes as to what kind of data error was found and what kind of data fixes had been done.

4. Sh. Nirmal Kumar, Executive Vice President, GSTN informed the Committee that the agenda comprised of the following three categories technical issues where data fix was done.

i. Technical issues with no financial implication where data was known. There were ten such cases.

ii. Technical issues where there was financial implications and the correct data was also known. In this category, there were thirteen cases.

iii. Technical issues affecting locally with financial implication and where data was not known. There were only five such cases.

He then made a power point presentation which is attached as **Annexure-5**.

5. First category of technical issues with no financial implication where data was known as follows:

S. No.	Issue reported	No. of Cases Impacted	Module	Detail Description	Status
1	Duplicate invoice issue in GSTR6 form. At the time of submission of return, the portal is showing "Error in Submission".	1	GSTR6	<p>The invoices and credit notes uploaded were processed by the portal while uploading the JSON. At the time of submission of return, the portal is showing "Error in Submission". The error report is showing that the ISD Invoices and ISD credit notes are duplicate but there is no duplication in either ISD invoices or ISD credit notes. Taxpayer is getting "Error in Submission" while filing the GSTR6 but then after generating Error report it is showing 'Duplicate ISD invoice'.</p> <p>Reason: According to the code flow invoice should be inserted into "UPLOADED_ISD_NOTES", "UPLOADED_ISD_INVOICES", "ISD_INVOICES" tables during save. But for this user data is inserting into "ISD_INVOICE_DTL", "ISD_NOTE_DTL", "GSTR6SUBMIT" table also. When user submitting the form user getting the error as duplicate invoice because invoice is present in below DTL Hbase table.</p>	This happened for only one TP and due to that code fix was not taken. Data fix done by ICR.
2	Late fee reversal of GSTR6 taxpayer. Taxpayer was unable to file GSTR6 form in production environment for return period July, 2021 due to "Error in Submission".	1	GSTR6	<p>The invoices and credit notes uploaded were processed by the portal while uploading the JSON. At the time of submission of return, the portal is showing "Error in Submission" and the report is showing that the ISD Invoices and ISD credit notes are duplicate. But there is no duplication in either ISD invoices or ISD credit notes.</p> <p>Reason: Taxpayer were unable to submit the GSTR6 due to the error "Duplicate ISD Invoice" displayed on the portal.</p>	This happened only once so code fix was not taken. Data fix was done by Utility on 10th Feb 2022 via ICR:14811
3	Duplicate entries present in RTN_FILING_ST AUS table. At the	1	GST0R1	Tax payer is getting error "Latest Summary is not available, Please generate summary and try again". Tax payer has already deleted history from the browser	Permanent fix will be deployed in production on Dec 2022.

	time of Filing, GSTR-1 summary not generated by the system and there is no consolidated summary shown while filling GSTR-1.			and tried different computer also but getting the same error and unable to file the return. Reason: There are 2 entries presents in Return Filing Status table for GSTN 24AXLPT8085E1ZZ for return period 042022, hence tax payer is not able to proceed with filing.	
4	While filing GSTR-4/ GSTR3B- “Error! Payment amount should not exceed the outstanding liability”– RQM: 14189. While filing GSTR4 some of taxpayer are getting the error “ Issue while filing GSTR-4 - “Error! Payment amount should not exceed the outstanding “.	2	GSTR4/3	GSTR4 calculates applicable late fees at the time of submit (or in the new model at the time of Offset). The late fee thus calculated has three components. Reason: Negative late-fee has been applied to the ledger due to the logic. Further, as per the logic in GSTR-4 and GSTR-3B any negative liability is carried forward to the next return period using a pair of Credit/Debit entries.	GSTR4 quarter form is disabled in prod. Permanent fix needs to be analyzed. Utility is used to fix the data.
5	GSTR9 || Users have filed R9 but form status is RTF in DB and not filed on annual dashboard. Taxpayer has filed GSTR9 form, but status is still not filed on portal.	1	GSTR9	User has claimed that he has filed the form, but status is still not filed on portal. It is due the issue that entries got posted to ledger tables and cash is also debited for user’s late fee. However, corresponding record is not updated from Ready To File to File in Return Filing Status table in return database. Therefore, user is still seeing form status as not filed even after filing and paying the late fee. Reason: Transaction handling between different data sources is not properly done.	Known issue across the application. Analysis is under progress. GSTR1 has similar issue which is in UAT and will be deployed on production in 29th Nov 2022, other modules may adopt this solution after discussion. Data fix in such cases is done through ICR.
6	Duplicate Amendable column in	83	GSTR1	On Analysis it is found that AMDBL column is present twice in “INVOICE_DTL” table for the same	It is fixed in production on 26th April 2022.

	INVOICE_DTL table of Hbase. When Taxpayer is trying to amend EXPORT invoices from upper case to lower case records stuck in “In-Progress” Due to duplicate Amdbl column present in “INVOICE_DTL” Table.			invoice. Hence while user trying to amend invoice from Upper case to lower case he is getting invoice in "In-Progress". Reason: While analysing logs it is found that at the time of submit, since invoice column were present with upper case, system validated it as different and inserted AMDBL column with lower case.	
7	When Taxpayer is validating the statement in Refund, system is giving error “RF-FCAS1007” and not allowing to file the Refund.	32	GSTR1	While analyzing, it is found that Meta Data (MD) column is not present in “Invoice Detail” table. The invoices went to error while adding to GSTR1 form due to which Meta column was not inserted to “Invoice Detail” Table though it is present in “Invoices” table. Reasons: - Since MD column is not present in “ Invoice Detail ” table hence user will not be able to raise refund for affected invoices, validation will fail at time of initiating refund. - It is also noticed that due to connection errors while inserting data to Invoice Detail table, invoices went to error.	It is fixed in production on 26th April 2022.
8	CMP08||The end user is unable to file GST CMP-08 as error is reflecting "Data for the internal Transaction Id Already Posted"– RQM: 21266. The taxpayer is unable to file GST CMP-08 as error is reflecting "Data for the internal Transaction Id Already Posted" while filing.	64	CMP-08	Filing status is ‘Not Filed’ and taxpayer is not allowed to File GST CMP-08 again, as error is reflecting "Data for the internal Transaction Id already Posted" while filing. Reason: For few taxpayers, all ledger tables were updated successfully but request status did not change from RTF to FIL in RTN_FILING_STATUS table. Partially fixed on 14th Jun 2021 in production. Another RCA is Known issue across the application. Analysis is under progress. GSTR1 has similar issue which is in UAT and will be deployed on production in 29th Nov 2022, other modules may adopt after discussion.	Partially fixed on 14th Jun 2021 in production. Another RCA is Known issue across the application. Analysis is under progress. GSTR1 has similar issue which is in UAT and will be deployed on production in 29th Nov 2022, other modules may adopt after discussion.

9	Issue prior to Migration of Tamil Nadu. Clean up of recovery Cases created in Case management folder, where recovery cases have no reference to the Demand order (for the 33-state code – Tamil Nadu SR#601295). Tax officers are facing System error while fetching the recovery cases for 86 CRN's (Case Reference Number).	88	Recovery	The multiple recovery cases were created for single demand id through event_dtl job. The user was facing a system error, as the mentioned CRN's do not have the demand details mapped to it. Reason: Due to some technical issues in event Job process, Multiple recovery cases were created without a reference of demand id in case management folder. As a result, the case management folder had unmapped recovery id which does not require any action to be taken. We do not have logs of that time to cross verify what was exact issue.	Issue was before Migration of Tamil Nadu from Modal 1 to Modal 2. Issue was permanently fixed by executing a utility job on 25th Feb 2022.
10	Partial Data movement i.e. Data missing in INV_DETL table of Hbase. System is throwing error in GSTR-1 table 9A and not allowing to submit amended invoice while amending export invoices from “without payment” to “with payment” type.	6	GSTR1	This is a partial data movement issue before GSTR1 code improvement, where data is present in “INVOICES” table of HBase however few columns (OSPD, TYPE) are missing in “INV_DETL” table. Permanent fix has been done via code improvement. However affected users, before code improvement, whose data is not sync for them, data fix is required. Reason: According to the older code flow invoice should be inserted from “INVOCES” to “INV_DETL” table during submit, However some column (OSPD,TYPE) are missing hence he is not able to amend the invoice.	It is fixed in production on 26th April 2022.

Discussion and decision:

EVP, GSTN informed that above cases were taken up on the request of either the taxpayer or the tax administration and required only data fixes which enabled the tax payer to file further returns or the tax administration was having certain orphan records which needed to be removed. There were no financial implications in these cases.

ITGRC took note of the data fixes done by the GSTN.

6. EVP, GSTN explained that in the second category, there were thirteen (13) cases having technical issues affecting locally with financial implications and where the correct data was known.

He then presented the cases with the help of a power point presentation which is attached as **Annexure-5**.

The details of the cases are mentioned as follows:

S. No.	Issue reported	No. of Cases Impacted	Module	Detail Description	Status
1	Issue in GSTR6 form. Taxpayers were unable to view ISD invoices in GSTR2A form, as GSTR2A form is a read only where Supplier can see the invoices added by the recipient. Financial Implication-YES Whether Correct Data Known-YES	88	GSTR 6	In this issue, ISD invoices are not reflecting in GSTR2A form when uploaded from GSTR6 form. There are Multiple GSTR6 users who have raised ticket against different supplier's GSTIN. Reason: While adding the multiple invoices through offline utility, due to the issue in code, only the last invoice was getting saved in ISD_UNIT_RelationShipHbase table and that is why user was unable to view all their invoices on the portal. An ISD credit of Rs 52, 33,708/- were made to be reflected in GSTR2A.	It is fixed in production on 15th Feb 2022 via RQM:22445

Discussion and Decision:

Additional Secretary (DoR) enquired whether only one cycle of return or multiple previous cycles of returns were affected and what the financial implications were.

EVP, GSTN informed that it was only one cycle of return as the problem was with the utility at that time and further that the financial implication was not really there as the invoices had to be shown in the counterparty's GSTR-2A so as to enable them to take credit.

Additional Secretary (DoR) instructed to provide financial implications while drawing the minutes.

ITGRC took note of the data fixes done by the GSTN.

S. No.	Issue reported	No. of Cases Impacted	Module	Detail Description	Status
2	<p>Recovery of TCS amount credited twice in cash ledgers of suppliers. (RQM: RET_R2X_18318). Suppliers have taken excess TCS credit than due, either by filing GSTR-2X more than once or by accepting the same record across two tax periods.</p> <p>Financial Implication-YES Whether Correct Data Known-YES</p>	37	Cash Ledger	<p>Due to change in status from filed to not filed or posting the records across two tax periods, taxpayer was able to get the credit twice.</p> <p>Reason: It is suspected that following scenarios may have caused the defect: Return filing status cache update issue could have caused the issue. Second scenario can be with XA transaction.</p> <p>The total amount of Rs 5,09,376 was debited in the Cash Ledger.</p>	It is fixed in production.

Discussion and Decision:

EVP, GSTN informed that in this case, GSTN reversed one entry from the double entries in the cash ledger and it is pro revenue. Further, as the taxpayers did not utilize the credit, no interest arises.

ITGRC took note of the data fixes done by the GSTN.

S. No.	Issue reported	No. of Cases Impacted	Module	Detail Description	Status
3	<p>Taxpayers were unable to file GSTR5 form in production environment due to the error "Submission had some error". Now reversal of late fee and Interest in GSTR5 form is requested.</p> <p>Financial Implication-YES Whether Correct Data Known-YES</p>	2	GSTR5	<p>Taxpayers were unable to file GSTR5 form in production environment due to the error "Submission had some error".</p> <p>Reason: Due to the code issue (MYSQL upgrade), there was a delay in providing the correct resolution to the taxpayers, they were unable to file GSTR5 form within due date, so late fee and Interest were charged to the taxpayers. Although Taxpayers have filed the form along with their late fee and Interest, we have got the request of late fee and interest reversal from Daily ticket tracker.</p> <p>A late fee amount of Rs 1550 (CGST – 775 and SGST – 775) was waived and an amount of Rs 2, 17.466 interest (CGST 108733 , SGST</p>	Permanent fix on 16th Nov 2021 via RQM: 22058

				108733) is required post facto approval of GST Council for reversal.	
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Discussion and Decision:

JS, GSTCS enquired whether late fee and interest waived by GSTN was suo-moto because only in once case, interest has been waived off by issue of notification.

EVP, GSTN informed that only late fee was reversed as the same was paid by taxpayer at the time of filing delayed return due to defect in the GST System. As regard interest, GSTN requested ITGRC to recommend its waiver to GST Council, as done in the past.

ITGRC took note of the data fixes done by the GSTN.

S. No.	Issue reported	No. of Cases Impact ed	Module	Detail Description	Status
4.	Due to non-filing details of liability in table 6 of GSTR-4, the amount paid through CMP-08 of the year became excess tax paid and credited to negative liability statement. The negative liability was reduced by debiting the amount from negative liability statement. In some cases, the amount has been debited twice. Financial Implication- YES Whether Correct Data Known- YES	1028	Cash Ledger	Due to non-filing details of liability in table 6 of GSTR-4, the amount paid through CMP-08 of the year became excess tax paid and credited to negative liability statement. Reason: Before recovery utility execution, a select query was executed to extract the impacted records for recovery. In that select query, we were ignoring those records which were already recovered. But in that select query, Return Type='CMP08' was missed while extracting the impacted records, only GSTR-4 (Annual) was considered. Status: It is fixed in production on 31 st Mar 2022 via CR:21592_A. The total amount of Rs 2, 65, 67,031. (CGST 1,32,71,615 , 1,32,71,615,	It is fixed in production on 31 st Mar 2022 via CR:21592_A

				IGST – 23801) was re credited.	
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Discussion and Decision:

Additional Secretary, GSTCS requested to explain the case in details.

EVP, GSTN explained that at the time of filing the annual return, the taxpayer had not filled up table 6 of GSTR-4 (Annual) due to which liability paid through Form GST CMP-08 became excess tax paid and credited to Negative Liability Statement. Some taxpayers have thereafter utilized the amount so credited, which was recovered by debiting their cash ledgers. In some cases, the amount was recovered twice, hence, the same was re-credited to their cash ledgers. To avoid such mistakes at the level of taxpayer, a reconciliation table has been provided for the convenience of taxpayers while filing the said return. An alert is shown if the taxpayer tries to file the said return without filling up table 6 in case of negative liability & he would not be able to file the return if the table is left blank and further informed that the issue of negative liability had been fixed in production permanently.

Additional Secretary, DoR enquired about the past negative recoveries.

EVP, GSTN informed that after the incident of data fix and noise in the social media, negative balance recoveries cases were assigned to the tax officers.

Additional Secretary, DoR observed that that was a revenue positive step.

EVP, GSTN informed that more than Rs. 100 crore had been recovered from the past cases where there was negative balance and the fix is pro revenue.

Additional Secretary, DoR instructed that financial implications whether positive or negative needed to be mentioned before finalization of the minutes.

ITGRC took note of the data fixes done by the GSTN.

S. No.	Issue reported	No. of Cases Impact ed	Module	Detail Description	Status
5	Cash ledger entries have been missed out or omitted after filing R2X. Credit entry to be made in the cash ledger (Table: CASH_LDG) of taxpayers. Financial Implication- YES Whether Correct Data Known- YES	2	Cash Ledger	Taxpayers having GSTIN 18AAACH0351E1Z4 and 19ALIPD4105A1ZS have accepted the TDS credit of return period 02/2022, 03/2022 respectively but the credit entry is not available in CASH_LDG table even though filing is done. Reason: Due to the mismatch of row check value, credit entry was not made to the cash ledger (Table: CASH_LDG). A total amount of Rs 49,062 (CGST 24531, SGST 24531) was credited to the cash ledger.	It is fixed in production.

Discussion and Decision:

Additional Secretary, DoR enquired how only two taxpayers were effected despite being a generic problem.

GSTN informed that only two taxpayers had entered the values up to decimal places while others had entered up to integers.

Additional Secretary, DoR instructed that permanent fix for this may be done.

ITGRC took note of the data fixes done by the GSTN.

S. No.	Issue reported	No. of Cases Impact ed	Module	Detail Description	Status
6	Taxpayers are not able to file GST CMP-08 for the subsequent tax period. Financial Implication- YES Whether Correct Data Known- YES	3	CMP-08	It has been noticed that few composition taxpayers who have attempted to file statement in Form GST CMP-08 between 15th June' 21 to 8th July' 21, got redundant entries in their respective ledger tables and out of these cases, taxpayers who have liability open in any of the previous tax periods are unable to file non-nil statement for subsequent tax period.	Permanent fix is deployed in production on 9th Jul 2022.

				<p>Reason: Due to XA removal, data for few taxpayers got impacted as rollback was not happening from ledger tables (RTN_LIAB_LDG/RTN_LIAB_MSTR/RTN_LIAB_MSTR_HIST) in case of any issue/exception like.</p> <p>An excess liability debited in the ledger of Rs 2,10,210 (CGST 1,05,105, SGST 1,05,105) was corrected.</p>	
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Discussion and Decision:

ITGRC took note of the data fixes done by the GSTN.

S. No.	Issue reported	No. of Cases Impact ed	Module	Detail Description	Status
7	<p>Re-credit of interest paid on late filing of statement in Form GSTR-8 by e-commerce operators due to system glitches. (Defect: RQM: RET_R8_19830). The post filing process for GSTR-8 in the previous month could not be completed due to which filing of next month was blocked.</p> <p>Financial Implication- YES Whether Correct Data Known- YES</p>	116	GSTR-8	<p>Since, filing of the statement is not mandatory every month, some operators have not filed the statement. The operators who have deposited the amount due by the due date but paid interest due to late filing of statement, are eligible for reversal of the interest paid.</p> <p>Reason: Upon analysis, it was seen that operator has filed statement and message posted for Kafka queue for post filing process. On processing of post filing process, transaction stuck-up in IP/ ER. When operator tried to file his next period's statement, application blocked him with the error message " Return filing process is not yet completed for the earlier period ".</p> <p>In 116 cases an interest amount of</p>	It is fixed on production.

				IGST Rs 76,01,603, CGST – Rs 27,23,696 and SGST/UTGST – Rs 27,23,696 was reversed which was approved by GST Council for credit to the Cash Ledgers of the impacted Operators vide notification 08/2022 and hence it was implemented.	
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Discussion and Decision:

Additional Secretary, DoR enquired how interest was charged when payment was done on due date.

EVP, GSTN explained that after taxpayers filed GSTR-8 form, the record of 116 taxpayers got stuck in message queue itself due to technical issues and GSTR-8 could not be processed further. Therefore, system calculated the interest.

EVP, GSTN further informed that problem in GSTR-8 was due to some unforeseen scenarios. Interest reversal was required to be approved by GST Council for credit to the Cash Ledgers of the impacted Operators and notification 08/2022 was issued by the Govt. It was done therefore in compliance to that notification and no further waiver request was required to be made to GST COUNCIL, as done in the past, in this case.

ITGRC took note of the data fixes done by the GSTN.

S. No.	Issue reported	No. of Cases Impact ed	Module	Detail Description	Status
8	While filing GSTR4 Annual form, few taxpayers are getting incorrect auto populated amount in Table 5 where one quarter's data is missing. Financial Implication- YES Whether Correct Data Known- YES	12	GSTR4	Taxpayer is getting incorrect amount in table 5 of GSTR4 Annual form due to which taxpayers are not able to file their return as system is asking additional liability to be paid. This is an Adhoc exercise which will take some time and due to that, we have to apply data fixes on urgent basis considering ageing of tickets. Reason: Under analysis. An amount of Rs 32,55,026 (CGST – 16, 01,300, SGST – 16, 01,300, IGST – 52,426) was posted in Table 5 of Form GSTR-4.	Analysis for permanent fix is under progress.

Discussion and Decision:

ITGRC took note of the data fixes done by the GSTN.

S. No.	Issue reported	No. of Cases Impact ed	Module	Detail Description	Status
9	TDS amount is credited to their Cash Ledger by filing the TDS & TCS Credit received form twice for same tax period. Financial Implication- YES Whether Correct Data Known- YES	141	Cash Ledger	<p>Cases where the amount of tax deducted and reported in GSTR-7 differs from the amount credited to cash ledger of deductee through TDS/TCS credit received form.</p> <p>Reason:</p> <ul style="list-style-type: none"> When user login to the TDS and TCS credit received form, status is displayed from the cache details. As there is a problem with the cache, user was able to see status as 'Not filed'. But, in the Return Filing Status table, the status was existing as filed. In the second scenario, while amending the TDS record in R7, the status of the earlier TDS / TDSA record is verified in R2X related table to check whether it is accepted and filed or not. <p>The amount of Rs 36.27 lakhs (CGST+SGST) was debited in the Cash Ledgers of concerned taxpayers.</p>	Issue is fixed in production via RQM: RET_R7_19111

Discussion and Decision:

Additional Secretary, DoR enquired as to the number of taxpayers who filed GSTR-7 and asked why only 141 taxpayers were affected. He further asked whether these were a technical glitch or a mistake of the taxpayer.

EVP, GSTN informed that some technical glitches occurred.

Additional Excise & Taxation Commissioner, Haryana observed that for TCS and TDS, concept of rejection or acceptance issue should not be there.

ITGRC took note of the data fixes done by the GSTN.

S. No.	Issue reported	No. of Cases Impact ed	Module	Detail Description	Status
10	<p>Correction in cash ledger balance due to credit and debit happened simultaneously. The balance could not be updated due to credit and debit happening simultaneously. It had happened due to defect in the system application.</p> <p>Financial Implication- YES Whether Correct Data Known- YES</p>	03	Cash Ledger	<p>The balance could not be updated due to credit and debit happening simultaneously. It had happened due to defect in the system application.</p> <p>Reason: The issue had occurred due to debit and credit entry in the cash ledger happening at the same time, which led to incorrect cash balance in the cash ledger. The reason for occurrence of the issue is due to dirty read where the two transactions happened simultaneously and read the same record.</p> <p>An amount of Rs 689468 (CGST + SGST – Rs 6,87,622, Interest – Rs 1296, Fee – Rs 550) was corrected in the cash Ledger.</p>	CR#21982 has been raised for permanent fix. This CR is aligned with REAP team but yet to be picked up for development.

ITGRC took note of the data fixes done by the GSTN. As regard interest, GSTN requested ITGRC to recommend its waiver to GST COUNCIL, as done in the past in these 3 cases.

S. No.	Issue reported	No. of Cases Impact ed	Module	Detail Description	Status
11	<p>R4X || Few taxpayers are able to file their return without clearing liabilities in case the liability amount is already present in negative liability table. Taxpayers are unable to file their further return period and getting error message as “Liability for previous tax period is yet to be paid.</p> <p>Financial Implication- YES Whether Correct Data Known- YES</p>	24	R4X	<p>Taxpayers are unable to file their further return period and getting error message as “Liability for previous tax period is yet to be paid. If error persists quote error number LG9048 when you contact customer care for quick resolution.”</p> <p>Reason: This issue started coming post one recent major CR 21592 implementation. In this CR, ‘is Negative Value Allowed’ flag was introduced to check whether credit</p>	It is fixed in production on 31st Mar 2022 via CR: 21592_A.

				<p>entry of negative liability should be posted into Return Negative Liability Statement History table or not. But this new flag also stopped posting debit entry to Return Negative Liability Statement History table if tax amount difference between Table 6 and table 5 (either outward supply or inward supply) of GSTR4X is greater than 10% or 1000 (whichever is less)</p> <p>A total amount of Rs 92,050 (CGST 46,025 , SGST – 46,025) was posted in the Liability Ledger.</p>	
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Discussion and Decision:

Additional Secretary, DoR enquired what kind of form taxpayer had to file in particular and what was the number.

EVP, GSTN explained that around 14 lakh taxpayers filed GSTR-4 form which was a composition tax form.

Additional Secretary, DoR enquired why only 24 taxpayers were affected.

EVP, GSTN explained that that might be due to interruption in internet connection or logging out process while filing process was underway.

Additional Secretary, DoR asked the GSTN to provide exact technical glitch and the time line for which that persisted at the time of drawing the minutes.

ITGRC took note of the data fixes done by the GSTN.

S. No.	Issue reported	No. of Cases Impact ed	Module	Detail Description	Status
12	<p>Users are able to file GSTR4 without clearing liabilities -: Re-computation of liability- RQM: 17176 / 20801. GSTR-4: User has filed GSTR-4 without clearing the liability amount. GST CMP-08: As per the issue reported by user, he is not able to file CMP-08 as getting 'ERROR!! Liability for previous tax period is yet to be paid'.</p> <p>Financial Implication- YES</p> <p>Whether Correct Data Known- YES</p>	01	GSTR-8	<p>Transaction handling was not proper due to mix of Transaction Manager/ Non-Transaction Manager in GSTR-4. Due to this, in case of any failure rollback was not done completely from all the respective data sources. In this case, filing status has been updated as "Filed" in return filing status table without updating in ledger table besides the rollback of liability setoff entries in ledger.</p> <p>Reason: User has filed GSTR-4 without clearing the liabilities and due to this, user is unable to file statement in Form GST CMP-08 for next quarter.</p> <p>An amount of Rs 1500 (CGST – Rs 750, SGST – Rs 750) was posted to the liability ledger.</p>	<p>Partially fixed on 14th Jun 2021 in production on 14th Jun 2021 via ICR-12663.</p> <p>Another RCA is Known issue across the application. Analysis is under progress.</p>

Discussion and Decision:

Additional Secretary, DoR enquired why only one taxpayer got affected.

EVP, GSTN explained that that was due to corner scenarios and not a regular issue.

ITGRC took note of the data fix done by GSTN.

S. No.	Issue reported	No. of Cases Impact ed	Module	Detail Description	Status
13	Taxpayer has saved invoices in ITC-03 & submitted the form with 'NULL' check but unable to offset the outstanding liabilities. Financial Implication- YES Whether Correct Data Known- YES	01	ITC Form	ITC03 form: Taxpayer has saved invoices in ITC-03 & submitted the form with 'NULL' check but unable to offset the outstanding liabilities. Reason: Taxpayer forgot to uncheck the NIL checkbox while submitting ITC03 form, however invoices were already added in the form. Now status is in 'Submitted' state and taxpayer is not ready to file the form as he is unable to offset the corresponding liabilities. An amount of Rs 3,68,778 (CGST – Rs 1,84,389 SGST – Rs 1, 84,389) will be paid on filing the said form.	It is a single Taxpayer issue, permanent fix not required. Data fix was done via ICR: 18439 executed on 4th Nov 2022.

Discussion and Decision:

Additional Secretary, DoR said that if someone did a mistake in submitting the form with NULL check despite saving invoices then NIL check should get cancelled.

EVP, GSTN agreed that and informed that the same should be the taxpayer's option to check it.

ITGRC took note of the data fixes done by the GSTN. The GSTN calculated the financial implications of the all the thirteen cases discussed above which is attached as **Annexure-3**.

7. In the third category, EVP, GSTN explained that there were five (05) cases having technical issue affecting locally with financial implications and correct data was not known with certainty.

He then presented the cases with the help of a power point presentation which is attached as **Annexure-5**. The details of the cases are mentioned as follows:

S. No.	Issue reported	No. of Cases Impact ed	Module	Detail Description	Status
1.	Taxpayers raised tickets stating that they filed the GSTR-3B returns but there is mismatch in the data entered vis-à-vis payment made. Ledgers are updated on the basis of payment table whereas pdf is generated on the basis data entered. Financial Implication- YES Whether Correct Data Known- NO	07	GSTR3 B	After login to the GSTN portal, taxpayer can open the GSTR-3B form window on multiple tabs at the same instant. There is no restriction to this behavior at present. Taxpayer have filed the GSTR-3B returns but there is mismatch in the data entered vis-à-vis payment made. Reason: Difference between data that was saved in HBASE and the one that was posted to ledger db in Return Liability Ledger and ITC Ledger tables.	Permanent fix is finalized and it is with REAP team. RQM:22721

Discussion and Decision:

Additional Secretary, DoR enquired whether this was a technical fault or a mistake of taxpayer and whether the jurisdictional GST Authorities were informed.

EVP, GSTN explained that such cases were of technical fault and as per the SOP, first GSTN rectifies the technical error as the future return filing gets affected and after the approval from ITGRC, GSTN forwards the MIS report to the Jurisdictional GST Authorities for a check.

Additional Secretary, DoR enquired as to why GSTN does not check the errors before correcting the same and why the same should be brought to notice of ITGRC before checking the errors.

EVP, GSTN explained that as the error affects the future return submission process, GSTN fixes the same before checking and that from the next time onwards GSTN would come before ITGRC after getting all the errors checked.

Chairperson said that there is no need to change the current practice when GSTN is sending after checking the errors.

Additional Secretary, DoR enquired when data fix is done on 18.08.2022 then when the same was sent to the jurisdictional GST authorities for verification.

EVP, GSTN informed that permanent fix for this is in the process of development and will appear in the production after 1-1/2 month. He further informed that they have noticed the same error in many cases. Actually, when the taxpayers file NIL return through SMS or API but there is data in their GSTR-2A/2B due to which same data reflects in GSTR-3B then the discrepancies arise. Additionally, he informed the ITGRC that GSTN is contemplating to fix this like when the taxpayer has filed the NIL return they will not allowed to file the NIL return if the taxpayer delete those invoices.

Chairperson agreed with this.

The ITGRC took note of the data fix done by the GSTN and approved the same.

S. No.	Issue reported	No. of Cases Impact ed	Module	Detail Description	Status
2.	Taxpayers stuck up in filing Form GST ITC-01 for claiming credit- RQM 23200. Newly registered taxpayers or taxpayers opting out of composition scheme or when exempted goods become taxable, claim credit on closing stock u/s 18(1) of Act through Form GST ITC-01. Financial Implication- YES Whether Correct Data Known- NO	23	ITC Form	ITC01 form has to be filed within 30 days of becoming eligible to claim credit. Few taxpayers were stuck up in filing the said form between 29 th June, 2022 and 5 th July, 2022. One taxpayer could not file the form as downtime started from 11:00 pm on 16 th June, 2022. Reason: Few taxpayers were unable to file declaration in Form GST ITC-01 due to deployment of the change in topology. "System was showing following error – Your submit is in progress. Check after sometime."	This issue has been faced only once. Permanent fix not required. All impacted cases were executed on 25 th Aug 2022 in production.

Discussion and Decision:

Additional Secretary, DoR enquired about the financial implication to which EVP, GSTN told that GSTN had not calculated the financial implication, however, GSTN would mention that in the minutes. He further explained that data fixing is required for processing and the financial implication would be known only after processing of the data.

Chairperson enquired about whether this impacted the eligibility of the taxpayers opting out of the composition scheme and asked for more care to be taken while verification.

EVP, GSTN replied in affirmative and informed that this time all the data is fixes are done and from the next meeting onwards GSTN will do the first check and then data fixes will be done.

Additional Secretary, DoR instructed that GSTN should get a post-facto verification or physical checking and get the record from the jurisdictional GST authorities. That whatever had been done, that should have been verified also.

The ITGRC took note of the data fix done by GSTN and approved the same.

S. No.	Issue reported	No. of Cases Impact ed	Module	Detail Description	Status
3.	Data issue due to partial commit happened on click of reset button (RQM: RET_3B_15222). Financial Implication- YES Whether Correct Data Known- NO	02	GSTR-3B	It may be recalled that initially, there was a four tier system of filing return in Form GSTR-3B, viz. Save, Submit, Offset liability and File . All saved entries used to become non-editable after clicking on 'Submit' button. Liability register and Credit ledger used to be updated at submit stage. In the beginning, lot of complaints were received due to freezing of entries before filing (at submit stage). In the beginning, returns lying at submit stage were reset from the backend as lot of complaints were received on account of inadvertent mistakes. Reason: This is an old issue when there used to be a reset button on the portal.	Permanent fix is not required because RESET button is removed from system. Old return periods data are being fixed by backend query.

Discussion and Decision:

During the discussion, GSTN withdrew the said case as they were not having the full details.

S. No.	Issue reported	No. of Cases Impact ed	Module	Detail Description	Status
4.	Form GST ITC-03 filed without debit in the ledgers - RQM 21652. Taxpayer had filed Form GST ITC-03 successfully but still it reflects as "NIL" Filed, even though invoices are saved by the taxpayer while filing the said form. Financial Implication- YES Whether Correct Data Known- NO	38	ITC Form	After opting into composition scheme, taxpayer had filed Form GST ITC-03 successfully but still it reflects as "NIL" Filed, even though invoices are saved by taxpayer while filing the said form. No ledger transactions had happened for the same. Reason: Due to some technical issues, the details added were not visible in UI. However, the NIL filing details were saved and transmitted at the time of filing. Therefore, due to this defect, the	It is fixed in production on 15th June 2022 via ICR: 16751

				statement was filed as NIL. Invoice details were still saved in the backend. However, it was not present in UI.	
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Discussion and Decision:

ITGRC took note of the same and approved the data fix done by the GSTN.

S. No.	Issue reported	No. of Cases Impacted	Module	Detail Description	Status
5.	<p>Multiple Blocking of ITC credit – Details of impacted GSTINs.</p> <p>27 GSTINs involving multiple blocking of ITC credits were shared for backend correction of the ITC ledgers by GSTN.</p> <p>Financial Implication- YES Whether Correct Data Known- NO</p>	27	ITC Form	<p>27 (21+6) GSTINs involving multiple blocking of ITC credits were shared for backend correction of the ITC ledgers by GSTN.</p> <p>Reason: Due to technical issue CBIC was unable to capture the response after blocking ITC by taxpayer. Officer tried multiple times with same GSTIN to block the ITC.</p>	<p>Out of 27 GSTINs, 26 GSTIN have been unblocked. Rest 1 GSTIN (33AAJFC74 64K1Z5) was cancelled and now it is in active status so we are in process to unblock this GSTIN as well.</p>

Discussion and Decision:

EVP, GSTN informed that the data fix was requested by CBIC and that was a technical issue of blocking of ITC multiple times. The ITGRC took note of the data fix and approved the same.

8. Agenda on reversal of interest on delayed filing of statement in form GSTR-8 by e-commerce operators due to technical glitches.

8.1. Background

8.1.1 Section 52 of the GST Act mandates an e-commerce operator to collect tax at the specified rate on the net value of the supplies made through it by other suppliers where consideration has to be collected by the operator. The operator has to file the details of tax so collected in a statement in Form GSTR-8 on monthly basis. On the basis of statement so filed by operators, the tax collected is made available to the concerned suppliers for taking the credit into their cash ledgers.

8.1.2 The operators are not required to file the aforesaid statement for the month in which no supply has been made by any supplier through his portal. But the details provided in a statement of the month can be amended at the time of filing statement of the subsequent month if supplier has not taken action for taking the credit till such time or supplier had rejected the details uploaded by the operator. Additional amount is paid by the operator in case of upward amendment and he gets credit of the reduced amount in liability if amendment is made downwards.

8.1.3 There was no late fee payable by operators before October, 2022 on delayed filing of the statement of a month but interest was payable for delayed filing. Interest is computed by system based on the net liability and the period of delay.

8.1.4 Tax collected and paid in a statement can be adjusted in subsequent statement if goods supplied are returned. It means that liability is paid on net of basis in GSTR-8. Details are provided GSTIN wise for a tax period.

8.2. System glitches

8.2.1 While filing statement in Form GSTR-8 for the month of February, 2022, three taxpayers registered on the same PAN in different States, could not file the said statement due to system glitches. After receiving the complaints from the ECOs, the system application was rectified on 29th July, 2022. Thereafter, the operators had filed the statements for the month of February, 2022 and subsequent months.

8.2.2 Due date of filing GSTR-8 of a tax period is 10th of the following month. Due to the defect, the filing of the said statement was delayed. Though, there was no late fee on delayed filing of GSTR-8 (before October, 2022) but interest becomes payable after the due date and same is computed by system. The operators have filed the statements of tax periods which became due till rectification of the defect with interest.

8.2.3 All three impacted operators have deposited the liability for the month of February, 2022 by due date. For the month March, 2022, all operators have deposited the liability after due date but before fixing the defect. For April, 2022, only one operator have deposited the liability before fixing the defect but after due date only. Since, there was no glitch in depositing the liability through challan, therefore, interest paid on delayed filing of statement may not be refunded in those cases who have paid the liability while filing the statement or before filing the statement but after fixing of the glitch.

8.2.4 In earlier cases also, in the 15th ITGRC had adopted this approach in its meeting held on 12-08-2021. Based on the decision, Government had issued notification vide Notification No. 08/2022 dated 07-06-2022 for refunding the interest who had deposited the liability before filing the statement.

8.3. Interest paid

Summary of the interest paid by the operators who had deposited the liability by due date or those had deposited after due date but before fixing the defect is given as under:

Type of defect	Tax deposit status	No. of statements	Tax period	Amount of interest to be re-credited		
				IGST	CGST	SGST/UTGST
1	2	3	4	5	6	7
Problem faced in amendment of records	Deposited by due date	3	Feb, 2022	0	27335	27335
	Deposited after due date but before filing statement and fixing the defect	3	Mar, 2022	0	12668	12668
		1	Apr, 2022	0	2653	2653
TOTAL		7			42656	42656

Note – Liability deposited after fixing the defect but before filing the return have not been included in the above table for reversal on interest.

8.4. Proposal for refund of interest paid

8.4.1 ITGRC may take a view to refund the interest paid by the operators detailed at para 3 on the pattern of proposal approved earlier and notification issued by Government for the same. Amount of interest to be refunded will be credited to cash ledger under respective major/minor head.

EVP, GSTN presented the agenda with the power point PPT which is attached below as **Annexure-6**.

Discussion and Decision:

Additional Secretary, DOR asked about the amount involved in the issue at hand.

EVP, GSTN informed that about Rs.85 thousand is involved.

Additional Secretary, DOR said the same can be approved since the amount involved is small.

Chairperson said that if facts have been verified by GSTN then there should be no issue.

EVP, GSTN informed that in the 15th ITGRC meeting, same issue was taken up and approved by the ITGRC.

JS, GSTCS informed that a Notification No.08/2022-CT dated 07.06.2022 was also issued by GST Policy Wing.

Chairperson agreed with the same.

The ITGRC took note of the data fix and that interest waiver be recommended to GST Council for these taxpayers.

Annexure-1

Centre:

- i. Member (GST), CBIC –Smt. V. Rama Matthew (Chairperson of ITGRC)
- ii. Additional Secretary, DoR – Sh. Vivek Aggarwal
- iii. Additional Secretary, GSTC- Sh. Pankaj Kumar Singh
- iv. Pr. DG, DG Systems – Sh. S.R.Baruah
- v. Pr. Chief Commissioner, CGST, Delhi Zone – Smt. Mallika Arya

States:

- i. Commissioner, State Tax, West Bengal – Sh. Khalid Aizaz Anwar
- ii. Additional Excise & Taxation Commissioner, Haryana – Sh. Siddharth Jain
- iii. Joint Commissioner (Computer System), State Tax, Tamil Nadu – Sh.Thiru S. Ramasamy
- iv. Joint Commissioner, State Tax, Gujarat – Sh. Mahesh Jani

GST Council Secretariat:

- i. Joint Secretary, GSTCS- Smt. Ashima Bansal

Special Invitee:

- i. Executive Vice President, GSTN- Sh. Dheeraj Rastogi

Annexure-2

Agenda on Data Fix issues

Technical Issues Requiring Data Fix of the Processed Incorrect Data through Backend Utilities

The changes in GST law / Rules, the representations received from taxpayers and other stakeholders require alterations to be continuously made in the GST System. GSTN has therefore adopted an agile methodology of developing applications for GST System keeping it modular to handle frequent changes in law and rules incorporated in a running application. This has necessitated integrating all new application changes downstream being dependent on the module undergoing the change and led to following concerns:

- Some corner scenarios owing to varying taxpayer actions and system behaviour, when subjected to heavy load, go unhandled leading to inconsistent data persisting in GST System.
- The data inconsistencies vary from ledger getting improper debits/credits, the return details stored in the system having incorrect information relating to situations where an irreversible commit has happened in the database.
- No option available to taxpayer to seek remedy in GST System leading to a need of performing data fixes through auditable utilities.

These issues generally have been noticed after

- A complaint is raised by taxpayer/ tax officer,
- Result of a periodic internal and external audits.

In order to resolve these issues, the processed incorrect data requires fixing, collecting correct data besides solving the software/platform issues being faced by respective stakeholders. Accordingly, GSTN has initiated fixing of technical issues identified, as per the SOP approved by the ITGRC in the 15th meeting held on 12/08/2021, which is as below:

- a. Analysis of data discrepancy.
- b. Confirmation of discrepancy sought from MSP.
- c. Upon confirmation, utility to be created by MSP to extract similar cases from GST System data.
- d. A root cause analysis conducted to fix the issue and implemented by MSP in consultation with GSTN to rectify data inconsistency.
- e. Scripts created for data fix and tested in multiple cycles by MSP and GSTN.
- f. Approval note presented to competent authority to fix the issue.
- g. After approval, audit entries created for each change affecting the data.
- h. Scripts executed and post execution state of data stored for reference later.
- i. List of all such changes to be presented and explained to GST policy wing & ITGRC and periodic internal audit also to be undertaken.

Data Fix cases are accordingly presented to ITGRC for deliberations and decision as mentioned in the attached Annexure.

Annexure to the Agenda

Technical Issues Requiring Data Fixes through Backend Utility (Period -1st Jan 2022 to 11th Nov 2022)

Cases Requiring Internal Approval of SVP, EVP/CEO or Post facto Approval of ITGRC									
S. No.	Issue reported	Approved By	Date of Approval	No. of Cases Impacted	Financial Implication	Module	Correct Data Known / Not Known	Detail Description	Status
1	Issue in GSTR6 form. Taxpayers were unable to view ISD invoices in GSTR2A form, as GSTR2A form is a read only where Supplier can see the invoices added by the recipient.	EVP (Services)	25-01-2022	88	Yes	GSTR6	Known	In this issue, ISD invoices are not reflecting in GSTR2A form when uploaded from GSTR6 form. There are Multiple GSTR6 users who have raised ticket against different supplier's GSTIN. Reason: While adding the multiple invoices through offline utility, due to the issue in code, only the last invoice was getting saved in ISD_UNIT_RelationShipHbase table and that is why user was unable to view all their invoices on the portal.	It is fixed in production on 15th Feb 2022 via RQM:22445
2	Duplicate invoice issue in GSTR6 form. At the time of submission of return, the portal is showing	EVP (Services)	10-02-2022	1	No	GSTR6	Known	The invoices and credit notes uploaded were processed by the portal while uploading the JSON. At the time of submission of return, the portal is showing "Error in Submission". The error	This happened for only one TP and due to that code fix was not taken.

	"Error in Submission".							<p>report is showing that the ISD Invoices and ISD credit notes are duplicate but there is no duplication in either ISD invoices or ISD credit notes. Taxpayer is getting "Error in Submission" while filing the GSTR6 but then after generating Error report it is showing 'Duplicate ISD invoice'. Reason: According to the code flow invoice should be inserted into "UPLOADED_ISD_NOTES", "UPLOADED_ISD_INVOICES", "ISD_INVOICES" tables during save. But for this user data is inserting into "ISD_INVOICE_DTL", "ISD_NOTE_DTL", "GSTR6SUBMIT" table also. When user submitting the form user getting the error as duplicate invoice because invoice is present in below DTL Hbase table.</p>	Data fix done by ICR.
3	Issue prior to Migration of Tamil Nadu.Clean up of recovery Cases created in Case management folder, where recovery cases have no reference to the Demand	EVP (Services)	08-04-2022	88	Yes	Recovery	Known	<p>The multiple recovery cases were created for single demand id through event_dtl job. The user was facing a system error, as the mentioned CRN's do not have the demand details mapped to it.</p> <p>Reason: Due to some technical issues in event Job process,</p>	Issue was before Migration of Tamil Nadu from Modal 1 to Modal 2. Issue was permanent

	order (for the 33-state code – Tamil Nadu SR#601295). Tax officers are facing System error while fetching the recovery cases for 86 CRN's (Case Reference Number).							Multiple recovery cases were created without a reference of demand id in case management folder. As a result, the case management folder had unmapped recovery id which does not require any action to be taken. We do not have logs of that time to cross verify what was exact issue.	ntly fixed by executing a utility job on 25th Feb 2022.
4	Recovery of TCS amount credited twice in cash ledgers of suppliers. (RQM: RET_R2X_18318). Suppliers have taken excess TCS credit than due, either by filing GSTR-2X more than once or by accepting the same record across two tax periods.	EVP (Service s)	24-05-2022	37	Yes	Cash Ledger	Known	Due to change in status from filed to not filed or posting the records across two tax periods, taxpayer was able to get the credit twice. Reason: It is suspected that following scenarios may have caused the defect: Return filing status cache update issue could have caused the issue. Second scenario can be with XA transaction.	It is fixed in production.
5	Late fee reversal of GSTR6 taxpayer. Taxpayer was unable to file GSTR6 form in production environment for return period July, 2021 due to "Error in Submission".	EVP (Service s)	26-05-2022	1	No	GSTR6	Known	The invoices and credit notes uploaded were processed by the portal while uploading the JSON. At the time of submission of return, the portal is showing "Error in Submission" and the report is showing that the ISD Invoices and ISD credit notes are duplicate. But there is no duplication in either	This happened only once so code fix was not taken. Data fix was done by Utility on 10th Feb 2022 via

								ISD invoices or ISD credit notes. Reason: Taxpayer were unable to submit the GSTR6 due to the error “Duplicate ISD Invoice” displayed on the portal.	ICR:14811
6	Taxpayers were unable to file GSTR5 form in production environment due to the error “Submission had some error”. Now reversal of late fee and Interest in GSTR5 form is requested.	EVP (Services)	26-05-2022	2	Yes	GSTR5	Known	<p>Taxpayers were unable to file GSTR5 form in production environment due to the error “Submission had some error”.</p> <p>Reason: Due to the code issue (MYSQL upgrade), there was a delay in providing the correct resolution to the taxpayers, they were unable to file GSTR5 form within due date, so late fee and Interest were charged to the taxpayers. Although Taxpayers have filed the form along with their late fee and Interest, we have got the request of late fee and interest reversal from Daily ticket tracker for the below mentioned taxpayers.</p>	Permanent fix on 16th Nov 2021 via RQM: 22058
7	Due to non-filling details of liability in table 6 of GSTR-4, the amount paid through CMP-08 of the year became excess tax paid and	EVP (Services)	26-05-2022	1028	Yes	Cash Ledger	Known	<p>Due to non-filling details of liability in table 6 of GSTR-4, the amount paid through CMP-08 of the year became excess tax paid and credited to negative liability statement.</p> <p>Reason: Before</p>	It is fixed in production on 31st Mar 2022 via CR:21592_A

	credited to negative liability statement. The negative liability was reduced by debiting the amount from negative liability statement. In some cases, the amount has been debited twice.							recovery utility execution, a select query was executed to extract the impacted records for recovery. In that select query, we were ignoring those records which were already recovered. But in that select query, Return Type='CMP08' was missed while extracting the impacted records, only GSTR-4 (Annual) was considered. Status: It is fixed in production on 31 st Mar 2022 via CR:21592_A	
8	Duplicate entries present in RTN_FILING_STAUS table. At the time of Filling, GSTR-1 summary not generated by the system and there is no consolidated summary shown while filling GSTR-1.	EVP (Service s)	07-06-2022	1	No	GST R1	Known	Tax payer is getting error "Latest Summary is not available, Please generate summary and try again". Tax payer has already deleted history from the browser and tried different computer also but getting the same error and unable to file the return. Reason: There are 2 entries presents in Return Filing Status table for GSTN 24AXLPT8085E1ZZ for return period 042022, hence tax payer is not able to proceed with filing.	Permanent fix will be deployed in production on Dec 2022.
9	Cash ledger entries have been missed out or omitted after filing R2X. Credit	EVP (Service s)	07-06-2022	2	Yes	Cash Ledger	Known	Taxpayers having GSTIN 18AAACH0351E1Z4 and 19ALIPD4105A1ZS have accepted the TDS	It is fixed in production.

	entry to be made in the cash ledger (Table: CASH_LDG) of taxpayers							credit of return period 02/2022, 03/2022 respectively but the credit entry is not available in CASH_LDG table even though filing is done. Reason: Due to the mismatch of row check value, credit entry was not made to the cash ledger (Table: CASH_LDG).	
10	Taxpayers are not able to file GST CMP-08 for the subsequent tax period.	EVP (Services)	20-07-2022	3	Yes	CMP-08	Known	<p>It has been noticed that few composition taxpayers who have attempted to file statement in Form GST CMP-08 between 15th June' 21 to 8th July' 21, got redundant entries in their respective ledger tables and out of these cases, taxpayers who have liability open in any of the previous tax periods are unable to file non-nil statement for subsequent tax period.</p> <p>Reason: Due to XA removal, data for few taxpayers got impacted as rollback was not happening from ledger tables (RTN_LIAB_LDG/RTN_LIAB_MSTR/RTN_LIAB_MSTR_HIST) in case of any issue/exception like.</p>	Permanent fix is deployed in production on 9th Jul 2022.
11	Partial Data movement i.e. Data missing in INV_DETL table of Hbase.	EVP (Services)	25-07-2022	6	No	GSTR1	Known	This is a partial data movement issue before GSTR1 code improvement, where data is present in	It is fixed in production on 26th April

	System is throwing error in GSTR-1 table 9A and not allowing to submit amended invoice while amending export invoices from “without payment” to “with payment” type.							<p>“INVOICES” table of HBase however few columns (OSPD, TYPE) are missing in “INV_DETL” table. Permanent fix has been done via code improvement. However affected users, before code improvement, whose data is not sync for them, data fix is required.</p> <p>Reason: According to the older code flow invoice should be inserted from “INVOICES” to “INV_DETL” table during submit, However some column (OSPD,TYPE) are missing hence he is not able to amend the invoice.</p>	2022.
12	Re-credit of interest paid on late filing of statement in Form GSTR-8 by e-commerce operators due to system glitches. (Defect: RQM: RET_R8_19830). The post filing process for GSTR-8 in the previous month could not be completed due to which filing of next month	EVP (Services)	25-07-2022	116	Yes	GST R8	Known	<p>Since, filing of the statement is not mandatory every month, some operators have not filed the statement. The operators who have deposited the amount due by the due date but paid interest due to late filing of statement, are eligible for reversal of the interest paid.</p> <p>Reason: Upon analysis, it was seen that operator has filed statement and message posted for Kafka queue for post filing process. On processing</p>	It is fixed on production.

	was blocked.							of post filing process, transaction stuck-up in IP/ ER. When operator tried to file his next period's statement, application blocked him with the error message " Return filing process is not yet completed for the earlier period ".	
13	GSTR9 || Users have filed R9 but form status is RTF in DB and not filed on annual dashboard. Taxpayer has filed GSTR9 form, but status is still not filed on portal.	EVP (Services)	25-07-2022	1	No	GSTR9	Known	<p>User has claimed that he has filed the form, but status is still not filed on portal. It is due the issue that entries got posted to ledger tables and cash is also debited for user's late fee. However, corresponding record is not updated from Ready To File to File in Return Filing Status table in return database. Therefore, user is still seeing form status as not filed even after filing and paying the late fee.</p> <p>Reason: Transaction handling between different data sources is not properly done.</p>	Known issue across the application. Analysis is under progress. GSTR1 has similar issue which is in UAT and will be deployed on production in 29th Nov 2022, other modules may adopt this solution after discussion. Data fix in such cases is done through

									ICR.
14	Duplicate Amendable column in INVOICE_DTL table of Hbase. When Taxpayer is trying to amend EXPORT invoices from upper case to lower case records stuck in "In-Progress" Due to duplicate Amdbl column present in "INVOICE_DTL" Table.	EVP (Services)	17-08-2022	83	No	GSTR1	Known	<p>On Analysis it is found that AMDBL column is present twice in "INVOICE_DTL" table for the same invoice. Hence while user trying to amend invoice from Upper case to lower case he is getting invoice in "In-Progress".</p> <p>Reason: While analysing logs it is found that at the time of submit, since invoice column were present with upper case, system validated it as different and inserted AMDBL column with lower case.</p>	It is fixed in production on 26th April 2022.
15	When Taxpayer is validating the statement in Refund, system is giving error "RF-FCAS1007" and not allowing to file the Refund.	EVP (Services)	17-08-2022	32	No	GSTR1	Known	<p>While analyzing, it is found that Meta Data (MD) column is not present in "Invoice Detail" table. The invoices went to error while adding to GSTR1 form due to which Meta column was not inserted to "Invoice Detail" Table though it is present in "Invoices" table.</p> <p>Reasons:</p> <ul style="list-style-type: none"> - Since MD column is not 	It is fixed in production on 26th April 2022.

								<p>present in “ Invoice Detail ” table hence user will not be able to raise refund for affected invoices, validation will fail at time of initiating refund.</p> <ul style="list-style-type: none"> - It is also noticed that due to connection errors while inserting data to Invoice Detail table, invoices went to error. 	
16	Taxpayers raised tickets stating that they filed the GSTR-3B returns but there is mismatch in the data entered vis-à-vis payment made. Ledgers are updated on the basis of payment table whereas pdf is generated on the basis data entered.	EVP (Services)	17-08-2022	7	Yes	GST R3B	Not Known	<p>After login to the GSTN portal, taxpayer can open the GSTR-3B form window on multiple tabs at the same instant. There is no restriction to this behavior at present. Taxpayer have filed the GSTR-3B returns but there is mismatch in the data entered vis-à-vis payment made.</p> <p>Reason: Difference between data that was saved in HBASE and the one that was posted to ledger db in Return Liability Ledger and ITC Ledger tables.</p>	Permanent fix is finalized and it is with REAP team. RQM:22721

17	Taxpayers stuck up in filing Form GST ITC-01 for claiming credit- RQM 23200. Newly registered taxpayers or taxpayers opting out of composition scheme or when exempted goods become taxable, claim credit on closing stock u/s 18(1) of Act through Form GST ITC-01.	EVP (Services)	17-08-2022	23	Yes	ITC Form	Not Known	ITC01 form has to be filed within 30 days of becoming eligible to claim credit. Few taxpayers were stuck up in filing the said form between 29 th June, 2022 and 5 th July, 2022. One taxpayer could not file the form as downtime started from 11:00 pm on 16 th June, 2022. Reason: Few taxpayers were unable to file declaration in Form GST ITC-01 due to deployment of the change in topology. "System was showing following error – Your submit is in progress. Check after sometime."	This issue has been faced only once. Permanent fix not required. All impacted cases were executed on 25th Aug 2022 in production.
18	Data issue due to partial commit happened on click of reset button (RQM: RET_3B_1522 2).	EVP (Services)	17-08-2022	2	Yes	GST R3B	Not Known	It may be recalled that initially, there was a four tier system of filing return in Form GSTR-3B, viz. Save, Submit, Offset liability and File . All saved entries used to become non-editable after clicking on 'Submit' button. Liability register and Credit ledger used to be updated at submit stage. In the beginning, lot of complaints were received due to freezing of entries before filing (at submit stage). In the beginning, returns lying at submit stage	Permanent fix is not required because RESET button is removed from system. Old return periods data are being fixed by backend query.

								<p>were reset from the backend as lot of complaints were received on account of inadvertent mistakes.</p> <p>Reason: This is an old issue when there used to be a reset button on the portal.</p>	
19	Form GST ITC-03 filed without debit in the ledgers - RQM 21652. Taxpayer had filed Form GST ITC-03 successfully but still it reflects as "NIL" Filed, even though invoices are saved by the taxpayer while filing the said form.	EVP (Services)	17-08-2022	38	Yes	ITC Form	Not Known	<p>After opting into composition scheme, taxpayer had filed Form GST ITC-03 successfully but still it reflects as "NIL" Filed, even though invoices are saved by taxpayer while filing the said form. No ledger transactions had happened for the same.</p> <p>Reason: Due to some technical issues, the details added were not visible in UI. However, the NIL filing details were saved and transmitted at the time of filing. Therefore, due to this defect, the statement was filed as NIL. Invoice details were still saved in the backend. However, it was not present in UI.</p>	It is fixed in production on 15th June 2022 via ICR: 16751
20	While filing GSTR4 Annual form, few taxpayers are getting incorrect auto populated amount in Table 5 where one quarter's	EVP (Services)	26-08-2022 28-08-2022	12	Yes	GSTR4	Known	<p>Taxpayer is getting incorrect amount in table 5 of GSTR4 Annual form due to which taxpayers are not able to file their return as system is asking additional liability to be paid. This is an Adhoc</p>	Analysis for permanent fix is under progress.

	data is missing.							exercise which will take some time and due to that, we have to apply data fixes on urgent basis considering ageing of tickets. Reason: Under analysis.	
21	TDS amount is credited to their Cash Ledger by filing the TDS & TCS Credit received form twice for same tax period.	EVP (Services)	14-09-2022 15-09-2022	141	Yes	Cash Ledger	Known	<p>Cases where the amount of tax deducted and reported in GSTR-7 differs from the amount credited to cash ledger of deductee through TDS/TCS credit received form.</p> <p>Reason:</p> <ul style="list-style-type: none"> When user login to the TDS and TCS credit received form, status is displayed from the cache details. As there is a problem with the cache, user was able to see status as 'Not filed'. But, in the Return Filing Status table, the status was existing as filed. In the second scenario, while amending the TDS record in R7, the status of the earlier TDS / TDSA record is verified in R2X related table to check 	Issue is fixed in production via RQM: RET_R7_19111

								whether it is accepted and filed or not.	
22	While filing GSTR-4/ GSTR3B- "Error! Payment amount should not exceed the outstanding liability"- RQM: 14189. While filing GSTR4 some of taxpayer are getting the error "Issue while filing GSTR-4 - "Error! Payment amount should not exceed the outstanding "	EVP (Services)	28-09-2022	2	Yes	GSTR4/3B	Known	GSTR4 calculates applicable late fees at the time of submit (or in the new model at the time of Offset). The late fee thus calculated has three components. Reason: Negative late-fee has been applied to the ledger due to the logic. Further, as per the logic in GSTR-4 and GSTR-3B any negative liability is carried forward to the next return period using a pair of Credit/Debit entries.	GSTR4 quarter form is disabled in prod. Permanent fix needs to be analyzed. Utility is used to fix the data.
23	CMP08 || The end user is unable to file GST CMP-08 as error is reflecting "Data for the internal Transaction Id Already Posted"- RQM: 21266. The taxpayer is unable to file GST CMP-08 as error is reflecting "Data for the internal Transaction Id Already Posted" while	EVP (Services)	03-10-2022	64	No	CMP-08	Known	Filing status is 'Not Filed' and taxpayer is not allowed to File GST CMP-08 again, as error is reflecting "Data for the internal Transaction Id already Posted" while filing. Reason: For few taxpayers, all ledger tables were updated successfully but request status did not change from RTF to FIL in RTN_FILING_STAT US table.	Partially fixed on 14th Jun 2021 in production. Another RCA is Known issue across the application. Analysis is under progress. GSTR1 has similar issue which is in UAT

	filing.								and will be deployed on production in 29th Nov 2022, other modules may adopt after discussion.
24	Correction in cash ledger balance due to credit and debit happened simultaneously . The balance could not be updated due to credit and debit happening simultaneously . It had happened due to defect in the system application.	EVP (Services)	25-10-2022 26-10-2022	3	Yes	Cash Ledger	Known	<p>The balance could not be updated due to credit and debit happening simultaneously. It had happened due to defect in the system application.</p> <p>Reason: The issue had occurred due to debit and credit entry in the cash ledger happening at the same time, which led to incorrect cash balance in the cash ledger. The reason for occurrence of the issue is due to dirty read where the two transactions happened simultaneously and read the same record.</p>	CR#21982 has been raised for permanent fix. This CR is aligned with REAP team but yet to be picked up for development.

25	R4X Few taxpayers are able to file their return without clearing liabilities in case the liability amount is already present in negative liability table. Taxpayers are unable to file their further return period and getting error message as “Liability for previous tax period is yet to be paid.	EVP (Services)	27-10-2022	24	Yes	R4X	Known	<p>Taxpayers are unable to file their further return period and getting error message as “Liability for previous tax period is yet to be paid. If error persists quote error number LG9048 when you contact customer care for quick resolution.”</p> <p>Reason: This issue started coming post one recent major CR 21592 implementation. In this CR, ‘isNegativeValueAllowed’ flag was introduced to check whether credit entry of negative liability should be posted into Return Negative Liability Statement History table or not. But this new flag also stopped posting debit entry to Return Negative Liability Statement History table if tax amount difference between Table 6 and table 5 (either outward supply or inward supply) of GSTR4X is greater than 10% or 1000 (whichever is less)</p>	It is fixed in production on 31st Mar 2022 via CR: 21592_A .
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26	Users are able to file GSTR4 without clearing liabilities -: Re-computation of liability- RQM: 17176 / 20801. GSTR-4: User has filed GSTR-4 without clearing the liability amount. GST CMP-08: As per the issue reported by user, he is not able to file CMP-08 as getting 'ERROR!! Liability for previous tax period is yet to be paid'.	EVP (Services)	27-10-2022	1	Yes	GSTR4	Known	Transaction handling was not proper due to mix of Transaction Manager/ Non-Transaction Manager in GSTR-4. Due to this, in case of any failure rollback was not done completely from all the respective data sources. In this case, filing status has been updated as "Filed" in return filing status table without updating in ledger table besides the rollback of liability setoff entries in ledger. Reason: User has filed GSTR-4 without clearing the liabilities and due to this, user is unable to file statement in Form GST CMP-08 for next quarter.	Partially fixed on 14th Jun 2021 in production on 14th Jun 2021 via ICR-12663. Another RCA is Known issue across the application. Analysis is under progress.
27	Taxpayer has saved invoices in ITC-03 & submitted the form with 'NULL' check but unable to offset the outstanding liabilities.	EVP (Services)	27-10-2022	1	Yes	ITC Form	Known	ITC03 form: Taxpayer has saved invoices in ITC-03 & submitted the form with ' NULL' check but unable to offset the outstanding liabilities. Reason: Taxpayer forgot to uncheck the NIL checkbox while submitting ITC03 form, however invoices were already added in the form. Now status is in "Submitted" state and taxpayer is not ready	It is a single Taxpayer issue, permanent fix not required. Data fix was done via ICR:18439 executed on 4th Nov 2022.

								to file the form as he is unable to offset the corresponding liabilities.	
28	<p>Multiple Blocking of ITC credit – Details of impacted GSTINs.</p> <p>27 GSTINs involving multiple blocking of ITC credits were shared for backend correction of the ITC ledgers by GSTN.</p>	EVP (Service s)	08-07-2022	27	Yes	ITC Form	Not Known	<p>27 (21+6) GSTINs involving multiple blocking of ITC credits were shared for backend correction of the ITC ledgers by GSTN.</p> <p>Reason: Due to technical issue CBIC was unable to capture the response after blocking ITC by taxpayer. Officer tried multiple times with same GSTIN to block the ITC.</p>	Out of 27 GSTINs, 26 GSTIN have been unblocked. Rest 1 GSTIN (33AAJF C7464K 1Z5) was cancelled and now it is in active status so we are in process to unblock this GSTIN as well.

The financial implications of category-2 cases

S. No.	Issue reported	No. of Cases Impacted	Module	Detail Description	Status
1	<p>Issue in GSTR6 form. Taxpayers were unable to view ISD invoices in GSTR2A form, as GSTR2A form is a read only where Recipient can see the invoices added by the Supplier.</p> <p>Financial Implication-YES Whether Correct Data Known-YES</p>	88	GSTR 6	<p>In this issue, ISD invoices are not reflecting in GSTR2A form when uploaded from GSTR6 form. There are Multiple GSTR6 users who have raised ticket against different supplier's GSTIN.</p> <p>Reason: While adding the multiple invoices through offline utility, due to the issue in code, only the last invoice was getting saved in ISD_UNIT_RelationShipHbase table and that is why user was unable to view all their invoices on the portal.</p> <p>An ISD credit of Rs 52, 33,708/- were made to be reflected in GSTR2A.</p>	It was fixed in production on 15th Feb 2022 via RQM:22445

S. No.	Issue reported	No. of Cases Impacted	Module	Detail Description	Status
2	<p>Recovery of TCS amount credited twice in cash ledgers of suppliers. (RQM: RET_R2X_18318 – TDS/TCS Credit Received Form). Suppliers have taken excess TCS credit than due, either by filing GSTR-2X more than once or by accepting the same record across two tax periods.</p> <p>Financial Implication-YES Whether Correct Data Known-YES</p>	37	Cash Ledger	<p>Due to change in status from filed to not filed or posting the records across two tax periods, taxpayer was able to get the credit twice.</p> <p>Reason: It is suspected that following scenarios may have caused the defect: Return filing status cache update issue could have caused the issue. Second scenario can be with XA transaction.</p> <p>The total amount of Rs 5,09,376 was debited in the Cash Ledger.</p>	It is fixed in production.

S. No.	Issue reported	No. of Cases Impact ed	Module	Detail Description	Status
3	<p>Taxpayers were unable to file GSTR5 form in production environment due to the error “Submission had some error”. Now reversal of late fee and Interest in GSTR5 form is requested.</p> <p>Financial Implication-YES Whether Correct Data Known-YES</p>	2	GSTR5	<p>Taxpayers were unable to file GSTR5 form in production environment due to the error “Submission had some error”.</p> <p>Reason: Due to the code issue (MYSQL upgrade), there was a delay in providing the correct resolution to the taxpayers, they were unable to file GSTR5 form within due date, so late fee and Interest were charged to the taxpayers. Although Taxpayers have filed the form along with their late fee and Interest, we have got the request of late fee and interest reversal from Daily ticket tracker.</p> <p>A late fee amount of Rs 1550 (CGST – 775 and SGST – 775) was waived and an amount of Rs 2, 17.466 interest (CGST 108733 , SGST 108733) is required post facto approval of GST Council for reversal.</p>	Permanent fix on 16th Nov 2021 via RQM: 22058

S. No.	Issue reported	No. of Cases Impact ed	Module	Detail Description	Status
4.	<p>Due to non-filling details of liability in table 6 of GSTR-4, the amount paid through CMP-08 of the year became excess tax paid and credited to negative liability statement. The negative liability was reduced by debiting the amount from negative liability statement. In some cases, the amount has been debited twice.</p> <p>Financial Implication- YES</p>	1028	Cash Ledger	<p>Due to non-filling details of liability in table 6 of GSTR-4, the amount paid through CMP-08 of the year became excess tax paid and credited to negative liability statement.</p> <p>Reason: Before recovery utility execution, a select query was executed to extract the impacted records for recovery. In that select query, we were ignoring those records which were already</p>	It is fixed in production on 31st Mar 2022 via CR:21592_A

	Whether Correct Data Known- YES			<p>recovered.</p> <p>But in that select query, Return Type='CMP08' was missed while extracting the impacted records, only GSTR-4 (Annual) was considered.</p> <p>Status: It is fixed in production on 31st Mar 2022 via CR:21592_A</p> <p>The total amount of Rs 2, 65, 67,031. (CGST 1,32,71,615 , 1,32,71,615, IGST – 23801) was re credited.</p>	
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S. No.	Issue reported	No. of Cases Impact ed	Module	Detail Description	Status
5	<p>Cash ledger entries have been missed out or omitted after filing R2X. Credit entry to be made in the cash ledger (Table: CASH_LDG) of taxpayers.</p> <p>Financial Implication- YES</p> <p>Whether Correct Data Known- YES</p>	2	Cash Ledger	<p>Taxpayers having GSTIN 18AAACH0351E1Z4 and 19ALIPD4105A1ZS have accepted the TDS credit of return period 02/2022, 03/2022 respectively but the credit entry is not available in CASH_LDG table even though filing is done. Reason: Due to the mismatch of row check value, credit entry was not made to the cash ledger (Table: CASH_LDG).</p> <p>A total amount of Rs 49,062 (CGST 24531, SGST 24531) was credited to the cash ledger.</p>	It is fixed in production.

S. No.	Issue reported	No. of Cases Impact ed	Module	Detail Description	Status
6	<p>Taxpayers are not able to file GST CMP-08 for the subsequent tax period.</p> <p>Financial Implication- YES Whether Correct Data Known- YES</p>	3	CMP-08	<p>It has been noticed that few composition taxpayers who have attempted to file statement in Form GST CMP-08 between 15th June' 21 to 8th July' 21, got redundant entries in their respective ledger tables and out of these cases, taxpayers who have liability open in any of the previous tax periods are unable to file non-nil statement for subsequent tax period.</p> <p>Reason: Due to XA removal, data for few taxpayers got impacted as rollback was not happening from ledger tables (RTN_LIAB_LDG/RTN_LIAB_MSTR/RTN_LIAB_MSTR_HIST) in case of any issue/exception like.</p> <p>An excess liability debited in the ledger of Rs 2,10,210 (CGST 1,05,105, SGST 1,05,105) was corrected.</p>	Permanent fixis deployed in production on 9th Jul 2022.

S. No.	Issue reported	No. of Cases Impact ed	Module	Detail Description	Status
7	<p>Re-credit of interest paid on late filing of statement in Form GSTR-8 by e-commerce operators due to system glitches. (Defect: RQM: RET_R8_19830). The post filing process for GSTR-8 in the previous month could not be completed due to which filing of next month was blocked.</p> <p>Financial Implication- YES Whether Correct Data Known- YES</p>	116	GSTR-8	<p>Since, filing of the statement is not mandatory every month, some operators have not filed the statement. The operators who have deposited the amount due by the due date but paid interest due to late filing of statement, are eligible for reversal of the interest paid.</p> <p>Reason: Upon analysis, it was seen that operator has filed statement and message posted for Kafka queue for post filing process. On processing of</p>	It is fixed on production.

				<p>post filing process, transaction stuck-up in IP/ ER. When operator tried to file his next period's statement, application blocked him with the error message "Return filing process is not yet completed for the earlier period".</p> <p>In 116 cases an interest amount of IGST Rs 76,01,603, CGST – Rs 27,23,696 and SGST/UTGST – Rs 27,23,696 was reversed which was approved by GST Council for credit to the Cash Ledgers of the impacted Operators vide notification 08/2022 and hence it was implemented. I</p>	
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S. No.	Issue reported	No. of Cases Impacted	Module	Detail Description	Status
8	<p>While filing GSTR4 Annual form, few taxpayers are getting incorrect auto populated amount in Table 5 where one quarter's data is missing.</p> <p>Financial Implication- YES Whether Correct Data Known- YES</p>	12	GSTR4	<p>Taxpayer is getting incorrect amount in table 5 of GSTR4 Annual form due to which taxpayers are not able to file their return as system is asking additional liability to be paid. This is an Adhoc exercise which will take some time and due to that, we have to apply data fixes on urgent basis considering ageing of tickets.</p> <p>Reason: Under analysis.</p> <p>An amount of Rs 32,55,026 (CGST – 16, 01,300, SGST – 16, 01,300, IGST – 52,426) was posted in Table 5 of Form GSTR-4.</p>	Analysis for permanent fix is under progress.

S. No.	Issue reported	No. of Cases Impact ed	Module	Detail Description	Status
9	<p>TDS amount is credited to their Cash Ledger by filing the TDS & TCS Credit received form twice for same tax period.</p> <p>Financial Implication- YES Whether Correct Data Known- YES</p>	141	Cash Ledger	<p>Cases where the amount of tax deducted and reported in GSTR-7 differs from the amount credited to cash ledger of deductee through TDS/TCS credit received form.</p> <p>Reason:</p> <ul style="list-style-type: none"> When user login to the TDS and TCS credit received form, status is displayed from the cache details. As there is a problem with the cache, user was able to see status as 'Not filed'. But, in the Return Filing Status table, the status was existing as filed. In the second scenario, while amending the TDS record in R7, the status of the earlier TDS / TDSA record is verified in R2X related table to check whether it is accepted and filed or not. <p>The amount of Rs 36.27 lakhs (CGST+SGST) was debited in the Cash Ledgers of concerned taxpayers.</p>	Issue is fixed in production via RQM: RET_R7_19111

S. No.	Issue reported	No. of Cases Impact ed	Module	Detail Description	Status
10	<p>Correction in cash ledger balance due to credit and debit happened simultaneously. The balance could not be updated due to credit and debit happening simultaneously. It had happened due to defect in the system application.</p> <p>Financial Implication- YES Whether Correct Data Known- YES</p>	03	Cash Ledger	<p>The balance could not be updated due to credit and debit happening simultaneously. It had happened due to defect in the system application.</p> <p>Reason: The issue had occurred due to debit and credit entry in the cash ledger happening at the same time, which led to incorrect cash balance in the cash ledger. The reason for occurrence of the issue is due to dirty</p>	CR#21982 has been raised for permanent fix. This CR is aligned with REAP team but yet to be picked up for development.

				<p>read where the two transactions happened simultaneously and read the same record.</p> <p>An amount of Rs 689468 (CGST + SGST – Rs 6,87,622, Interest – Rs 1296, Fee – Rs 550) was corrected in the cash Ledger.</p>	
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S. No.	Issue reported	No. of Cases Impact ed	Module	Detail Description	Status
11	<p>R4X (GSTR 4 Annual) Few taxpayers are able to file their return without clearing liabilities in case the liability amount is already present in negative liability table. Taxpayers are unable to file their further return period and getting error message as “Liability for previous tax period is yet to be paid.</p> <p>Financial Implication- YES Whether Correct Data Known- YES</p>	24	R4X (GSTR 4 Annual)	<p>Taxpayers are unable to file their further return period and getting error message as “Liability for previous tax period is yet to be paid. If error persists quote error number LG9048 when you contact customer care for quick resolution.”</p> <p>Reason: This issue started coming post one recent major CR 21592 implementation. In this CR, ‘isNegativeValueAllowed’ flag was introduced to check whether credit entry of negative liability should be posted into Return Negative Liability Statement History table or not. But this new flag also stopped posting debit entry to Return Negative Liability Statement History table if tax amount difference between Table 6 and table 5 (either outward supply or inward supply) of GSTR4X (GSTR 4 Annual) is greater than 10% or 1000 (whichever is less)</p> <p>A total amount of Rs 92,050 (CGST 46,025 , SGST – 46,025) was posted in the Liability Ledger.</p>	It is fixed in production on 31st Mar 2022 via CR: 21592_A.

S. No.	Issue reported	No. of Cases Impact ed	Module	Detail Description	Status
12	<p>Users are able to file GSTR4 without clearing liabilities -: Re-computation of liability- RQM: 17176 / 20801. GSTR-4: User has filed GSTR-4 without clearing the liability amount. GST CMP-08: As per the issue reported by user, he is not able to file CMP-08 as getting 'ERROR!! Liability for previous tax period is yet to be paid'.</p> <p>Financial Implication- YES Whether Correct Data Known- YES</p>	01	GSTR-4	<p>Transaction handling was not proper due to mix of Transaction Manager/ Non-Transaction Manager in GSTR-4. Due to this, in case of any failure rollback was not done completely from all the respective data sources. In this case, filing status has been updated as “Filed” in return filing status table without updating in ledger table besides the rollback of liability setoff entries in ledger.</p> <p>Reason: User has filed GSTR-4 without clearing the liabilities and due to this, user is unable to file statement in Form GST CMP-08 for next quarter.</p> <p>An amount of Rs 1500 (CGST – Rs 750, SGST – Rs 750) was posted to the liability ledger.</p>	<p>Partially fixed on 14th Jun 2021 in production on 14th Jun 2021 via ICR-12663.</p> <p>Another RCA is Known issue across the application. Analysis is under progress.</p>

S. No.	Issue reported	No. of Cases Impact ed	Module	Detail Description	Status
13	<p>Taxpayer has saved invoices in ITC-03 & submitted the form with ‘NULL’ check but unable to offset the outstanding liabilities.</p> <p>Financial Implication- YES Whether Correct Data Known- YES</p>	01	ITC Form	<p>ITC03 form: Taxpayer has saved invoices in ITC-03 & submitted the form with ‘NULL’ check but unable to offset the outstanding liabilities.</p> <p>Reason: Taxpayer forgot to uncheck the NIL checkbox while submitting ITC03 form, however invoices were already added in the form. Now status is in ‘Submitted’ state and taxpayer is not in ‘Ready to file’ status in the form as he is unable to offset the corresponding liabilities.</p> <p>An amount of Rs 3,68,778 (CGST – Rs 1,84,389 SGST – Rs 1, 84,389) will be paid on filing the said form.</p>	<p>It is a single Taxpayer issue, permanent fix not required.</p> <p>Data fix was done via ICR: 18439 executed on 4th Nov 2022.</p>

Annexure-4

Agenda for 17th ITGRC (Part II)

Reversal of Interest Paid on Delayed Filing Of Statement in Form GSTR-8 by E-Commerce Operators Due to Technical Glitches.

1. Background

1.1 Section 52 of the GST Act mandates an e-commerce operator to collect tax at the specified rate on the net value of the supplies made through it by other suppliers where consideration has to be collected by the operator. The operator has to file the details of tax so collected in a statement in Form GSTR-8 on monthly basis. On the basis of statement so filed by operators, the tax collected is made available to the concerned suppliers for taking the credit into their cash ledgers.

1.2 The operators are not required to file the aforesaid statement for the month in which no supply has been made by any supplier through his portal. But the details provided in a statement of the month can be amended at the time of filing statement of the subsequent month if supplier has not taken action for taking the credit till such time or supplier had rejected the details uploaded by the operator. Additional amount is paid by the operator in case of upward amendment and he gets credit of the reduced amount in liability if amendment is made downwards.

1.3 There was no late fee payable by operators before October, 2022 on delayed filing of the statement of a month but interest was payable for delayed filing. Interest is computed by system based on the net liability and the period of delay.

1.4 Tax collected and paid in a statement can be adjusted in subsequent statement if goods supplied are returned. It means that liability is paid on net of basis in GSTR-8. Details are provided GSTIN wise for a tax period.

2. System glitches

2.1 While filing statement in Form GSTR-8 for the month of February, 2022, three taxpayers registered on the same PAN in different States, could not file the said statement due to system glitches. After receiving the complaints from the ECOs, the system application was rectified on 29th July, 2022. Thereafter, the operators had filed the statements for the month of February, 2022 and subsequent months.

2.2 Due date of filing GSTR-8 of a tax period is 10th of the following month. Due to the defect, the filing of the said statement was delayed. Though, there was no late fee on delayed filing of GSTR-8 (before October, 2022) but interest becomes payable after the due date and same is computed by system. The operators have filed the statements of tax periods which became due till rectification of the defect with interest.

2.3 All three impacted operators have deposited the liability for the month of February, 2022 by due date. For the month March, 2022, all operators have deposited the liability after due date but before fixing the defect. For April, 2022, only one operator have deposited the liability before fixing the defect but after due date only. Since, there was no glitch in depositing the liability through challan,

therefore, interest paid on delayed filing of statement may not be refunded in those cases who have paid the liability while filing the statement or before filing the statement but after fixing of the glitch.

2.4 In earlier cases also, in the 15th ITGRC had adopted this approach in its meeting held on 12-08-2021. Based on the decision, Government had issued notification vide Notification No. 08/2022 dated 07-06-2022 for refunding the interest who had deposited the liability before filing the statement.

3. Interest paid

Summary of the interest paid by the operators who had deposited the liability by due date or those had deposited after due date but before fixing the defect is given as under:

Type of defect	Tax deposit status	No. of statements	Tax period	Amount of interest to be re-credited		
				IGST	CGST	SGST/UTGST
1	2	3	4	5	6	7
Problem faced in amendment of records	Deposited by due date	3	Feb, 2022	0	27335	27335
	Deposited after due date but before filing statement and fixing the defect	3	Mar, 2022	0	12668	12668
		1	Apr, 2022	0	2653	2653
TOTAL		7			42656	42656

Note – Liability deposited after fixing the defect but before filing the return have not been included in the above table for reversal on interest.

4. Proposal for refund of interest paid

4.1 ITGRC may take a view to refund the interest paid by the operators detailed at para 3 on the pattern of proposal approved earlier and notification issued by Government for the same. . Amount of interest to be refunded will be credited to cash ledger under respective major/minor head.

Annexure-5

Power point presentation presented by GSTN before the 17th ITGRC



S. No.	Types of Issues	Count
1	Technical issue with no financial Implications – Correct data known	Slide No. 4 to 12
2	Technical issue affecting locally with financial implications – Correct data known	Slide No. 14 to 27
3	Technical issue affecting locally with financial implications – Correct data not known with certainty	Slide No. 29 to 33

A screenshot of a PowerPoint slide showing a table. The slide has a dark blue background with a circuit-like pattern of light blue lines and dots. In the top right corner, there is a logo with the letters 'GN' in green and blue, with a red double arrow above it. The table is centered on the slide and has three columns: 'S. No.', 'Types of Issues', and 'Count'. Below the slide, there is a horizontal bar with segments of blue, purple, green, green, orange, and orange.

1 : Duplicate Invoice Issue In GSTR6 Form



Issue Reported	Date Intimated MSP to perform Data Fix	Issue Description with No. of Cases Impacted
At the time of submission of GSTR6 return, the portal is showing error as "Error in Submission".	11-02-22	<p>The invoices and credit notes uploaded were processed by the portal while uploading the JSON. At the time of submission of return, the portal is showing error as "Error in Submission" and the error report is showing that the ISD Invoices and ISD credit notes are duplicate but there is no duplication in either ISD invoices or ISD credit notes. Taxpayer is getting error "Error in Submission" while filing the GSTR6 but then after generating Error report it is showing 'Duplicate ISD invoice'.</p> <p>Reason: According to the code flow invoice should be inserted into "UPLOADED_ISD_NOTES", "UPLOADED_ISD_INVOICES", "ISD_INVOICES" tables during save. But for this user data is inserting into "ISD_INVOICE_DTL", "ISD_NOTE_DTL", "GSTR6SUBMIT" table also. When user submitting the form user getting the error as duplicate invoice because invoice is present in below DTL Hbase table.</p> <p>Status: This happens for only one TP and due to that code fix was not taken. Data fix done by ICR.</p> <p>Financial Implication : No</p> <p>Taxpayers Impacted – 1</p>

2 : Late Fee Reversal Of GSTR6 Taxpayer



Issue Reported	Date Intimated MSP to perform Data Fix	Issue Description with No. of Cases Impacted
Taxpayer was unable to file GSTR6 form in production environment for return period July, 2021 due to the error "Error in Submission".	27-05-22	<p>The invoices and credit notes uploaded were processed by the portal while uploading the JSON. At the time of submission of return, the portal is showing error as "Error in Submission" and the error report is showing that the ISD Invoices and ISD credit notes are duplicate. But there is no duplication in either ISD invoices or ISD credit notes.</p> <p>Reason: Taxpayer were unable to submit the GSTR6 due to the error "Duplicate ISD Invoice" displaying on the portal.</p> <p>Status: This happens only once so code fix was not taken. Data fix was done by Utility on 10th Feb 2022 via ICR:14811</p> <p>Financial Implication : No</p> <p>Taxpayers Impacted – 01</p>

3: Duplicate Entries Present In Return Filing Status Table



Issue Reported	Date Intimated MSP to perform Data Fix	Issue Description with No. of Cases Impacted
At the time of Filing, GSTR-1 summary not generated by the system and there is no consolidated summary shown while filing GSTR-1.	08-06-22	<p>Tax payer is getting error "Latest Summary is not available. Please generate summary and try again". Tax payer has already deleted history from the browser and tried different computer also but getting the same error and unable to file the return.</p> <p>Reason: There are 2 entry presents in Return Filing Status table for GSTN 24AXLPT8085E1ZZ for return period 042022, hence tax payer is not able to proceed with filing.</p> <p>Status: Permanent fix will be deployed in production on Dec 2022.</p> <p>Financial Implication : No Taxpayers Impacted – 01</p>

4 : GSTR-4/ GSTR3B- : Error in Payment Amount



Issue Reported	Date Intimated MSP to perform Data Fix	Issue Description with No. of Cases Impacted
While filing GSTR-4/GSTR-3B some of user are getting the error " Issue while filing GSTR3B- "Error! Payment amount should not exceed the outstanding".	25-07-22	<p>While filing GSTR-4/GSTR-3B some of user are getting the error " Issue while filing GSTR3B- "Error! Payment amount should not exceed the outstanding".</p> <p>Reason: The negative late-fee has been applied to the ledger due to the logic mentioned. Further, as per the logic in GSTR-4 and GSTR-3B any negative liability is carried forward to the next return period using a pair of Credit/Debit entries.</p> <p>Status: Permanent fix needs to be analyzed. Utility is used to fix the data.</p> <p>Financial Implication : No Taxpayers Impacted – 04</p>

5 : Data Missing In Invoice Detail Table Of Hbase.



Issue Reported	Date Intimated MSP to perform Data Fix	Issue Description with No. of Cases Impacted
System is throwing error in GSTR-1 table 9A and not allowing to submit amended invoice while amending export invoices from "without payment" to "with payment" type.	26-07-22	<p>This is a partial data movement issue before GSTR1 code improvement, where data is present in "INVOICES" table of Hbase. However few columns are missing in "Invoice Detail" table. Permanent fix has been done via code improvement. However for affected users, before code improvement, whose data is not sync for them, data fix is required.</p> <p>Reason: According to the older code flow invoice should be inserted from "INVOCES" to "Invoice Detail" table during submit. However some column are missing hence he is not able to amend the invoice.</p> <p>Status: It is fixed in production on 26th April 2022.</p> <p>Financial Implication : No Taxpayers Impacted – 06</p>

6 : GSTR9 Form Status Is Ready To File in Data Base But Status Not Filed On Annual Return Dashboard



Issue Reported	Date Intimated MSP to perform Data Fix	Issue Description with No. of Cases Impacted
Taxpayer has filed GSTR9 form, but status is still not filed on portal.	26-07-22	<p>User has claimed that he has filed the form, but status is still not filed on portal. It is due the issue that entries got posted to ledger tables and cash is also debited for user's late fee. However, corresponding record is not updated from Ready To File to File in Return Filing Status table in return database. Therefore, user is still seeing form status as not filed even after filing and paying the late fee.</p> <p>Reason: Transaction handling between different data sources is not properly done.</p> <p>Status: Known issue across the application. Analysis is under progress. GSTR1 has similar issue which is in UAT and will be deployed on production in 29th Nov 2022, other modules may adopt this solution after discussion.</p> <p>Financial Implication : No Taxpayers Impacted – 01</p>

7 : Issue In Invoice Detail Table Of Hbase.



Issue Reported	Date Intimated MSP to perform Data Fix	Issue Description with No. of Cases Impacted
When Taxpayer tried to amend EXPORT invoices from upper case to lower case, records stuck in "In-Progress" Due to duplicate Amendable column present in "Invoice Detail" Table.	18-08-22	<p>On analysis it is found that Amendable column is present twice in "Invoice Detail" table for the same invoice. Hence while user trying to amend invoice from Upper case to lower case he is getting invoice in "In-Progress".</p> <p>Reason: While analyzing logs we found that at time of submit since invoice column were present with upper case and system validated it as different and inserted Amendable column with lower case.</p> <p>Status: It is fixed in production on 26th April 2022.</p> <p>Financial Implication : No Taxpayers Impacted – 83</p>

8 : Meta Data Column Missing In Invoice Detail Table Of Hbase



Issue Reported	Date Intimated MSP to perform Data Fix	Issue Description with No. of Cases Impacted
When Taxpayer is validating the statement in Refund, system is giving error "RF-FCAS1007" and not allowing to file the Refund.	18-08-22	<p>While analyzing, it is found that Meta Data (MD) column is not present in "Invoice Detail" table. The invoices went to error while adding to GSTR1 form due to which Meta column was not inserted to "Invoice Detail" Table though it is present in "Invoices" table.</p> <p>Reasons:</p> <ul style="list-style-type: none"> - Since MD column is not present in " Invoice Detail " table hence user will not be able to raise refund for affected invoices, validation will fail at time of initiating refund. - It is also noticed that due to connection errors while inserting data to Invoice Detail table, invoices went to error. <p>Status: It is fixed in production on 26th April 2022.</p> <p>Financial Implication : No Taxpayers Impacted – 32</p>

9: The User Unable To File GST CMP-08 As Error Is Reflecting "Data For The Internal Transaction Id Already Posted"



Issue Reported	Date Intimated MSP to perform Data Fix	Issue Description with No. of Cases Impacted
The taxpayer is unable to file GST CMP-08 as error is reflecting "Data for the internal Transaction Id Already Posted" while filing.	06-10-22	<p>Filing status is 'Not Filed' and taxpayer is not allowed to File GST CMP-08 again, as error is reflecting "Data for the internal Transaction Id already Posted" while filing.</p> <p>Reason: For few taxpayers, all ledger tables were updated successfully but request status did not change from RTF to FIL in RTN_FILING_STATUS table.</p> <p>Status: Partially fixed on 14th Jun 2021 in production. Another RCA is known issue across the application. Analysis is under progress.</p> <p>GSTR1 has similar issue which is in UAT and will be deployed on production in 29th Nov 2022, other modules may adopt after discussion.</p> <p>Financial Implication : No Taxpayers Impacted – 64</p>



2. Technical Issue Affecting Locally With Financial Implications – Correct Data Known

1. The ISD Invoices Not Reflecting In GSTR2A Form When Uploaded From GSTR6



Issue Reported	Date Intimated MSP to perform Data Fix	Issue Description with No. of Cases Impacted
Taxpayers were unable to view ISD invoices in GSTR2A form - a read only form where Supplier can see the invoices added by the recipient.	26-01-22	<p>The ISD invoices are not reflecting in GSTR2A form when uploaded from GSTR6 form. There are Multiple GSTR6 users who have raised ticket against different supplier's GSTIN.</p> <p>Reason: While adding the multiple invoices through offline utility, due to the issue in code, only the last invoice was getting saved in ISD_UNIT_RelationShip Hbase table and that is why user was unable to view all their invoices on the portal.</p> <p>Status: It is fixed in production on 15th Feb 2022 via RQM:22445</p> <p>Financial Implication : Yes Taxpayers Impacted – 88</p>

2 : System Error While Fetching The Recovery Cases For Case Reference Number.



Issue Reported	Date Intimated MSP to perform Data Fix	Issue Description with No. of Cases Impacted
Tax officers are facing System error while fetching the recovery cases for 86 CRN's (Case Reference Number).	09-04-22	<p>As the multiple recovery cases were created for single demand id through event detail job. The user was facing a system error, due to the mentioned CRN's does not having the demand details mapped to it.</p> <p>Reason: Due to some technical issues in event Job process, Multiple recovery cases were created without a reference of demand id in case management folder. As a result, the case management folder had unmapped recovery id which does not require any action to be taken. We do not have logs of that time to cross verify what was exact issue.</p> <p>Status: Issue was before Migration of Tamil Nadu from Modal 1 to Modal 2. Issue was permanently fixed by executing an utility job on 25th Feb 2022.</p> <p>Financial Implication : Yes Taxpayers Impacted – 88</p>

3 : Recovery Of TCS Amount Credited Twice In Cash Ledger.



Issue Reported	Date Intimated MSP to perform Data Fix	Issue Description with No. of Cases Impacted
Suppliers have taken excess TCS credit than due, either by filing GSTR-2X more than once or by accepting the same record across two tax periods.	25-05-22	<p>Due to change in status from filed to not filed or posting the records across two tax periods, taxpayer was able to get the credit twice.</p> <p>Reason: It is suspected that following scenarios may have caused the defect:</p> <ul style="list-style-type: none"> Return filing status cache update issue could have caused the issue. Second scenario can be with XA transaction. <p>Status: It is fixed in production.</p> <p>Financial Implication : Yes Taxpayers Impacted – 37</p>

4 : Late Fee And Interest Reversal For Taxpayer Of Form GSTR5



Issue Reported	Date Intimated MSP to perform Data Fix	Issue Description with No. of Cases Impacted
Taxpayers were unable to file GSTR5 form in production environment due to the error " Submission had some error ". Now reversal of late fee and Interest in GSTR5 form is requested.	27-05-22	<p>Taxpayers were unable to file GSTR5 form in production environment due to the error " Submission had some error ".</p> <p>Reason: Due to the code issue (MYSQL upgrade), there was a delay in providing the correct resolution to the taxpayers, they were unable to file GSTR5 form within due date, late fee and Interest were charged to the taxpayers. Although Taxpayers have filed the form along with their late fee and Interest, requests are received for late fee and interest reversal from Daily ticket tracker for the below mentioned taxpayers.</p> <p>Status: It is fixed in permanent on 16th Nov 2021 via RQM: 22058.</p> <p>Financial Implication : Yes Taxpayers Impacted – 02</p>

5 : Re-credit Of Amount Debited Twice In Cash Ledger Of Composition Taxpayers



Issue Reported	Date Intimated MSP to perform Data Fix	Issue Description with No. of Cases Impacted
Due to non-filing details of liability in table 6 of GSTR-4, the amount paid through CMP-08 of the year became excess tax paid and credited to negative liability statement. The negative liability was reduced by debiting the amount from negative liability statement. In some cases, the amount has been debited twice.	25-07-22	<p>Due to non-filing details of liability in table 6 of GSTR-4, the amount paid through CMP-08 of the year became excess tax paid and credited to negative liability statement.</p> <p>Reason: Before recovery utility execution, a select query was executed to extract the impacted records for recovery. In that select query, we were ignoring those records which were already recovered.</p> <p>But in that select query, Return Type='CMP08' was missed while extracting the impacted records, only GSTR-4 (Annual) was considered.</p> <p>Status: It is fixed in production on 31st Mar 2022 via CR:21592_A</p> <p>Financial Implication : Yes Taxpayers Impacted – 1028</p>

6 : Cash Ledger Entries Missed Or Omitted After Filing TDS TCS Credit Form (R2X).



Issue Reported	Date Intimated MSP to perform Data Fix	Issue Description with No. of Cases Impacted
Credit entry is not available in the cash ledger (Table: CASH_LDG) of taxpayers	08-06-22	<p>Taxpayers having GSTIN 18AAACH0351E1Z4 and 19ALIPD4105A1ZS have accepted the TDS credit of return period 02/2022, 03/2022 respectively but the credit entry is not available in CASH_LDG table even though filing is done.</p> <p>Reason: Due to the mismatch of row check value, credit entry was not made to the cash ledger (Table: CASH_LDG).</p> <p>Status: It is fixed in production.</p> <p>Financial Implication : Yes Taxpayers Impacted – 02</p>

7 : Issue In Filing CMP-08 For The Subsequent Tax Period.



Issue Reported	Date Intimated MSP to perform Data Fix	Issue Description with No. of Cases Impacted
Taxpayers are not able to file GST CMP-08 for the subsequent tax period.	21-07-22	<p>It has been noticed that few composition taxpayers who have attempted to file statement in Form GST CMP-08 between 15th June' 21 to 8th July' 21, got redundant entries in their respective ledger tables and out of these cases, taxpayers who have liability open in any of the previous tax periods are unable to file non-nil statement for subsequent tax period.</p> <p>Reason: Due to removal of transaction manager (XA), data for few taxpayers got impacted as rollback was not happening from ledger tables in case of any issue/exception.</p> <p>Status: Permanent fix is deployed in production on 9th Jul 2022.</p> <p>Financial Implication : Yes Taxpayers Impacted – 03</p>

8 : Re-credit Of Interest Paid On Late Filing Of Statement In GSTR-8 Due To System Glitches



Issue Reported	Date Intimated MSP to perform Data Fix	Issue Description with No. of Cases Impacted
The filing process for GSTR-8 in the previous month could not be completed due to which filing of next month was blocked.	26-07-22	<p>Since, filing of the statement is not mandatory every month, some operators have not filed the statement. The operators who have deposited the amount due by the due date but paid interest due to late filing of statement, are eligible for reversal of the interest paid.</p> <p>Reason: Upon analysis, it is seen that operator has filed statement and message posted for Kafka queue for post filing process. On processing of post filing process, transaction stuck-up in In Process/ Error: When operator tries to file his next period's statement, application blocked him with the error message " Return filing process is not yet completed for the earlier period ".</p> <p>Status: It is fixed on production.</p> <p>Financial Implication : Yes Taxpayers Impacted – 116</p>

9 : CMP Summary Is Not Updated In GSTR4 Annual Form.



Issue Reported	Date Intimated MSP to perform Data Fix	Issue Description with No. of Cases Impacted
While filing GSTR4 Annual form, few taxpayers are getting incorrect auto populated amount in Table 5 where one quarter's data is missing.	29-08-22	<p>Taxpayer is getting incorrect amount in table 5 of GSTR4 Annual form due to which taxpayers are not able to file their return as system is asking additional liability to be paid.</p> <p>This is an Adhoc exercise which will take some time and due to that, we have to apply data fixes on urgent basis considering age of tickets.</p> <p>Reason: Under analysis.</p> <p>Status: Analysis for permanent fix is under progress.</p> <p>Financial Implication : Yes Taxpayers Impacted – 12</p>

10 : Recovery Of TDS Amount Credited Twice In Cash Ledger Of Deductee



Issue Reported	Date Intimated MSP to perform Data Fix	Issue Description with No. of Cases Impacted
TDS amount is credited to their Cash Ledger by filing the TDS & TCS Credit received form twice for same tax period.	16-09-22	<p>Cases where the amount of tax deducted and reported in GSTR-7 differs from the amount credited to cash ledger of deductee through TDS/TCS credit received form.</p> <p>Reason:</p> <ul style="list-style-type: none"> When user login to the TDS and TCS credit received form, status is displayed from the cache details. As there is a problem with the cache, user was able to see status as 'Not filed'. But, in the Return Filing Status table, the status was existing as filed. In the second scenario, while amending the TDS record in R7, the status of the earlier TDS / TDSA record is verified in R2X related table to check whether it is accepted and filed or not. <p>Status: Issue is fixed in production via RQM: RET_R7_19111</p> <p>Financial Implication : Yes Taxpayers Impacted – 141</p>

11 : Non Updation In Cash Ledger Balance Due To Credit And Debit Happened Simultaneously



Issue Reported	Date Intimated MSP to perform Data Fix	Issue Description with No. of Cases Impacted
The cash ledger balance could not be updated due to credit and debit happening simultaneously. It had happened due to defect in the system application.	27-10-22	<p>The balance could not be updated due to credit and debit happening simultaneously. It had happened due to defect in the system application.</p> <p>Reason: The issue had occurred due to debit and credit entry in the cash ledger happening at the same time, which led to incorrect cash balance in the cash ledger. The reason for occurrence of the issue is due to dirty read where the two transactions happened simultaneously and read the same record.</p> <p>Status: CR#21982 has been raised for permanent fix. This CR is aligned with REAP team but yet to be picked up for development.</p> <p>Financial Implication : Yes Taxpayers Impacted – 03</p>

12 : Issue In Filing Of GSTR4 Annual Return



Issue Reported	Date Intimated MSP to perform Data Fix	Issue Description with No. of Cases Impacted
Taxpayers are unable to file their further period returns and getting error message as "Liability for previous tax period is yet to be paid."	28-10-22	<p>Taxpayers are unable to file their further return period and getting error message as "Liability for previous tax period is yet to be paid. If error persists quote error number LG9048 when you contact customer care for quick resolution."</p> <p>Reason: This issue started coming post one recent major CR 21592 implementation. In this CR, 'isNegativeValueAllowed' flag was introduced to check whether credit entry of negative liability should be posted into Return Negative Liability Statement History table or not. But this new flag also stopped posting debit entry to Return Negative Liability Statement History table if tax amount difference between Table 6 and table 5 (either outward supply or inward supply) of GSTR4X is greater than 10% or 1000 (whichever is less).</p> <p>Status: It is fixed in production on 31st Mar 2022 via CR: 21592 A.</p> <p>Financial Implication : Yes Taxpayers Impacted – 24</p>

13 : GSTR-4 Users Are Able To File GSTR4 Without Clearing Liabilities



Issue Reported	Date Intimated MSP to perform Data Fix	Issue Description with No. of Cases Impacted
User filed GSTR-4 without clearing the liability amount. GST CMP-08: As per the issue reported by user, he is not able to file CMP-08 as getting 'ERROR!! Liability for previous tax period is yet to be paid'.	28-10-22	<p>Transaction handling was not proper due to mix of Transaction Manager/ Non-Transaction Manager in GSTR-4. Due to this, in case of any failure rollback was not done completely from all the respective data sources. In this case, filing status has been updated as "Filed" in return filing status table without updating in ledger table besides the rollback of liability setoff entries in ledger.</p> <p>Reason: User has filed GSTR-4 without clearing the liabilities and due to this, user is unable to file statement in Form GST CMP-08 for next quarter.</p> <p>Status: Partially fixed on 14th Jun 2021 in production on 14th Jun 2021 via ICR-12663. Another RCA is known issue across the application. Analysis is under progress.</p> <p>Financial Implication : Yes Taxpayers Impacted – 01</p>

14 : Issue In Saving Invoices In ITC03.



Issue Reported	Date Intimated MSP to perform Data Fix	Issue Description with No. of Cases Impacted
Taxpayer has saved invoices in ITC-03 & submitted the form with ' NULL' check but unable to offset the outstanding liabilities.	28-10-22	<p>ITC03 form: Taxpayer has saved invoices in ITC-03 & submitted the form with ' NULL' check but unable to offset the outstanding liabilities.</p> <p>Reason: Taxpayer forgot to uncheck the NIL checkbox while submitting ITC03 form, however invoices were already added in the form. Now status is in 'Submitted' state and taxpayer is not ready to file the form as he is unable to offset the corresponding liabilities.</p> <p>Status: It is a single Taxpayer issue, permanent fix not required. Data fix was done via ICR:18439 executed on 4th Nov 2022.</p> <p>Financial Implication : Yes Taxpayers Impacted – 01</p>

3. Technical issue affecting locally with financial implications – Correct data not known with certainty

1: GSTR3B Data Mismatch Issue Due To Saving Of Data From Multiple Tabs

Issue Reported	Date Intimated MSP to perform Data Fix	Issue Description with No. of Cases Impacted
Taxpayers raised tickets stating that they filed the GSTR-3B returns but there is mismatch in the data entered vis-à-vis payment made. Ledgers are updated on the basis of payment table whereas pdf is generated on the basis data entered.	18-08-22	<p>After login to the GSTN portal, taxpayer can open the GSTR-3B form window on multiple tabs at the same instant. There is no restriction to this behavior at present. Taxpayer have filed the GSTR-3B returns but there is mismatch in the data entered vis-à-vis payment made.</p> <p>Reason: Difference between data that was saved in HBASE and the one that was posted to ledger db in Return Liability Ledger and ITC Ledger tables.</p> <p>Status: Permanent fix is finalized and it is with REAP team. RQM:22721</p> <p>Financial Implication : Yes Taxpayers Impacted – 07</p>

2 : Issue In Filing Form GST ITC-01



Issue Reported	Date Intimated MSP to perform Data Fix	Issue Description with No. of Cases Impacted
Newly registered taxpayers or taxpayers opting out of composition scheme or when exempted goods become taxable, claim credit on closing stock u/s 18(1) of Act through Form GST ITC-01.	18-08-22	<p>ITC01 form has to be filed within 30 days of becoming eligible to claim credit. Few taxpayers were stuck up in filing the said form between 29th June, 2022 and 5th July, 2022. One taxpayer could not file the form as downtime started from 11:00 pm on 16th June, 2022.</p> <p>Reason: Few taxpayers were unable to file declaration in Form GST ITC-01 due to deployment of the change in topology. "System was showing following error – Your submit is in progress. Check after sometime."</p> <p>Status: This issue has come only once. Permanent fix not required. All impacted cases were executed on 25th Aug 2022 in production.</p> <p>Financial Implication : Yes Taxpayers Impacted – 23</p>

3 : Data Issue Due To Freezing Of Entries At Submit Stage.



Issue Reported	Date Intimated MSP to perform Data Fix	Issue Description with No. of Cases Impacted
Data issue due to partial commit happened on click of reset button, all saved entries became non-editable.	18-08-22	<p>It may be recalled that initially, there was a four tier system of filing return in Form GSTR-3B, viz. Save , Submit , Offset liability and File . All saved entries used to become non-editable after clicking on 'Submit' button. Liability register and Credit ledger used to be updated at submit stage. In the beginning, lot of complaints used to be received due to freezing of entries before filing (at submit stage) and returns lying at submit stage had to be reset from the backend as lot of complaints were received on account of inadvertent mistakes.</p> <p>Reason: This is an old issue when there used to be a reset button on the portal.</p> <p>Status: Permanent fix is not required because RESET button is removed from system. Old return periods data are being fixed by backend query.</p> <p>Financial Implication : Yes Taxpayers Impacted – 02</p>

4 : GST ITC-03 Filed Without Debit In The Ledgers



Issue Reported	Date Intimated MSP to perform Data Fix	Issue Description with No. of Cases Impacted
Taxpayer had filed Form GST ITC-03 successfully but still it reflects as "NIL" Filed, even though invoices are saved by the taxpayer while filing the said form.	22-08-22	<p>After opting into composition scheme, taxpayer had filed Form GST ITC-03 successfully but still it reflects as "NIL" Filed, even though invoices are saved by taxpayer while filing the said form. No ledger transactions had happened for the same.</p> <p>Reason: Due to some technical issues, the details added were not visible in UI. However, the NIL filing details were saved and transmitted at the time of filing. Therefore, due to this defect, the statement was filed as NIL. Invoice details were still saved in the backend. However, it was not present in UI.</p> <p>Status: It is fixed in production on 15th June 2022 via ICR: 16751</p> <p>Financial Implication : Yes Taxpayers Impacted – 38</p>

5 : Multiple Blocking Of ITC Credit.



Issue Reported	Date Intimated MSP to perform Data Fix	Issue Description with No. of Cases Impacted
Due to technical problem during the integration of data between CBIC & GSTN, the CBIC system had thrown exceptions when consuming the ITC block/unblock API and the concerned job at the CBIC backend kept retrying the same request, which resulted in multiple blocking of the ITC Credit Ledger.	25-10-22	<p>27 (21+6) GSTINs involving multiple blocking of ITC credits were shared for backend correction of the ITC ledgers by GSTN.</p> <p>Reason: Due to technical issue CBIC was unable to capture the response after blocking ITC by taxpayer. Officer tried multiple times with same GSTIN to block the ITC.</p> <p>Status: Out of 27 GSTINs, 26 GSTIN has been unblocked. Rest 1 GSTIN (33AAJFC7464K1Z5) was canceled and now it is in active status so we are in process to unblock this GSTIN as well.</p> <p>Financial Implication : Yes Taxpayers Impacted – 27</p>

Annexure-6

Additional agenda on reversal of interest on delayed filing of statement in form GSTR-8 by e-commerce operators due to technical glitches

15 : Issue in filing GSTR-8 by e-commerce operators

Issue Reported	Date Intimated MSP to perform Data Fix	Issue Description with No. of Cases Impacted
Three ECOs faced problem in filing monthly statement in Form GSTR-8	February to June, 2022	<p>Three ECOs could not file monthly statement in Form GSTR-8 for the month of February, 2022 due to technical glitch and examined raised tickets for the same. The defect was examined by technical team fixed the same on 29th July, 2022.</p> <p>Impacted tax periods: February to June, 2022 (5 tax periods). Interest liability: Interest on delayed filing of the said statement is computed by System and the same is non-editable. Though, defect was in filing the statement but there was no defect in depositing the due tax through challan.</p> <p>Refund on interest: In the 15th ITGRC meeting, it was decided that reversal of interest should be done in those cases where tax was paid by due date. Where tax was paid after fixing the defect or at the time of filing the statement may not be eligible for reversal of interest.</p> <p>Financial Implication : Yes Taxpayers Impacted – 03</p>



 Goods And Services Tax Network



Agenda Item 11: Report of Committee of Officers (CoO) on GST Audit along with Draft Model All India GST Audit Manual

1. The Report of Committee of Officers (COO) on GST Audit along with draft Model All India GST Audit Manual 2022 was tabled as an agenda item in the 48th GST Council Meeting. The Agenda on Report of COO on GST Audit was rolled over to the next GST Council Meeting. The draft Model All India GST Audit Manual 2022 was circulated to CCTs of all States/UTS vide OM dated 05.01.2023 for perusal. The States of Delhi, Telangana and Punjab have provided certain comments on the draft Model All India GST Audit Manual 2022 and a meeting of the Committee of officers (COO) was convened on 09.02.2023 to discuss the same and after discussions, certain changes in Draft Model All India GST Audit Manual have been made which are annexed as Annexure-I.
2. The Draft Model All India GST Audit Manual, 2023 is placed for approval.

Annexure-I**Details of the changes carried out in the draft Model All India GST Audit Manual as per discussions and decision in the meeting of the CoO on 09/02/2023.**

The comments and suggestions received on the draft Model All India GST Audit Manual, 2022 have been discussed in the meeting of the CoO on 09.02.2023 and have been finalized. Page-wise and Para-wise changes are detailed below.

Sr. No.	Page No.	Para No.	Change carried out
1.	19.	1.3 Legal Provisions of Audit by Tax Authorities:	New para 1.3.16 has been added after para 1.3.15 – “Further, the authority conducting the audit may invoke such other provisions of the Act and the Rules framed thereunder as may be deemed necessary, in the facts and circumstances of the case, for conducting the audit.”
2.	22.	2.4 Principles of audit	Word ‘prescribed’ in para 2 replaced with the word ‘specified’.
3.	30.	3.1 Workflow of Steps	Word ‘prescribed’ in last line of step 11 replaced with the word ‘specified’.
4.	39.	4.2 Issuance of notice in FORM GST ADT-01:	Word ‘15 days’ in para 1 replaced with words ‘15 working days’.
5.	51.	5.3.2 Return analysis	In the bullet point 8 related to data of e-way bill word ‘way’ substituted with word ‘e-way’ at both places.
6.	51.	5.3.2 Return analysis	In the bullet point 10 related to export with payment of tax, for determining the value of export line has been added “(For determining the value of export the value may be calculated as prescribed in rule 89(4)(C) of the CGST Rules, 2017 i.e. the value which is 1.5 times the value of like goods domestically supplied by the supplier)”.
7.	52.	5.3.2 Return analysis	In the bullet point 12 related to claim for refund of unutilized ITC, Net ITC shall be defined as per circular no. 125/44/2019 – GST dated 18 th November, 2019. The last line as reproduced has been deleted: " Net ITC for the purpose of refund should not include any ITC relatable to trading activity; nor should it include ITC on account of capital goods or input services."
8.	57.	5.3.5.3 Maintenance	“Trial balance if maintained” has been added

		of books of accounts	alongwith Balance Sheet.
9.	57	5.3.5.3 Maintenance of books of accounts	In the first para below the table the line “Regarding maintenance of accounts and records, the same should as per the provisions of Section 35 of the CGST Act read with the rules made thereunder” has been added.
10.	58.	5.3.5.3 Maintenance of books of accounts	The last line of Example 2 as reproduced below has been deleted. “So, the Audit Officer should only examine such Liability Accounts to verify whether such tax on such advances is actually paid or not.”
11.	61.	5.7 Final audit Report	7 working days in second para substituted with 30 working days as prescribed under law.
12.	61.	5.7.1 Final audit Report	The following part of para 5.7.1.c) “the case is required to be referred to the respective jurisdiction for initiation of demand and recovery proceedings (after the issuance of show cause notice, as the case may be, depending on the administrative and legal arrangement in this regard).” Has been rephrased as “the case may be taken up for initiation of demand and recovery proceedings under section 73/74 of the Act, as the case, may be.”
13.	62.	6.2 Demand and Recovery proceedings	Para 1 has been rephrased as: “If the tax, interest, penalty or any other amount payable by the RTP as have been ascertained as short paid or not paid, is not deposited by the taxpayer within 30 days after the issuance of the FAR, the case is required to be referred to the respective jurisdiction the case may be taken up for initiation of demand and recovery proceedings under section 73/74 of the Act, as the case, may be.”
14.	67.	7.2 General Guidelines	The last line of para 2 has been deleted. "The jurisdictional officer should explain the cause of not initiating action against such RTP for such a long period to their supervisory officer."
15.	74	Para 8.2.3 - Examples of criteria for	In the third bullet point the word “theme –

		selection of taxpayers for joint audits	based audits” has been replaced with the word “Joint Audit”
16.	89.	Point f. Works Contract:	The point, "As the works contract has been defined to be a supply of service, the works contractor is not entitled to avail of the Composition Scheme, because it is available only to suppliers of goods and the restaurant industry (not serving alcohol)." has been deleted
17.	100.	Annexure-3 Sample questionnaire for auditee	Point 'q' has been deleted. "Whether any advance payment is received towards supply of goods? If yes, whether Tax was paid on such transactions accordingly?"
18.	104.	Annexure-4:List of documents/statements and books of accounts to be produced for the purpose of audit.	“Trial Balance and Cost Audit Report in case it is maintained” has been included.



Agenda for 49th GST Council Meeting

18th February 2023

Volume-II





**GST Council Secretariat
New Delhi**

5th Floor, Tower-II, Jeevan Bharti Building, New Delhi
02nd February, 2023

OFFICE MEMORANDUM

Subject: Notice for the 49th Meeting of the GST Council scheduled to be convened on 18th February, 2023

The undersigned is directed to refer to the subject stated above and to convey that the 49th Meeting of the GST Council will be held on **18th February, 2023 at Vigyan Bhawan, New Delhi**. The schedule of the Meeting is as follows:

- **Saturday, 18th February, 2023:** 11:00 A.M. onwards
- 2. The agenda items and other details for the 49th Meeting of the GST Council will be communicated in due course of time.
- 3. Keeping in view the logistical constraints, it is requested that participation from each State/UT may be kept limited to two (02) officers in addition to the Hon'ble Member of the GST Council.
- 4. Kindly convey the invitation to Hon'ble Members of the GST Council to attend the Meeting of the GST Council.

Sd/-

(Sanjay Malhotra)

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 the 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 proceeding of the Council.
5. CEO, GST Network.

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Agenda Item 4(vii): Extension of time limit under sub-section (10) of section 73 of CGST Act for FY 2017-18, 2018-19 and 2019-20.

Section 73 of the CGST Act, 2017 provides that the proper officer shall issue the order demanding any tax that has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised for any reason, other than the reason of fraud or any wilful misstatement or suppression of facts to evade tax, within three years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund.

2.1 The issue of extension in timelines under section 73(10) of CGST Act was earlier deliberated by the Council in its 47th meeting held in June 2022. Considering the difficulties faced by the taxpayers as well as tax officers during the period of Covid-19 pandemic, the Council recommended that:

(i) limitation under section 73 for FY 2017-18 for issuance of order in respect of demand linked with due date of annual return, may be extended till 30th September, 2023 under the powers available under section 168A of CGST Act;

(ii) time period from 01.03.2020 to 28.02.2022 may be excluded from the limitation period for filing refund claim by an applicant under Section 54 and 55 of CGST Act, as well as for issuance of order/demand in respect of erroneous refunds under Section 73, by exercising power under section 168A of CGST Act.

2.2 Accordingly, Notification No. 13/2022- Central Tax dated 05.07.2022 was issued to implement the above recommendations of the Council.

3. Representations have been received from some tax administrations to further extend the timelines under section 73 of the CGST Act for FY 2017-18, 2018-19 and 2019-20 to 31.12.2024 or to extend the timelines under section 73 to those under section 74 of the CGST Act. It has been represented that difficulties were faced by government departments during the COVID period due to reduced staff; with staggered timings and exemption to certain categories of employees from attending offices during COVID period. This led to delay in process of scrutiny and audit which could be started properly only after COVID restrictions were uplifted. It has also been represented that though the time period for issuance of show cause notice and demand orders for FY 2017-18 has been extended vide Notification No. 13/2022- Central Tax dated 05.07.2022 based on recommendations of the Council made in 47th meeting, however, the same is not sufficient considering the delay in scrutiny and audit process due to COVID.

4.1 The issue was deliberated by the Law Committee in its meeting held on 08.02.2023. The Law Committee took the view that it may not be desirable to extend the timelines in such a manner so that it may lead to bunching of last date of issuance of SCN/order under section 73 and section 74 for a number of financial years. Accordingly, LC did not agree with the proposal to extend timelines under section 73(10) of CGST Act to the timelines under section 74 of CGST Act for any financial year. Further, LC did not agree with the proposal to extend the timelines for the FY 2017-18, 2018-19 and 2019-20 to 31.12.2024. However, LC felt that considering the delay in scrutiny, audit and assessment process for the FY 2017-18, 2018-19 and 2019-20 due to restrictions and difficulties faced in COVID-19 period, there may be a need to provide some additional time under section 73(10) of CGST Act for

the said financial years in such a manner so that there is no bunching of last dates for issuance of SCN/order under section 73 for these financial years as well as for the subsequent financial years.

4.2 LC, accordingly, recommended that the time limit under section 73(10) of CGST Act for the FY 2017-18, 2018-19 and 2019-20 may be extended as below by issuance of a notification under section 168A of CGST Act:

- i.
 - i. For FY 2017-18, the time limit under section 73(10) may be extended from the present 30th September 2023 to 31st December 2023;
 - ii. For FY 2018-19, the time limit under section 73(10) may be extended from the present 31st December 2023 to 31st March 2024;
 - iii. For FY 2019-20, the time limit under section 73(10) may be extended from the present 31st March 2024 to 30th June 2024.

5. A draft notification under section 168A of CGST Act, as per the above recommendations of the Law Committee, is placed at **Annexure A**.

6. In view of the above, the agenda, along with the draft notification, is placed before the GST Council for deliberation and 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/2023 – Central Tax

New Delhi, the XXth February, 2023

G.S.R.....(E).In exercise of the powers conferred by section 168A of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act) read with section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) and section 21 of the Union Territory Goods and Services Tax Act, 2017 (14 of 2017) and in partial modification of the notifications of the Government of India in the Ministry of Finance (Department of Revenue), No. 35/2020-Central Tax, dated the 3rd April, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 235(E), dated the 3rd April, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 235(E), dated the 3rd April, 2020 and No. 14/2021-Central Tax, dated the 1st May, 2021, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 310(E), dated the 1st May, 2021 and No. 13/2022-Central Tax, dated the 5th July, 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 516(E), dated the 5th July, 2022, the Government, on the recommendations of the Council, hereby, extends the time limit specified under sub-section (10) of section 73 for issuance of order under sub-section (9) of section 73 of the said Act, for recovery of tax not paid or short paid or of input tax credit wrongly availed or utilized, in respect of a tax period -

- (a) for the financial year 2017-18, up to the 31st day of December, 2023;
- (b) for the financial year 2018-19, up to the 31st day of March, 2024;
- (c) for the financial year 2019-20, up to the 30th day of June, 2024.

[F. No. CBIC-20006/24/2021-GST]

(Alok Kumar)
Director

Errata

1) On Page 144

- (i) In clause (ii), “**Annexure II**” may be read as “**Annexure III**”.
- (ii) In clause (iii), “ **Annexure III**” may be read as “**Annexure II**”.

Agenda Item 13: Decisions of GST Implementation Committee (GIC) for information of the GST Council

The GST implementation Committee (GIC) took one decision between 48th GST Council meeting and the upcoming 49th GST Council meeting. Due to the urgency involved, the decision was taken after obtaining approval by circulation amongst GIC members. The details of the decision taken is given below:

1. Decision of GIC by Circulation on 31st January, 2023 on GST Data sharing request received from Department of Telecommunication, Ministry of Communications

a. In the agenda note it was stated that it was mentioned in the letter received from the Department of Telecommunications (DoT) that the National Digital Communication Policy (NDCP) mandates the DoT to increase domestic production of telecom products and hence, it is necessary to monitor annual domestic production/ value addition in telecom sector. The policy also mentions that the share of telecom in national GDP would be increased from 6% to 8%. In this regard, DoT has approached GSTN for disaggregate data about the production of goods and services relating to telecom sector. However, DoR has explained the data sharing policy position and agreed to share the aggregate level data only. Accordingly, DoT has requested to provide anonymised aggregate data (HSN wise on telecom equipment) without the identification of the tax payer as available with GSTN.

b. It further stated that FORM GSTR-1 has been capturing 4-6 digit HSN/SAC code for the products and services. DoT has sent a list of products and services for which they are seeking 4-digit level "8517"- HSN exclusively for telecom products including mobile handset and "9984" - SAC for telecom services. DoT further requested that data can also be provided for combination of product description and HSN Code.

c. It was also stated in the agenda note that since DoT has agreed to receive anonymised aggregate level GST data for telecom products and services, GSTN may be permitted to share the data with DoT. It may be noted that GST Council in its 48th meeting has already approved the GST data sharing with other Ministries/Departments.

d. Accordingly, approval of GIC was sought for GST data sharing with Department of Telecommunications, M/o Communications.

e. **Decision:** The Members of the GIC approved the agenda item on GST Data sharing request received from Department of Telecommunication, Ministry of Communications

Agenda Item 14: Ad-hoc Exemptions Order(s) issued under Section 25(2) of Customs Act, 1962 to be placed before the GST Council for information

1. 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.

2 The details of the ad hoc exemption orders issued recently are as follows:

Order No.	Date	Remarks
AEO No. 01 of 20213	11 th January, 2023	Request for ad-hoc exemption on duty and taxation for the equipment and ammunition used for Joint Counter Terrorism Training Exercise (Tarkash-VI) (order copy enclosed).
AEO No. 02 of 20213	06 th February, 2023	Request for ad-hoc exemption for import of cheetahs by the National Tiger Conservation Authority, Ministry of Environment, Forest & Climate Change, Government of India (order copy enclosed).

3. This is placed for the information of GST Council.

F. No. 452/12/2022-Cus V
Ad-hoc Exemption Order No. 1 of 2023
Issued under section 25(2) of the Customs Act, 1962

Government of India
Ministry of Finance
Department of Revenue

Room No. 227A, North Block, New Delhi-110001

Dated the 11th January 2023

To,
The Chief Commissioner Customs
Chennai Zone

Sir,

Subject: Request for ad-hoc exemption on duty and taxation for the equipment and ammunition used for Joint Counter Terrorism Training Exercise (Tarkash-VI) -reg.

The undersigned is directed to refer to O.M. No. 23011/28/2022-PMA dated 26.12.2022 received from Under Secretary (PMA), Ministry of Home Affairs, along with enclosures from NSG (Copy enclosed) and letter No. WII/109/29/2022 dated 22.12.2022 received from Attache (AMS) from Ministry of External Affairs (Copy enclosed) for providing permission for (i) Customs Clearance and (ii) Clearance and exemption from duty and taxation for the equipment and ammunition to be used for the Joint Counter Terrorism Training Exercise Tarkash-VI in terms of Section 25 (2) of Customs Act, 1962.

2. MHA in its aforesaid OM has informed that:

- i. Joint Counter Terrorism Training Exercise Tarkash-VI is scheduled to be conducted from 16 January to 14 February 2023 between US (SOF) and NSG in Chennai.
- ii. The Embassy of US in India has shared the details of weapons and equipment's which will be carried by the US (SOF) team coming to India on 12 January 2023 via US Military Aircraft C-130.
- iii. US (SOF) team along with weapons, equipments, accessories, ammunition and dangerous goods will arrive at Chennai International Airport at 0615 hrs (IST) on 12 January 2023 and depart from the Chennai International Airport at 0815 hrs (IST) on 12 January 2023
- iv. US team will also bring one multi-purpose canine (Military working dog) to participate in the Joint Exercise accompanied by necessary accessories.
- v. In addition to the equipment and the multi purpose canine, there may be specific equipment or ammunition that is not readily available and will have to be air shipped into India through FedEx/DHL/Commercial Air/Military via air freight.

2.1 MHA has requested for waiving off the customs duties and IGST (where applicable) for the above-mentioned imported goods for the Joint Counter Terrorism Training between NSG and US (SOF) team.

3. In view of the exceptional circumstances as mentioned above, the Central Government in exercise of the powers conferred by sub-section (2) of section 25 of the Customs Act, 1962 (52 of 1962), being satisfied that it is necessary in the public interest so to do, hereby exempts the subject

Page 1 of 2

F. No. 452/12/2022-Cus V
Ad-hoc Exemption Order No. 1 of 2023
Issued under section 25(2) of the Customs Act, 1962

goods for the purpose of Tarkash VI Joint Counter Terrorism Training, from the whole of the duty of Customs leviable thereon which is specified in the First Schedule to the Customs Tariff Act, 1975, and, whole of the Integrated Tax leviable thereon under sub-section (7) of section 3 of the Customs Tariff Act, 1975 (where applicable), subject to the end use for the purpose being imported and in compliance of the provisions of the Customs Act, 1962.

4. An undertaking to comply with the conditions mentioned in Para 3 above shall be submitted to the jurisdictional Commissioner of Customs of the port of import for claiming benefit of exemption under this Order.

5. Any infringement of this Order should be brought to the immediate notice of the Commissioner of Customs of the port of import for taking further necessary action such as realization of Customs duty on the subject goods, penal action for such violations, etc.

6. This order is valid for imports made up to 05.04.2023

Enclosures: As above

Yours faithfully,



(Harish Kumar)

Under Secretary to the Government of India

Copy to:

- The Under Secretary (PMA), Ministry of Home Affairs, Police -I Division, PMA Cell, Government of India
- The Under Secretary (AMS Division), Ministry of External Affairs, South Block, New Delhi 110001
- Principal Director (Customs), Central Receipt Audit Wing, Office of the Comptroller & Auditor General, 10, Bahadur Shah Zafar Marg, New Delhi-110 002.
- Guard File.

Yours faithfully,


(Harish Kumar)

Under Secretary to the Government of India

F. No. 452/06/2022-Cus V

**Ad-hoc Exemption Order No. 2 of 2023 Issued
under Section 25(2) of the Customs Act, 1962**

**Government of India
Ministry of Finance
Department of Revenue**

To,

Room No. 227A, North Block, New Delhi – 110001

Dated the 06th February 2023

The Chief Commissioner of Central GST &
Customs Bhopal Zone

Sir,

Subject: Request for Ad hoc exemption for import of Cheetahs by the National Tiger Conservation Authority, Ministry of Environment, Forest and Climate Change, Government of India-reg.

The undersigned is directed to refer to a request dated 16.01.2023 (copy enclosed) received from the Director General of Forests and Special Secretary, Ministry of Environment Forest and Climate Change (MoEF&CC), Government of India seeking exemption from payment of duty in terms of Section 25 (2) of Customs Act, 1962, for the goods received as grant from Republic of South Africa.

2. MoEF & CC has informed that:

- i. Project Tiger Division, Ministry of Environment Forest and Climate Change, Government of India is in receipt of 12 number of live Cheetahs in crate, accompanied with empty crates, radio collars & receivers which are a Government of India cargo being consigned from Republic of South Africa.
- ii. The Cheetahs will be imported from Gwalior International Airport.
- iii. From Gwalior the Cheetahs would proceed for final release to Kuno National Park.
- iv. The exact date of arrival of the Cheetahs would be communicated in due course

2.1 MoEF & CC has requested for waiving off the customs duties and IGST (where applicable) for the above-mentioned imported goods received as grant for restoration of open forest and savanna system which in turn will help in conservation of biodiversity and accrue ecosystem services.

3. In view of the exceptional circumstances as mentioned above, the Central Government in exercise of the powers conferred by sub-section (2) of Section 25 of the Customs Act, 1962 (52 of 1962), being satisfied that it is necessary in

the public interest so to do, hereby exempts the subject goods (i.e. 12 number of live Cheetahs in crate, accompanied with empty crates, radio collars & receivers) for introduction into Kuno National Park, from the whole of the duty of Customs leviable thereon which is specified in the First Schedule to the Customs Tariff Act, 1975, and, whole of the Integrated Tax leviable thereon under sub- section (7) of section 3 of the Customs Tariff Act, 1975 (where applicable), subject to the end use for the purpose being imported and in compliance of the provisions of the Customs Act, 1962.

4. An undertaking to comply with the conditions mentioned in Para 3 above shall be submitted to the jurisdictional Commissioner of Customs of the port of import for claiming benefit of exemption under this Order.
5. Any infringement of this Order should be brought to the immediate notice of the Commissioner of Customs of the port of import for taking further necessary action such as realization of Customs duty on the subject goods, penal action for such violations, etc.
6. This order is valid for imports made up to 31.03.2023

Yours
faithfully,



(Harish Kumar)

Under Secretary to the Govt. of India

Copy to:

- The Inspector General of Forests, Project Tiger Division, Ministry of Environment Forest and Climate Change, Government of India.
- Principal Director (Customs), Central Receipt Audit Wing, Office of the Comptroller & Auditor General, 10, Bahadur Shah Zafar Marg, New Delhi-110 002.
- Guard File.

Yours
faithfully,



(Harish Kumar)

Under Secretary to the Govt. of India

Agenda Item 15: Review of revenue position under Goods and Services Tax

1. The Figure below shows the trend and Table 1 shows the details of the collection in FY 2022-23 vis-à-vis FY 2021-22.

Figure 1: Monthly gross GST collection (in ₹ lakh crore)

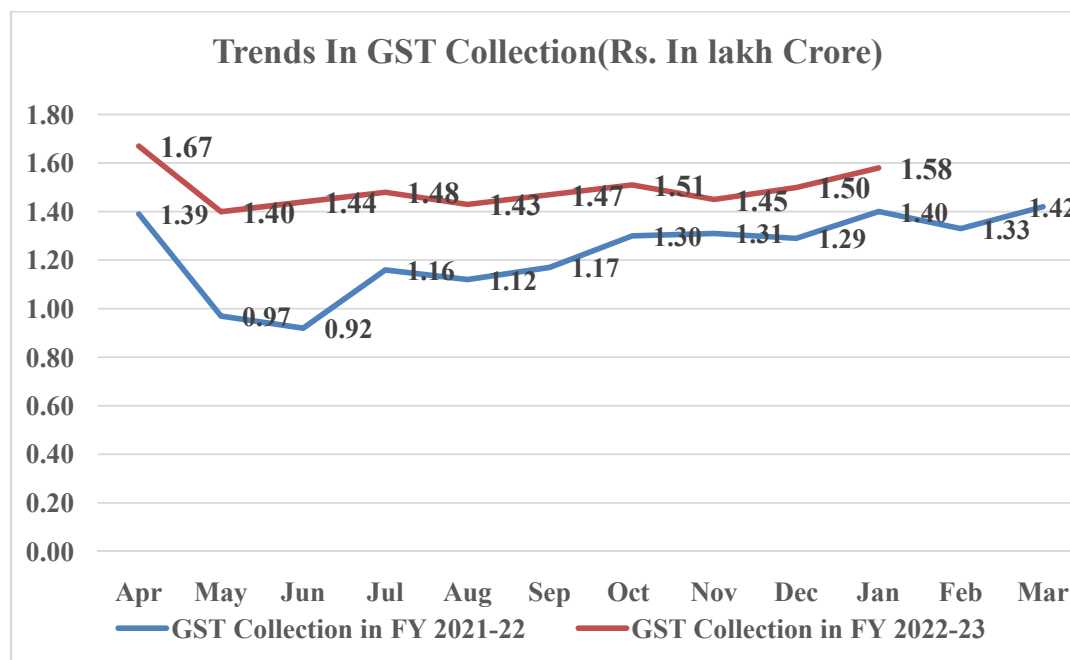


Table 1: Monthly gross GST collection (₹ crore)

GST Collection	Aug'22	Sep'22	Oct'22	Nov'22	Dec'22	Jan'23
CGST	24,710	25,271	26,039	25,681	26,711	29,051
SGST	30,951	31,813	33,396	32,651	33,357	36,847
IGST	77,782	80,464	81,778	77,103	78,434	80,995
<i>Domestic</i>	35,715	39,249	44,481	38,468	38,172	42,561
<i>Imports</i>	42,067	41,215	37,297	38,635	40,263	38,434
Comp Cess	10,168	10,137	10,505	10,433	11,005	10,662
<i>Domestic</i>	9,151	9,282	9,680	9,616	10,155	9,863
<i>Imports</i>	1,018	856	825	817	850	798
Total	1,43,612	1,47,686	1,51,718	1,45,867	1,49,507	1,57,554

2. Table 2 shows the IGST collected, refunded and settled/apportioned during FY2022-23 till January, 2023.

Table 2: IGST Collection/Settlement/Apportionment/Refund in FY22-23
(Figures in Rs. Crore)

1	Collections(+)	7,81,813.42
2	Recovery from IGST Ad-hoc apportionment(+)	0
3	Refunds (-)	1,25,328.59
4	Settlement (-)	
	i. CGST	3,31,502.00
	ii. SGST	2,78,756.00
5	Ad-hoc Settlement (-)	0
	i. CGST ad hoc	24,500.00
	ii. SGST ad hoc	24,500.00
6	Net (1+2-3-4-5)	(2,773.17)

Source: PrCCA, CBIC

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 January, 2023 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	2020-21	2021-22	2022-23 (till Jan)
Opening Balance		21,466	47,271	55,736	9,734 ¹	9,344
Compensation Cess collected (net)	62,612	95,081	95,551	85,191	1,04,609	1,03,846
Compensation released	41,146	69,275	1,20,498	1,36,988	97,500	1,15,662
Balance	21,466	47,271	55,736 ²	3939	16,844 ³	(2,472)

Trends in Return filing

¹Centre had transferred Rs. 5,795 crore from CFI to cess fund as part of an exercise to apportion balance IGST pertaining to 2018-19 on 08.03.2022

²Centre had transferred Rs. 33,412 crore from CFI to Compensation Cess Fund as part of an exercise to apportion balance IGST pertaining to FY 2017-18

³Balance GST compensation cess available is Rs. 16844 crore. However, taking into account the interest of back to back loan of Rs. 7,500 crore, GST compensation cess carried forward to FY 2022-23 as opening balance is Rs. 9344 crore

4. The table 4 shows the trend in return filing in FORM GSTR-3B and GSTR-1 till due date for return period Apr'22 to Dec'22. Tables 5 and 6 show the State wise filing for these months.

Table 4: Return filing (GSTR-3B/GSTR-1) till due date

Return Period	GSTR-3B (%)	GSTR-1(%)
Apr'22	78.55	55.14
May'22	75.85	57.35
Jun'22	77.20	54.50
Jul'22	76.87	56.12
Aug'22	76.14	54.61
Sep'22	75.14	53.41
Oct'22	75.91	59.09
Nov'22	78.79	59.94
Dec'22	79.82	60.02

Figure 2: GSTR-3B/GSTR-1 Filing till due date

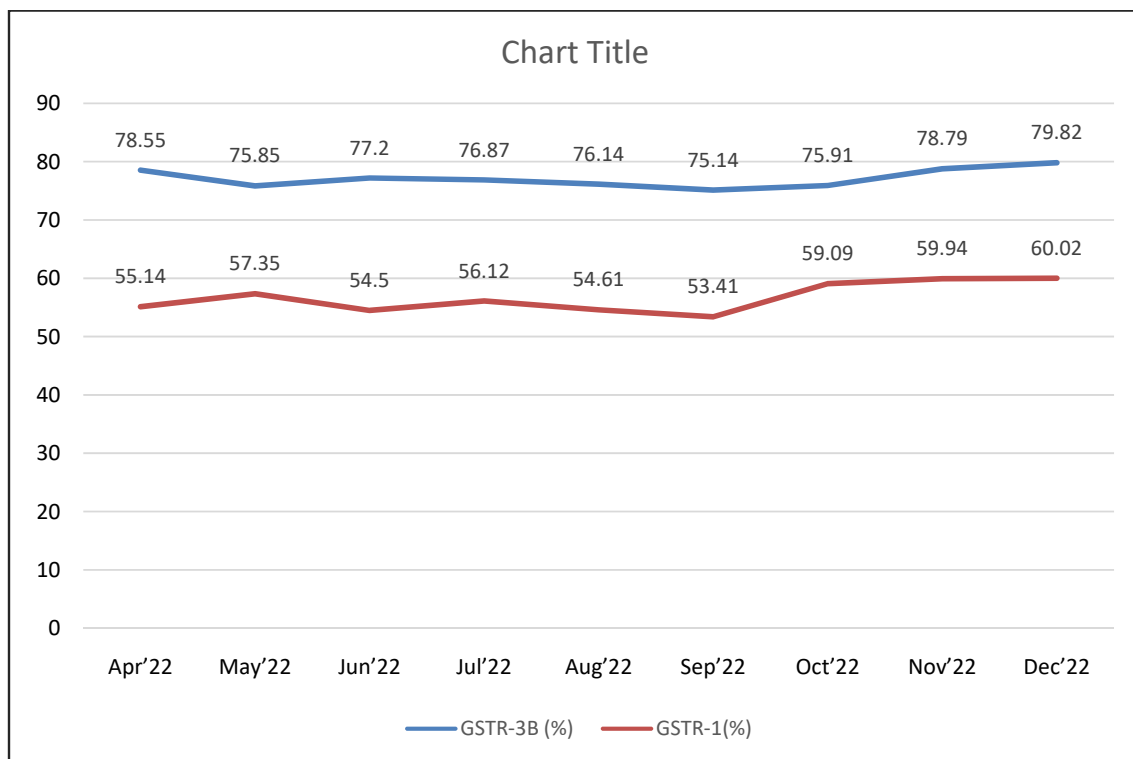


Table 6: State-wise Return filing (GSTR-3B) till due date (Apr'22-Dec'22)

	States	Apr'22	May'22	Jun'22	Jul'22	Aug'22	Sep'22	Oct'22	Nov'22	Dec'22
1	Jammu and Kashmir	82%	78%	80%	80%	79%	79%	79%	81%	81%
2	Himachal Pradesh	81%	76%	79%	78%	76%	77%	77%	80%	83%
3	Punjab	82%	80%	80%	80%	79%	77%	78%	81%	83%
4	Chandigarh	85%	83%	82%	83%	82%	78%	82%	84%	85%
5	Uttarakhand	76%	73%	75%	73%	72%	71%	72%	75%	78%
6	Haryana	80%	78%	79%	78%	78%	75%	77%	79%	82%
7	Delhi	81%	79%	80%	78%	79%	76%	77%	80%	82%
8	Rajasthan	80%	78%	78%	78%	77%	76%	77%	81%	82%
9	Uttar Pradesh	81%	78%	78%	78%	78%	75%	77%	80%	80%
10	Bihar	69%	57%	71%	69%	68%	68%	69%	71%	73%
11	Sikkim	63%	62%	68%	62%	63%	64%	60%	62%	67%
12	Arunachal Pradesh	50%	51%	56%	53%	53%	53%	53%	55%	57%
13	Nagaland	66%	66%	67%	66%	67%	65%	65%	67%	66%
14	Manipur	55%	53%	57%	56%	54%	55%	53%	58%	61%
15	Mizoram	63%	61%	65%	64%	64%	63%	60%	62%	65%
16	Tripura	75%	73%	77%	76%	74%	73%	74%	77%	78%
17	Meghalaya	60%	60%	69%	60%	61%	67%	60%	61%	69%
18	Assam	68%	66%	68%	68%	66%	66%	67%	69%	71%
19	West Bengal	81%	79%	80%	80%	79%	78%	79%	81%	83%
20	Jharkhand	78%	76%	78%	77%	76%	75%	76%	79%	80%
21	Odisha	75%	72%	75%	74%	73%	72%	72%	76%	77%
22	Chhattisgarh	68%	66%	68%	69%	66%	68%	67%	71%	73%
23	Madhya Pradesh	78%	74%	75%	76%	74%	75%	76%	79%	79%
24	Gujarat	87%	85%	85%	85%	85%	85%	85%	87%	87%
25	Daman and Diu	-	-	-	-	-	-	-	-	-
26	Dadra and Nagar Haveli	79%	75%	76%	77%	77%	75%	75%	78%	79%
27	Maharashtra	75%	73%	75%	75%	73%	74%	73%	76%	78%
29	Karnataka	78%	76%	77%	77%	76%	74%	76%	79%	80%
30	Goa	62%	60%	64%	61%	61%	65%	63%	64%	69%
31	Lakshadweep	69%	68%	70%	67%	73%	71%	67%	77%	78%
32	Kerala	77%	74%	75%	76%	73%	72%	73%	76%	77%
33	Tamil Nadu	83%	80%	80%	80%	79%	78%	80%	82%	81%
34	Puducherry	79%	75%	75%	75%	75%	72%	75%	78%	77%
35	Andaman and Nicobar Islands	65%	62%	63%	64%	63%	64%	62%	66%	68%
36	Telangana	70%	67%	69%	67%	67%	67%	67%	70%	71%
37	Andhra Pradesh	76%	75%	76%	76%	75%	73%	76%	79%	78%
38	Ladakh	68%	68%	71%	68%	66%	72%	65%	68%	78%
97	Other Territory	76%	70%	68%	74%	73%	67%	69%	75%	75%
	Average	79%	76%	77%	77%	76%	75%	76%	79%	80%

Table 7: State-wise Return filing (GSTR-1) till due date (Apr'22-Dec'22)

	States	Apr'22	May'22	Jun'22	Jul'22	Aug'22	Sep'22	Oct'22	Nov'22	Dec'22
1	Jammu and Kashmir	37%	41%	36%	41%	39%	38%	43%	43%	41%
2	Himachal Pradesh	56%	57%	49%	56%	54%	49%	59%	58%	55%
3	Punjab	72%	74%	69%	72%	71%	68%	74%	74%	72%
4	Chandigarh	75%	77%	73%	75%	74%	72%	77%	77%	76%
5	Uttarakhand	51%	53%	47%	50%	50%	46%	54%	55%	52%
6	Haryana	68%	70%	67%	67%	68%	65%	70%	70%	70%
7	Delhi	69%	71%	70%	69%	70%	69%	71%	70%	73%
8	Rajasthan	62%	66%	58%	63%	63%	59%	67%	68%	66%
9	Uttar Pradesh	48%	51%	46%	48%	48%	45%	52%	53%	50%
10	Bihar	27%	29%	27%	27%	27%	25%	31%	34%	32%
11	Sikkim	32%	34%	34%	34%	34%	27%	35%	36%	35%
12	Arunachal Pradesh	21%	24%	23%	23%	23%	21%	26%	28%	25%
13	Nagaland	29%	29%	29%	29%	28%	27%	29%	34%	31%
14	Manipur	21%	23%	22%	24%	22%	24%	25%	24%	26%
15	Mizoram	20%	21%	20%	20%	20%	20%	21%	21%	19%
16	Tripura	42%	46%	43%	44%	42%	38%	47%	47%	46%
17	Meghalaya	25%	26%	28%	27%	24%	24%	28%	28%	28%
18	Assam	33%	37%	33%	36%	35%	30%	39%	39%	38%
19	West Bengal	51%	53%	51%	53%	52%	47%	55%	56%	55%
20	Jharkhand	43%	43%	43%	45%	44%	41%	47%	49%	48%
21	Odisha	37%	40%	35%	38%	38%	33%	41%	43%	40%
22	Chhattisgarh	44%	48%	42%	46%	46%	42%	51%	51%	49%
23	Madhya Pradesh	48%	51%	42%	47%	47%	41%	56%	56%	51%
24	Gujarat	79%	82%	78%	79%	79%	78%	82%	82%	83%
25	Daman and Diu	-	-	-	-	-	-	-	-	-
26	Dadra and Nagar Haveli	72%	73%	71%	72%	73%	72%	76%	76%	77%
27	Maharashtra	60%	63%	60%	63%	61%	60%	66%	66%	68%
29	Karnataka	52%	56%	53%	55%	53%	51%	58%	59%	60%
30	Goa	44%	47%	48%	47%	44%	51%	52%	51%	56%
31	Lakshadweep	42%	52%	52%	56%	50%	49%	54%	60%	59%
32	Kerala	56%	59%	55%	60%	50%	54%	60%	61%	60%
33	Tamil Nadu	58%	58%	57%	59%	55%	55%	61%	61%	62%
34	Puducherry	51%	52%	50%	52%	49%	50%	54%	54%	56%
35	Andaman and Nicobar Islands	38%	42%	39%	40%	41%	38%	43%	46%	45%
36	Telangana	43%	44%	42%	43%	41%	41%	46%	48%	49%
37	Andhra Pradesh	48%	52%	49%	51%	49%	46%	54%	59%	57%
38	Ladakh	27%	31%	34%	30%	26%	35%	32%	33%	39%
97	Other Territory	74%	74%	72%	75%	73%	69%	75%	72%	76%
	Average	55%	57%	55%	56%	55%	53%	59%	60%	60%

Model All India GST Audit Manual 2023

**Prepared by
The Committee of
Officers on GST Audits**

PREFACE

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List of abbreviations used in the Manual

Abbreviation	Definition
CoO	Committee of Officers
GST	Goods and Service Tax
CGST	Central Goods and Service Tax
SGST	State Goods and Service Tax
GSTN	Goods and Service Tax Network
CBIC	Central Board of Indirect Taxes & Customs
DGARM	Directorate General of Analytics & Risk Management
DGA	Directorate General of Audit
RPMF	Registered Person Master File
ISD	Input Service Distributor
ITC	Input Tax Credit
RTP	Registered Taxpayer
DAR	Draft Audit Report
FAR	Final Audit Report
MCM	Monitoring Committee Meeting
TAG	Taxpayer at a Glance
ToR	Term(s) of Reference
SEZ	Special Economic Zone
HSN	Harmonized System of Nomenclature
SAC	Service Accounting Code
POS	Point of Supply
OIDAR	Online Information Database Access and Retrieval

services

RCM

Reverse Charge Mechanism

GSTAM

GST Audit Manual

AAR

Authority for Advance Ruling

AAAR

Appellate Authority for Advance Ruling

FOREWORD

Goods and Services Tax in India has stepped towards the completion of five years. One of the main objectives of introduction of GST was to create one common market in the country by totally removing the wide disparities and compliance complexities of various laws of taxation of the States and Centre. In taxation of goods and services (not as “activities”, per se, but as “objects” or “events”), that had led to not only tax inefficiency but had also interfered in investment decisions of businesses. GST has provided a uniform structure in taxation of goods and services throughout the country. There is total uniformity in terms of the taxable event, tax rates, point of levy, provisions for registration, return filing, tax payment, refunds, audit, adjudication, appeals etc. In fact, the CGST and SGST laws are almost mirror images. GSTN, as an enabling organisation, has created the necessary digital backbone to ensure seamless uniformity in the process and procedures relating to registration of taxpayers, return filing, tax payment, refunds etc.

Self-assessment/self-compliance of the taxpayers is the edifice upon which the GST eco-system is built. Though it provides for audit of taxpayers, it does not make it mandatory in all cases. Audit is an important compliance verification tool that complements anti-evasion action and constructive taxpayer engagement to improve tax compliance. Unless the processes and procedures of selection of cases for audit and the consequent proceedings are grounded in sound principles of neutrality, transparency, accountability and sustainability, and proper analysis and appreciation of audit, the purpose of audit would not be served. Uniform adoption of tried and tested best practices of audit procedures and processes by all the States as well as the Centre would enable consolidation of the outcomes of the individual States and Central authorities and their analysis for any consequential policy decisions sub-serves the primary objectives of GST and ensures stable revenues to the States as also to the Centre. Experience and knowledge gained through audit can be efficiently and gainfully shared among the States and replicated only if the procedures and processes adopted converge toward commonly agreed norms. Such convergence can lead to efficient deployment of limited human resources by the States in focused and productive activities.

Audit is also a specialized exercise which requires not only sound knowledge in law but also demands adequate skill. To facilitate all the States and the Centre in respect of audit in GST a task of preparation of a comprehensive All India Model GST Audit Manual was allotted to the Committee of Officers on GST Audit. For this purpose, a sub-committee of officers was constituted to compile existing and desirable audit practices and to draft a model audit manual. Inputs have been taken from both Centre and States from various sources like (i) GST Audit Manual 2019 published by DG Audit, Government of India, (ii) CBIC Quality Assurance Review Manual 2021, (iii) West Bengal State Tax GST AUDIT MANUAL_2021 (iv) Bihar State Tax Audit SOP, (v) Maharashtra State Tax GST Audit Manual 2020, (vi) Punjab Audit-Manual, Punjab Audit Administrative Instruction, Punjab Audit Checklist Documents - Value of Supply, Punjab Audit Checklist Documents And Returns – Supply, (vii) Karnataka State Tax GST Audit Model, (viii) GSTN Audit Process Flow, (ix) Uttar Pradesh GST Tax Audit, (x) further suggestions from States and Centre during compilation. On the basis of all such valuable inputs, the State of West Bengal has compiled this audit manual which has been accepted by the Committee of Officers.

The guidelines provided in the manual are intended to enable audit officers to carry out effective audits in a uniform, efficient and comprehensive manner adopting the best practices of the States and the Centre, as well as international practices. Audit processes envisaged under the GST regime are ably assisted by a technological tool named “BI Tools” developed by GSTN, tools of “DGARM”, concept of “Registered Person Master File (RPMF)” of DG Audit. Various States also developed technological and analytical tools, such as “e-Shodhane Audit Module” of Karnataka, “Tax Payers at a Glance” by West Bengal, Standard Operating Procedure of Bihar focusing areas of concern in Audit which not only complements and enhances the knowledge of the Audit officers also provides data backups and analysis. The technological tool is intended to encompass verification, examination, investigation, scrutiny and the like. Members of the Committee, as well as all the Members of the Sub-Committees and their leadership deserve kudos for forging a consensus consistent with the best audit practices. We congratulate them all. We sincerely hope that the model manual in your hands would lead to implementation of an effective

audit mechanism consisting of best practices and procedures tried and tested by the various indirect tax authorities in the country in the interest of revenue, to improve internal control at work in organisations of taxpayers and reduced burden of compliance upon taxpayers.

While emphasis has been placed in this Manual on developing a well-established audit procedure based on sound principles, it is needless to say that there cannot be a uniform approach to the audit of every taxpayer. Occasions may arise when a fact or figure apparent on the documents may need an examination with reference to some other sets of documents or even other sources. Therefore, the scope of audit in GST may vary depending on facts and circumstances of audit. An attempt has been made to address these issues in this document.

EXECUTIVE SUMMARY

A Committee of Officers (CoO) on GST Audit was constituted by the GST Council Secretariat, comprising officers from the CBIC, States, GSTN and GST Council secretariat. The details of the said committee, alongwith its timelines and Terms of References (ToR) are discussed in detail in **Annexure 18 (p.272)**. To explore each of the six ToRs in greater detail, sub-committees were formed for each ToR. The proposal contained in each report of the sub-committees has been incorporated in the relevant Chapter of this Manual.

The task of preparation of a comprehensive All India Model GST Audit Manual (hereinafter called the Model GSTAM/ the Manual) for the Centre and the States was allotted to the Committee of Officers on GST Audit. For this purpose, a sub-committee of officers was constituted to compile existing and desirable audit practices and to draft a model audit manual. The sub-committee was requested to catalogue prevalent practices of audit in the Central and State Indirect tax administrations and adopt the best practices for GST Audit across the country. The task of compiling this manual was allotted to West Bengal as a Member of the Committee, studying thoroughly the Audit manual prepared by Central Government, GST Audit Manuals and Standard Operating Procedures prepared by various states like West Bengal, Punjab, Maharashtra, Karnataka, Bihar, and Uttar Pradesh as well as the module developed by the GSTN and available to Model 2 states. After compilation, the draft Model GST Audit Manual was circulated to all the members inviting their inputs and suggestions. The Model GST Audit Manual has been prepared after incorporating many of these suggestions. The Manual tries to take into account the differential structure of GST revenue administration prevailing in different States and the Centre. Furthermore, a sub-committee was constituted to study and compile the best audit policy and practices of

Centre and States. The sub-committee compiled the best practices and also made recommendations for Model GSTAM. The relevant recommendations have been included in this GSTAM and all the 14 recommendations are in **Annexure 17 (p-257)**.

This Manual aims to be an extensive and comprehensive document with a holistic approach towards GST audit which will not only facilitate the Audit Officers of the Centre and the States/UTs but will also create an impact in facilitating the auditees during the exercise of audit. The objective of this manual is to provide insights into the principles and procedures of audit and to give a holistic view of the entire process to the users of this Manual.

In the pre-GST regime, the audit process of States/UTs often got lengthened due to procurement and production of various statutory forms by the auditees in order to claim statutory deductions in the States/UTs. The GST regime does not require production of any such statutory forms and hence it is expected that substantial time of both the auditor and the auditee would be saved. Furthermore, audit in the GST regime has been designed in such a way as to complete the entire process within a short span of time. This will require the officers to concentrate on the process of examination of the books of accounts of a particular auditee within a short timeframe while at the same time yielding optimum results from the auditing exercise. Eventually, this would help the auditee also, who would be relieved from his engagement in the process of auditing sooner than was the case earlier.

This manual has been designed to cater to a systematic workflow of audit, ranging from brief criteria of selection to the completion of the process. It includes mechanisms for Joint and Thematic audit as and when they are approved by the Council.

It is hoped that this Model Audit Manual would form an important yet dynamic reference for audit principles, practices, and procedures for GST audit practitioners in the country.

Dr. Amandeep Singh
ADG, DG Audit, Hqtrs, CBIC
Convenor

Dr. Ravi Kumar Surpur
Chief Commissioner, CT Rajasthan
Co-Convenor

CHAPTER 1

This chapter covers the definition of audit, types of audit, and salient legal provisions related to audit.

1.1. Definition of audit under CGST/SGST Act, 2017

Audit is defined in sub-sec 13 of sec 2 of the CGST/SGST Act, 2017 as – *“detailed examination of records, returns and other documents maintained or furnished by the taxable person under this Act or Rules made thereunder or under any other law for the time being in force to verify, inter alia, the correctness of turnover declared, taxes paid, refund claimed and input tax credit availed, and to assess his compliance with the provisions of this Act or rules made thereunder”.*

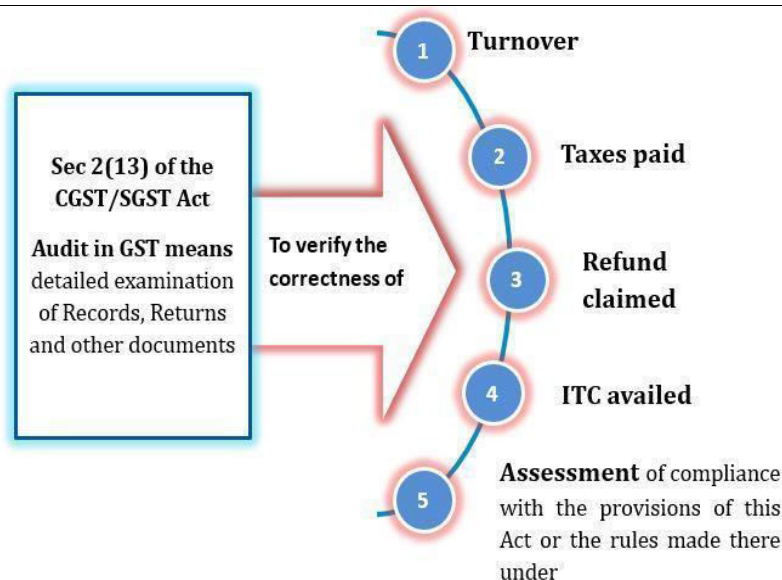


EXHIBIT 1

Hence, GST audit is not restricted to the reconciliation of only the tax liability & payment of tax by a taxable person, but its scope is also extended to assessment with reference to the provisions of GST laws.

1.2 Types of Audit in GST

Three types of Audit are prescribed in GST:

1	Audit by Tax Authorities: As per provision of section 65 of the CGST/SGST Act, 2017 and as prescribed in rule 101 of the CGST/SGST Rules, 2017. This audit is to be conducted by an authorized officer; the power being delegated by the Commissioner. There is no turnover limit.
2	Special Audit: Special Audit by a chartered / cost accountant, on the order of an officer (not below the rank of Assistant Commissioner), upon prior approval of the Commissioner and appointed by the Commissioner, under section 66 of the CGST/SGST Act, 2017 read with rule 102 of the CGST/SGST Rules, 2017.
3	Turnover based Audit: Turnover based Audit u/s 35(5) of the CGST/SGST Act, 2017 read with rule 80(3) of the CGST/SGST Rules, 2017, by a chartered / cost accountant appointed by the RTP, when Aggregate Turnover exceeds prescribed quantum [Section 35(5) has been omitted w.e.f. 1st August, 2021]

Note: This Model GST Audit Manual is focused on audit by Tax Authorities only. The audited books of accounts and audit report submitted by the taxpayer in prescribed Form(s) are also subject to audit u/s 65.

1.3 Legal Provisions of Audit by Tax Authorities: This section aims to familiarise auditors with salient provisions of GST law.

1.3.1 Section 65 of CGST Act, 2017, and respective SGST Acts, 2017.

Sub - section	Provisions of the Act
(1)	<i>The Commissioner or any officer authorised by him, by way of a general or a specific order, may undertake audit of any registered person for such period, at such frequency and in such manner as may be prescribed.</i>
(2)	<i>The officers referred to in sub-section (1) may conduct audit at the place of business of the registered person or in their office.</i>
(3)	<i>The registered person shall be informed by way of a notice not less than fifteen working days prior to the conduct of audit in such manner as may be prescribed.</i>

(4)	<p><i>The audit under sub-section (1) shall be completed within a period of three months from the date of commencement of the audit: Provided that where the Commissioner is satisfied that audit in respect of such registered person cannot be completed within three months, he may, for the reasons to be recorded in writing, extend the period by a further period not exceeding six months.</i></p> <p><i>Explanation. – For the purposes of this sub-section, the expression ‘commencement of audit’ shall mean the date on which the records and other documents, called for by the tax authorities, are made available by the registered person or the actual institution of audit at the place of business, whichever is later.</i></p>
(5)	<p><i>During the course of audit, the authorised officer may require the registered person,— (i) to afford him the necessary facility to verify the books of account or other documents as he may require; (ii) to furnish such information as he may require and render assistance for timely completion of the audit.</i></p>
(6)	<p><i>On conclusion of audit, the proper officer shall, within thirty days, inform the registered person, whose records are audited, about the findings, his rights and obligations and the reasons for such findings.</i></p>
(7)	<p><i>Where the audit conducted under sub-section (1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may initiate action under section 73 or section 74.</i></p>

1.3.2 Rule 101 of CGST / SGST Rules, 2017.

Sub - rule	Provisions of the rule
(1)	<p><i>The period of audit to be conducted under sub-section (1) of section 65 shall be a financial year or part thereof or multiples thereof.</i></p>

(2)	<i>Where it is decided to undertake the audit of a registered person in accordance with the provisions of section 65, the proper officer shall issue a notice in FORM GST ADT-01 in accordance with the provisions of sub-section (3) of the said section.</i>
(3)	<i>The proper officer authorised to conduct audit of the records and books of account of the registered person shall, with the assistance of the team of officers and officials accompanying him, verify the documents on the basis of which the books of account are maintained and the returns and statements furnished under the provisions of the Act and the rules made thereunder, the correctness of the turnover, exemptions and deductions claimed, the rate of tax applied in respect of supply of goods or services or both, the input tax credit availed and utilised, refund claimed, and other relevant issues and record the observations in his audit notes.</i>
(4)	<i>The proper officer may inform the registered person of the discrepancies noticed, if any, as observed in the audit and the said person may file his reply and the proper officer shall finalise the findings of the audit after due consideration of the reply furnished.</i>
(5)	<i>On conclusion of the audit, the proper officer shall inform the findings of audit to the registered person in accordance with the provisions of sub-section (6) of section 65 in FORM GST ADT-02</i>

1.3.3 Section 71 of CGST and SGST Acts, 2017 (Access to business premises).

“(1) Any officer under this Act, authorised by the proper officer not below the rank of Joint Commissioner, shall have access to any place of business of a registered person to inspect books of account, documents, computers, computer programmes, computer software whether installed in a computer or otherwise and such other things as he may require and which may be available at such place, for the purposes of carrying out any



EXHIBIT 2

audit, scrutiny, verification and checks as may be necessary to safeguard the interest of revenue.

(2) Every person in charge of place referred to in sub-section (1) shall, on demand, make available to the officer authorised under sub-section (1) or the audit party deputed by the proper officer or a cost accountant or chartered accountant nominated under section 66—

- (i) such records as prepared or maintained by the registered person and declared to the proper officer in such manner as may be prescribed;*
- (ii) trial balance or its equivalent;*
- (iii) statements of annual financial accounts, duly audited, wherever required;*
- (iv) cost audit report, if any, under section 148 of the Companies Act, 2013;*
- (v) the income-tax audit report, if any, under section 44AB of the Income Tax Act, 1961; and*
- (vi) any other relevant record,*

for the scrutiny by the officer or audit party or the chartered accountant or cost accountant within a period not exceeding fifteen working days from the day when such demand is made, or such further period as may be allowed by the said officer or the audit party or the chartered accountant or cost accountant.”

Such access to business premises includes apart from physical access, online access to the books of accounts/records of the taxpayer.

1.3.4 Section 72 of CGST and SGST Acts, 2017 (Officers to assist proper officers).

“(1) All officers of Police, Railways, Customs, and those officers engaged in the collection of land revenue, including village officers, officers of central tax

and officers of the Union territory tax shall assist the proper officers in the implementation of this Act.

(2) The Government may, by notification, empower and require any other class of officers to assist the proper officers in the implementation of this Act when called upon to do so by the Commissioner.

1.3.5 **Section 73 of CGST and SGST Acts, 2017** (Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any willful misstatement or suppression of facts).

“(1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised for any reason, other than the reason of fraud or any willful misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilized input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty leviable under the provisions of this Act or the rules made thereunder.



EXHIBIT 3

(2) The proper officer shall issue the notice under sub-section (1) at least three months prior to the time limit specified in sub-section (10) for issuance of order.

(3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or

utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.

(4) The service of such statement shall be deemed to be service of notice on such person under sub-section (1), subject to the condition that the grounds relied upon for such tax periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.

(5) The person chargeable with tax may, before service of notice under sub-section (1) or, as the case may be, the statement under sub-section (3), pay the amount of tax along with interest payable thereon under section 50 on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment.

(6) The proper officer, on receipt of such information, shall not serve any notice under sub-section (1) or, as the case may be, the statement under sub-section (3), in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder.

(7) Where the proper officer is of the opinion that the amount paid under subsection (5) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.

(8) Where any person chargeable with tax under sub-section (1) or sub-section (3) pays the said tax along with interest payable under section 50 within thirty days of issue of show cause notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded. (9) The proper officer shall, after considering the representation, if any, made by person chargeable with tax, determine the amount of tax, interest and a penalty equivalent to ten per cent. of tax or ten thousand rupees, whichever is higher, due from such person and issue an order. Officers to assist proper officers. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any willful misstatement or suppression of facts.

(10) The proper officer shall issue the order under sub-section (9) within three years from the due date for furnishing of annual return for the financial year to

which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund.

(11) Notwithstanding anything contained in sub-section (6) or sub-section (8), penalty under sub-section (9) shall be payable where any amount of self-assessed tax or any amount collected as tax has not been paid within a period of thirty days from the due date of payment of such tax.”

1.3.6 Section 74 of CGST and SGST Acts, 2017 (Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reasons of fraud or any wilful mis-statement or suppression of facts

“(1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised by reason of fraud, or any willful misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty equivalent to the tax specified in the notice.



EXHIBIT 4

(2) The proper officer shall issue the notice under sub-section (1) at least six months prior to the time limit specified in sub-section (10) for issuance of order.

(3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.

(4) The service of statement under sub-section (3) shall be deemed to be service of notice under sub-section (1) of section 73, subject to the condition that the grounds relied upon in the said statement, except the ground of fraud, or any willful-misstatement or suppression of facts to evade tax, for periods other than those covered under subsection (1) are the same as are mentioned in the earlier notice.

(5) The person chargeable with tax may, before service of notice under sub-section (1), pay the amount of tax along with interest payable under section 50 and a penalty equivalent to fifteen per cent. of such tax on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment.

(6) The proper officer, on receipt of such information, shall not serve any notice under sub-section (1), in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder.

(7) Where the proper officer is of the opinion that the amount paid under subsection (5) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.

(8) Where any person chargeable with tax under sub-section (1) pays the said tax along with interest payable under section 50 and a penalty equivalent to twenty-five per cent. of such tax within thirty days of issue of the notice, all proceedings in respect of the said notice shall be deemed to be concluded.

(9) The proper officer shall, after considering the representation, if any, made by the person chargeable with tax, determine the amount of tax, interest and penalty due from such person and issue an order.

(10) The proper officer shall issue the order under sub-section (9) within a period of five years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within five years from the date of erroneous

refund. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any willful misstatement or suppression of facts.

(11) Where any person served with an order issued under sub-section (9) pays the tax along with interest payable thereon under section 50 and a penalty equivalent to fifty per cent. of such tax within thirty days of communication of the order, all proceedings in respect of the said notice shall be deemed to be concluded.

Explanation 1.—For the purposes of section 73 and this section, —

- (i) the expression “all proceedings in respect of the said notice” shall not include proceedings under section 132;*
- (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, 125, 129 and 130 are deemed to be concluded.*

Explanation 2. – For the purposes of this Act, the expression “suppression” shall mean non-declaration of facts or information which a taxable person is required to declare in the return, statement, report or any other document furnished under this Act or the rules made thereunder, or failure to furnish any information on being asked for, in writing, by the proper officer.”

1.3.7 Section 75 of CGST and SGST Acts, 2017 (General provisions relating to determination of tax).

“(1) Where the service of notice or issuance of order is stayed by an order of a court or Appellate Tribunal, the period of such stay shall be excluded in computing the period specified in sub-sections (2) and (10) of section 73 or sub-sections (2) and (10) of section 74, as the case may be.

(2) Where any Appellate Authority or Appellate Tribunal or court concludes that the notice issued under sub-section (1) of section 74 is not sustainable for the reason that the charges of fraud or any willful misstatement or suppression of facts to evade tax has not been established against the person to whom the notice was issued, the proper officer shall determine the tax payable by such person, deeming as if the notice were issued under sub-section (1) of section 73.

- (3) Where any order is required to be issued in pursuance of the direction of the Appellate Authority or Appellate Tribunal or a court, such order shall be issued within two years from the date of communication of the said direction.
- (4) An opportunity of hearing shall be granted where a request is received in writing from the person chargeable with tax or penalty, or where any adverse decision is contemplated against such person.
- (5) The proper officer shall, if sufficient cause is shown by the person chargeable with tax, grant time to the said person and adjourn the hearing for reasons to be recorded in writing: Provided that no such adjournment shall be granted for more than three times to a person during the proceedings.
- (6) The proper officer, in his order, shall set out the relevant facts and the basis of his decision.
- (7) The amount of tax, interest and penalty demanded in the order shall not be in excess of the amount specified in the notice and no demand shall be confirmed on the grounds other than the grounds specified in the notice.
- (8) Where the Appellate Authority or Appellate Tribunal or court modifies the amount of tax determined by the proper officer, the amount of interest and penalty shall stand modified accordingly, taking into account the amount of tax so modified.
- (9) The interest on the tax short paid or not paid shall be payable whether or not specified in the order determining the tax liability.
- (10) The adjudication proceedings shall be deemed to be concluded, if the order is not issued within three years as provided for in sub-section (10) of section 73 or within five years as provided for in sub-section (10) of section 74.
- (11) An issue on which the Appellate Authority or the Appellate Tribunal or the High Court has given its decision which is prejudicial to the interest of revenue in some other proceedings and an appeal to the Appellate Tribunal or the High Court or the Supreme Court against such decision of the Appellate Authority or the Appellate Tribunal or the High Court is pending, the period spent between the date of the decision of the Appellate Authority and that of the Appellate Tribunal or the date of decision of the Appellate Tribunal and that of the High Court or the date of the decision of the High Court and that of the Supreme Court shall be excluded in computing the period referred

to in sub-section (10) of section 73 or sub-section (10) of section 74 where proceedings are initiated by way of issue of a show cause notice under the said sections.

(12) 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.



EXHIBIT 5

(13) Where any penalty is imposed under section 73 or section 74, no penalty for the same act or omission shall be imposed on the same person under any other provision of this Act.”

1.3.8 **Section 76 of CGST and SGST Acts, 2017** (Tax collected but not paid to the Government).

“(1) Notwithstanding anything to the contrary contained in any order or direction of any Appellate Authority or Appellate Tribunal or court or in any other provisions of this Act or the rules made thereunder or any other law for the time being in force, every person who has collected from any other person any amount as representing the tax under this Act, and has not paid the said amount to the Government, shall forthwith pay the said amount to the Government, irrespective of whether the supplies in respect of which such amount was collected are taxable or not.

(2) Where any amount is required to be paid to the Government under sub-section (1), and which has not been so paid, the proper officer may serve on the person liable to pay such amount a notice requiring him to show cause as to why the said amount as specified in the notice, should not be paid by him to the Government and why a penalty equivalent to the amount specified in the notice should not be imposed on him under the provisions of this Act.

(3) The proper officer shall, after considering the representation, if any, made by the person on whom the notice is served under sub-section (2), determine

the amount due from such person and thereupon such person shall pay the amount so determined.

(4) The person referred to in sub-section (1) shall in addition to paying the amount referred to in sub-section (1) or sub-section (3) also be liable to pay interest thereon at the rate specified under section 50 from the date such amount was collected by him to the date such amount is paid by him to the Government.



EXHIBIT 6

(5) An opportunity of hearing shall be granted where a request is received in writing from the person to whom the notice was issued to show cause.

(6) The proper officer shall issue an order within one year from the date of issue of the notice.

(7) Where the issuance of order is stayed by an order of the court or Appellate Tribunal, the period of such stay shall be excluded in computing the period of one year.

(8) The proper officer, in his order, shall set out the relevant facts and the basis of his decision.

(9) The amount paid to the Government under sub-section (1) or sub-section (3) shall be adjusted against the tax payable, if any, by the person in relation to the supplies referred to in sub-section (1).

(10) Where any surplus is left after the adjustment under sub-section (9), the amount of such surplus shall either be credited to the Fund or refunded to the person who has borne the incidence of such amount.

(11) The person who has borne the incidence of the amount, may apply for the refund of the same in accordance with the provisions of section 54.

1.3.9 Section 77 of CGST and SGST Acts, 2017 (Tax wrongfully collected and paid to the Central Government or State Government).

A registered person who has paid the central tax and State tax on a transaction considered by him to be an intra-State supply, but which is subsequently held to be an inter-State supply, shall be refunded the amount of taxes so paid in such manner and subject to such conditions as may be prescribed.



EXHIBIT 7

(2) A registered person who has paid integrated tax on a transaction considered by him to be an inter-State supply, but which is subsequently held to be an intra-State supply, shall not be required to pay any interest on the amount of State tax payable.

1.3.10 Section 78 of CGST and SGST Acts, 2017 (Initiation of recovery proceedings).

“Any amount payable by a taxable person in pursuance of an order passed under this Act shall be paid by such person within a period of three months from the date of service of such order failing which recovery proceedings shall be initiated:



EXHIBIT 8

Provided that where the proper officer considers it expedient in the interest of revenue, he may, for reasons to be recorded in writing, require the said taxable person to make such payment within such period less than a period of three months as may be specified by him.”

1.3.11 Section 47 of CGST and SGST Acts, 2017 (Levy of late fee).

“(1) Any registered person who fails to furnish the details of outward or inward supplies required under section 37 or section 38 or returns required under section 39 or section 45 by the due date shall pay a late fee of one hundred

rupees for every day during which such failure continues subject to a maximum amount of five thousand rupees.

(2) Any registered person who fails to furnish the return required under section 44 by the due date shall be liable to pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum of an amount calculated at a quarter per cent. of his turnover in the State.”

1.3.12 **Section 50 of CGST and SGST Acts, 2017** (Interest on delayed payment of tax).

“(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. [Proviso inserted on 01.09.2020 w-e-f 01.07.2017]

(2) The interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid.”

(3) Where the input tax credit has been wrongly availed and utilised, the registered person shall pay interest on such input tax credit wrongly availed and utilised, at such rate not exceeding twenty-four per cent. as may be notified by the Government, on the recommendations of the Council, and the interest shall be calculated, in such manner as may be prescribed.”

[Sub-sec (3) has been amended retrospectively as above as per the Finance Act, 2022].

1.3.13 **Section 122 of CGST and SGST Acts, 2017.**

“Section 122. (1) Where a taxable person who—

- (i) supplies any goods or services or both without issue of any invoice or issues an incorrect or false invoice with regard to any such supply;*
- (ii) issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act or the rules made thereunder;*
- (iii) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;*
- (iv) collects any tax in contravention of the provisions of this Act but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;*
- (v) fails to deduct the tax in accordance with the provisions of sub-section (1) of section 51, or deducts an amount which is less than the amount required to be deducted under the said sub-section, or where he fails to pay to the Government under sub-section (2) thereof, the amount deducted as tax;*
- (vi) fails to collect tax in accordance with the provisions of sub-section (1) of section 52, or collects an amount which is less than the amount required to be collected under the said sub-section or where he fails to pay to the Government the amount collected as tax under sub-section (3) of section 52;*
- (vii) takes or utilises input tax credit without actual receipt of goods or services or both either fully or partially, in contravention of the provisions of this Act or the rules made thereunder;*
- (viii) fraudulently obtains refund of tax under this Act;*
- (ix) takes or distributes input tax credit in contravention of section 20, or the rules made thereunder;*
- (x) falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information or return with an intention to evade payment of tax due under this Act;*
- (xi) is liable to be registered under this Act but fails to obtain registration;*
- (xii) furnishes any false information with regard to registration particulars, either at the time of applying for registration, or subsequently;*
- (xiii) obstructs or prevents any officer in discharge of his duties under this Act;*
- (xiv) transports any taxable goods without the cover of documents as may be specified in this behalf;*
- (xv) suppresses his turnover leading to evasion of tax under this Act;*
- (xvi) fails to keep, maintain or retain books of account and other documents in accordance with the provisions of this Act or the rules made thereunder;*
- (xvii) fails to furnish information or documents called for by an officer in accordance with the provisions of this Act or the rules made thereunder or furnishes false information or documents during any proceedings under this Act;**

(xviii) supplies, transports or stores any goods which he has reasons to believe are liable to confiscation under this Act;

(xix) issues any invoice or document by using the registration number of another registered person;

(xx) tampers with, or destroys any material evidence or document;

(xxi) disposes off or tampers with any goods that have been detained, seized, or attached under this Act,

he shall be liable to pay a penalty of ten thousand rupees or an amount equivalent to the tax evaded or the tax not deducted under section 51 or short deducted or deducted but not paid to the Government or tax not collected under section 52 or short collected or collected but not paid to the Government or input tax credit availed of or passed on or distributed irregularly, or the refund claimed fraudulently, whichever is higher.

(2) Any registered person who supplies any goods or services or both on which any tax has not been paid or short-paid or erroneously refunded, or where the input tax credit has been wrongly availed or utilised,—

(a) for any reason, other than the reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty of ten thousand rupees or ten per cent. of the tax due from such person, whichever is higher;

(b) for reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty equal to ten thousand rupees or the tax due from such person, whichever is higher.

(3) Any person who—

(a) aids or abets any of the offences specified in clauses (i) to (xxi) of sub-section (1);

(b) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder;

(c) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder;

(d) fails to appear before the officer of central tax, when issued with a summon for appearance to give evidence or produce a document in an inquiry;

(e) fails to issue invoice in accordance with the provisions of this Act or the rules made thereunder or fails to account for an invoice in his books of account, shall be liable to a penalty which may extend to twenty-five thousand rupees.

1.3.14 Section 125 of CGST and SGST Acts, 2017 (General penalty).

“Any person, who contravenes any of the provisions of this Act or any rules made thereunder for which no penalty is separately provided for in this Act, shall be liable to a penalty which may extend to twenty five thousand rupees.”

1.3.15 In addition to the provisions above, auditors must bear certain other provisions in mind. These are summarized below:-

Sec	Section Heading	Rules	Remarks
7 & 8	Supply, Composite and mixed supply		Schedule I, II and III
12	Time of Supply of Goods		Advance payment has been delinked from time of supply in case of supply of goods.
13	Time of Supply of Service		Notification no.06/2019 – CT(R) in respect of time of supply of services in respect of any TDR/FSI received by a promoter.
14	Time in case of change in rate of tax.		
15	Value of Taxable Supply	27 to 35	Determination of Value of Supply
16,17,18,19 & 20	Input Tax Credit	36 to 45	Rules related to ITC and ISD
31	Tax Invoice	46 to 55A	Tax Invoice, Credit and Debit Notes
34	Credit & Debit Notes		
35	Accounts and other records	56 to 58	Accounts and Records

37 to 39	Statements and Returns	59 & 61	
44	Annual Return	80	Annual return and Reconciliation Statement (GSTR 9, 9A, 9B, 9C)
49	Payment of tax, interest, penalty and other amounts.	85 to 88A	Payment of Tax
54	Refund of tax	89 to 97A & updated Circulars	Master Circular no. 125/44/2019-GST dt.18.11.2019 & 135/05/2020-GST dt.31.3.2020
71	Access to business premises		
73 & 74	Determination of tax not paid or short paid	Rule 142	Demand & Recovery
76	Tax collected but not paid to the Government		

1.3.16 Further, the authority conducting the audit may invoke such other provisions of the Act and the Rules framed thereunder as may be deemed necessary, in the facts and circumstances of the case, for conducting the audit.

1.4 An Audit Officer should always check the amended provisions of the Act and Rules made there under and apply provisions applicable for the period under audit.

CHAPTER 2

This chapter covers intended audience, purpose of the manual, aims and objectives of audit, principles of audit, dealing with the auditee, rights and obligations of the auditee, and pre-requisites of an audit officer.

2.1 Intended Audience

Every document, especially one such as this, is intended for an audience. The Model GSTAM is intended to benefit GST Audit authorities, supervisory officers, audit team leaders, and individual auditors.

This Manual should be used in conjunction with statutory provisions, other Standard Operating Procedures of respective GST administrations, circulars, notifications, and relevant case law.

2.2 Purpose of this Manual

The All-India Model GST Audit Manual is intended to be a comprehensive document which would be helpful for the audit teams of the Centre and the States/UTs throughout the entire process of selection of taxpayers for audit till the completion of audit in an efficient and effective manner.



EXHIBIT 9

Audit in GST should verify the correctness of the facts and figures declared in the returns vis-a-vis books of accounts and returns filed by the taxpayers. Self-assessed declarations may contain hidden deviations. These deviations may be the result of omission, error, or deliberate action by a taxpayer. The Manual aims to play an important role in detection of non-compliances, if any, in the self-assessed declarations. However, such deviations may also be mere technical in nature without having any real revenue impact. The approach to be adopted in such cases would also be dealt with in this manual. This manual discusses methods,- (i) of looking into the aspects that demand meticulous attention, (ii) for preparation of an effective pre-audit desk review before the audit actually commences and (iii) for conducting a quality audit under GST that would not only monitor compliance of the taxpayers but would also successfully achieve the goal of revenue augmentation. The manual also suggests the need for an appropriate organizational structure so that audit officers can place their findings before an appropriate higher authority. This would help the audit officer in preparing a proper audit plan and conducting audit as per the plan. The Commissioner and other supervisory officers would also be updated with the progress of audits through an institutional arrangement enabling transparency, accountability, and organizational learning.

The approach towards a particular auditee may vary depending upon the study of that Auditee. The main objective here is to identify the areas where non-compliance or wrong interpretation of the law may have occurred resulting in less payment or non-payment of taxes, interest, late fees, etc. Identification of such areas will prevent the auditee from continuing with such deviations which result in erroneous declaration of self-assessed liability.

2.3 Aims and objectives of Audit

Audit in GST should intend to evaluate the credibility of self-assessed tax liability of a taxpayer based on the twin test of accuracy of their declarations and the accounts maintained by the taxpayer. Thus, Audit in GST should have the following objectives:

- Measurement of compliance levels with reference to compliance strategy of the tax administration.
- Detection of non-compliance and revenue realization

- Prevention of non-compliance in the future.
- Discovering areas of non-compliance to prevent taxpayers from continuing with such deviations from expected compliance behaviour that results in erroneous declaration of self-assessed liability.
- Providing inputs for corrections in/amendments to the legal framework which are being exploited by taxpayers to avoid paying taxes.
- Encouraging voluntary compliance.
- Any other goals deemed worth pursuing by the GST administration.

2.4 Principles of audit

An important objective of GST audit is to measure the level of compliance of the auditee in the light of the provisions of the GST Act(s) and the rules made thereunder. Audit should be consistent with Notifications / Circulars / Orders issued from time to time.

GST audit should be teamwork where the Audit officer (Team Leader) leads and conducts the audit and prepares the audit report with the assistance of team members. This entire work process would involve a series of activities including pre-audit desk review to identify high-risk areas, preparation of a sound audit plan, approval / sanction of the audit plan by an appropriate higher authority, conducting audit within specified time limits and other performance parameters and ensuring consistently high audit standards.

The following principles should guide the audit process:-

1. Adherence to risk factors developed through a targeting strategy with the approval of the Commissioner/other appropriate authority.

2. Consistency with Departmental Circulars and using professional methodology.

3. Chalk out a sound pre-audit plan/audit program and conduct the audit accordingly.

4. Emphasize a systematic, flexible and penetrative audit.

5. Regular review of the audit plan and progress and modification of the audit program whenever necessary.

6. Concentrate on scrutiny of returns and records, the degree of which will depend on the identified risk areas.

7. Identify the veracity of turnover declared, taxes paid, refund claimed and received, input tax credit (ITC)availed, assessment of compliances as per the provisions of the GST Act(s) and the Rules made thereunder with particular focus on the aspects/transactions/activities of the taxpayer which led to his being selected for audit.

8. Record the proceedings of audit and findings thereof.

9. Provide a fair opportunity to the auditee to be heard and to submit their contention.

10. Carry out audit while adhering to high standards of professional conduct.

11. Implement a feedback mechanism with the objective of measuring the taxpayer's experience of audit and for validation of targeting parameters.



EXHIBIT 10

2.5 Dealing with the auditee

The main objective of the audit is to quantify shortfall of revenue in a cost effective and transparent manner. The attitude of the officer conducting the audit should reflect this. Audit officers should be aware that they are the main channel of communication between the department and the auditee.



EXHIBIT 11

The officer conducting audit should maintain a good professional relationship with the auditee. She/ He should recognize the rights of the auditees, such as uniform and transparent application of law and their right to be treated with courtesy and consideration. The audit officer should explain that a tax compliant auditee may reap a number of benefits from an audit, such as: -

1. They will be better equipped to comply with the laws and the relevant procedures.
2. The preparation of prescribed returns and self-assessment of Goods and Services Tax will be better focused, correct and complete.
3. The scrutiny of business accounts and returns submitted to various authorities, made in the course of an audit would help in removing any deficiency in their accounting and internal control systems.
4. Disputes and proceedings against them would be substantially reduced or even eliminated.

2.6 Rights and Obligations of the auditee

Tax administrations should consider implementing a Charter of rights and duties of taxpayers with regard to audit and publishing the same through measures of taxpayer engagement. Ideally, these should be aligned with the service delivery standards of the GST Administration.



EXHIBIT 12

During the course of audit, the authorised officer may ask the registered person to provide him/her necessary facility to verify the books of account or other documents as he/she may require, and to furnish such information as he/she may require and render assistance for timely completion of audit. **[Sec 65(5)]**.

2.7 Pre-requisites of an audit officer

An audit officer, acting in close coordination with other members of his/her team and supervisory officers, is the lynchpin of an effective audit and should be equipped with a number of skills and relevant knowledge. These are summarized below. An audit officer should be able to answer the questions pertinent to a particular area of legal, technical, and interpersonal skill and knowledge. A list of competencies and an illustrative list of questions is given below:-

	Area of Competence (Skill-set/ Knowledge)	Illustrative Questions
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1	Have a well-drafted pre-plan for identifying areas of concern.	<ul style="list-style-type: none"> • What to examine? • How to examine?
2	Be well aware of the procedural aspects.	<ul style="list-style-type: none"> • Is the Officer well aware of the online/offline Audit modules? • Is the Officer aware of the departmental guidelines? • Have all the points noted in the audit plan been covered? • Is the officer aware of the workflow and documentation/ recording system followed by the auditee?
3	Possess legal knowledge of legal provisions, changes in law, notifications, circulars, relevant case law, rates.	<ul style="list-style-type: none"> • Is the officer well aware of the legal provisions and changes thereto? • Is there any specific guideline in any circular? • Are there any court judgements that are applicable?
4	Possess knowledge of the industry / sector in which the taxpayer is active.	<ul style="list-style-type: none"> • Does the officer have a primary knowledge about the business pattern of the auditee with respect to the auditee's particular trade & industry? • Is the audit officer aware of the existing trade practices, conventions, and market trends? • Section 133 of the Companies Act, 2013 read with Rule 7 of the Companies (Accounts) Rules, 2014 provides that the Final Accounts should comply with the Accounting Standards. Does the audit officer possess the knowledge of the prevalent Indian Accounting Standards?
5	Be able to compute dues.	<ul style="list-style-type: none"> • If the auditee is willing to deposit the dues, what to do? • If the auditee is not willing to deposit the dues in accordance with the audit report, what are the next steps?
6	Skills for taxpayer engagement	<ul style="list-style-type: none"> • Is the audit officer unbiased and judicious in the course of audit? • Is he/she tactful to gain the goodwill and confidence of the auditee and act as a motivator and a facilitator who ensures voluntary compliance? • Does the auditor record technical lapses by the auditee which do not have any revenue implication, and have occurred due to oversight or ignorance, and ignore them on merit? Does the auditor discuss these with the auditee to improve the quality of compliance and make internal controls more robust? • Does the auditor apprise the auditee of the provisions of the GST Act, Rules, and relevant notifications, circulars, and court decisions to encourage the taxpayer to make voluntary payment in the course of audit? • Is the auditor transparent and discuss any

	<p>discrepancies found in the course of audit with the auditee?</p> <ul style="list-style-type: none"> • Does the auditor give auditee an opportunity for filing his/her explanation in respect of such discrepancies as intimated by the auditor and consider all the explanations and documents provided by the auditee regarding the points of dispute before drawing the Final Audit Report? • Does the auditor consult his/her immediate functional head to resolve any issue in the course of the audit? • Does the auditor inform his/her immediate supervisory officer of any lack of co-operation or deliberate failure to provide information and records by the auditee and follow it up with a written report? • Does the auditor preserve all the important documents submitted by the auditee in the course of audit which are relevant to findings as office records, preferably in electronic format? • Does the auditor maintain confidentiality in respect of sensitive and confidential information furnished in the course of audit?
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Some important areas in which an auditor should check levels of compliance of the auditee are given in Exhibit – 13 below:

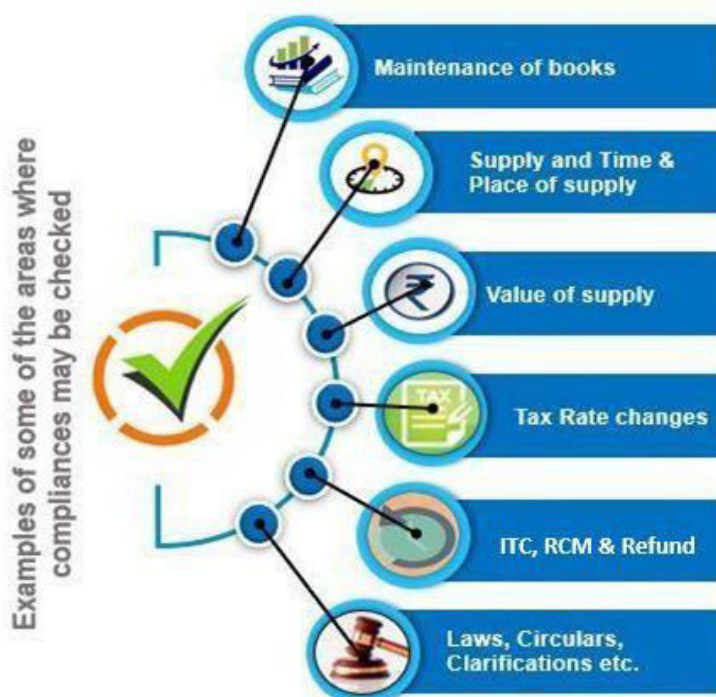





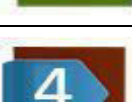


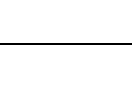
EXHIBIT 13





An attempt has been made to address the aforesaid issues in this Manual. While this Manual seeks to propose principles and procedures for audit, GST administrations have to ensure that skilled auditors are trained and deployed in adequate numbers to meet organisational requirements.

CHAPTER 3

This Chapter covers the audit flowchart, different steps of audit, selection of taxpayers for audit, team formation and assignment and allocation audit to audit teams. This chapter also contains the gist of the proposal submitted by the sub-committee “on using the capability of Data Analytic developed by DGARM for identification of State Taxpayers for Audit”.

3.1 While GST Audit is a highly skilled exercise, it can also be conceived as a logical workflow of steps. These are summarised in the audit flow-chart below. Each of the steps is elaborated in the subsequent sections.

	Audit Selection: RTP for audit for a financial year or part or multiple thereof may be selected by Commissioner / appropriate authority based on targeting parameters /local factors developed in-house.
	Allotment of selected RTP: The selected RTPs may be distributed to the respective jurisdictional officer. Allocation should be consistent with audit norms (no. of days to audit a RTP, size of each RTP audit capacity, etc.).
	Issuance of notice for audit: The audit officer should issue FORM GST ADT - 01 fixing the date of audit. A Master File should be maintained in respect of each auditee, which should be updated before the commencement of audit.
	Pre-audit desk review: Basic ground work to chalk out the lines along which a particular audit will progress as well as to identify areas where audit attention should be concentrated for maximum yield.
	Preparation and approval of audit plan: Based on desk review, the audit team should prepare an audit plan and place it before the proper higher authority for approval. Any necessary modification may be done by the higher authority if required.
	Commencement of audit: The date on which the records /documents are made available by the registered person or the actual institution of audit at the place of business constitute commencement of audit. Prior identification of the sources of relevant data would lighten the burden of compliance on the auditee. Every GST Administration should consider publishing a white list of documents already available with the department which should not be called for from the taxpayers. This list can be shared with the auditee to emphasise the collaborative and facilitatory nature of audit
	Examination: In-depth checking of the records /documents/ books made available by the registered person during audit. “Original copies of documents like invoices, etc. may be called for only if deemed vital for being examined/subjected to close scrutiny by the audit team”.

	<p>Communication of discrepancies found: The observations made upon audit are to be communicated to the auditee in writing. The auditee should be allowed due opportunity for filing his explanation in respect of discrepancies intimated by the department.</p>
	<p>Preparation and approval of Draft Audit Report (DAR): Drawing up a DAR containing the observations made in the course of audit after considering explanations & documents provided by the auditee in respect of such discrepancies and approval of the same by the appropriate higher authority. A mechanism like Monitoring Committee Meeting should be established to decide each audit para.</p>
	<p>Preparation of Final Audit Report: After approval, a final report is to be drawn up and issued to the auditee.</p>
	<p>Audit consequences: i. Closure of audit (in case the observations are admitted by the RTP and the amount short paid as indicated is paid) or ii. initiation of demand and recovery proceedings by issuance of show cause notice u/s. 73/74. A mechanism should be implemented to ensure that show cause notices are issued within the specified time limit</p>

3.2 Different Steps of audit

3.2.1 Selection for audit

Statutory provisions: As per the provisions of section 65(1) of the Act read with rule 101(1) of the Rules (p.14), the Commissioner or any officer authorised by him, by way of a general or a specific order, may undertake audit of any registered person for a financial year or part thereof or multiples thereof. The Commissioner by a general or specific order may select any registered person for audit of his books of accounts for a specific period.

Importance of risk-based selection: The principle of risk-based audit envisages selection of taxpayers for audit based on certain risk parameters. Ascertaining the risk profile of the auditees based on a scientific approach is vital for selection of audit. Audit selection is a dynamic process where the experience of audit in each year plays a vital role in modifying the selection criteria. Some aspects of such risk profile assessment are discussed in this section.

Selection criteria for risk-based selection of auditees: are developed in response to a certain compliance environment and aggregate compliance

behaviour, as well as yield of past selection criteria. Hence, no selection criteria can be set in stone.

However, certain representative selection criteria as well as certain broad areas from which selection criteria can be chosen are briefly discussed below:

Selection based on Risk Parameters: The list of potential high risk taxpayers may be prepared by selecting one or multiple criteria under different major risk heads from the available options, viz. :

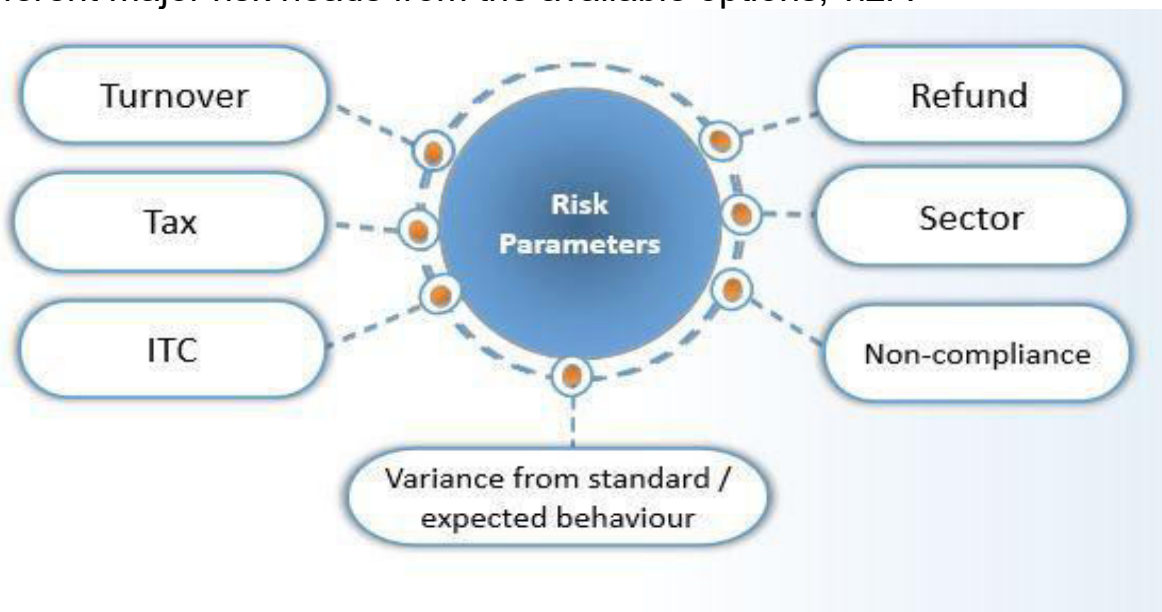


EXHIBIT-14

Specific benchmarks may be fixed against the risk criteria for each of the major heads. Some major heads are discussed below:-

- **Entity level risks** (e.g. Turnover, Tax, ITC, Refund, Commodity such as Iron & Steel, Paints & Chemicals, Textiles, Cement, Medicine, Footwear, Branded food grain, Automobiles etc., Service: Works contract, Real Estate, Information Technology, Consultancy service, Manpower service, Hospitality, Travel & Tourism, Leasing etc.).
- **Risks associated with compliance behaviour** (e.g. late filer of return, non-submission of Form GSTR-1, Form GSTR-3B, Form GSTR-9 & Form GSTR-9C).
- **Various ratios**, e.g.
 - Taxable turnover: Exempted turnover

- Export/SEZ turnover/ total turnover (except in case of export houses)
- Output tax : Input tax
- Cash payment: Output tax
- Set-of using e-credit ledger : Set-of using e-cash ledger
- Inter-state supply: Intra-state supply etc.
- **Exceptional Reports e.g.**
 - ITC claimed in Form GSTR-3B vs. ITC auto-populated in Form GSTR-2A/GSTR-2B
 - Turnover declared in Form GSTR-3B vis-à-vis Form GSTR-1
 - claim of ITC from cancelled RTPs, aggregate turnover in GST return vis-à-vis Turnover disclosed in Income Tax return
 - Turnover declared by RTP in Form GSTR-3B compared to turnover on which TDS deducted as reflected in Form GSTR-7 submitted by TDS deductor
 - Turnover declared by RTP in Form GSTR-3B compared to turnover on which TCS collected as reflected in Form GSTR-8 submitted by TCS collector
 - Turnover declared by RTP in Form GSTR-3B compared to minimum turnover expected on the basis of e-way bills generated in respect of the said RTP
 - Refund-claim against purchase from taxpayer having no auto-population of ITC in Form GSTR-2A
 - purchases from non-existent RTPs
 - RTPs having adverse reports in VAT/Service Tax/Central Excise who are operative in GST etc.)

Some of the steps and broad principles that may be followed for selection are given below:-

- A. Taxpayers under the State/Central jurisdiction, i.e. the taxpayers who are required to file Form GSTR- 3B and Form GSTR-1, may be selected by the respective Commissioner.
- B. Those tax-payers who have filed at least such a minimum number of returns as the administration would decide, in the financial year or those who have been granted a refund beyond a certain amount may be selected.
- C. The taxpayers' pool may be divided into 3 segments namely Large, Medium & Small based on turnover, or on some other logical criterion.
- D. All risk parameters are required to be identified and all probable aspects need to be considered to identify non-compliance and non-payment / short payment of tax, interest, late fee, penalty etc. and evasion of tax.
- E. To select taxpayers for audit in an effective manner, secondary data sources (such as VAT/Service Tax/Central Excise/Custom data, Income Tax data etc.) may be also considered and referred to along with the primary data sources (i.e. GST data).
- F. The weightage of each parameter may vary depending upon its importance in selection of taxpayers for audit as well as effectiveness of risk parameters chosen in the preceding Financial Year (s).
- G. Based on the average weight considering all the parameters, a final score may be calculated on the basis of which the final selection may be done.
- H. The final selection of taxpayers to be audited may be done based on the descending order of the final score thus calculated. In case, more than one RTP has the same final score, the parameter of declared liability may then be considered and a taxpayer with more declared liability may be selected first.
- I. A Selection Committee may be constituted to identify various risk parameters for selection for audit, considering all the aspects where there are chances of lack of compliance with the Act resulting in short payment of tax etc. such as:

J. The final score may be calculated based on the data for each financial year and the parameters as well as the weightage adopted may undergo necessary modifications if required.

K. In case the RTP selected for audit has multiple registrations under the same PAN / TAN in the State, it is suggested that all such registration numbers may be selected for audit.

L. A certain percentage of the selection of the taxpayers may be done on a random basis. The percentage may be fixed by an audit administration based on their audit strategy. Random samples can serve as useful controls and uncover latent compliance issues.

M. A certain percentage of taxpayers can also be selected for audit based on local parameters such as intelligence inputs, past compliance behaviour, etc.

N. Suo-motu selection: If an officer comes across any specific information relating to a RTP and has specific reasons to believe that Audit of the said RTP's books of accounts is required to be done for one or more financial years, or, if any audit officer in the course of audit has specific reasons to believe that an observation made upon audit will have revenue impacts in other periods also, he/she may send a proposal in this regard to the Commissioner/appropriate authority. Similarly, an audit officer or his/her higher authority can propose an audit of a taxpayer for adequate reasons which are recorded in writing. The Commissioner/appropriate authority upon consideration of all such proposals may select some/all of such RTPs for audit. GSTN has developed a module to facilitate such proposals for suo motu selection of any taxpayer for audit.

3.2.2 Administrative / procedural arrangements for risk-based selection of auditees:

The practice for risk-based selection varies between the Centre and the States. Any GST Administration which intends to implement risk-based selection of RTPs for audit has multiple options before them.

- In States, the Commissioner may fix the criteria of selection based on certain parameters as the Commissioner deems fit.

- In CGST, the Central Board of Indirect Taxes and Customs has mentioned in their GST Audit Manual that the selection of registered persons for them would be done based on the risk evaluation method prescribed by the Directorate General of Audit (DGA) in consultation with the Directorate General of Analytics and Risk Management (DGARM). The risk evaluation method as well as RTPs selected for audit is separately communicated to the Audit Commissionerates during the month of January/February of every year. The risk assessment function is jointly handled by the Directorate General of Audit and the Risk Management section of the GST Audit Commissionerates, as the latter are also at liberty to select a certain percentage of RTPs for audit based on local risk parameters.
- Any State GST administration can also request the DGARM for selection of taxpayers for the State for audit u/s.65 by using expertise of the DGARM. A State GST administration can also request the DGARM to share the targeting criteria with them.
- GSTN has also provided a targeting methodology based on assigning risk weight to different taxpayers as per their past compliance behaviour and other thresholds. State GST administrations may also refer to the same if they so wish.
- Certain State GST Administrations, such as Karnataka, have developed methodologies for targeting RTPs for audit. Their expertise is also available to other GST administrations upon request.

3.2.3 Allotment of selected RTP

Statutory provisions: It may be recalled that per provisions of sec 65(1) of the Act read with rule 101(1) of the Rules, any officer who is authorized by the Commissioner has the power to conduct an audit (P.14)

Decision not to audit: If the audit administration feels that an audit of a particular taxpayer need not be carried out, the case can be dropped. In order to drop an audit case, proper and adequate reasons are required to be given along with documents the reasons for dropping the same.

Allocation of auditees:

After audit selection, the list of selected RTPs may be made available to the jurisdictional proper officers through the functional hierarchy. The practice varies between state and central GST administrations.

State GST: In the State GST administrations, selected cases are allocated to the Zonal level audit head. The system provides facility to the Commissioner i.e. the HQ level to allocate Taxpayers of a particular Zone to that Zonal level Head. In the case of already allocated Taxpayer(s), if the HQ officer wants to modify the Zonal officer, he/she may do so after recording reasons for such change.

Central GST: In CGST, Audit Commissioners allocate taxpayers selected for audit (by the list developed by DGARM and DG (Audit) and a list based on local risk parameters) to audit circles and circle in-charges further allocate auditees to audit groups. The Audit Module developed by the CBIC allows allocation of auditees across the entire functional hierarchy.

Audit modules: The Audit Modules provide a way to leverage IT for better audit planning, conduct of audit and audit monitoring. Audit Modules developed by the CBIC permit assignment of auditees. A module developed by GSTN also permits assignment of auditees to Audit Officers. Some States have also automated this function in their respective Audit Modules.

3.2.4 Assignment & team formation for audit:

1. After allocation, the next step is to assign the selected taxpayer to the officers of the Audit Team, who will finally carry out the audit. Normally, such assignment and team formation will be done by the Zonal officer. However, the same functionality has also been provided to the HQ Officer. So, the HQ Officer, if he/she desires, can also assign the Audit Team Lead and Audit Team Members on his/her own.
2. The allocating officer can fetch a list of allocated taxpayers which are pending for assignment. The allocation process involves the following steps:-
 - A. **Assign Audit Team Lead** – The HQ/Zonal Officer, while assigning a Taxpayer for Audit to a particular ‘Team lead’ can view the existing assignments i.e. number of audit cases assigned to that particular officer. This will help him to assign taxpayers keeping in view the existing workload on an audit officer and thereby maintain uniformity in work load on the audit officers in his/her jurisdiction. At any stage, if a need for change of Team

Lead arises, the same can be done through the system by reassigning such role to another officer in the jurisdiction.

B. Assign Audit Team Members – After assigning the Team Lead, the HQ/Zonal officer can go for assigning the Team Members. The names of the available officers along with their designation and existing work allocation can be viewed on the system and maintaining uniformity in work allocation, Team members can also be assigned. If needed, Team Members can also be changed with other available officers.

The RTPs relating to a particular jurisdiction on being selected for Audit may be allotted by the jurisdictional head to next junior level Officers having functional role of Audit and/or Adjudication in that particular jurisdiction (in some jurisdictions the audit officer may not have adjudicating authority). In the CBIC Audit Module, this step has been automated.

Chapter 4

This Chapter covers preparatory activities prior to audit, starting with seeking information from the auditee, audit planning and preparation, including Desk Review, and formulation of Audit Plan.

4.1 Seeking information:

Maintaining a Master File of the RTP:

The Department may maintain certain information relating to the selected RTP in the format named as “**Tax payer at a Glance (TAG)**” or a **Registered Person Master File (RPMF)**.

This TAG contains the basic profiling of the selected RTP in respect of registration, returns, ITC, payment of tax, and any other pertinent information (e.g. exceptional reports). The officer can also examine GSTR 9 & GSTR 9C and Balance Sheet, if available.

An updated Master File will minimise the information that the audit officer seeks from the taxpayer, increasing the ease of audit for auditor and taxpayer alike.



EXHIBIT 15

4.2 Issuance of Notice in FORM GST ADT-01:

Once the file is allotted to a particular Audit officer/Audit Team, a notice for conducting the audit is to be issued to the auditee in FORM GST ADT-01. The format of GST ADT-01 is provided in this manual as **Annexure – 1 (p.97)**. Intimation of audit (i.e. ADT-01) is to be issued to the taxable person at least 15 working days in advance prior to the conduct of audit. [Sec 65(3), Rule 101(2)]. Form GST ADT–01 preferably should be issued within five (05) working days of allotment of files to an audit team or audit officer.

It has been observed that asking for all the books of accounts and records from an auditee with a large volume of business on the very first day of audit causes inconvenience for both the auditee and the auditor. It is difficult and impractical for an audit officer to examine all the documents with equal importance on one single occasion.

As a result, it would be prudent to ask a RTP to keep all his Books of Accounts and records ready to be made available for examination during the course of audit and to produce those in a staggered manner as decided by the audit officer. For example, the Audit Officer may ask for the first set of documents on the first day of hearing which is required for a thorough study of the annual business performances of the RTP, by issuing a separate letter along with the FORM GST ADT-01. This will help the Audit officer to chalk out an effective audit plan.

While directing furnishing of accounts/books/documents, the team/officer should also factor in the risk factor/s leading to the selection of the particular RTP and focus more on such aspects as may have contributed to the particular risk profile associated with that particular taxpayer. For instance, if it is found that a particular taxpayer got selected primarily on account of a very low cash pay-out, the audit team should focus more on the credit claims, the origin of such credit claims, the documentation, the authenticity of the vendors of the selected taxpayer, the break-up of categories of supplies on which credit has been claimed, the value addition profile, the inventory position, etc. Accordingly, the demand for records/documents/accounts should appropriately reflect this.

However, in cases, where the volume of business is not significant, the relevant documents and records may be asked to be produced on the first day of hearing as scheduled in FORM GST ADT-01.

Furthermore, the Audit Officer may send –

- a letter seeking mutual assistance to complete the audit in a focused manner **(A sample of the letter is given in Annexure -2 (p.98))**
- a questionnaire to the RTP for providing information required for audit **(A sample of the same is given in Annexure -3 (p.100))**
- a list of documents / statements and books of accounts to be produced for the purpose of audit. **(A sample of the list is given in Annexure -4 (p.104)).**

This questionnaire will help both the auditee and auditor to complete the audit process in a focused and planned manner. The questionnaire should incorporate queries relating to assessment of the business process of the auditee, the documentation process, the scheme of recording of documents in the accounts, and most important, the internal control put into place by the auditee. These questions should help the auditor to assess the overall soundness of the accounting system followed by the auditee, the areas of weakness which could indicate the nature of transactions which should be subjected to a deeper examination by the audit team.

It is needless to say that the questionnaire will change according to the need of the concerned case. The questionnaire should be issued as attachment with FORM GST ADT - 01.

On production of such documents and records by the RTP on the first date of audit as per FORM GST ADT-01, audit will commence and the Audit officer will start chalking out the audit plan.

The remaining books of accounts, ledgers, statements, documents, records, etc. may be asked from time to time on the basis of the audit plan in the respective case. A letter may be attached/uploaded with the FORM GST ADT – 01 along with the questionnaire.

Observance of the following principles is suggested while seeking information from the auditees.

- Avoid making repeated requests for information.
- Obtain as much information as possible from the data sources available in the system.
- Seek information only with respect to areas of audit's interest.
- Develop a white list of documents, to be shared with the taxpayers that would not be sought for from the taxpayers.
- Avoid asking for original copies of invoices/debit-credit/notes, as far as possible; further, ALL/complete set of all invoices issued/received may also not be insisted on, particularly in large taxpayers
- Documents and transactions should be scanned/examined thoroughly on the basis of sampling and the sample should be drawn based on a careful consideration of the implicit risk areas/revenue implication.

4.3 Pre-audit desk review

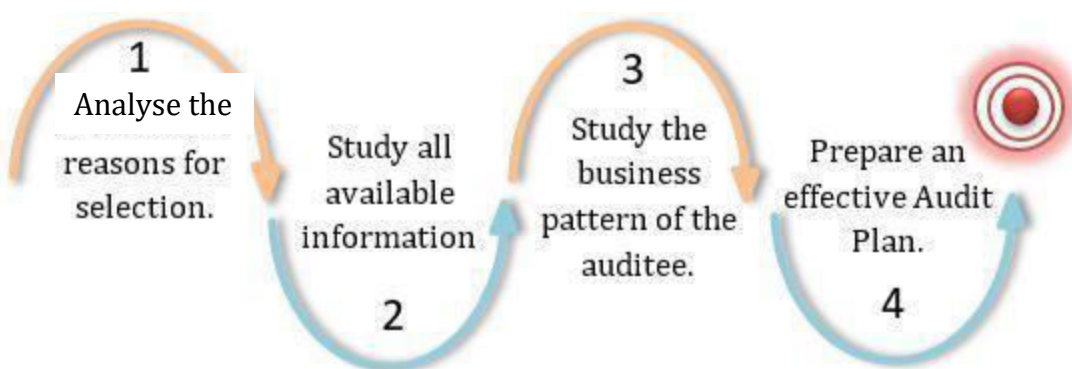
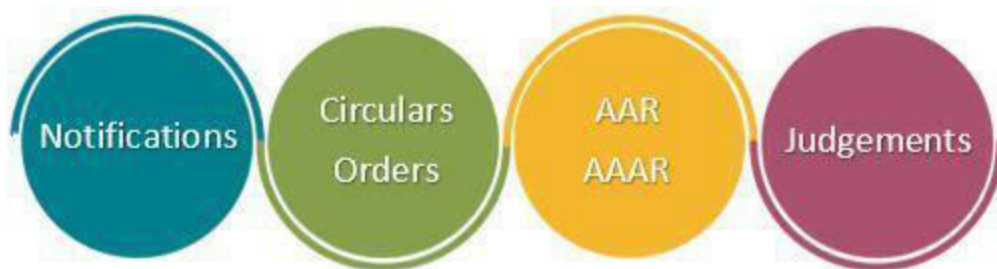


EXHIBIT-16

This is the first phase of the audit programme done in the office by the audit officer. This process needs to be completed by the Audit Officer before the first date of appearance of the auditee as per FORM GST ADT-01. The idea behind this process is that the Audit Officer would get accustomed with the nature of business of the auditee vis-a-vis information available with her/him.



Upon studying this information, the audit team and its members should have clarity about the following: -

- **Reason(s) for selection.**
- **Profile of the auditee** with details of ownership, numbers of registered persons under the same PAN within the State, principal and additional places of business, migration status (if any), business trends and compliance level of the RTP in the pre-GST period as well as in the GST regime, business trend of the RTP vis-à-vis trends of the industry etc.
- **Broad types of supply involved** (i.e., resale, manufacturing, export, import, service, works contract, job work, ISD, etc.).
- **Business pattern of the auditee i.e. nature of goods and/or services dealt along with classification** (e.g. importer of medicine, exporter of leather goods, reseller of iron & steel, manufacturer of jute goods, restaurant service, manpower supply, travel agent, aviation, transport, etc.).
- **Return filing & tax compliance pattern** of the auditee in GST for the period under audit. If any irregularity is found in submission of Return, **the Audit Officer should calculate the Late Fees & Interest payable at the desk-review stage itself.** Furthermore, there may be chances of mismatch of Turnover and Tax as disclosed in Form GSTR-3B vis-à-vis Form GSTR-1. Similarly, there may be a mismatch between ITC claimed in Form GSTR-3B vis-à-vis ITC auto-populated in Form GSTR-2A/GSTR-2B.
- **Analysis of business operations as declared by the auditee in the GST Returns** in the light of other data sources available in the GST portal itself. The Audit Officer should verify the turnover declared by the RTP in the GSTR Returns for the concerned period vis-à-vis footprint of payments made to the RTP as per GSTR-7 or GSTR-8 filed by TDS

deductors or TCS collectors, as the case may be. The Audit Officer should also consult the various exceptional reports made available.

- **Analysis of business operations as declared by the auditee in the GST Returns in the light of secondary data sources**, e.g. turnover declared by the RTP in the GSTR Returns for the concerned period vis-à-vis the turnover declared in the income tax return(s)/tax audit report or any other source, if available.
- **An audit officer is required to study each case from a holistic point of view** keeping in view applicability of statutory provisions and amendments thereof, notifications, circulars and orders relevant to the audit period. There have been various instances where a specific transaction, when looked at from a wider perspective, yielded interesting conclusions. Many of these instances are covered by various clarificatory Circulars issued both by the Central Government and the State Government.
- **As a part of Desk review, an Audit Officer should:**
 - Read the entire original documents as available in various public domains,
 - Understand the reasons and contexts of such clarifications,
 - Cite any relevant portion of the clarification only from such original documents and not from any truncated reference.
- Ratio and trend analysis as also intra-industry comparisons to ascertain significant deviant behaviour and indicate areas requiring enquiry and deep examination
- The pre-audit desk review should enable Audit Officers to gather relevant information about the selected RTP before actual commencement of audit, enabling them to be fully prepared from the very first day of visiting the auditee's place or examining the books produced by the auditee for audit.

4.4 Preparation and approval of Audit plan

Audit plan for a particular auditee is the **roadmap for a sound performance of the audit**.

This plan will serve as a schema of the entire process. Every such plan should be consistent with the departmental guidelines (Format of Audit Plan is in **Annexure 5 (p.105)**).

All the officers of an audit team should be involved in the process of preparation of the audit plan under the supervision of the immediate Senior Officer of the Audit vertical to draw up a good audit plan. Teamwork ensures buy-in from an early stage, brings forth a greater variety of ideas and can be reasonably expected to improve audit outcomes.

4.4.1 **General guidelines to prepare audit plan**

- **Reason(s) for selection** – The audit team should study the reasons for selection and try to identify the focus area. There may be two sets of selection criteria – (i) as available in BIFA Tool of GSTN portal and (ii) as provided by the Department. It should try to identify major risk areas. In case the volume of documents for verification is large, the auditor should adopt sample verification. In such a case, sample selection techniques used should be spelt out. The sample should be chosen in such a way that it represents the whole. Samples should represent relevant time-periods, business activities, value addition chain and other parameters. Sampling criteria should be material.
- **Profile of the auditee (Taxpayer Master File, Taxpayer Profile, Taxpayer at a Glance or other suitable nomenclature may be adopted)** with details of ownership, numbers of registered persons under the same PAN within the State, principal and additional places of business, migration status (if any), business trend and compliance level of the RTP in the pre-GST period as well as in the GST regime, business trend of the RTP vis-à-vis the trends of the industry etc. Ideally the audit administration should maintain a Taxpayer Master File which contains all this information. Utilities developed for audit should enable automatic updation of the Taxpayer Master File.
- **Broad types of supply involved** (i.e., resale, manufacturing, export, import, service, works contract, job work, ISD, etc.).
- **Business pattern of the auditee i.e. nature of goods and/or services dealt along with classification** (e.g. importer of medicine, exporter of leather goods, reseller of iron & steel, manufacturer of jute goods, restaurant service, manpower supply, travel agent, aviation, transport, etc.).
- **Return filing & tax compliance pattern** of the auditee in GST for the period under audit. If irregularity is found in case of submission of Return, **the**

Audit Officer should calculate the Late Fees & Interest payable at the desk- review stage itself. Furthermore, there may be chances of mismatch of Turnover and Tax as disclosed in Form GSTR-3B vis-à-vis Form GSTR-1. Similarly, there may be a mismatch between ITC claimed in Form GSTR-3B vis-à-vis ITC auto-populated in Form GSTR-2A.

- **Analysis of business operations as declared by the auditee in the GST Returns** in the light of other data sources available in the GST portal itself. The Audit Officer should verify the turnover declared by the RTP in the GSTR Returns for the concerned period vis-à-vis footprint of payments made to the RTP as per GSTR-7 or GSTR-8 filed by TDS deductors or TCS collectors, as the case may be. The Audit Officer should also consult the various exceptional reports made available.
- **Analysis of business operations as declared by the auditee in the GST Returns in light of secondary data sources**, e.g. turnover declared by the RTP in the GSTR Returns for the concerned period vis-à-vis the turnover declared in income tax return(s)/tax audit report or any other source, if available.
- **Analysis of business operations as declared by the auditee in the Annual Financial Statement.**
- **An audit officer is required to study each case from a holistic point of view** of applicability of statutory provisions and amendments thereof, notifications, circulars and orders relevant for the audit period. As mentioned above, there have been various instances where a specific transaction, when looked at from a wider perspective, has yielded interesting conclusions. Many of these instances are covered by various clarificatory Circulars issued by the Central Government and the State Government.
- The auditor should mention the precise issue pertaining to the subject, for example, discounts passed on to the buyer, utilisation of inputs for repair/re- processing, etc.
- **Source document(s)/ information to be verified:** Documents/ information reflecting or having a bearing on payment of GST should be verified, if required. For example GST Invoice(s) showing a particular discount.
- **Back-up / supporting document(s):** Back-up or supporting documents should be examined to check the correctness of the information contained in the source document (s), if required. The method of their

examination may also be specified in the plan. For example, commercial invoice, party ledger, discount policy documents, price circulars, etc. reflecting the said discount.

- **Period of coverage:** Normally, the coverage will be for the whole of the audit period. However, the auditor may conduct test verification for specific periods each extending over a short duration, if required.
- Efforts should be made to make a simple audit plan in case of small taxpayers

4.4.2 **How to make an effective audit plan?**

An effective audit plan actually starts building up from the stage of desk review.

Audit Plan is the most important stage before the conduct of audit. Each audit team should prepare an Audit Plan for each individual auditee allocated to it based on the information gathered from available sources and based on observations made upon pre-audit desk review and data analysis done by the team in relation to the auditee's business performance and information furnished in response to the questionnaire sent to the auditee along with notice in Form ADT-01. The information available from the GST back-office portal, MIS available internally and various reports (if available) should be analysed to prepare an effective audit plan. Any other pertinent information (e.g. received from any enforcement unit) in respect of the said auditee may also be taken into account.

The Audit plan should be prepared preferably within seven (07) days prior to the first date of hearing / visit to be fixed in Form GST ADT 01.

An effective audit plan will be a guiding track for Audit conducted under both "Field Audit Method" (Audit at RTP's place) as well as "Desk Audit Method" (Audit at Audit Officer's place of work).

4.4.3 **Approval of audit plan**

The audit team shall get each Audit plan approved as per the departmental guidelines provided from the higher authority. The approving officer may modify the Audit plan if necessary.

On the basis of scrutiny of the set of documents and records and the filled-in questionnaire produced by the RTP during audit hearing, new angles may

open up. Inclusion of these points adds value to the audit plan. In case an Audit Team finds it necessary to modify the audit plan in the course of the audit, details of the same with reasons thereof shall be placed for approval before the same authority that has sanctioned the plan.

GSTN has developed a process to sanction audit plan through a back-office portal. The audit plan submitted should be sanctioned and modified as early as possible, preferably through back-office or through any other electronic means like e-office.

Chapter 5

This chapter covers conduct of audit, audit findings and finalisation of audit.

5.1 Commencement of Audit

As per Explanation to Section 65(4) of the CGST/SGST Act, 2017 (p.14), 'commencement of audit' shall mean the date on which the records and other documents, called for by the tax authorities, are made available by the registered person or the actual institution of audit at the place of business, whichever is later.

Thus, audit will commence on the first date of hearing as per GST ADT-01 provided the auditee produces the requisite documents and records as have been asked for.

GST Administration may decide to audit any individual auditee or a class of auditees remotely in the interest of public health, availability of audit resources, taxpayer's facilitation or for any other reason which is fair and equitable.

5.2 Examination of Books of Accounts and records

Examination of Books of accounts and records involves verification of data and information and actual verification of documents submitted by the RTP in the course of audit and verification of the points mentioned in the audit plan. This is the most vital part of the audit process. The entire outcome of audit depends on examination of books of accounts systematically and in a planned manner.

- The officer should have primary knowledge about the business pattern of the RTP with respect to the particular trade & industry.
- He should also be well aware of the existing trade practices, conventions and market trends.
- The Audit Officer should be well aware of the statutory provisions, rates of taxes, Circulars, Orders etc. as applicable for the particular period of audit.
- An Audit Officer should apprise the RTP of the provisions of the GST Acts in respect of maintenance of books.
- He should preserve all the documents submitted by the auditee in the course of audit as office records preferably in electronic format.

- Physical copy duly authenticated or digitally signed copies wherever possible should be collected which are pertinent to the queries / audit para of the audit officer.
- He should take an unbiased and judicious approach in the course of audit.
- An Audit Officer should be tactful to gain the goodwill and confidence of the RTP.
- Technical lapses by the RTP which do not have any revenue implication, and have occurred out of oversight or ignorance, should be ignored. However, any such incident should be noted down in the course of audit.
- Confidentiality should be maintained in respect of sensitive and confidential information furnished in the course of audit.
- Understanding of the Indian Accounting Standards and the impact of GST thereupon while examining the Books of Accounts will facilitate an Audit Officer while examining Books of Accounts.

Some illustrative examples for primary understanding of accounting standards vis-à-vis GST are given as **Annexure 16 (p. 241)**.

5.3 Indicative parameters

Some indicative parameters for examination are discussed in this section. Registration/Migration Analysis, Return Analysis, Ratio analysis, Trend Analysis, Balance sheet study are some of the vital areas of Examination/Verification of Books of Accounts and records in the course of audit. The checks to be carried out regarding Reverse Charge Mechanism are given in **Annexure 9 (p. 141)**. Important changes in GST Law and Rates of Tax are in **Annexure 12 (p.184)**.

5.3.1 Registration/Migration analysis

Previous registration details (if any) under earlier Acts are to be verified. If such information is not disclosed there may be a tendency to hide earlier history of compliance behaviour.

Updated details of business promoters, additional place of business, bank accounts, and details of authorised signatory/(ies) should be examined. If the same are not provided, the auditee should be asked to provide the same.

Furthermore, the Audit Officer should analyse trends and patterns of turnover, tax payment, nature of business etc. from the pre-GST registration data, if available.

5.3.2 Return Analysis

This is a most vital area before commencement of the Audit program. A great deal of the groundwork can be done upon analysis of the available return figures and thereby having a prima-facie idea of the business trend of the auditee.

5.3.3 Illustrative steps that may be considered for an effective Return Analysis:

- HSN code of the goods and/or SAC of the services dealt in by the RTP should be verified where available to ensure that such are in conformity with the schedules/notifications and it is to be checked that the proper rate of tax thereupon was applied on outward supplies as shown in Form GSTR-1 & Form GSTR-3B.
- Time of filing of returns should be noted and should be checked to confirm whether the returns were filed within the prescribed time.
- Outward supplies as declared in Form GSTR-1, Form GSTR-3B and GSTR-9 should be compared with the Books of Accounts as maintained and produced by the auditee. The reconciliation statement, in case of any difference, is required to be examined with supporting documents and explanations along with Form GSTR-9/9A and Form GSTR-9C, if such have been submitted by the auditee.
- Claim of the RTP under different heads like – Zero-rated, Nil rated, Exempted and non-GST outward supplies, etc. as shown in Form GSTR-1, Form GSTR-3B. The reconciliation statement, in case of any difference, is required to be examined with supporting documents and explanations along with Form GSTR-9/9A and Form GSTR-9C, if such have been submitted by the auditee.
- Amount appearing under the head “Advance received” needs to be reviewed carefully since GST is applicable on “Advance received” against future “supply of services”. As per Notification

No.66/2017 - CT. dated 15.11.2017; payment has been delinked to determine time of supply in case of supply of goods.

- Transactions like import of services and transactions between related parties and activities specified in Schedule-I which are required to be considered as supply even without consideration are required to be examined thoroughly. These cases would require very cautious examination of the books of accounts, final accounts, P/L account and balance sheet to determine whether there are any such transactions which are not reflected in the returns. Some illustrative examples are given in **Annexure 15 (p. 219)** for understanding of the matter.
- Goods sent for approval and goods sent to job workers should be examined with the books of accounts.
- Data in respect of e-way bills, both inward and outward, should be verified with the books for compliance level analysis. It may happen that the total value of outward e-way bill grossly differs with the total outward supply. In that case one should go through the details into the accounts.
- Refund may be made to the auditee on account of export with or without payment of tax. In such cases, the veracity of export claims need to be checked. For this, the shipping bill details should be checked with the ICEGATE portal; in case of high volume of export through non-EDI check posts where the shipping bill details cannot be verified through ICEGATE portal, extra caution should be exercised in scrutinising the shipping bills in support of the export claims.
- In the case of export with payment of tax, if the value of export is found to be significantly higher than similar products sold in the domestic market in depth scrutiny of the payment received in respect of the export is required since there may be a possibility of monetizing excess ITC. (For determining the value of export the value may be calculated as prescribed in rule 89(4)(C) of the CGST Rules,2017 i.e. the value which is 1.5 times the value of like goods domestically supplied by the supplier)
- In respect of claim for refund of unutilized ITC on account of zero-rated supply, adequate caution is required to be taken so that, ITC on account of transitional credit, capital goods are not claimed for refund.

- Claim for refund of unutilized ITC may be made on account of inverted tax structure. In such cases, (i) verification of the classification of inputs and output supplies and the respective rates of taxes attracted by them is very crucial; (ii) Refund of unutilized ITC in accordance with section 54(3)(ii) of the CGST/SGST Act is provided where credit has accumulated on account of rate of tax on inputs being higher than rate of tax on output supplies.
- The claim of ITC of an auditee should be checked against fulfilment of the conditions laid down in the Acts and Rules made thereunder.
- If usage of ITC for payment on account of export is significantly high, in depth scrutiny of the availment of ITC is warranted.
- In depth checking is needed in respect of goods and services on which ITC is blocked.
- Some illustrations in respect of the provisions of input tax credit are attached as **Annexure 11 (p.163)**.
- Enquiry should be made to confirm whether any specific Advance Ruling/Appeal Order of Advance Ruling is applicable for any of the supplies made by the auditee.
- Output tax payment is required to be examined to ascertain interest liability. Any output liability which has been discharged other than by Form GSTR 3B is required to be examined as to whether interest (if applicable) has also been paid for the same or not.
- Checking should be done in respect of interest and late fee payable as per notification(s).
- All possible areas related to compliance issues that may result in short payment or evasion of tax are also required to be checked.
- The intention of these above illustrations is to create awareness of Officers in the subject so that an Audit Officer looks into the

statutory provisions in detail. It may be mentioned in this regard that these illustrations are merely indicative in nature. However, it is desirable that an Audit Officer should not confine himself to these indicative illustrations and should be prudent enough to go through the provisions of law and rule, various clarifications issued in different circulars, judgments passed by various Courts of Law and Rulings passed by AAR & AAAR in this respect in detail. As mentioned in Para 5.8 below, GST Tax administrations should strive to develop a shared platform for sharing audit related information.

5.3.4 **Trend Analysis**

This analysis focuses on any abnormality that may have occurred in a particular financial year with respect to the previous financial years. For audit purposes, comparison of either absolute values or certain ratios over a period of time is absolutely necessary to see the trend and the extent of deviation from the average values during any particular period. The analysis of trends may indicate areas where short payment / evasion of taxes is involved. A representative example of such trend analysis is discussed in **Annexure 14 (p. 212)**. The application of the various examples of trend analysis and ratio analysis as discussed here may vary from case to case. In this case, sector specific trend (or the accounting principles followed by an auditee) may play a vital role. The trend of a supplier of particular goods may not be pertinent for another type. Moreover, services sector may demand a different angle of analysis compared to the goods sector. It may be noted that trend analysis should also be consistent with the industry-trends during the same period; a rising/falling trend in industry does not gel with a reverse trend in the case of a particular auditee unless the auditee faces an altogether different/abnormal situation.

5.3.5 **Areas of concern during examination**

Following points may be covered in the process of examination.

5.3.5.1 **Migration/Registration compliance**

Probable area of detection / examination	Areas of concern	Action to be taken
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Previous registration details under earlier Acts and up to date details of information of registration.	If not disclosed there may be a tendency to hide earlier history of turnover and compliance (liabilities of taxes).	Asking to provide such numbers and information.
	Up to date details of business promoters, additional place of business, bank accounts, details of authorized signatory.	

Why is examination of the above compliance important?

Disclosing of the previous registration details is optional both in case of registration and migration. However, knowledge of previous registration details would help an audit officer to know the pre-GST compliance pattern of an auditee. In many cases it may appear that the RTP has failed to amend his registration and is continuing with the old information. If so, the audit officer should encourage the taxpayer to amend his registration with up-to-date information which would help both the audit officer and the auditee.

A few illustrative examples, as stated below, may help the Audit Officers in this regard. However, the intention of these examples is to provide a glimpse of the matter so that an Audit Officer can look into these aspects in detail.

Illustrative Examples of some interesting issues in this regard:

Example 1: Suppose there is a huge amount of exempted supply in the period under audit. Before entering into the details of the exempted supply the audit officer may first examine the nature of supply in pre-GST regime. So, knowing Pre-GST registration numbers is important. Maybe there was no such exempted supply. Maybe sales in the pre-GST regime were much higher than in GST.

Example 2: The auditee fails to deposit the dues as reflected in the audit report after submission of the audit report. The Proper officer raises demand as per provisions of sec. 73 / sec 74 of the SGST/CGST Act, 2017 (as the case may be). The RTP again fails to comply. The officer initiates recovery proceeding by attaching the bank account of the auditee, debtor's account etc. But, if up to date bank accounts details are not amended, the efforts of the officer may not be fulfilled.

Example 3: Incorrect information in registration may lead to suppression of taxable turnover and less payment / evasion of tax. Date of commencement

of business and date of liability for registration are two important aspects manipulating which an auditee may hide his pre-registration liability.

5.3.5.2 Invoicing compliance

Probable area of detection / examination	Areas of concern	Action to be taken
Tax Invoice/ Debit Note/ Credit Note/ Bill of Supply etc.	Whether as per Sec. 31 / sec. 34 of the SGST/CGST Act and Rules made there-under?	In case of any discrepancies, clarification may be sought
	Continuity of the Sl. No. of such Tax Invoice/ Debit Note/ Credit Note/ Bill of Supply etc.	

Compliance in relation to issue of Invoice, Bill of supply, debit notes and credit notes: Checklist for checks to be carried out and key points of supplies and supply of Goods and Services or both are given in **Annexure 8 (p. 112)**. Check list for key points of value of supply and details of value of supply are in **Annexure 10 (p. 149)**.

A tax invoice is an important document. It not only evidences the supply of goods or services, but is also an essential document for the recipient to avail Input Tax Credit (ITC). Similarly, debit notes and credit notes are also vital documents. A supplier of goods or services or both is mandatorily required to issue a tax invoice. However, various situations may arise in a business, after issuance of an invoice. Possible situations are listed as follows:

- The supplier has erroneously declared a value which is more than the actual value of the goods or services supplied.
 - The supplier has erroneously declared a higher tax rate than what is applicable for the kind of the goods or services or both supplied.
 - The quantity received by the recipient is less than what has been declared in the tax invoice.
 - The quality of the goods or services or both supplied is found to be deficient.

In the aforesaid cases, the supplier may issue a credit note to the recipient. But, output tax reduction on that credit note is conditional. It is dependent on the reversal of ITC of the recipient. Credit notes with tax implication in GST

can be issued within the time limit as specified u/s 34(2) of the CGST / SGST Act, 2017.

Similarly, following situations may also arise in a business after an invoice is issued:

- The supplier has erroneously declared a value which is less than the actual value of the goods or services supplied.
- The supplier has erroneously declared a lower tax rate than what is applicable for the kind of the goods or services or both supplied.

In such a case, the supplier may issue a debit note to the recipient.

Compliance of invoice, debit notes and credit notes related provisions are directly linked with revenue in GST.

A few examples as given below may help the Audit Officers in this regard. However, these examples are merely indicative in nature:

Example 1: The audit officer may notice that there is discontinuity in serial numbers of the invoices issued. A number of reasons may be adduced by the auditee for the same. But, his explanations should be supported with evidence / correspondences. Otherwise, these explanations may be far from reality.

Example 2: An auditee has set up an exclusive brand kiosk to sell products of X company.

X Co. pays a consideration for setting up such a kiosk by issuing a commercial Credit Note to the auditee of Rs.10,000 p.m. Is there any revenue implication in GST?

Consideration is received in the form of a Credit Note in respect of supply of service by the auditee to X Co. So, GST is applicable @ 18%.

Example 3: The auditee being an importer / manufacturer of medicines has received some expired medicines from a distributor and issued credit notes for the same for an amount of Rs.50 Lakh. The tax component in the credit note was Rs. 3 Lakh CGST and Rs. 3 Lakh SGST. The auditee reduced his liability of output tax to such extent and the recipient also reversed his ITC to that extent. Is this correct?

Since, the auditee being an importer / manufacturer has received medicines from his distributor which are expired; he has to destroy such medicines.

Therefore, the auditee must also reverse the ITC availed on such destroyed medicines.

5.3.5.3 **Maintenance of books of accounts**

Areas of concern	Action to be taken	Probable area of detection / examination
To ensure compliance of maintaining books of accounts. To examine cash flow, valuation, input and output ratio, etc.	To examine correctness of tax compliance made in returns.	RTP will be asked to produce following books of accounts: <ul style="list-style-type: none"> • Annual report and Director's report (if any) • Profit & Loss A/C • Balance Sheet and Trial balance if maintained • Notes to accounts • Tax Audit Report • Statement of income tax TDS. • List of HSN /SAC of the goods /or services in respect of the business. • Reconciliation statement in respect of Form GSTR 9, GSTR-1 AND GSTR 3B • Suppliers list with GSTIN (where applicable) • Ledger accounts of the suppliers • Statement of sales party wise and POS wise. • Supply for which tax paid in RCM. • Bank Statement for the period under audit • Stock register • Other documents and records as applicable as provided in section 35 of the Act

The basic objective of audit stands on the principle of examination of books of accounts. The GST laws have prescribed the nature of books of accounts required to be maintained by an RTP. The officer in this case should be well aware of such provisions and ask the auditee to produce such books of accounts. Regarding maintenance of accounts and records, the same should as per the provisions of Section 35 of the CGST Act read with the rules made thereunder.

Further, the Officer should be well acquainted with the accounting policies which form the basis of any books of Accounts. Apparently, an entry may not appear to be related with GST revenue but, upon thorough examination in the course of audit such may turn out to be valuable information.

A few examples are given herein below, which may help the Audit Officers in this regard. However, these illustrations are merely indicative in nature with the sole purpose to alert the audit officers in this regard who are also required to go through the relevant statutory provision in detail:

Example 1: In order to have an idea of the quantum of supply of an auditee, an officer generally examines the Debtors list. But there may be a case, where a Debtor (i.e. customer), say A is also a creditor (i.e. supplier). In such a case, it is required to examine whether A's Ledger A/c (as a Debtor) correctly reflects only the credit supply made by the RTP to A or it is rather a set-off account where the balancing figure reflects the net figure of amount receivable less amount payable.

Example 2: It is a normal business practice to get advances from the customers. In this case, advances played a role in determining the time of supply for goods till 14.11.2017. However, tax liability on advances received is still there in case of services. Now, as per the provisions of Rule 56(3), every RTP is required to maintain a separate account of advances received, paid and adjustments made thereto. An advance for which service is not provided or not adjusted in any invoice, the RTP is required to show such amount as Current Liabilities in the Final Accounts.

5.3.5.4 **Return submission compliance**

There have been various extensions of the due dates and conditional extensions of due dates for the return periods of different financial years. To facilitate an audit officer in this regard, an exclusive annexure is prepared which is attached as **Annexure 13 (p.190)**, which contains due dates, extension of due dates of various returns and other details of the returns alongwith the checks to be carried out. It also contains the State codes **(p.203)**.

5.4 **Communication of discrepancies noticed**

Upon examination of the books of accounts and records in the course of audit, the audit officer shall clearly note all his observations relating to the possible areas of lapses, as discussed above.

The grounds of any discrepancies against the disclosed parameters of the auditee should be concise, to the point and self-contained. Different para(s) should be formed depending on the nature of observations.

Where any discrepancy is based on any circular or clarification or notification issued by the State Government or the Central Government or by the Commissioner or the Board, such must be mentioned clearly. Similarly, where

findings are based on discussion or merit of any decision of any Hon'ble Court, decisions of Advance Ruling Authority, and decisions of Appellate Authorities such should be clearly cited. Similarly, where discrepancies are noticed in respect of information disclosed in the return and those ascertained from accounts/documents, the same need to be mentioned clearly in the communication, alongwith the tax implications.

The findings of audit should be prepared and are required to be communicated to the RTP within 30 days of commencement of audit.

The auditee, if he thinks fit, may submit a written explanation in reply to such findings upon adducing supporting documentary evidence and other facts & figures as may be necessary.

The auditee shall be given a time of at least seven (07) days from the receipt of the draft report to submit his/her reply.

The Audit Officer should inform the auditee about the observations made in the course of audit preferably in electronic format. The auditor should also apprise the auditee of the provisions relating to his voluntary compliance and at the same time encourage him to pay the dues **in Form GST DRC – 03 in the course of audit.**

5.5 **Draft Audit Report and approval thereof**

The audit officer shall clearly mention in his working paper the reply of the auditee in respect of the findings drawn and communicated to the auditee. After careful consideration of the reply a **Draft Audit Report (DAR)** should be prepared by the audit officer for internal administrative purpose and not for the auditee.

The DAR shall be placed before the audit plan sanctioning authority for perusal. If the total amount of tax due exceeds a certain amount, DAR should be placed before the appropriate higher authority with a short narration of such dues for perusal and approval. This condition may vary State to State and the Centre. This condition is purely for administrative purposes to ensure that the demand is genuine. The aforesaid narration for such high dues should be concise, to the point and self-contained.

Where any finding is based on any circulars or clarifications or notifications issued by the State Government or the Central Government or by the Commissioner or the Board, such must be mentioned clearly in the DAR. Similarly, where findings are based on discussion, merit of any decision of any Hon'ble Court, decisions of Advance Ruling Authority and decisions of Appellate Authorities, such should be clearly cited.

On points of difference, further consultations / examination may be required.

5.6 **Monitoring Committee Meeting**

Every team of audit should represent the status of audit once in every month on a pre-scheduled date in a format annexed hereto **as Annexure 7 (p. 109)** before the Monitoring Committee in the Monitoring Committee Meeting (MCM) under the chairmanship of the Commissioner/ appropriate authority.

This Committee, besides monitoring the status of audit of every level, will also try to identify the important observations made upon audit by different units for better coherence among all the existing audit teams. At the same time, the Committee will also try to identify the areas of audit related to the unit that need special attention and make suggestions accordingly. The committee may also review the audit objections raised by the Audit Teams and after discussions take a decision on the same.

The Monitoring Committee shall invite the Audit head of all the units, Nodal officer of Information System Division/IT Division and representatives from GST-Planning Unit of the State/Centre to offer their views to maintain the progress and ensure uniformity in audit and subsequent demand and recovery proceedings. The Committee may invite any Audit Team or Audit Officer of any unit if deemed fit.

Composition and procedure of this committee may vary from State to State and at the Centre. As MCM is an important institutional mechanism, the frequency of its meetings and mandate should be revisited from time to time to make it more effective.

5.7 **Final Audit Report**

The audit officer shall finalize the findings of the audit and draw **Final Audit Report in GST Form ADT-02** (hereinafter referred to as 'FAR') after due

consideration of the reply furnished [Rule 101(4)] and the discussions in MCM.

After approval of the DAR by the appropriate authority, the FAR shall be issued to the auditee preferably through system / electronically to the auditee within 30 (thirty) working days of approval.

Format of GST FORM ADT-02 is annexed herewith as Annexure 6(p. 108)

After issuing the FAR, the Audit Case will have to be closed.

5.7.1 Such closure of case can be done in the following scenarios:

- a) The technical lapses (if any) are corrected and the entire dues as per the FAR are paid by the Taxpayer preferably within 30 days in Form GST DRC-03;
- b) FAR is issued with Nil Revenue implication;
- c) The tax, interest or any other amount payable by the RTP as have been ascertained as short paid or not paid is not deposited by the taxpayer within 30 days after the issuance of the FAR, and in such situation the case may be taken up for initiation of demand and recovery proceedings under section 73/74 of the Act, as the case, may be.

5.8 GST Tax administrations across the country should endeavour to develop a common platform for sharing important audit findings and other sources of relevant information to improve the quality and efficiency of audit. This inclusion can take the form of an audit bulletin on an online portal or a GST Audit Knowledge Management System.

CHAPTER 6

This chapter covers follow up of audit.

6.1 Audit Consequences

After receipt of the FAR, the auditee may agree to the audit observations in full, or he may disagree in full or he may even agree to a part of the observations made.

In case of full or partial agreement, the audit officer should encourage the auditee to make voluntary payment of the dues in Form GST DRC – 03 as detected in the course of audit. Where the RTP agrees with the short levy as per the show cause notice, the auditor should explain the benefits available u/s 73(6) / 74(6) of the SGST/CGST Act, as the case may be.

Now, the observations made in the FAR may be of 2 types:

- Those of technical nature and not having any real revenue impact.
- Those having revenue impact, i.e. short payment of tax, interest etc. by the auditee.

Technical lapses by the RTP which do not have any revenue implication, and have occurred out of oversight or ignorance, should be allowed for correction (if required).

6.2 Demand & Recovery proceedings

If the tax, interest, penalty or any other amount payable by the RTP as have been ascertained as short paid or not paid, is not deposited by the taxpayer within 30 days after the issuance of the FAR, the case is required to be referred to the respective jurisdiction and the case may be taken up for initiation of demand and recovery proceedings under section 73/74 of the Act, as the case, may be.

It is the administrative decision of the respective State whether the audit officer will subsequently adjudicate or that will be done by a separate officer.

Whatever may be the arrangement, it is desirable that the adjudicating officers carefully consider the findings as noted in the Final Audit Report and take subsequent actions independently.

However, repetition of points of examination (including documents thereof) should be avoided unless it is absolutely necessary.

Chapter 7

This chapter covers audit in certain circumstances.

7.1 Different possible scenarios during the conduct of audit

During the course of audit, beginning with the process of selection to completion, various possible scenarios may arise such as registration has been cancelled before or after selection, RTP is in NCLT, death of the proprietor, transfer of business, non-existent person, etc. Such various scenarios during audit along with possible actions are discussed below:

7.1.1 The auditee is found non-existent

It is to be noted that audit is a document-based exercise and the purpose of audit as delineated in this audit manual is to examine the records, returns and other documents maintained or furnished or filed by the registered person under this Act or Rules made thereunder or under any other law for the time being in force to verify the correctness of turnover declared, taxes paid, refund claimed and input tax credit availed, and to assess his/her compliance with the provisions of the Act or rules made thereunder. Thus, where the taxpayer is not found to be existent the process of examination and verification cannot be carried out as the said taxpayer is a bogus taxpayer with no credentials that can be attributed to a taxpayer registered under the SGST/CGST Act. Therefore, in such a scenario it is proposed that the audit of such taxpayers need not be carried out. The details of such a taxpayer should be shared with the Jurisdictional GST officer and the enforcement wing for further necessary action.

7.1.2 GSTIN/Registration Certificate (RC) of taxpayer is cancelled

Audit under section 65 is an exercise that is required to be carried out in relation to a registered person to assess his compliance with the provisions of the Act or rules made thereunder. In the scenario where the registration of the auditee has been cancelled from an anterior date which is prior to the initiation of the audit, the audit of such a taxpayer would not be within the ambit of the “Audit” as defined in section 2 of the Act. Therefore, in such a scenario if deemed fit, audit of such a taxpayer need not be carried out. The details of such a taxpayer should be shared with the Jurisdictional GST officer and the enforcement wing for further necessary action.

7.1.3 Taxpayer is existent but documents are seized

The case for conduct of audit has already been assigned. There may arise a situation in which a taxpayer is existent and active but the documents relevant for audit are seized or under the possession of some other Government agency like CGST, ED, Court, Police etc. Audit is primarily a document-based exercise which fundamentally examines the records, returns and other documents maintained or furnished or filed by the registered person under the relevant GST Laws or Rules made thereunder. So, in a scenario where records of the auditee have been seized by some authority and the same are not available with the auditee it is suggested that audit of such auditee should be deferred and the audit wing should endeavour to obtain records from the concerned authority which has seized the said records so that meaningful audit can be carried out. As for the information available in the returns which can be examined from the perspective of tax it would be prudent that the said exercise is carried out by the jurisdictional officer rather than audit officer in case the jurisdictional office has a separate wing or section for audit. Once the documents of the auditee are obtained then the audit wing can proceed with the audit. Further course of action in such cases can also be discussed and decided in the MCM.

7.1.4 Investigation/verification by some other wing/agencies are going on

If the taxpayer is found existent and active and the records of the auditee are available although the investigation into certain activity of the taxpayer is being carried out by the other investigating agencies it suggested that the audit of such taxpayer should be carried out irrespective of the fact that another agency is also investigating the taxpayer. The audit wing should be expected to coordinate with the other investigating authority so as to be abreast of the aspect being examined by the said authority and its repercussions on the audit being carried out. However, different GST tax administrations may, in the interest of administrative exigencies, adopt a different approach in such cases.

7.1.5 During examination the business model of the auditee is found fraudulent

The case has already been assigned for conduct of audit. The taxpayer is existent and active, but during the conduct of audit, it emerges that the business model of the auditee is fraudulent and it is beyond the powers of the

audit officer to deal with the issue under the Act/Rules formulated thereunder. In this scenario, although all the parameters of audit are met by the auditee but during the conduct of audit it emerges that the nature of transactions being carried out by the auditee are so fraudulent that they vitiate the existence of the registered taxpayer to the core and the investigation of same cannot be carried out within the four walls of audit as well as the powers assigned thereunder to the audit officers. It is therefore suggested that in such a scenario, the case should be transferred to the enforcement wing to carry out further investigation in the manner by exercising the various powers assigned to them including that of inspection, search and seizure.

7.1.6 During audit it appears that the taxpayer is engaged in certain fraudulent activities

The case has already been assigned for conduct of audit. The taxpayer is existent and active. But during the conduct of audit, it emerges that the taxpayer is engaged in certain fraudulent activities beside the regular business. It is to be noted that section 65 of the CGST/SGST Act empowers the tax authority to take action under section 73 as well as section 74 of the Act in relation to the observations originating out of the conduct of audit. Further, Section 74 is specifically for determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful misstatement or suppression of facts. Thus, it is suggested that in such a scenario the audit team should carry out the audit and should mention specifically in the final report such fraudulent activities so that any demand of tax for such fraudulent activity should be raised under section 74 of the CGST/SGST Act.

7.1.7 Taxpayer is not cooperating with the audit team

The case for conduct of audit has already been assigned for audit. The taxpayer is existent and active. But during the conduct of audit, it emerges that the taxpayer is not cooperating in submission of documents sought by the audit team. In this scenario, although all the parameters of audit are met by the auditee, the auditee is not cooperating in submission of documents sought by the audit team. As noted above, audit is primarily a document-based exercise which fundamentally examines the records, returns and other documents maintained or furnished by the registered person under this Act or Rules made thereunder. So, in a scenario where the auditee is not providing

the records, the audit wing/team/audit officer should issue SCN to impose penalty upon the auditee under section 125 of the SGST/CGST Act read with IGST Act and should give a detailed report to the head quarter / head of the audit vertical. In this scenario, the case should also be transferred to the enforcement wing to carry out further investigation by exercising the various powers assigned to them including that of inspection, search and seizure. Progress of such cases referred for investigations should be monitored through MCM.

7.2 General guidelines

It is important to ensure that the registration number of non-existing persons does not survive for a long period. As criteria for selection of audit cases is related to the high turnover parameters, it is all the more dangerous that registration of such persons remains active for a long period. As such, in such cases, immediate action is needed against the RTP to cancel the registration and other proceedings against the person.

Audit selection committee should try to collect the above information before finalising the list for audit so that in the list there should not be any cancelled person and to minimise selection of non-existent persons in the list.

In the above situations where it is advised not to continue audit u/s 65 of the Acts, the audit team or the audit wing should first inform the same through the audit vertical / audit wing to the Commissioner / organisation carrying out the targeting exercise, requesting for de-selection of the selected RTP.

Uniform audit templates go a long way in ensuring uniformity of practices and similar taxpayer experience. Templates that capture the spirit of GST laws, use unambiguous language and cover all the relevant issues will lead to mitigating excessive correspondence with taxpayers, minimize gaps in audit exercise and reduce potential for litigation. Correspondence based on templates should be automated and templates should be made available to the audit officers through an internal communication tool on audit module or a departmental website.

CHAPTER 8

This Chapter covers administration, role of officers, Constitution of Committees and Standard Operation Procedure (SOP) for the conduct of Thematic Audits and Joint Audits as and when approved by the GST Council.

8.1 Thematic Audit

8.1.1 Overview

Purpose of Theme-based audit is to conduct “focused audit” instead of a “comprehensive audit”, so that available resources are directed to check/verify compliance of sensitive issues or sectors. The results obtained from theme based audit assists the policy makers to assess compliance level of a particular type of service/industry or trade sectors or areas so that compliant sectors may be extended greater facilitation and special focus may be directed to ensuring compliance on sectors with relatively low compliance scores. It is a value-adding approach that helps the Auditors to determine, consolidate and report high-level insights in the business transactions and practices prevalent in a particular type of industry/service sector. Theme-based audit may have both compliance and performance audit objectives.

8.1.2 Scenarios which may necessitate conducting thematic audit: **The following scenarios may lead to a thematic audit.**

- Taxpayers in the same supply chain registered in same/different states;
- Simultaneous audit of units which have same modus operandi of tax evasion and are registered across states;
- Taxpayers dealing in supply of some goods/services which have also been determined as evasion prone.
- Thematic audit may also extend to specificity like trends in availment and utilisation of ITC in any given sector e.g. telecom sector, trends in valuation of supplies to distinct persons in the pharma sector, etc.

8.1.3 Administrative arrangement for Selection of themes for thematic audit

For conducting thematic audit, GST Council may form a co-ordination committee at all India level which should choose themes for conducting audit,

constitute a Committee of Officers for selecting taxpayers in a state for conducting thematic audit, coordination among various Audit Authorities for evolving a common minimum audit plans for a given theme and, monitor actual audit by the field formations and disseminate audit outcome to appropriate stakeholders.

It is recommended that the co-ordination committee may be constituted with the following as its members:

- Pr. DG/DG (Audit) or any Pr. Additional Director General (Audit) / Additional Director General (Audit) as nominated by him;
- Joint Secretary, GST Council;
- Pr. Commissioner/ Commissioner (GST), GST Policy Wing;
- CEO, GSTN;
- Three Commissioners of SGST, as nominated by the GST Council;
- One CGST (Audit) Commissioner as nominated by the GST Council.

The co-ordination committee shall be responsible for selecting themes for conducting theme based audit at all India level in a coordinated manner. For selecting the Audit themes, the Committee may consider using the following parameters/ data sources:

8.1.4 **Indicative parameters** for selection of themes are given below:-

- Economic indicators;
- Third party information from Tax authorities and other Regulatory authorities;
- Sensitive nature of the commodity and / or service;
- Risky sectors in news for frauds for e.g., E-commerce, online gaming, jewellers etc.;
- Sectors directly involved in providing services to a large consumer base, such as banking, insurance, air and land travel, utilities etc.
- Sectoral revenue and value addition trends and variations therein

In addition to above, risky themes identified by the State and Central Tax Authorities based on local intervention can also be used for determining a

local theme. Certain risk - based parameters may also be adopted for selection of Taxpayers for conducting theme - based audit, such as:

- Taxpayers showing abnormal growth;
- High revenue contributing Taxpayers;
- Sectors/units flagged by the CAG or PAC or otherwise where credible information is available to point out that the provisions of the Act are not being followed or where issues like place of supply issues or point of taxation are cropping up;
- Taxpayers availing benefit of major exemption notification;
- Sectors with low cash pay-out
- Taxpayers engaged in supply of risky and sensitive commodities and services viz., advertising services, event management services, metals, chemicals, entertainment services and Health & education related auxiliary services etc.

8.1.5 **Administrative arrangement for conduct of Thematic audits.**

For coordination of actual audit, the Co-ordination Committee may constitute a Committee of Officers (CoO) for each state/ UT composed of the following two members:

- State GST Commissioner
- CGST Audit commissioner preferably located at the same station

The Committee of Officers shall select the Taxpayers based on the themes which have been finalised by the Coordination committee. The details of the taxpayers so selected, will be shared with Audit formations of the Central and State tax authorities for conducting audit proceedings.

8.1.6 **Role of Audit field formations (of Central and State Tax) for conducting thematic audit**

Theme-based audit of a selected Taxpayer would be conducted by the concerned GST audit authority (i.e. the jurisdictional central or state audit officer).

Considering the importance of thematic audit, it is imperative to allocate appropriate resources/staff in each of the Audit formation. The Head of the

Audit formation in the State/Centre may like to specifically earmark appropriate staff (Audit Groups) exclusively for Thematic Audit. Even separate nomenclature may be adopted for such audit groups. It is emphasised that the Audit groups should be provided with proper infrastructure for efficient handling of the Audit work. Audit groups dealing with Thematic Audits should be given proper training to deal with audit of records of the taxpayers of these themes.

8.1.7 Standard Operating Procedure (SOP) for conducting Thematic Audit.

- a) The Co-ordination Committee (CC) shall select the themes for Audit and communicate the Themes to the Committee of officers (CoO) responsible for Audit.
- b) For a given theme, the committee of officers shall select the taxpayers to be audited in that particular state.
- c) Audit groups earmarked for conducting the theme based audit shall request the selected tax payer(s) for providing necessary documents viz. Balance sheet(s), 3 CD reports(statement of particulars required to be furnished under Section 44AB of the Income Tax Act, 1961), profit and loss statements, income tax returns etc. The concerned audit group shall also take out various GST returns filed by the said taxpayer and examine/scrutinise them. They will accordingly prepare the Desk Review (DR) and also the Audit Plan (AP). As with entity-based audit discussed in earlier section above, as much data as possible may be gathered from the documents/returns already available in the system.
- d) All such Audit groups (both under Centre and State tax authorities) shall forward the proposed audit plan so prepared by them, to the Committee of Officers which shall examine these audit plans to ensure uniformity in approach and provide further inputs, if any. After this exercise, a common minimum Audit Plan shall be prepared and communicated to all Audit Groups for conduct of audit.
- e) The Committee of Officers for conduct of thematic audit shall also indicate a date on which audit of all such taxpayers irrespective of their jurisdiction (whether under Centre or State) shall commence.
- f) After conduct of audit, all the Audit Groups shall prepare their

observations and convey to the taxpayer (s) for their written response to these observations. In their written response, the taxpayer is expected to communicate their agreement or disagreement as the case may be to the observations pointed out by the Audit Group. After taking into account the written response from the taxpayer, the Audit Group shall prepare the draft audit para(s).

g) The Audit Group shall forward their draft audit para(s) to the Committee of Officers for approval. Before approving the draft audit para(s), the Committee of Officers may hold a meeting (physical/virtual) with concerned audit groups. This Committee may also point out certain additional areas which need to be looked into by the audit groups before finalising the audit paras.

h) Once draft audit para(s) are approved by the Committee of Officers, the audit group (s) shall present their draft audit report before their respective Audit Authorities for approval. The Audit Authorities may adopt a practice of holding monthly meetings of the monitoring committee for approval of audit paras presented by their audit groups. At present, Central Tax Authorities are holding monthly meetings of the monitoring committee consisting of Commissioner (Audit), Joint Commissioner/Additional Commissioner (Audit) and Assistant/Deputy Commissioners heading various Audit Circles wherein audit objections are discussed and approved.

i) Once audit para(s) are finalised after approval of the Monitoring Committee, the concerned audit officers/groups shall issue Final Audit Report (FAR), a copy of which shall also be endorsed to the coordination committee for dissemination to Central Tax Audit Commissionerates /State Audit Officers across India for information.

j) The audit paras which have been agreed upon by the taxpayer shall be closed after payment of the due tax amount along with appropriate interest and penalty, if any.

k) As regards unpaid/short paid GST is concerned where the taxpayer is not in agreement with the audit para and is not willing to pay outstanding GST along with interest and penalty, the audit groups shall prepare demand cum show cause notice to be adjudicated by the appropriate Tax Officer. Before issue of demand cum show cause notice, the taxpayers may be given pre-consultation so as to give them one more opportunity to explain their

point of view to the senior tax officers before a final decision is arrived at. The Tax Authorities may also use this opportunity to explain the department's view point to the taxpayers and encourage them for voluntary compliance. This will reduce unnecessary litigation which is good for both the taxpayer as well as the government.

l) After adjudication proceedings, recovery action against the taxpayer shall be taken by the appropriate jurisdictional tax authority (i.e. Central Tax Commissionates or State Tax Jurisdictional Authority) in accordance with Section 79 of the CGST/SGST Act read along with relevant rules and provisions issued therein.

m) The jurisdictional tax authorities shall upload the audit findings (in a predetermined format), in an Audit Utility which shall be accessible to all the Audit formations across the country. These findings may be helpful in detecting similar types of anomalies in similar cases across the country.

8.2 Joint Audit

8.2.1 Overview

It is possible that some taxpayers registered on the same PAN may be spread across multiple locations either within the same State or across States of India. These multi-location taxpayers may fall under different tax administrations, particularly so in case of multistate operators. Therefore, there is a need to ensure a coordinated approach for conducting audit of such multi-location taxpayers.

8.2.2 Administrative arrangement for Selection of Joint audits

Constitution of Coordination Committee - It is proposed that the Coordination Committee constituted by the GST Council for the purpose of thematic audit may also be entrusted with the work of coordinating joint audit.

The Coordination Committee may select certain taxpayers for joint audit out of the database provided by GSTN. It is proposed that the taxpayers may be selected for joint audit based on clear and mutually agreed criteria/risk parameters between different tax administrations.

8.2.3 Examples of criteria for selection of taxpayers for joint audits :-

- Registration in two or more GST Tax administrations.

- Entities above a certain turnover aggregate threshold, for example, more than Rs. 100 Crore.
- Taxpayers dealing in the service industry, having national or multi state operations. Inter-agency coordination failure in the aforementioned cases may lead to lack of uniformity in interpretation of law leading to compliance hassles for the taxpayer and increased litigation for the department. Therefore, there is a need for well-defined procedures to delineate the modalities of conducting joint audits.

The Coordination Committee may also adopt any other parameters/criteria for selecting taxpayers for joint audits.

8.2.4 **Administrative arrangement for conduct of Joint audits.**

Constitution of Committee of Officers - For coordination of conduct of joint audit of a multi locational taxpayer, Committee of Officers (hereinafter referred to as Supervisory Committee) may be constituted.

It is proposed that this committee may comprise the following:-

- The Commissioner (SGST/CGST) of the jurisdiction where the headquarter of the said company/business entity is located.
- The Commissioner (SGST/CGST) of the jurisdiction having the highest risk score in the GSTINs of the company/business entity.
- The Commissioner (SGST/CGST) of the jurisdiction other than the above two where the turnover of the GSTIN of the said PAN is the highest.
- The Commissioner (SGST/CGST) of the jurisdiction other than the above three where the ITC utilisation of the GSTIN of the said PAN is the highest. (If it is the same as the unit where the highest turnover is then this criteria does not come into play)
- The Commissioner (SGST/CGST) of the jurisdiction where the selected company/business entity maintains its compliance and financial records.

8.2.5 **Standard Operating Procedure for conducting Joint Audit**

a) The Co-ordination Committee shall select the multi-locational taxpayers for joint audit and communicate the same to the concerned Supervisory Committee. This should be done no later than the month of February for the next financial year. This Committee in turn will intimate the jurisdictional Audit Authorities to allocate the selected taxpayer to a particular audit group for

conduct of audit.

b) The nominated Audit group shall request the taxpayer for providing necessary documents viz. Balance sheet(s), 3 CD reports (statement of particulars required to be furnished under Section 44AB of the Income Tax Act, 1961), profit and loss statements, income tax returns etc. The concerned audit group shall also take out various GST returns filed by the said taxpayer and examine/scrutinise them. They will accordingly prepare the Desk Review (DR) and also the Audit Plan (AP). As recommended in para 10.7 above any documents not available with the taxpayer administration/GSTN/other regulators should be sought from the auditee.

c) All such Audit groups (both under Centre and State tax authorities) shall forward the proposed audit plan to the Supervisory Committee which shall examine these audit plans to ensure uniformity in approach and providing further inputs, if any. After this exercise, a common minimum Audit Plan shall be prepared and communicated to all Audit Groups for conduct of audit.

d) The Supervisory Committee shall also indicate a date on which an audit of all such taxpayers irrespective of their jurisdiction (whether under Centre or State) shall commence. An effort should be made to start and conclude the audit within 3 months and at any rate, within the same financial year.

e) After conducting an audit, all the Audit Groups shall prepare their observations and convey to the taxpayer(s) for their written response to these observations. In their written response, the taxpayer is expected to communicate their agreement or disagreement as the case may be, to the observations pointed out by the Audit Group. After taking into account the written response of the taxpayer, the Audit Group shall prepare the draft audit para(s).

f) The Audit Group shall forward their draft audit para(s) to the Supervisory Committee for vetting. Before vetting the draft audit para(s), this Committee may also hold a meeting (physical/virtual) with concerned audit groups. The Committee may also point out certain additional areas which need to be looked into by the audit groups before finalising the audit paras.

g) The Supervisory Committee shall, before finalising the audit paras, resolve any inconsistency or conflicting interpretations on any point of law

made by the different audit teams and recommend modification of such interpretations accordingly and the audit teams shall suitably incorporate them in their report.

h) Once draft audit para(s) are vetted by the Supervisory Committee, the audit group(s) shall present their draft audit reports before their respective Audit Authorities for approval. The Audit Authorities may adopt a practice of holding monthly meetings of the monitoring committee for approval of audit paras presented by their audit groups. At present, Central Tax Authorities are holding monthly meetings of the monitoring committee consisting of Commissioner (Audit), Joint Commissioner / Additional Commissioner (Audit) and Assistant/Deputy Commissioners heading various Audit Circles wherein audit objections are discussed and approved.

i) Where it is felt that different audit authorities are adopting different opinions with regard to approval of audit para in their respective monitoring committees, the role of the supervisory committee will come into the picture. It is proposed that they may hold meetings with all CGST Audit Commissioners/State GST Commissioners quarterly or more frequently, if needed for establishing a uniform approach in this regard across tax jurisdictions in India.

j) Once audit para(s) are finalized after approval of the Monitoring Committee (or Supervisory Committee), the concerned audit officers/groups shall issue Final Audit Report (FAR), a copy of which shall also be endorsed to the Supervisory Committee for dissemination to Central Tax Audit Commissionerates/State Audit Officers across India for information.

k) The audit paras which have been agreed upon by the taxpayer shall be closed after payment of the due tax amount along with appropriate interest and penalty, if any.

l) As regards unpaid/short paid GST is concerned where the tax payer is not in agreement with the audit para and is not willing to pay outstanding GST along with interest and penalty, the audit group shall prepare demand cum show cause notice to be adjudicated by the appropriate Tax Officer. Before issue of demand cum show cause notice, the taxpayer may be given pre-consultation so as to give him/her one more opportunity to explain his/her point of view to the senior tax officers before a final decision is arrived at. The Tax Authorities may also use this opportunity to explain the department's

view point to the taxpayer and encourage him/her for voluntary compliance. This will reduce unnecessary litigation which is good for both the taxpayer as well as the government.

m) After adjudication proceedings, recovery action against the taxpayer shall be taken by the appropriate jurisdictional tax authority (i.e. Central Tax Commissionerates or State Tax Officers) in accordance with Section 79 of the CGST/SGST Act read along with relevant rules and provisions issued therein.

n) The jurisdictional tax authorities shall upload the audit findings (in a predetermined format), in an Audit Utility which shall be accessible to all the Audit formations across the country. These findings may be helpful in detecting similar types of anomalies in similar cases across the country.

The follow up action to be taken after completion of above audits is the same as given in Chapter 6 above (p. 62)

CHAPTER 9

This chapter covers capacity building in specialised areas.

9.1 Training and Capacity Building

The erstwhile VAT did not have service sectors therefore it has been felt that officers of State GST needs to be trained specifically in service sectors which needs to be identified by the states and NACIN will draw a program to train the Master Trainers for each state based on the requirements of those states. NACIN through its Zonal Campus are already conducting bi-monthly training course on GST Audit & Accounting and one training program for Master Trainers of GST Audit has already been conducted.

9.1.1 This training program will identify

- The frequency with which the training program needs to be conducted by NACIN for the master trainers as well as for the other officers.
- Nomination of Nodal officers from States for identification of Training needs
- Training on specific service sector which has been identified by the respective State GST (around top 5 services)
- Identification of officers to create proper training modules for identified specific service sectors.

The above needs shall be identified in coordination with the State GST by the ZTI NACIN. The identification and conduct of the program shall be a continuous one where the SGST can even rotate the master trainers and officers to create training modules on specific sectors based on their requirement.

The frequency of the training program will be shared by State GST based on their requirements and the officers which need to be trained.

This training program will be in addition to the regular training program on GST Audit.

Since there are multiple types of services being supplied by business entities therefore it is also suggested that the process flow along with the case study of that service sector shall be part of the training program. For eg, banking sector and insurance sector are giving multiple services therefore there is a need to explain and train the officers on the overall work flow of the services so that the holistic picture of the services being supplied is available to the officers.

This work flow of the services needs to align with the GST Act so that the officers shall understand the services which are taxable and which are exempted. They shall also understand the concept of mixed and composite supply in the gamut of services being supplied.

9.1.2 Identification of Specific Service Sectors for focused training

NACIN in coordination with the State GST will identify the specific service sectors where there is a need to train the officers for capacity building. It is also suggested that since there are multiple services being offered by the business entities therefore there is a need to understand the supply in accordance with the GST law and procedures. In this regard supply of services needs to understand properly and various concepts like time of supply, place of supply, mixed vs. Composite supply, taxable and exempted supply etc. needs to be focused upon so that the model of the sector along with the taxability is clear to the officers.

For identification of the specific sectors it is recommended that a Committee at the zonal level shall be formed with the following as its Members

- ADG NACIN ZTI
- Commissioners of State GST or his representative

This Committee shall decide the sectors which needs to be focused upon. Further the committee shall meet every quarter to review the specific sector areas.

Some of the sectors which have been identified where there is a need for training are

1. Work contract
2. E commerce Services
3. IT & ITES
4. Banking & Insurance
5. Hospitality
6. Telecom
7. Online Information Database access & Retrieval(OIDAR)

It is recommended that the industry experts along with the officers may be involved in the training program to understand the specific sector model.

9.2 Building knowledge on financial accounting

9.2.1 Introduction

a. Accounting is reporting through financial statements. It is the process of recording, summarizing, and reporting the myriad of transactions resulting from business operations over a period of time and results in the preparation of Financial Statements (including Balance sheet, Profit & Loss account etc.).

b. Financial accounting is keeping track of a company's financial transactions. Using standardized guidelines, the transactions are recorded, summarized, and presented in a financial report or financial statement such as an income and expenditure statement, trading and P & L account and a balance sheet. GST Audit basically refers to examination of various records, returns and other documents maintained or furnished by the auditee, like

- Monthly/ Quarterly/ Annual Return;
- Copy of the audited annual financial statements;
- Reconciliation statement, reconciling the value of supplies declared in the Annual return furnished for the financial year with the audited annual financial statement in FORM GSTR 9C/any other form, etc.;
- Such other particulars, as may be prescribed.

9.2.2 Audit in GST with reference to financial accounting

a. While implementing the GST Law, the GST officers come across the

financial accounts of the taxpayer. Taxpayers' business consists basically of his daily transactions of outward or inward supplies (alongwith events related to such supplies), and each transaction may have GST implications i.e. either levy of GST or the claim of legitimate and eligible ITC or the GST by way of RCM. Hence, the GST officers are required to have a working knowledge of financial accounting, on the basis of which entire business transactions are recorded and compliance is made by the taxpayer.

b. GST audit casts a huge responsibility on the auditor for detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilized etc. Hence, it is very important that the auditor possesses a good understanding of accounting fundamentals as well as sufficient accounting skills to read and analyze financial statements. Further, there are several transactions which may not appear in the financial accounts and records maintained by the registered persons such as stock transfers, free samples (except in stock registers), services received from outside India from related parties (except in correspondences), other supplies made without consideration, etc. Due care must be exercised by the auditor to identify such transactions as there may be no direct reference to these transactions in the financial records. Another skill that is very important is being able to link the 3 financial statements, i.e., income statement, balance sheet, and cash flow statement.

c. Following are various aspects of financial accounting having impact on GST, which have to be examined and analyzed by the auditor thoroughly:

d. Identification of various types of Income (Taxable, Exempt, Export, SEZ supplies, Other Income, Reimbursements etc.) of companies in respect of Supply of Goods and Services.

- Study of various items of balance sheets that impact GST like Capital Account (Withdrawal of assets, Debits/credits in nature of supplies), Loans (Figures in odd amounts, standing for long, No interest, No movement), Current liabilities (Advances, RCM, reversal of ITC), GST paid on RCM, Mismatched Credits, Other credits in dispute, Duty Paid on Exports and so on.

- Understanding of "Notes to Accounts" in financial statements which would help in understanding the business of the entity, Taxes / Contingent Liabilities, Cost or Net Realizable Value (Assistance in valuation provision

under GST), Information about related parties & Payments made to Related Party / Key Managerial Personnel, Payments made to Foreign subsidiaries/ Associated concerns, Valuation of Inventory etc.

- Analysis of various accounting ratios (like Net profit ratio, Gross profit ratio, Supplies/Turnover ratio, Creditor Turnover ratio, ITC/ gross tax liability ratio, Non-GST expenses/GST expenses ratio, Addition to fixed assets/Total assets ratio etc., Liquidity/Solvency ratios to indicate areas of probing.

- Indian companies follow Indian Accounting Standards, while the companies operating in the US follow the Generally Accepted Accounting Principles (GAAP) and companies with international exposure follow International Financial Reporting Standards (IFRS). Hence, it is imperative to familiarize the Auditors to these accounting/ reporting Standards.

- Different software tools are available for conducting an audit, and the one appropriate to the financial accounting must be chosen or designed for the auditor.

e. In this context, it is relevant to note that the importance of evaluating the internal control mechanism of the entity under audit cannot be overemphasised. Evaluation of the internal control system is a very important step in the actual conduct of audit as it enables drawing of correct samples for auditing and effective targeting of risk areas. Internal control mechanism is actually the sum total of all policies and procedures which are adopted by the entity in order to achieve the objective of "orderly and efficient conduct of its business", including safeguarding of assets, prevention and timely detection of any fraud/error, ensuring accuracy and completeness of recording, classification and disclosure of transactions.

f. Essentially, the efficacy and effectiveness of the internal control mechanism of the auditee provides a reasonable assurance to the auditor as to the degree of reliance that can be placed on the accounts and financial statements of the auditee. Based on his/her assessment of the effectiveness of such a mechanism the auditor can draw appropriate samples for subjecting them to detailed scrutiny and verification.

g. Internal control systems with regard to accounting have the following objectives: -

- that ALL transactions are RECORDED

- that recorded transactions are REAL
- that ALL transactions are RECORDED TIMELY
- that all recorded transactions are PROPERLY VALUED
- that all recorded transactions are PROPERLY CLASSIFIED & POSTED
- that all recorded transactions are PROPERLY DISCLOSED
- that all recorded transactions are PROPERLY SUMMARISED

h. Internal control mechanism provides reasonable assurance, not only to the auditor but also the management, that all essential aspects of all transactions have been properly and appropriately recorded and that there are no material errors of omission or commission. Internal control mechanism can be evaluated through appropriate questionnaires, check lists and through a study of the business process adopted by the entity. It is recommended that such an exercise should be undertaken before commencing the audit and verification process and the outcome of the evaluation exercise should be utilized for deciding the scope and extent of audit and also for identifying which areas of the operations the auditor must specially focus on.

9.2.3 **A perspective through Accounting Standards**

The GST Officer, while looking into the financial statements of a Taxpayer/ Company, should first understand the accounting standards applicable to the Taxpayer/company. There could be differences in the manner of the accounting and treatment of certain transactions as per Accounting Standard in the financial statements vis-à-vis the treatment under GST. This can lead to difference in turnover as per GST law and the principles of accounting and, consequently, turnover as per final accounts. This could be better understood through the following example:

Time of Supply Recognition from the GST Perspective:

- As per the provisions of CGST Act, in respect of 'Time of Supply of Goods' revenue shall be recognized as per Section 12 and in respect of 'Time of Supply of Services' as per Section 13 of the said Act. The Value to be considered for such transactions is as per the provisions of Section 15 of the CGST Act. However, primarily GST is triggered when the entity makes supply of goods or services or both. The definition of supply under GST is very comprehensive and includes sale, transfer, barter, exchange, rental,

lease, disposal, stock-transfer etc. of goods and/or services.

- On the contrary, in 'financials' revenue is recognized when the goods are sold, or services are rendered. No revenue is recognized when the fixed assets are sold / disposed of, except for profit on sale of such assets or when goods are transferred to the branches.
- For instance, from an accounting standpoint, revenue from sale of goods is recognized when significant risks and rewards in the goods is transferred by the seller to the buyer while in case of services revenue is recognised either on proportionate completion method or completed service contract method. These events may not correspond to the time of supply set out in sections 12, 13 and 14 of the Act and, accordingly, revenue as per the books of accounts may differ with that under GST law.
- This leads to the concept of billed/unbilled revenues and prior period items.

9.2.4 Value of Supply recognition from a GST perspective

- Such transactions would result in difference between the revenue reported under GST when compared to the 'financials'.
- Value of supply of goods or services or both under Section 15 of GST law is the transaction value i.e. the price actually paid or payable for the said supply and would include any duties and taxes paid under any other law other than GST, incidental expenses incurred to meet such supplies, interest charged, if any, etc.
- Valuation of contracts under Indian Accounting Standards (Ind AS) might differ on certain aspects from GST Laws. For example, the contract value may not include any duties and taxes paid which is refundable, interest on delayed payment, expenditure incurred by the recipient etc. These differences might lead to differences in valuation of contracts.
- Supplies without consideration: As per Schedule I of the CGST Act- GST is leviable on certain transactions even if such transactions are made without consideration – like supply of goods from principal to agent, disposal of business assets, supplies to related parties etc. Under Ind AS transactions without any consideration would not form a part of the financial statements and would be treated as a non-balance sheet item / off- balance sheet item.

- Post sales discounts: Usually if the entity has a practice of granting discounts to its customers on post-sale basis, then for providing such discounts the entity may raise a financial credit note which will not be subjected to GST but would be reported as discounts in the financial statements.

9.2.5 **Cash Flow - The third important financial statement**

- A cash flow statement is one of three mandatory financial reports generated by every business organization monthly, quarterly, or yearly. It measures the rate at which a business generates its cash so as to operate, **invest** and pay its debts. The statement of cash flow complements the other two financial statements of the business, i.e. the income statement and the balance sheet.
- The cash flow statement summarizes the inflow and outflow of cash and cash equivalents pertaining to a business. Main objective of a cash flow statement is to help a business keep track of its cash inflow and outflow.
- As per GST law Cash flow statement is required to be disclosed as per (Part B of GSTR 9C), though for 2017-18 and 2018-19 its optional, its verification will be an integral part of verification by the GST Officer. Even if it were not mandatory in terms of GST law, the cash flow statement would, nevertheless, be a very useful tool in most cases for verifying whether all supplies to external entities have been reflected in the return.
- Further, it can also help GST officer to understand the working of a business and its operations. It provides them with details about the business' cash flow, from where is it coming and where it is going. Cash flow is the indicator of the Taxpayer's financial well-being, its liquidity, and its operating ability.
- The GST officer needs to calculate and reconcile the Receipts disclosed and find out and confirm that they are appropriately disclosed and subjected to tax.

9.2.6 **Sector specific approach**

Some sectors involve complex income streams, financial reporting mechanisms etc., of which officers may not always be fully conversant. For example, various income/revenue heads often need to be verified by the

officers during audit of Banking, Insurance and Non-Banking Financial Companies (NBFC) sectors. The Banking sector generates income among others through interest income, capital markets operations (e.g., sales and trading services, underwriting services, mergers & acquisition advisory), other fee-based income (e.g., credit card fees, savings/ current accounts charges, mutual fund revenue, investment management fees, custodian fees). The revenues could also come through alternative financial services, investment banking and wealth management. Each of these aspects merit a close look by the audit officers for possible implications with regard to GST. Similarly, in the insurance sector, various streams exist like premiums earned, reinsurance, income from investments (e.g., interest, profit on sale/redemption of investments, transfer/gain on revaluation/change in fair value). As these are specialised sectors, it is necessary that the audit-related training modules focus on these sector-specific accounting principles, accounting standards etc. for a better appreciation of audit requirements of these sectors.

9.2.7 In view of the above, capacity building of tax officials in respect of financial accounting is necessary. This can be done through:

1. Imparting Training/capacity building of officers in the field of financial accounting from institutions like NACIN to:
 - a. analyze and examine Financial Statements, various accounting ratios etc.;
 - b. enhance skills of officers for detecting lacunae in the financial accounting of any company;
 - c. learn about different strategies used to detect tax fraud and evasion.
2. Utilizing services of experienced tax officers from States and the Centre. The sharing of knowledge amongst the officers of both the tax administrations is of utmost importance as tax administrations on both the sides have evolved over the years and both of them have certain unique attributes which have to be factored in before devising an approach to GST audit. The experience of Central Tax officers in the services and manufacturing and that of the State Tax officers in dealing with the traders can be mutually beneficial to improve the overall quality of the Audit systems and procedures.
3. Creation of various Checklists to be examined during the audit. The checklists to be prepared should also be able to reflect the industry specific

factors and the domain expertise of officers from both the tax administrations can be made use of.

Creating a strategy that builds the right mix of skills and experience — IT, statistical, analytical and tax domain knowledge. Learning and knowing the theoretical aspects of financial accounting albeit important but it has to be backed up with the knowledge of the modern tools of accounting software and systems.

9.2.8 Interpreting Business Contracts/Agreements

a. A business contract/agreement is the statement, either oral or written, of an exchange of promises in business. It is a negotiated and legally enforceable understanding between two or more legally competent parties.

b. There are different types of business agreements/contracts. Scrutiny of these contracts or agreements constitutes one of the important functions of audit, some of which are discussed below:-

c. Foreign Technical Collaboration Agreement: This agreement may be a pure technical collaboration agreement or technical-cum-financial collaboration agreement. In the latter, there is equity participation also. Sometimes, collaboration agreements are only financial in nature wherein only equity participation by a foreign company is involved. This is relevant for the following reasons:

- Where there is equity participation, imports from the collaborator may be subjected to scrutiny;
- Payment of royalty/technical know-how fee may involve GST liability towards import of services including IPR;
- Whether consideration paid to the collaborator has been taken into account in arriving at cost of production; etc.
- When the supply is from a related party (a) with consideration, (b) without consideration .

d. Joint Venture Agreement: Many times, a joint venture company is set up by Indian Companies with equity participation. Generally, there is a joint venture agreement or promoter's agreement which defines various terms and conditions subject to which a joint venture has been formed. This is relevant for the following reasons:-

- Nature of shareholding in the company;
- If there are any clauses regarding pricing pattern for sale to one of the joint venture partners that may have a bearing on related persons sale or sale at arms-length. This may impact valuation;
- The agreement may contain clauses for payment for certain services which may have tax implication;
- There may be provisions for common Managing Director or common Directorship indicating control/management of various companies which may have a bearing on related persons concept; etc.

e. Joint Development Agreement in Real Estate Sector and GST Audit

- Joint Development Agreements are common in the real estate industry wherein the Land Owner enters into an agreement with a Builder/Developer for the development of the land in lieu of certain consideration. The consideration in such cases can be varied- ranging from a lump sum payment by the builder to the land owner to a share in the ultimately constructed flats/property or a combination of both.
- Such agreements involve an element of transfer of land for developmental purposes. Transfer of Development Rights (TDR) are covered under the GST and there is no ambiguity in this regard unlike the Service Tax period.
- Various transactions in a JDA with concomitant GST implications are as follows:
 - (i) Land Owner to Builder/Developer.
 - (ii) Builder/Developer to Land Owner.
 - (iii) Land Owner to Customers/buyers.
 - (iv) Builder/Developer to Customers/buyers.
 - (v) Retention of flats/property for own use.
- All such transactions have GST implications like the eligibility of ITC, Time of Supply, Rate of Tax, Value of Supply etc. which would require a detailed reading of the various agreements entered between the concerned parties. A case in point is the eligibility of ITC in such cases only for the portion of the flats/property sold before a completion certificate is obtained. The ITC availed and utilized in the flats/property sold after the completion certificate is obtained has to be reversed. The exact liability of the GST on such projects can be arrived at only after the details of the agreements are

studied thoroughly in consonance with the provisions of the GST Act and Rules. The treatment of transfer of development rights and implications in varied schemes like rehabilitation also have to be understood clearly.

f. Works Contract:

Works contract is an activity wherein supply of both service and goods takes place, for example, construction of building; erection, commissioning, installation of plant and machinery, etc. In common parlance, a works contract relates to both 'movable property' and 'immovable property'. In the Service Tax regime, the service portion in the supply of works contract service for carrying out construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, alteration of any 'moveable property' or 'immoveable property' was subjected to levy of Service Tax. In the GST period, the definition of works contract has been restricted to any work undertaken for an 'immovable property' only. Consequently, any composite supply (comprising supply of goods and supply of service) on movable property (goods), for example, a fabrication work or paint work done in automotive body shop does not fall within the definition of works contract under the GST; and such contracts would be treated as composite supplies and would be taxed accordingly. Further, circumstances under which a seemingly immovable property is to be treated as a moveable property and vice versa in terms of judicial pronouncements is crucial in this context and has to be considered carefully in the light of facts of the case. Under the GST law, works contract has been treated to be supply of services, as per Entry No. 6(a) in Schedule II of the CGST Act. This is relevant for the following reasons:-

- If a works contractor has his project office in a State, he has to take registration in that State once he crosses the threshold limit of Rs. 20 lakhs (Rs. 10 lakhs in a Special Category State).
- Unlike the Service Tax and VAT regimes, no abatement from the value of service is allowed to the works contractor under the GST law.
- ITC of tax paid on works contract service is not available when such works contract service is supplied for construction of an 'immovable property'

(other than plant and machinery) except where works contract service is an input service for a supplier of works contract service. [refer to section 17(5)(c) of the CGST Act]. In other words, ITC of tax paid on the works contract service can be availed only by a recipient of such works contract service (taxable person) who is using these services for further supply of works contract service. For example, a company, not engaged in the supply of works contract service, cannot be entitled to avail of ITC of GST paid on the works contract service received from a works contractor.

- As the supply of works contract service under the GST laws necessarily involves immovable property, the place of supply of service would normally be the place of where the immovable property is located.
- The value of supply of works contract service, involving transfer of property in land or undivided share of land, as the case may be, shall be equivalent to the 'total amount' ('consideration charged for works contract service *plus* the 'amount charged for transfer of land or undivided share of land', as the case may be) charged for such supply *less* the value of land or undivided share of land, as the case may be. The value of land or undivided share of land, as the case may be, in such supply shall be deemed to be one third of the 'total amount' charged for such supply.

g. Manufacturing Agreement:

There can be contract / manufacturing agreements which a company might enter into with another company, usually brand owner of repute. Such brand owning companies usually contract out the manufacturing of finished goods to a contract manufacturing facility under certain terms and conditions. This is relevant for the following reasons:-

- The payment under the contract manufacturing arrangement may be looked into;
- What happens to the waste and scrap generated under the contract;
- Whether the contract manufacturer is the real manufacturer or the dummy created for the purpose of declaration of lower assessable value;
- Whether the agreement contains any other consideration which can be converted into monetary terms; etc.

h. Service Agreement:

There may be service agreements/MOUs on various aspects of the business.

In some businesses, Purchase Orders constitute the agreement which contains various terms and conditions for supply of services. Specific focus could be sector-wise service agreements in automobile, FMCG and infra projects. This is relevant for the following reasons:-

- Service given or parts supplied during AMC
- To verify the terms and conditions especially with respect to supply of services;
- Whether the invoice is raised as per the Agreement/contract;
- To compare the total price charged in the Agreement/contract with the GST invoice to ensure that no extra flow back is received outside the invoice through commercial invoice/debit note;
- To study tax structure agreed upon in the Agreement/Contract;
- Any clause regarding Liquidated damages, or Penalties etc.

i. **Job Work Agreement:**

Job work agreements would be formal agreements or through letters exchanged between the parties which contain the basic terms and conditions of the job work. This is relevant for the following reasons:-

- Nature of job work done;
- Time period of returning job worked items as per Section 143 of the said Act;
- What happens to the waste and scrap generated during the job work;
- Whether an applicable rate of tax is charged; etc.

j. **Dealership/Distribution agreement:**

Manufacturers/ suppliers usually market goods through a distributor or dealer network; and enter into dealer/distribution/stockist agreements containing various terms and conditions. Supplies by Principal and Agent as defined in CGST Act 2017 are areas of specific focus. This is relevant for the following reasons:-

- Whether the agreement contains any condition or terms whereby the dealer/distributor is to advertise on behalf of manufacturer; if so, what are the conditions;
- Post sale discounts
- Warehousing facility

- Whether there is any provision for sharing of expenses;
- Whether the goods under supply require after sale service/warranty;
- Whether there is any separate optional warranty agreement, set to commence immediately after the initial mandatory warranty period;
- Is there any provision in the agreement for delivery of free gift items through dealer;
- What is the discount pattern or incentive offered by manufacturer in the agreement; Is it based on the commercial considerations normally prevailing in the trade or not;
- Whether the agreement provides for any non-refundable security deposit with or without interest; etc.

k. **Purchase Contract:**

Purchase of materials/goods are under specific contracts or by tenders floated. These purchase contracts/tenders may also contain information related to audit. This is relevant for the following reasons:-

- Who is the supplier; whether he is related person or not;
- Whether the delivery of goods made directly to factory or to job worker; etc.

l. **Lump sum turn-key contract:**

The assessee may have a turnkey contract which may involve supply, erection at site and commissioning of the goods. This is relevant for the following reasons:-

- Whether the price of the goods is inclusive of erection, commissioning at site;
- Whether any attempt has been made to overload the erection and commissioning charges;
- Whether the machinery is supplied by the manufacturer; etc.
- Case study of solar project (70% of value as goods @ 5% and 30% of value as services @ 18%).

m. Apart from the above there can be many other types of contracts/agreements such as Works Contracts, Constructions contracts, Leasing contracts, Hire purchase agreements, Franchisee agreements, Non-disclosure agreement, Non-Competitive contract , Insurance and reinsurance agreements / contracts, Banking contracts – to the extent of the Banking

fees, charges, penalties charged for services rendered to its customers, other banks, etc. and the exact nature and nuances of such contracts/agreements will have to be understood by the officers conducting audit by factoring in the scope and type of business activity being conducted by the taxpayer.

n. GST officer has to verify and ensure that the results or outcomes of various agreements are accounted for appropriately and the appropriate compliance is made by the taxpayer.

o. It is the duty of GST officer to not only plug the revenue leakages, but to also keep a close watch on systemic tax planning that may adversely affect GST revenues. It should be ensured that while conducting the audit, the terms and conditions of the contracts are gone through and their impact on the value of the supply should be ascertained appropriately so as to point out any duty evasion. For this, conditions of contract, compliance of such terms & conditions, scope of manipulations while performing the contract (e.g. Supplies under Schedule-II of CGST Act, 2017), liquidated damages, penalty clause etc. need to be checked and factored in appropriately.

p. At times this may also require cross-referencing between the contract(s) and the financial statements.

9.2.9 Understanding System Driven Business Process through SAP, Oracle, Tally Etc.

a) A process is a series of tasks that are completed in order to accomplish a goal. A business process, therefore, is a process that is focused on achieving a goal for a business. Processes are something that businesses go through every day in order to accomplish their mission. The better their processes, the more effective the business. As processes grow more complex, they need to be documented. For businesses, it is essential to do this, because it allows them to ensure control over how activities are undertaken in their organization. It also allows for standardization. The complex nature of the business transactions these days has made it mandatory to make the business processes and specifically the accounting processes to be automated and system driven.

b) With the advent of GST, a large number of GST software packages

have been developed and have become widely available. These software packages help organizations simplify the process of GST billing, filing returns, and generating GST invoices. These software packages vary in cost, complexity, features, security, data processing ability, scalability etc. Effective GST software can aid businesses in managing their finances, accounts, inventory, purchase, sales, payroll, taxation, and other processes efficiently.

c) Financial Accounting System is an accounting system where the financial data of the organization is maintained. It is important for auditors to be well conversant with various industry standard softwares like SAP, Oracle, Tally etc.; and also to various accounting methods like Cash Accounting and Accrual Accounting methods. Hence, the auditors must be well trained in financial accounting concepts and use of financial accounting systems that would help them examine and analyze the accounting process, various transactions and ledgers of the assessee while correlating the same with various GST Returns, financial statements etc. Therefore, it is necessary to:

- Impart knowledge related to latest financial accounting systems and methods through various training programs;
- Use of Software for identifying risk parameters similar to CAAP used in the Central Excise regime.
- Developing software to collect back up of Financial Accounts maintained by the Taxpayer.

9.2.10 **Audit in an ERP Environment**

a) The objective of an GST auditor is to identify and assess the risks of material misstatement, whether due to fraud or error, at the financial statement or entry feeding level. The auditor has to understand the nature of the governance structures of the entity i.e. the business structures as well as the IT structures. The IT team is usually the custodian/owner of the application and the business team is the custodian/owner of the data residing within that application, therefore, it is imperative to segregate and understand the roles of both the structures/team. The GST officer has to understand the IT systems and related procedures within IT and business processes by which the transactions are initiated, recorded, processed, reported in the ERP environment. It will also be desirable for the GST officer to get a grasp of the various access controls and rights like the Administrator role/rights,

senior management role/rights and the like so as to access data accessible only to a certain level of officers of an entity. A company may be using a number and variety of software packages to carry out its various functions as depicted in the table below:

Information System	Purpose	Location	In-house or Packaged
SAP/Tally	Accounting, Supply Chain, Production	USA	Packaged
Pay Master	Pay Roll	India	Packaged
Budget king	MIS, Budgeting	India	In-house

b) The GST officer will thus be required to have a good knowledge of the general IT systems and the Automated Application software being used in a business for carrying out the task of audit in an efficient and effective manner.

c) The modern tools/software like Tally. ERP9 designed specifically for the purpose of preparing and finalizing GST Returns has in-built mechanisms to generate various Reports. For example, the GSTR-1 statements can be generated from Tally. ERP9 in JSON format, compressed in the .zip format and uploaded. An advanced tool such as the Tally.ERP9 not only allows the officers to get a summary of the various reports but also goes a long way in finding out about the mismatches in the data. The knowledge of the ERP software will help the GST officers in reconciling the various figures submitted on the portal with those of the financial statements. Further, the ERP systems are designed to cater to a multitude of taxpayer's needs such as Profit tracking, Fixed Assets Management, Risk Management, Multi- Currency Management and Tax Management and therefore, the GST officer auditing an entity should be able to understand various aspects related to these automated accounts.

d) The traditional system of bookkeeping mandated the preparation of separate ledgers like the Purchase Ledger, Sales Ledger, Credit Ledger, Bank/Cash Book etc. but the shift to the automated environment has done away with these requirements and all the transactions are now integrated. An enterprise resource planning system inherently means that all the modules within the system are seamlessly connected with each other and the transactions flow through the relevant modules. Thus, there is one Primary Set of Books and all the transactions reside here. For example, if we take 2 purchase transactions involving 2 Vendors

Purchases Dr -	Purchase Control Account
To Vendor 1 A/c -	Creditors Control Account
Purchases Dr -	Purchase Control Account
To Vendor 2 A/c -	Creditors Control Account

e) In the above example, the ERP will maintain the details of transactions separately for Vendor 1 and Vendor 2 and also have a Creditors Control Account to capture the total of all Creditors balances.

f) In such an automated environment, while deciding on the audit procedures the GST officer should consider the risk of material misstatement at the assertion level (at the level of initial entry) for each class of transactions, account balance and disclosure. Thus, the traditional way of conducting audit may not prove to be fruitful for the department because of the inherent risks prevalent due to the complexity of systems, use of sophisticated application software, systems being distributed over geographies, volume of transactions, outsourced processes and the like.

g) In view of the above cited difficulties, the GST officers will have to mould their thought process and start relying more on what the accountants call the “Controls Based Audit”. Some of the basic tenets of conducting audit under systems driven approach are:

- 1) Design of the Audit Team- incorporation of more experts/ specialists who can extract the data from the ERP systems. Obtaining data independently from the software gives the officers more direct audit evidence.
- 2) Use of Computer Assisted Audit techniques;
- 3) Preparation of customised and specialised systems in-house by the department by using the experience of the tax administrations;
- 4) Use of latest technology like cloud computing;
- 5) Develop competence for “forensic audit”.

Annexures

Annexure 1: Notice for conducting audit (p. 39)

Form GST ADT – 01

[See rule 101(2)]

Reference No.:

Date:

To,

.....

GSTIN

Name

Address

Period - F.Y.(s) -

Notice for conducting audit

Whereas it has been decided to undertake an audit of your books of account and records for the financial year(s) to in accordance with the provisions of section 65. I propose to conduct the said audit at my office/at your place of business on -----.

And whereas you are required to:-

(i) afford the undersigned the necessary facility to verify the books of account and records or other documents as may be required in this context, and

(ii) furnish such information as may be required and render assistance for timely completion of the audit.

(iii) furnish/keep ready the following on the said date

- (a) your reply to the questionnaire annexed hereto vide Annexure A,
- (b) Information duly filled in the Tables annexed hereto vide Annexure B
- (c) The documents/accounts listed in Annexure C hereto

You are hereby directed to attend in person or through an authorised representative on (date) at.....(place) before the undersigned and to produce your books of account and records for the aforesaid financial year(s) as required for audit.

In case of failure to comply with this notice, it would be presumed that you are not in possession of such books of account and proceedings as deemed fit may be initiated as per the provisions of the Act and the rules made thereunder against you without making any further correspondence in this regard.

Signature

Name

Designation.....

Annexure 2 (p.40)

Sample letter seeking mutual assistance to complete the audit in a focused manner.

GOVERNMENT OF	
Office Name.....	
Address.....	
Memo No. ADT/AUDIT YEAR/Section/Audit Gr./case no. [e.g.: Memo No. ADT/2017-18/Park Street/Team 1/5]	Date: Date: 1st December, 2021]
To	
GSTIN	:
Address	:
Period	:
<p>You are aware by now that you have been selected by the Commissioner, State Tax/Central Tax, for audit of your books of accounts and records for the period from.....to in accordance with the provisions of section 65 of the SGST/CGST Act, 2017 read with section 20 of the IGST Act, 2017.</p> <p>In accordance with the provisions of the Acts and Rules made there under, you are required to (i) provide the undersigned the necessary facility to verify the books of account and records or other documents as may be required in this context, and (ii) furnish such information as may be required and render assistance for timely completion of the audit.</p> <p>To avoid any inconvenience from your part to produce the entire set of book of accounts and records on the first date of hearing as specified in Form GST ADT-01, it will be much more practical to produce such books of accounts in a staggered manner and to the extent of what actually will be required from time to time. This will help you and the audit authority to complete the audit process in a focused and planned manner. For such reasons you are hereby asked to produce following statements and accounts (duly signed and stamped) before the undersigned on first date of hearing as specified in Form GST ADT-01 issued to you:</p> <ul style="list-style-type: none">• Annual report and Director's report for the FY• Profit & Loss A/c for the year ended on 31st March,• Balance Sheet as they stood on 31st March,• Auditor's Notes to the A/c for the FY• If GSTR -9C is not submitted for the period then Trial Balance for the RTP having above mentioned GSTIN (It is applicable where the RTP has multiple GSTIN),• Consolidated statement (party-wise total for the period under audit) of inward & outward supplies including exempted and non-GST supply:	

RTP to whom supply made	GSTIN	Total numbers of invoice/debit notes issued	Supply Value (Rs)	Tax (Rs)				Broad category of Goods/services
				CGST	SGST	IGST	Cess	
RTP from whom supply received	GSTIN	Total numbers of invoice/debit notes issued	Supply Value (Rs)	Tax (Rs)				Broad category of Goods/services
				CGST	SGST	IGST	Cess	

- List of HSN code of goods and SAC of services in respect of your supply.
- Reconciliation statement in respect of Turnover as disclosed in GSTR 3B and GSTR 1 and as per books of accounts.
- ITC as claimed in GSTR 3B and as auto populated in GSTR-2A.

You are requested to fill up the Questionnaire as annexed herewith and produce it (duly signed and stamped) before the undersigned **on the first date of hearing** as specified in Form GST ADT-01 issued to you. **You are also requested to mail all these afore-stated statements and accounts at: well in advance.**

The other accounts, statements, records and documents as and when will be required during the course of audit will be duly informed to you or your authorized representative.

Signature of the Audit Officer...

Name :

Designation :

Full Address :

E-mail Address :

Phone Number:.....(Office),.....(M)

Annexure 3: Sample questionnaire for auditee (p.40)

[Please fill up and attach separate sheets wherever necessary]

1. General Information about the RTP (auditee):

a)	Legal Name & Trade Name (if any)																			
b)	GSTIN																			
c)	Address (Principal place)																			
d)	Period of GST Audit																			
e)	Name and contact number and e-mail address of the 'Authorized Person' for Audit and the person responsible for Accounts & Billing.																			
f)	Total tax paid for supply of goods and/or services for the period under audit (Act wise).	<table border="1"> <tr> <th>Tax</th> <th>From e-credit ledger</th> <th>From e-cash ledger</th> </tr> <tr> <td>SGST</td> <td></td> <td></td> </tr> <tr> <td>CGST</td> <td></td> <td></td> </tr> <tr> <td>IGST</td> <td></td> <td></td> </tr> <tr> <td>CESS</td> <td></td> <td></td> </tr> </table>	Tax	From e-credit ledger	From e-cash ledger	SGST			CGST			IGST			CESS					
Tax	From e-credit ledger	From e-cash ledger																		
SGST																				
CGST																				
IGST																				
CESS																				
g)	Whether possesses GSTIN as ISD / TDS deductor / TCS collector in the State?	<table border="1"> <tr> <td>GSTIN as ISD</td> <td></td> </tr> <tr> <td>GSTIN as TDS deductor</td> <td></td> </tr> <tr> <td>GSTIN as TCS collector</td> <td></td> </tr> </table>	GSTIN as ISD		GSTIN as TDS deductor		GSTIN as TCS collector													
GSTIN as ISD																				
GSTIN as TDS deductor																				
GSTIN as TCS collector																				
h)	Constitution of Business and names of the current business owners/promoters.																			
i)	Details of transactions with related and distinct persons [Ref: Sch. I as appended in Sec 7]	<table border="1"> <tr> <th>Name with GSTIN, if any</th> <th>Total supply value during the period</th> <th>Total tax involved (act wise)</th> <th>POS in case of inter state supply</th> <th>Disclo</th> </tr> </table>	Name with GSTIN, if any	Total supply value during the period	Total tax involved (act wise)	POS in case of inter state supply	Disclo													
Name with GSTIN, if any	Total supply value during the period	Total tax involved (act wise)	POS in case of inter state supply	Disclo																

				C G S T	S G S T	I G S T	C E S S		
j)	Details of transactions without any consideration, excluding details mentioned in sl. No. i) above [Ref: Sch. I as appended in Sec 7]	Please fill up in an identical table as in above in sl.no. i).							
k)	Types of goods and or services supplied [with HSN/SAC] other than those attracting tax under Reverse Charge	Name of the goods / services	HSN/SA C		Rate of Tax				
l)	Types of goods and or services received [with HSN/SAC] on which tax is payable under Reverse Charge	Name of the goods / services	HSN/SA C		Rate of tax				
m)	Whether any offence case is booked in respect of Tax for supply of goods/or services, by any Authority under any law in force. If so, details thereof.								
n)	Whether any amount payable/ paid to the Client has been adjusted against the receipt/ receivable and net income shown in the P&L Account. If yes, details thereof.								
o)	If the answer to question (n) above is yes, then, whether it has affected the Turnover as per GST Returns and whether due tax on the receipt/ receivable and net income shown in the P&L Account (relating to supply) has been paid?								
p)	Whether any advance payment is received towards providing services? If yes, whether Tax for supply of services was paid on such receipts?								

r)	Details of any refund applied for the period concerned (please provide details of the status of the refund application: accepted/rejected, if rejected reasons thereof, amount of refund received etc.)	
----	---	--

2. Information on invoicing and accounting pattern:

a)	Is invoice issued in all transactions? If not, reasons for not issuing invoice.	
b)	How many series of invoices are being used?	
c)	If more than one series is used, give details of each such series.	
d)	If there are more than one series of invoices, is tax for supplies paid on all the series of invoices?	
e)	If the answer to question (d) is not, then the reasons for not paying tax for supplies on such series of invoices (e.g. exempted / zero rated without payment of tax / trading / nontaxable goods /services). Give details.	
f)	In case of provision of service, is the invoice issued on the date of provision of service or before or later?	
g)	List of the different account heads under which invoices issued for taxable supplies are recorded in the P/L account or in Trial Balance.	
h)	List of the different account heads under which invoices/bills issued for exempted and non-GST supplies are recorded in the P/L account or in Trial Balance.	
i)	Whether the Invoice Numbers are generated automatically or are fed manually. Give the name and designation of the person having the authority to cancel an invoice.	
j)	Whether any amount is recovered by issue of debit note and whether it is included in the gross value of supplies?	
k)	Are any goods or services provided free of cost or at subsidized price? If so, provide details of such goods / services.	
l)	Are any reimbursements received from the recipients? If so, quantum and reasons for such.	
m)	Is any expenditure that the supplier is liable to pay for a supply but is actually borne by the recipient? If so, details of such.	
n)	Whether the Accounts are maintained electronically? If yes, the name of accounting packages / computer software installed for maintaining accounts in the units like Tally, FAS etc	

o)	Are the accounts prepared on mercantile basis or cash basis?	
p)	Whether there has been any switching over of the accounting software during the audit period?	
q)	Have any changes been made in the accounting policies affecting GST liability relating to reimbursement of expenses, timing of payment of Tax for supply of services and treatment of payments in foreign currency?	
r)	Are the accounts audited by a Statutory Auditor? If so, name, address, phone number and E-mail id of the auditor.	

Annexure 4: List of documents/ statements and books of accounts to be produced for the purpose of audit (p. 40)

- Annual report and Directors report (if any)
- Profit & Loss A/C
- Balance Sheet
- Trial Balance (in case it is maintained)
- Notes to Accounts
- Tax Audit Report
- Cost Audit Report (in case it is maintained)
- If GSTR -9C is not submitted for the period then Trial Balance for the RTP having above mentioned GSTIN (It is applicable where the RTP has multiple GSTIN),
- Statement of Income Tax TDS
- List of HSN /SAC of the goods /or services in respect of the business dealt in by the auditee
- Reconciliation statement in respect of Form GSTR 9, GSTR-1 AND GSTR 3B
- Suppliers list with GSTIN (where applicable)
- Ledger accounts of the suppliers in respect of inward supplies
- Statement of outward supplies (party wise and POS wise).
- Statement of inward supplies for which tax paid/payable in RCM.
- Statement of outward supplies for which tax is payable in RCM by the recipient.
- Bank Statement for the period under audit
- Stock register
- Other documents and records as applicable as provided in section 35 of the Acts and the rules made thereunder and as may be required for the purpose of audit.

Note - 1: On the first date of audit the auditee may be asked to produce only the documents and statements as specified in the letter annexed with ADT - 01.

Note – 2: The above list is illustrative. It is recommended that GST Administrations ensure to identify documents/records/filings already available in the system and not to ask for the same from the taxpayers.

Annexure 5: Format of a sample Audit Plan (p. 44)

SAMPLE AUDIT PLAN

Note: This is only an illustrative Audit Plan. Plan for each auditee should be prepared based on the specific requirement of the audit of that auditee.

A. Basic Information

1. Name of the auditee	.....				
2. GSTIN	.....				
3. Period of Audit						
4. Nature of Business	4.1. Goods & Services:	.....	4.2. Manufacturing unit (if any), name of the State(s) only:	.....	4.3. Corporate office / ISD [Name of the State(s)]:	.....
5. Risk score of selection						
6. Major risk areas as per score	1) 2) 3) 4) 5) 6) 7)					
7. Audit Case No.	..... ....		Date of issuance of ADT – 01 with ref.no.		Reference No: Date:	
8. Date of Commencement	.....		Normal date of completion by		.....
9. Name & designation of Officers in the Audit team.						

10. Audit Unit (Name)
--------------------------	-------

B. Audit Plan drawn by Audit Officer/Audit Team.

Sl. No.	Type of working paper (Ratio study, Trend analysis, Others)	Description (e.g.: Return filing pattern, Outward supply, inward supply, reverse charge, ITC, refund, etc)	Audit Risk (Low, Modera te, High)	Documents to be examined	Audit proce dure (Desk Audit / Field Audit/ 3 rd party enquir y)	Ratio Study/Trend study/ Other study in brief	Remarks
1							
2							
3							
4							
5							
6							
.....							

.....
[Signature of the Audit Team Lead
Date:.....
Name:
Designation:

C. Modifications suggested by Ratifying Officer

Comments

Placed before the Sanctioning Officer for final sanction.

.....
Date:.....

Signature
Name.....

Designation of Ratifying Officer.....

D. Modifications suggested by Sanctioning Officer:

Comments

Sanctioned / sanctioned as modified.

.....
Signature Date:.....
Name
Designation of Sanctioning Officer.....

Annexure 6: Final Audit Report (FAR)- FORM GST ADT 02 (p.61)

Form GST ADT – 02

[See rule 101(5)]

Reference No.:

Date:

To,

.....

GSTIN

Name

Address

Audit Report No. dated

Audit Report under section 65(6)

Your books of account and records for the F.Y..... has been examined and this Audit Report is prepared on the basis of information available / documents furnished by you and the findings are as under:

Short payment of	Integrated tax	Central tax	State /UT tax	Cess
Tax				
Interest				
Any other amount				

[Upload pdf file containing audit observation]

You are directed to discharge your statutory liabilities in this regard as per the provisions of the Act and the rules made thereunder, failing which proceedings as deemed fit may be initiated against you under the provisions of the Act.

Signature.....

Name

Designation

.....

Annexure 7: Format of status report to MCM (p.60)

MCM REPORT (Format) CONSOLIDATED

1.	Period of Audit	
2.	Name of Team Leader (Audit Team)	
3.	Other members of the Audit Team	
4.	No. of cases allotted	
5.	No. of audit cases completed	
6.	No. of cases pending	
7.	Status of pending cases:	Pending at the stage of desk-review
		Pending for approval of audit plan
		Pending at the stage of examination of books
		Examination completed but DAR is pending
		Pending at the stage of preparation of FAR
8.	Notable findings in respect of cases where FAR is issued.	Findings in brief (case-wise report may be placed in such cases only as per following format)

CASE-WISE REPORT

1.	Case No.	
2.	Legal Name and Trade Name	
3.	GSTIN	
4.	Period of Audit	
5.	Name of the Audit Officer(s) with designation	
6.	Name and designation of the officer who sanctioned the Audit Plan	

7.	Important dates		Date of initiation	Date of sanction of Audit Plan	Date of FAR
8.	Date of first appearance				
9.	Name & other details (phone no., e-mail) of A/ appearing				
10.	Mode of Audit (specify)		Desk Audit	Field Audit	Both
11.	List of observations made upon audit [in brief]	Revenue implication (Rs.)	Whether admitted by Auditee (Yes/No)		If Yes, amount realized, Act-wise (Rs.)
	i)Rate difference (wrong HSN/SAC) Pl. mention in brief.				
	ii)Supply not disclosed in returns. (Separate row may be used for each type of such non-disclosure)				
	iii) Tax was payable under RCM but not paid				
	iv)Wrong claim of ITC				
	v)Reversal of ITC not made (specify in brief).				
	vi)Excess refund claimed (specify brief findings)				
	vii) Similarly add rows, if required.				
12.	Particulars	Integrated Tax with POS	Central Tax	State Tax	Cess
	(a)Total amount of tax involved for the discrepancy found (in Rs.)				
	(b)Tax paid during audit or after getting FAR				

	Tax dues (12a – 12b)				
13	(a)Total interest payable				
	(b)Interest paid during audit or after getting FAR				
	Interest dues (13a-13b)				
14	(a)Penalty payable				
	(b)Penalty paid during audit or after getting FAR				
	Penalty dues (14a-14b)				
15	Total amount paid during audit or after getting FAR				
16	Total amount dues (Tax + Interest +Late fees +Penalty)				

Annexure 8: KEY POINTS FOR SUPPLY and SUPPLY OF GOODS OR SERVICES OR BOTH (p. 55)

TABLE I: KEY POINTS FOR SUPPLY			
Sr. No.	Key issues	Reference Points from returns/law	Accounts
1	Whether the kind of outward supplies like Taxable supply, exempted supply, Zero-rated supply, NIL rated supply, Supplies to SEZ unit/developers, Deemed Export etc. are appropriately classified under GST law?	<ul style="list-style-type: none"> • Sr. No. 4 & 5 of GSTR 9 • Taxable Supply: Sr. No. 5N of GSTR 9 • Exempted: Sr. No. 5D of GSTR 9 • Nil: Sr. No. 5E of GSTR 9 • Non-GST Supply: Sr. No. 5F of GSTR 9 • Zero Rated: Sr. No. 5A, 4C of GSTR 9 • Supply to SEZ: Sr. No. 5B, 4D of GSTR 9 • Deemed exports: Sr. No. 4E of GSTR 9 • Section 7 of SGST/CGST Act • Section 17(3) of SGST/CGST Act • Section 147 of SGST/CGST Act • Schedule I, II and III of SGST/CGST Act • Section 16 of IGST Act 	<ul style="list-style-type: none"> • Invoice /Bill of Supply • Tax rate Notification • Exemption Notification • HSN/SAC • Contract • Shipping Bill/Bill of Export • Bill of Lading • Letter of Undertaking • Duty drawback availed • Payment received (Bank/Cash) • Composite/Mixed Supply
2	Whether any activity or transaction which falls within the scope of supply has not been identified by the Registered Person?	<ul style="list-style-type: none"> • Non-GST Supply: Sr. No. 5F of GSTR 9 • Schedule III of SGST/CGST Act 	<ul style="list-style-type: none"> • Invoice/Bill of Supply • Contract • Consideration received • Analysis of cash flow and mapping cash flow onto the returns • Business purpose
3	Whether supply has been correctly classified as Inter-State supply/Intra-State as per Section 7(5) & 8 of the IGST Act, 2017?	<ul style="list-style-type: none"> • Sr. No. 3.1 & 3.2 of GSTR 3B • Section 10,12,13 of IGST Act 	<ul style="list-style-type: none"> • Invoice/Bill of Supply • Party-wise supply with address • Contract • Transportation document • Whether B2B or B2C in case of supply of services
4	What is the treatment of promotional items	<ul style="list-style-type: none"> • Sr. No. 5E & 5 F of GSTR-9 	<ul style="list-style-type: none"> • Sales promotion

	given free to end consumers by FMCG companies?	<ul style="list-style-type: none"> • Sr. No. 14N, 14P, 14Q of GSTR-9C 	<ul style="list-style-type: none"> • expenses • Ledger account of Distributors/Franchisees/Agents • Stock Register
5	Whether the Zero-rated supply is verified as per the provisions of law?	<ul style="list-style-type: none"> • Sr. 5A & 4C of GSTR-9 • Section 16 of IGST Act 	<ul style="list-style-type: none"> • Contract • Shipping Bill/ Bill of Export • Bill of Lading • Payment received (Bank Statement) • Letter of Credit / Telegraphic Transfer • Letter of Undertaking • Duty drawback availed
6	Whether supply of capital goods has been subjected to GST and as to whether the same has been included in the returns filed?	<ul style="list-style-type: none"> • Section 18(6) of CGST/SGST Act 	<ul style="list-style-type: none"> • Fixed Asset Schedule • Contract • Ledger account of fixed assets/plant and machinery • Ledger account of scrap • TCS under Income Tax Act • Bank Statement (Payment received)
7	Whether the transactions are correctly classified as supply of goods or supply of services as per Schedule-II of the CGST/SGST Act, 2017?	<ul style="list-style-type: none"> • Table 9 of GSTR 9C • Sr. No. 17 & 18 of GSTR 9c • Schedule II of CGST/SGST Act 	<ul style="list-style-type: none"> • Invoice/Bill of Supply • Contract • Composite/Mixed Supply
8	Are there any transactions wherein goods sent for job-work are not received back within the specified period?	<ul style="list-style-type: none"> • Form ITC -04 • Section 143 of CGST/SGST Act 	<ul style="list-style-type: none"> • Delivery Challan • Gate outward register • Gate Inward register • Stock register • Job work charges
9	Whether any business asset has been permanently disposed off for which input tax credit had been availed?	<ul style="list-style-type: none"> • Sr. No 6B of GSTR-9 • Schedule I of CGST/SGST Act 	<ul style="list-style-type: none"> • Fixed Asset Schedule • Contract • Ledger account of fixed assets/plant and machinery

			<ul style="list-style-type: none"> • Ledger account of scrap • Stock register • Bank Statement (Payment received) • Cash flow statement
10	Whether "Related persons" or "Distinct persons" in relation to the registered person have been identified and whether activities or transactions with them have been duly identified and accounted for as per law?	<ul style="list-style-type: none"> • Section 15(4) of CGST/SGST Act • 	<ul style="list-style-type: none"> • List of related/distinct persons • Ledger account of Related persons • Loans and advances • Income tax Audit report • Annual return under Companies Act
11	Whether any "Agent" has been appointed by the registered person and whether transaction with such agent has been duly accounted for as per law?	<ul style="list-style-type: none"> • Schedule I of CGST/SGST Act • 	<ul style="list-style-type: none"> • Commission expenses • TDS/ Form 26AS • Contract with franchisee /distributor • Structure of business supply chain
12	Whether any foreign exchange has been remitted outside India for any import of services and whether tax on the same has been paid as per law?	<ul style="list-style-type: none"> • Sr. No. 6E and 6F of GSTR- 9 	<ul style="list-style-type: none"> • Contract • Bank Statement (payment made) • Letter of credit/ telegraphic transfer • Director report
13	Whether the goods for business use have been put to personal use?	<ul style="list-style-type: none"> • Section 17 (1) of CGST/SGST Act • Schedule II of CGST/SGST Act • 	<ul style="list-style-type: none"> • Stock register • Drawings account • Nature of expenses especially telephone, repair and maintenance, insurance etc.
14.	Whether tax has been paid on RCM on inward supplies?	<ul style="list-style-type: none"> • Section 9(3) and 9(4) of CGST/SGST Act 	<ul style="list-style-type: none"> • Self- invoices issued • Payment vouchers • Examine the nature of expenses especially freight (inward and outward), legal charges, import of services etc. • Bank Statement (payment made)

15.	Whether tax paid on advances received?	<ul style="list-style-type: none"> • Sr. No. 4F of GSTR-9 • Section 12 and 13 of CGST/SGST Act 	<ul style="list-style-type: none"> • Bank Statement (Payment received) • Cash book for any cash received • Loans and advances in the Balance Sheet • Ledger account of debtors • Current liabilities on account of unearned income/advance received
16.	Whether any credit note issued for supplies made?	<ul style="list-style-type: none"> • Sr. No. 4I of GSTR-9 • Section 34 of CGST/SGST Act 	<ul style="list-style-type: none"> • Credit Note Vouchers • Goods return register • Ledger account of sale returns • Weigh bill • Gate Inward pass • Transportation document • ITC reversed by recipient • Whether issued within timeline defined by section 34

Supply of Goods or Services or both.

In the pre-GST era, incidence of taxation on goods and services varied under different tax laws. 'Excise duty' was levied upon removal of manufactured products from the factory, 'Service Tax' was levied on 'provision of service' and VAT was levied on the value of sales or deemed sales of goods. These multiple incidences of taxation of the pre-GST era have been converted into the single incidence of taxation of SUPPLY in GST.



EXHIBIT 17

GST Law has defined 'supply' in an inclusive manner. Supply in GST comprises of all forms of supply of goods or services or both. It includes 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 [section 7(1)(a) of CGST & SGST Act].

	Sale means transfer of ownership of any goods or service against consideration.		Lease signifies contract to allow right to use for a period without transfer of title.
	Transfer means making over the possession of a property, a right, or a responsibility to another.		Barter is exchange of goods or services for other goods or services without using money.
	Exchange is an act of giving one thing and receiving another (especially of the same kind) in return.		Rental means periodical payment for the use of someone else's property.
	Disposal is to part with or alienate / the action or process of getting rid of something.		License is a permission to use something without transfer of possession.

EXHIBIT 18

- Import of services for a consideration whether or not in the course or furtherance of business is also a supply.
- Some activities as specified in Schedule I of CGST/ SGST Act, even if made or agreed to be made without a consideration, are treated as supply.
- Further, activities or transactions specified in Sch III shall be treated neither as a supply of goods nor a supply of services in GST.

Thus, supply has following important characteristics

- Supply shall be for a consideration except transactions specified in Sch.I which shall be treated as supply even if made without consideration.
- Supply is done in the course or furtherance of business except import of service for a consideration which is considered as supply whether or not in course or furtherance of business.
- There are certain activities specified in Sch. III which are not to be treated as supply of goods or services.

Conditions of 'Supply' in GST:

(a) for a **consideration** and (b) **in the course or furtherance of business**

Exceptions:

(a) Activities in Schedule I to be treated as supply **even if made without consideration**

(b) Import of Service to be treated as supply **even if it is not in the course or furtherance of business**

The above conditions are discussed below with some examples:

A. Consideration is a condition of supply -**EXHIBIT 19**

A person runs two coaching centres. One is for needy students which is absolutely free, whereas the other is against fees. He is providing the same services from both the coaching centres. But, the services provided from the free coaching centre does not fulfil the first characteristic of supply (i.e. consideration) in GST. So, it is not a supply in GST. But, the services from the other coaching centre fulfills all the characteristics of supply. It must be remembered that consideration may not wholly be in monetary form; it may be in forms other than money too. For instance, supply of a new mobile phone worth Rs.50000 in exchange for a specified old mobile phone worth Rs.10000 and Rs.40000 in cash. When the consideration is not wholly in money, the value of the supply is to be ascertained as per rule 27 of the CGST Rules, 2017.

**B. Supply should be “in the course or furtherance of” business -**

One of the characteristics of supply is that supply should be “in the course or furtherance of” business except a few. ‘In the course or furtherance’ is not defined in GST law, but is broad enough to cover any supply made in connection with the business and therefore the phrase needs to be analyzed in detail. The Australian Concise Oxford Dictionary (1997) defines the phrase 'in the course of' as 'during' and the word 'furtherance' to mean 'furthering or being furthered; the advancement of a scheme etc.' The literal meaning of the said phrase ‘in the course or furtherance of business’ is “as part of doing regular business” or “anything done in relation to business”. For example:

- i. Purchases & Sales of goods by reseller.
- ii. Selling scrap generated in the process of manufacturing is also in the course of business.

iii. Activities done as part of CSR by a Company are also in the course of business.

Thus, the phrase widens the scope of supply to bring more activities in its ambit.

c. Import of services for a consideration is supply in GST even if not in course or

furtherance of business. Suppose, a person 'P' of West Bengal is constructing his own house for his personal use. He availed the services of an architect in the USA and paid USD 10,000 for it. In this case, though it is not in the course of furtherance of business, still it would be treated as supply in GST and Mr. P would be liable for payment of GST under RCM; that he may be exempted from payment is another matter but the liability is there.



EXHIBIT 20

It is also relevant to mention in this respect that, services are considered to be imported when three conditions are fulfilled- (i) Supplier of services is located outside India, (ii) Recipient of services is located in India and (iii) Place of supply of services is located in India [sec 2(11) of the IGST Act, 2017].

D. Exceptions in respect of 'Consideration' being an essential condition for Supply in GST –

There are some exceptions where activities are treated as 'Supply' under GST even if such are made without consideration. These are specified in Schedule- I under section 7 of the Act.

Schedule I: Following activities to be treated as supply even if made without consideration:

1. Permanent transfer or disposal of business assets where ITC has been availed on such assets.
2. Supply of goods or services or both between related persons (such as officers or directors of one another's business, employer & employee,

members of the same family, legally recognized partners in business etc.) or between distinct persons as specified in sec 25, when made in the course or furtherance of business. But gifts not exceeding rupees fifty thousand in value in a financial year by an employer to an employee shall not be treated as supply.

3. Supplies of goods by principal to his agent where the agent undertakes to supply such goods on behalf of the principal.

Supplies of goods by an agent to his principal where the agent undertakes to receive such goods on behalf of his principal.

4. Import of services by a **person** from a related person or from any of his other establishments outside India, in the course or furtherance of business.



EXHIBIT 21

1. Permanent transfer or disposal of business assets without consideration: There is no doubt that disposal of business assets against consideration is a supply. However, if ITC on any business asset has been availed, then disposal of such business assets even if made without consideration should also be treated as supply. Examples –

a. **Permanent transfer: Example No. 1** - Suppose XYZ Ltd., is in the business of hospitality. He purchases an air conditioner and a car for his hotel business and avails ITC on the air-conditioner but no ITC is availed in respect of the car. After 2 years, he permanently transfers the AC to one director and

the car to another director, both without any consideration. Though no consideration is taken in case of transfer of the air conditioner still, it would be treated as a supply as per Schedule I and supplier shall have to pay an amount determined according to section 18(6) of the CGST/SGST Act. In the case of permanent transfer of the car, it will not be treated as supply since no ITC has been availed on the same.

Example No. 2 - Woodwork, being a sole proprietorship firm is in the business of selling furniture. However, if the owner takes a set of furniture from its inventory to furnish his bedroom, the transfer of the furniture by the owner is a supply as per Schedule I and would be subject to GST.

Whether temporary transfer of business assets would be considered as supply in GST?

Temporary transfer of business assets with consideration is a supply in GST. However, temporary transfer of business assets without consideration has not been covered under Sch. I. So, it will not be treated as supply. But, for that limited period for which such assets are not used for the purpose of business, ITC shall have to be reversed as per provisions of section 17(1) read with rule 42 and 43.

Disposal of business assets: There are various reasons for disposal of business assets without any consideration. Most common reasons for such disposal are following: Assets are not in usable condition, Assets donated etc. **e.g.** – A company disposes of its old fans to a nearby rural health Centre as a donation during renovation of its office. The company had availed ITC on such fans. So, even if no consideration is involved in this disposal, it will still be treated as supply in GST.

Supplies between related persons:

a. Transactions between related persons is considered a supply in GST even if made without any consideration. Related persons are defined u/s 2(84) of the CGST/SGST Act. Persons shall be deemed to be related if they fall under any of the following categories:

- Officer/ director of one business is the officer/ director of another business,
- Businesses are legally recognized as partners,
- An employer and an employee,

- Any person holds at least 25% of shares in another company either directly or indirectly,
- One of them controls the other directly or indirectly,
- They are under common control or management,
- The entities together control another entity,
- They are members of the same family.

However, in accordance with the provision in entry no. 2 of Schedule I, gifts not exceeding fifty thousand rupees in value in a financial year by an employer to an employee shall not be treated as supply.

Example: Company X gives a mobile phone worth Rs. 25000/- to each member of its sales team as a gift in 2017-18. The same Company X gives a high-end laptop worth Rs. 60,000/- to the head of the sales team for his performance.

Here, the gift of mobile phone to a salesperson as stated above, would not be treated as supply since the value of such gift to an employee does not exceed Rs.50,000/- in that FY. However, say, the company over and above the above, also gifts a family tour package to that employee which is worth Rs.30,000/- in the same FY. In this case, since the value of the gift exceeds Rs.50,000/-, the entire amount of Rs.55, 000/-(=Rs.25, 000/- + Rs.30, 000/-) would be treated as a supply by the employer. In the second case also, gift of laptop worth Rs.60, 000/- to the sales head would be treated as a supply since the value of gift exceeds Rs.50,000/-.

Sometimes companies' gift to non-related persons without any consideration. The same may be illustrated as follows –

a. Gifts provided by pharmaceutical companies to the Doctors – Gifts given by the pharmaceutical companies to the doctors shall not be treated as supply since in this case, both are not related persons or distinct persons as specified in section 25 and the activity (of giving gift) is made without consideration. However, the pharmaceutical company in this case, is not entitled to claim ITC on corresponding purchase of such gift items in accordance with section 17 (5) of the CGST/SGST Act.

b. Diwali gift / New Year gift to business Clients – The activity of giving Diwali Gifts or New Year gifts to business clients would also not qualify as supply since the activity is not between related parties and is without

consideration. However, ITC on corresponding purchase of the same needs to be reversed, if already availed, in accordance with S.17 (5) of the SGST/CGST Act.

Supply between distinct persons:

Stock transfer from one branch to another branch or from the manufacturing unit to different sales units within or outside the State is a very common practice in business. In the pre-GST regime, this type of inter-state transaction was exempted subject to fulfilment of certain conditions. However, this stock transfer is a supply between distinct persons in GST. Following persons are distinct persons –

- a. All registered persons (whether in the same State or different States) under a single PAN are distinct persons (section 25(4) of the CGST/SGST Act).
- b. Where registration has been obtained by a person in respect of an establishment in a State (or a union territory), another establishment of the same person in another State (or union territory) they are treated as establishments of distinct persons (section 25(5) of the CGST/SGST Act).

Example: A registered manufacturer in Delhi, transfers finished goods worth Rs.5,00,000/- to its depot located in Kolkata, WB. This would be treated as a supply in GST.

Supply of principal and agent: In pre-GST regime, consignment transfer to consignment agents in VAT and CST Acts was exempted subject to fulfilment of certain conditions. However, supply of goods by a principal to his agent where the agent undertakes to supply such goods on behalf of his principal is treated as supply by principal to the agent even if such is made without consideration. Similarly, supply of goods by an agent to his principal where the agent undertakes to receive goods on behalf of the principal is treated as supply by the agent to his principal even if such is made without consideration. The key here is whether the invoice for the supply has been issued by/to the agent in his own name rather than in the name of the principal; if so, the transaction between the principal and the agent is a supply, otherwise not. (Circular no. 57/31/2018-GST dated 4th September, 2018 refers)

The same is illustrated below–

A manufacturer of hosiery products in Kolkata engages an agent in Siliguri to sell his products as an agent. When the manufacturer transfers his stock to the agent it would be treated as supply by the principal to the agent and subsequently when the agent sells the same to the customer such would be treated as supply by the agent.

This manufacturer further engages an agent in Nadia to receive cotton yarn from vendors of Nadia. When the agent transfers cotton yarn to the manufacturer the same would be treated as supply by the agent to the principal.

Import of services from a related person or from overseas establishment

Import of services is a supply, if it is made for a consideration.

However, Import of Service without consideration would also be treated as supply if such is made **in the course or furtherance of business** and is made from any related person or from any establishment outside India to him in India and the same is made. **Example** – A multinational company engaged in engineering services provides engineering drawing from its unit at France to a unit in Kolkata, free of cost.

This import of service would be treated as supply even if it is without any consideration.

However, in this case it is very difficult to identify such services., if there is no self-compliance made by the RTP. If we examine the books of accounts carefully, we may find some areas where an audit trail of such supply may be identified. In such cases a list containing details of establishments outside India can be obtained and the correspondences between the entity in India and its foreign counterpart can be examined, at least on a sample basis.

For example, a company asks engineers from his foreign establishment to supply engineering services to a client in West Bengal. The foreign establishment charges nothing for the services but travel expenses and all other expenses of such engineers are borne by the registered company in West Bengal. So, audit trail of such services can be found in the relevant head of expenses. Therefore, it is very important to know the business pattern of the auditee to identify probable areas where reflection of such type of transactions may be identified.

E. Activities neither to be treated as supply of Goods nor as supply of service

Before going into the detailed discussion on activities or transactions which shall neither be treated as supply of goods nor supply of service as provided in Schedule III, it is important to know the context of Schedule-III. In GST law, services are defined in the widest form ; ‘anything other than goods’ is defined as services. So, the services provided by an employee to his employer also becomes a supply of services. Functions performed by MLAs and MPs also get into the ambit of services as far as the definition of services is concerned. But it was never the intention of the GST law to bring services by the employees or MLAs or MPs and similar other activities into the scope of supply.

Accordingly, the following activities or transactions which are enlisted in Sch. III, shall neither be treated as a supply of goods nor a supply of services:

- i) Services by an employee to the employer in the course of or in relation to his employment.
- ii) Services by any court or Tribunal.
- iii) Functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities;
- iv) The duties performed by any person who holds a post in pursuance of the provisions of the Constitution in that capacity;
- v) The duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central/ State Govt. or a local authority and who is not deemed as an employee before the commencement of this clause.
- vi) Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
- vii) Sale of land, sale of building (other than specified in Para. 5(b) of schedule II of the Acts].
- viii) Actionable claim, other than lottery, betting and gambling.
- ix) Supply of goods from one non-taxable territory to another without entering into India.
- x) (a) Supply of warehoused goods to any person before clearance for home consumption.
(b) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port

of origin located outside India but before clearance for home consumption (High Seas Sale).

i) Services by an employee to the employer in the course of or in relation to his employment

In case of supply of services by an employee, fulfilment of the following three broad conditions is required for the levy of GST -

- i. presence of service,
- ii. existence of consideration and
- iii. the supply is in the course of or in relation to the employment of the employee; that is to say, the services rendered by the employee are as per the contract of employment or within the scope of the employment.

But, as per entry no.1 in Schedule III, services rendered by an employee to his employer in the course of or in relation to his employment, shall neither be treated as supply of goods nor as supply of services.

It is important to note that the exclusion is applicable only in circumstances **where the services are rendered in the course of or in relation to his employment and not otherwise**. Any service rendered by an employee to his employer beyond the normal course of employment can be subject to GST unless otherwise exempted. Therefore, employee-employer agreement should have comprehensive details about the roles and responsibilities of the employee and remuneration against those services. These are also important areas to examine.

For example –

- a. There is a condition in the employment clause of a pharma company that an Area Sales Manager is required to fulfil his target during a year otherwise, it would affect his increment and next promotion. An Area Sales Manager who is highly efficient exceeded the target prior to the end of the financial year. The company, being pleased, gifted him a personal car. This is nothing but a gift by the employer to the employee but the same would be treated as supply in accordance with entry 2 of Schedule I.

ii) Actionable claim, other than lottery, betting and gambling: Except lottery, betting and gambling, all other actionable claims are neither to be treated as supply of goods nor as supply of services.

Section 3 of the Transfer of Property Act, 1882 defines Actionable Claim. It is a claim of –

1. any debt which is not secured by:
 - a. Mortgage of immovable property,
 - or
 - b. Hypothecation, or pledge of movable property,
2. any beneficial interest in movable property, which is not in possession of the claimant. The possession can be actual or constructive.

Examples of Actionable Claims

- Lottery ticket,
- Betting & gambling,
- Right to credit in a provident fund,
- Dividends on shares, debentures, negotiable instruments such as bills of exchange etc.,
- Rights shares or option to purchase shares,
- Bank guarantee,

Examples of Non-Actionable Claims

- Copyright,
- Right to claim damage in the event of breach of contract,
- Right to use,
- Coupons and Vouchers.

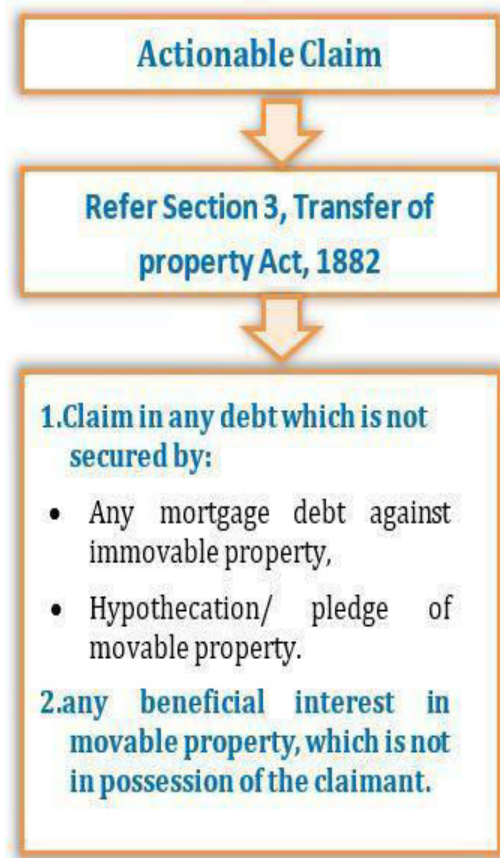


EXHIBIT 22

There are several examples of actionable claims. But, only lottery, betting and gambling are liable to GST.

iii)Sale of land, sale of building (other than specified in Para. 5(b) of schedule II of the CGST/ SGST Act):

Sale of land is outside the ambit of GST. But there may be many activities and transactions related to land which can be taxable in GST. Some of these activities are mentioned in Sch. II.

Schedule II: Activities or transactions to be treated as supply of goods or supply of services

1. TRANSFER

(a) Any transfer of title in goods is a supply of goods - Transfer of title of goods means transfer of possession and control on such goods i.e transfer of ownership. However, sometimes, title may be transferred before getting physical possession of goods. For example, X being a reseller of sewing machines receives an order to supply 15 pieces of sewing machine to a business person Y in Bihar. But, Y instructs X to deliver the same to Z in Jharkhand. In this case, Y transfers the title of the goods to Z without getting physical possession of the goods. Hence, in this case there are two distinct supplies of goods, first one by X to Y and the second one by Y to Z.

There may be situations where transfer of title of taxable goods may not be treated as supply in GST. In the case of 'High Sea Sales', transfer of title of goods occurs on high seas. Subsequently, documents of Customs clearance i.e. Bill of Entry etc is filed by the person who buys the goods from the original importer during the said sale. This high sea sale is not a supply in GST as per entry no. 8(b) of Sch. III.

(b) Any transfer of right in goods or of undivided share in goods without the transfer of title thereof is a supply of services – “**Transfer of right to use of goods**” was always a point of dispute between two different taxation authorities. Transfer of effective control and possession over any goods along with the transfer of right to use was considered as deemed sale under the VAT Acts. However, if there was no transfer of effective control and possession over any goods, mere transfer of right to use was considered as supply of service. So, upon consideration of all the conditions it was always difficult to decide whether a particular transaction was liable to levy of VAT or service tax. This particular entry in Sch. II has done away with any such confusion and henceforth any transfer of right in goods or of undivided share in goods without the transfer of title thereof would be considered as supply of services.

Excavators, Cranes, Dumper trucks, Generator, Transit Mixer and many such machineries are usually supplied on rent basis without transferring the title. All such transactions are treated as supply of service in GST. But, as

per the rate notification, rates of applicable GST of such services is equivalent to the rates of the particular goods.

(c) Any transfer of title in goods under an agreement which stipulates that property in goods shall pass at a future date upon payment of full consideration as agreed, is a supply of goods-

Example of the aforesaid entry can be Hire Purchase. There may be a two-party transaction between the owner and the hirer or there may be a tripartite agreement between seller, the buyer and the financier. Obviously the second type of agreement is more popular nowadays. However, this kind of tripartite arrangement cannot be considered as hire purchase. In this case, full payment is made by the financing company for the purchase of the buyer and the purchaser becomes the owner of the goods. The finance company has only the right to seize the goods for non-payment of loan. In case of failure to pay the loan, the finance company sells the goods after taking possession of the goods. In such a case, it is a supply in GST and there is specific valuation rule 32(5) of the CGST/ SGST Rules, 2017 which reads as follows:

“Where a taxable supply is provided by a person dealing in buying and selling of second hand goods i.e., used goods as such or after such minor processing which does not change the nature of the goods and where no input tax credit has been availed on the purchase of such goods, the value of supply shall be the difference between the selling price and the purchase price and where the value of such supply is negative, it shall be ignored:

Provided that the purchase value of goods repossessed from a defaulting borrower, who is not registered, for the purpose of recovery of a loan or debt shall be deemed to be the purchase price of such goods by the defaulting borrower reduced by five percentage points for every quarter or part thereof, between the date of purchase and the date of disposal by the person making such repossession”.

This is further clarified by Question No.63 in FAQ issued by the CBIC on Banking, Insurance and stock brokers sector dated 27.12.2018.

2. LAND AND BUILDING

(a) Any lease, tenancy, easement, licence to occupy land is a supply of services,

(b) Any lease or letting out of the building including a commercial, industrial, or residential complex for business, or commerce, either wholly or partly is a supply of services -

Land and buildings being immovable properties are kept outside the ambit of 'Goods' as defined under the CGST/SGST Act, 2017. But services like lease, tenancy, tenancy transfer, easement, licence to occupy land, lease or letting out of any building or part thereof are treated as supply of service in GST. Even, the tenancy premium is liable for levy of GST. There are certain kinds of such supplies which are notified as nil rated supply. e.g. Leasing of industrial plots or plots for development of infrastructure for financial business. Grant of tenancy rights in a residential dwelling for use as residential dwelling against tenancy premium or periodic rent or both is also exempt supply [vide sl. no 12 of Notification No. 12/CT (R)2017].

An interesting ruling by AAR of GST, Karnataka is relevant to mention here [vide, ruling 2020 (4) TMI 692]:

Applicant has let out a Residential complex to a company who is engaged in the business of providing residential accommodation to students by entering into sublease agreement with students for providing residential accommodations with amenities, security, entertainment facilities for a period varying from 3 months to 11 months. The ruling held that they are like hotel rooms and no circumstances can be termed as a residential dwelling. The services provided are not for use as a residence by the lessee. Hence it is not the nature of the property which determines taxability but the purpose of letting out the property which determines taxability.

3. TREATMENT OR PROCESS

Any treatment or process which is applied to another person's goods is a supply of services –

Any treatment or process applied to another person's goods is a service. Further, any treatment or process undertaken by a person on goods belonging to another registered person is defined as "job work" in GST. Now, if consumables are supplied by the job worker in the process of applying treatment or process then also it would be treated as supply of services.

However, if goods are also supplied by the job worker for manufacturing of a product as per the specification of the Principal then the same may be considered as manufacturing of that particular goods. Accordingly, the job worker is liable to charge GST at applicable rates for supply of that particular goods. In this respect clarification in Circular No: 52/26/2018-GST dated 09.08.2018 is relevant:

Fabrication of buses may involve the following two situations - (a) Bus body builder builds a bus, working on the chassis owned by him and supplies the built-up bus to the customer, (b) Bus body builder builds body on chassis provided by the principal for bodybuilding. In situation (a), the supply of a bus is being made, and accordingly the supply would attract GST@ 28%. In situation (b), fabrication of body on chassis provided by the principal (not on account of bus bodybuilder), the supply would be treated as services, and 18% GST as applicable will be charged accordingly.

4. TRANSFER OF BUSINESS ASSETS

(a) Where goods forming part of the assets of a business are transferred or disposed of by or under the direction of a person carrying on the business so as no longer to form part of those assets, such transfer or disposal is a supply of goods by the person.

In this entry “business assets” means both Fixed and Current assets. Transfer or disposal of the same would be taxable under GST irrespective of whether the transaction is done with consideration or without consideration.

(b) Where, by or under the direction of a person carrying on business, goods held or used for the purpose of the business are put to any private use or are used , or made available to any person for use, for any purpose other than a purpose of the business, the usage or making available of such goods is a supply of services.

Where goods held or used for the purpose of business -

- (i) are put to private or personal use; or
- (ii) made available to another person for use for any purpose other than a purpose of the business,

In both such cases it would be a supply of services **only** if such a transaction is made **for** consideration.

e.g1. A proprietor who is in the business of selling cars brings a car temporarily for 2 months to his residence for personal use. Here, it should be deemed as a supply of services by the said registered person **to the proprietor if he pays to the business for the personal usage of the car; otherwise, credit proportional to such usage is to be reversed in terms of section 17(5)(g).**

e.g2. When a registered person transfers the right to use his assets to his sister concerns (who are distinct persons) for a limited period of time, it would also be a supply of services even if there is no consideration involved **by virtue of falling within the scope of entry 2 of Schedule I.**

(c) Where any person ceases to be a taxable person, any goods forming part of the assets of the business carried on by him, shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person unless-

(i) The business is transferred as a going concern to another person, or

(ii) The business is carried on by a personal representative who is deemed to be a taxable person.

Example- A manufacturer of hosiery goods has decided to close his business. At the time of filing application for cancellation of registration, he has raw materials and finished goods as stock worth Rs.10 Lakh. He also has Plant & Machinery worth Rs.15 Lakh. He has disclosed such assets but failed to pay any tax. His application is accepted and registration is cancelled. This manufacturer is liable to pay tax on his stock including Plant & Machinery as the same is deemed to be supplied by him immediately before he ceases to be a taxable person. However, in the present case if the person would have transferred the business as a going concern to another person, in such case, it would have been treated as exempt supply of services in accordance with sl.no 2 of Notification No. 12-CT(R)/2017 dated 28.06.2017. Similarly, in case of death of the person, if the business is carried on by his legal heir as a taxable person under GST then all liability of the deceased proprietor would be transferred to the legal heir.

5. SUPPLY OF SERVICES

As per Sch. II the following activities are treated as supply of services:

- (a) renting of immovable property.
- (b) Construction of a complex, building, civil structure or a part thereof, including a complex or a building intended for sale to a buyer, wholly or partly, except where entire consideration has been received after the issuance of completion certificate, where required by the competent authority or after its first occupation, whichever is earlier.
- (c) Temporary transfer of right to use or enjoyment of intellectual property right is service.
- (d) Development, design, programming, customization, adaptation, upgradation, enhancement, implementation of information technology software.
- (e) Agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act.
- (f) Transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment, or other valuable consideration.

(a) Renting of immovable property is service - The word 'Immovable Property' has not been defined in the CGST/WBST Act, 2017, however the same has been defined u/s 2(19) of the General Clauses Act, 1977 - "Immovable Property" shall include land, benefits to arise out of the land, and things attached to the earth, or permanently fastened to anything attached to the earth.

Suppose, a heavy generator is installed on the ground of any registered person. Whether the same would be treated as immovable property? In the judgement of Mallur Siddeswara Spinning Mill case (166) ELT 154 (SC) the Hon'ble Supreme Court of India held that if a machine (say a Genset) is fastened on a frame and is capable of being shifted from that place, it is capable of being sold. It is goods and not immovable property. In such cases the twin test of "permanence" and "marketability" have been laid down by the Apex Court. It is advised to go through the relevant judgements in this regard.

Several activities are associated with renting of immovable properties such as:

- Renting of residential complex / building / flats/ etc.
- Renting of a commercial complex/unit/flat.
- Renting of a place / property/ complex for a religious function.
- Renting of a place / property/ complex for social function.
- Renting of a place / playground for sports and games.

- Renting of property to an educational institution.

(b) Construction of a complex, building, civil structure or a part thereof, including a complex or a building intended for sale to a buyer, wholly or partly -

Where any consideration in respect of construction of complex, building, civil structure or part of it is received partly or wholly, before issuance of completion certificate, then the entire consideration shall be treated as consideration for the services provided and, the same is taxable under the Act. But, if no consideration is received before getting completion certificate or after its first occupancy, whichever is earlier, then sale of that complex or building or any civil structure will neither be treated as supply of services nor as supply of goods.

The tax rate on supply related to real estate projects has undergone a change w.e.f. 01.04.2019. The input- output scenario up to 31.3.2019 was as follows:

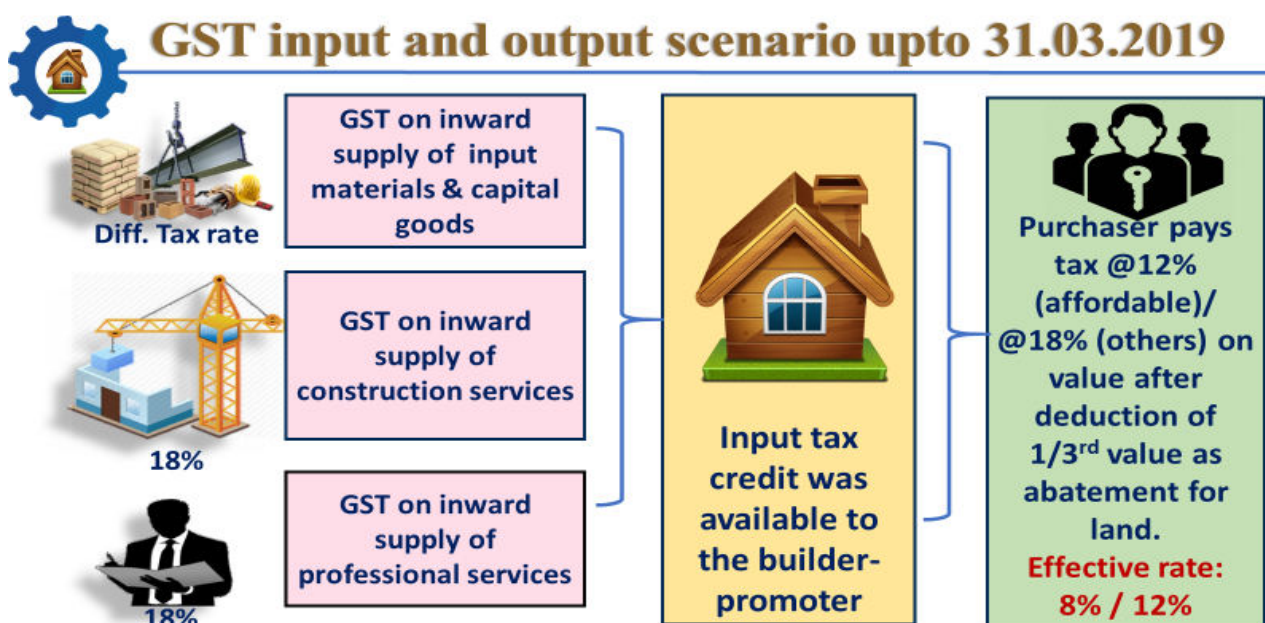


EXHIBIT 23

In the real estate sector, a Developer - Promoter or a Landowner – Promoter is primarily engaged in supply of service.

A Developer-Promoter is a promoter who constructs or converts a building into apartments or develops a plot for sale.

A Landowner-Promoter is a promoter who transfers the land or development rights or FSI to a developer-promoter for construction of apartments and receives constructed apartments against such transferred rights and sells such apartments to his buyers independently.

Apart from the aforesaid services there are various other services also associated. A separate book has been published by the Directorate of Commercial Taxes, West Bengal on the real estate sector. An Audit officer entrusted with the job of auditing a taxpayer in the real estate sector is advised to follow the book and go through the notifications related to real estate.

Present input- output scenario in the real estate sector which is effective from 01.04.2019 is as follows:

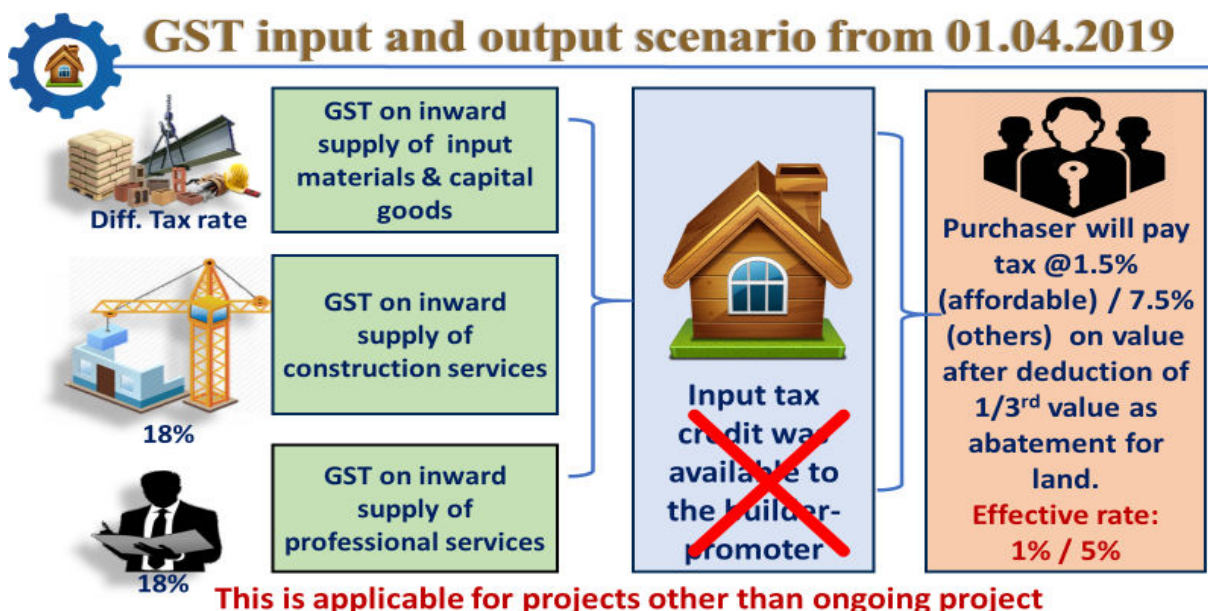


EXHIBIT 24



Comparative view

Sl. No.	Description	Effective New Rate	Effective Old Rate
1.	Construction of affordable Residential Apartment by a promoter (RREP & REP other than RREP)	1% (without ITC)	8% (with ITC)
2.	Construction of other than affordable Residential Apartment by a promoter (RREP & REP other than RREP)	5% (without ITC)	12% (with ITC)
3.	Construction of commercial apartment in RREP by a promoter	5% (without ITC)	12% (with ITC)
4.	Construction of commercial apartment in REP other than RREP by a promoter	12% (with ITC)	12% (with ITC)

(c) Temporary transfer or permitting the use or enjoyment of any intellectual property right -

The term 'Intellectual Property Right' (IPR) has not been defined in the GST Act. However, IPR includes Copyright, Trademark, Patents and other similar rights to an intangible property. In GST law goods comprise of both tangible and intangible goods. IPR is nothing but goods. Temporary transfer or permitting the use or enjoyment of IPR is treated as supply of service in GST. However, if IPR is permanently transferred it would be considered as a supply of Goods.

(d) Development, design, programming, customization, adaptation, upgradation, enhancement, implementation of information technology software -

Software a goods or service?

Software in physical form is considered as goods in GST. However, the act of development of software is service.

(e) Agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act is service in GST-

One of the services which have always been the point of discussion in pre-GST regime as well as in the GST regime is the supply of service for "agreeing to the obligation to refrain from an act, or to tolerate an act or

situation, or to do an act". **The key here is whether any of the following activities of:**

- (a) refraining from doing an act, or**
- (b) tolerating an act or a situation, or**
- (c) doing an act,**

has been carried out

(I) in accordance with an agreement or contract (express or implied) which provides for the same, and

(II) whether any consideration (whether in money or otherwise) is paid in return for engaging in any of the aforesaid activities.

If both the aforesaid conditions at (I) and (II) above are satisfied then such activity constitutes a supply within the meaning of the Act.

(f) Transfer of Right to use goods for cash, deferred payment or valuable consideration is considered supply of services under Schedule II.

It has already been discussed in SI. No.1(b) above. Let us discuss some rulings by AAR in this respect:

Example 1: AAR Kerala in the case of M/s. Abbott Healthcare Pvt. Ltd. –

Abbott undertakes an agreement for placement of specified medical instruments to customers like hospitals, labs etc., for their use without any consideration but with the condition that these hospitals, labs etc. agree to purchase at least a specified number of products like reagents, calibrators, disposals etc. The ruling says that it is a composite supply where the principal supply is the transfer of right to use of any goods for any purpose which is supply of service and is liable to GST under SI No. 17 (iii) – Heading 9973 of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017.

Example 2: Case Number 46 of 2019, Order Number 40 of WBAAR/2019-20 - M/s Ishan Resins & Paints Limited, the applicant engaged in the business of leasing out trucks or tankers without operator to GTA raised query as to whether it would be covered under serial no. 22 (b) of Notification No. 12/2017 CT(Rate) dated 28/06/2017 (corresponding State Notification No. 1136 – FT dated 28/06/2017) as exempt services by way of giving on hire of transportation of goods to GTA.

The AARWB HELD THAT: - The Applicant intends to lease out vehicles like trucks, tankers etc. that are designed to transport goods. The control and possession of the vehicle will be transferred to the lessee, who will engage the operators and bear the cost of repair, insurance etc. It is, therefore, not classifiable under SAC 9966, which is restricted to rental services of transport vehicles with operators. The service is classifiable under SAC 997311 as leasing or rental services concerning transport equipment without an operator. It amounts to transfer of the right to use the goods and taxable under Sl No. 17(iii) of the Rate Notification.

6. COMPOSITE SUPPLY

The following composite supplies shall be treated as a supply of services, namely:

- (i) works contract as defined in clause (119) of section 2; and
- (ii) supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration.

(i) Works contract:

Works Contract has been defined in Section 2(119) of the CGST Act, 2017 as a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract.”



EXHIBIT 25

Thus, it is seen from the definition that the term works contract has been restricted to a contract for building construction, fabrication etc. **of any immovable property only**. This is a clear diversion from the concept of works contract as per the VAT Act. This diversion is expected to solve many disputes in the realm of taxation of works contracts.

In a works contract both goods and services are naturally bundled and supplied in conjunction with each other in the ordinary course of business. So, basically it is a composite supply. But, there is no need to find the principal supply since this entry 6(a) in Schedule II specifies works contract as a supply of service.

Apart from works contracts in GST, there are several other composite supplies such as fabrication or painting jobs done in automotive body shops, service contracts relating to different machines and equipment etc. However, these would not be covered within the definition of works contract in GST. In such contracts it is important to identify the principal supply for levy of appropriate rate of tax.

(ii) Supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration is a supply of service –

There were several judgements before the 46th amendment of the Constitution of India in this respect. Hon'ble Apex Court in the matter of State Of Punjab vs M/S. Associated Hotels Of India (on 4 January, 1972) analyzed the nature of contract where a customer stays in the hotel and meals are served as part of and incidental to that service.

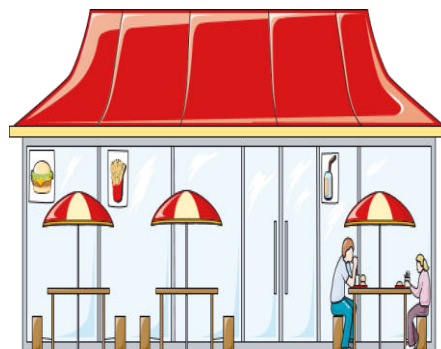


EXHIBIT 26

Hon'ble Andhra High Court in the matter of Durga Bhavan And Ors. vs The Deputy Commercial Tax Officer on 19th September, 1980 categorized the sale of food in restaurant into two parts -

The supply of food, etc., by restaurants may be made to customers who sit in the restaurants and consume the food. In such a case they enjoy the amenities provided by the owners of the restaurants.

The second class of cases comprise of supply of food-stuffs, snacks, drinks, etc., across the counter where there is practically no service rendered or amenities provided except in the manner of supplying the goods like packing, etc.

Finally, it was needed to make 46th Constitutional Amendment in the year 1981.

Key Elements of Article 366(29A)(f)

“Tax on the sale or purchase of goods includes:

(f) a tax on the supply, by way of or, as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating), where such supply or service, is for cash, deferred payment or other valuable consideration, and such transfer, delivery or supply of any goods shall be deemed to be a sale of those goods by the person making the transfer, delivery or supply and a purchase of those goods by the person to whom such transfer, delivery or supply is made.”

Thus, in the pre-GST regime both Service Tax and VAT was levied on this supply. This entry 6(b) of the Schedule II is expected to reduce any confusion in respect of determination of this particular nature of supply since entry 6(b) of the Schedule II specifies the supply as the supply of service.

However, there may still prevail some confusion regarding the nature of certain supplies.

Illustration -

a. Whether tobacco consumed in hookah bars would get covered in the entry 6(b) of Schedule – II “as any other article for human consumption”?

To analyse this, we need to take resort to a well-recognised and established principle of a law which is **“Ejusdem Generis”**.

“Ejusdem Generis” is an aspect of the principle of **“Noscitur a sociis”**. The Latin word ‘sociis’ means ‘society’, ‘Society’ of the same nature. It is an established principle of law that when general words follow specific words, such cannot be read in isolation. Their colour and their contents are to be derived from the context of specific words. In this case “any other article for human consumption” can’t be read in isolation. It must be read as “being food or any other article for human consumption”.

The phrase ‘any other article’ takes its colour from the word ‘food’. Now the question arises whether hookah is a food? Since it is not a food it will not be covered under this entry of Schedule II. In hookah bars, hookah paste is supplied with the right to use a smoking apparatus. So, it is a composite supply, where hookah paste is the principal supply.

[There is a very famous judgement in respect of the principle of “*Ejusdem Generis*”. Interested readers may go through the judgement in the case of *McBoyle v. United States* 283 U.S. 25 (1931)].

Annexure – 9: Levy of tax on Reverse Charge Mechanism (RCM) (p.49)

Tax is payable by a 'taxable person' in GST. Usually, tax is levied on the outward supplies of goods or services or both by a supplier. But in some specified transactions liability to pay tax gets **shifted** i.e., in such cases tax is levied on the recipient.



EXHIBIT 27

This mechanism of liability / leviability to pay tax by the recipient is called Reverse Charge Mechanism (hereinafter referred to as RCM).

a. Definition of reverse charge: “reverse charge” means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under section 9(3) or section 9(4) of the CGST /SGST Act or under section 5(3) or 5(4) of the Integrated Goods and Services Tax Act. [sec. 2(98)]

b. Notified supplies under sec 9(3):

The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both. [sec. 9(3) of the SGST/CGST Act/sec. 5(3) of the IGST Act].

Notifications issued:

Sl. No.	Subject	Notification No. & date
1.	Consolidated list of goods on which tax is payable under RCM under section 9(3) of the SGST Act, 2017.	CGST Notification No. 04/2017-CT(Rate) dt. 28.06.2017

2.	Consolidated list of services on which tax is payable under RCM under section 9(3) of the SGST Act, 2017	CGST Notification No. 13/2017-CT(Rate) dt. 28.06.2017
3.	Notification for RCM on goods under section 5(3) of the IGST Act, 2017	4/2017-ITR dated 28.06.2017 as amended time to time.
6.	Notification for RCM on services under section 5(3) of the IGST Act, 2017	10/2017-ITR dated 28.06.2017 as amended time to time.

c. Supplies received from unregistered person under sec 9(4):

The provision of section 9(4) of CGST/SGST Act /5(4) of IGST Act has been amended w.e.f. 01.02.2019. Before this amendment the aforesaid provision upto 31.01.2019 was as follows - *“The State tax/central tax/integrated tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.”*

Thus, as per the above provision (s), a registered person was liable to pay tax on RCM whenever he received any taxable supply from an unregistered person.

But, on the recommendation of the GST Council, notification under section 11(1) has been issued to exempt payment of tax under section 9(4) of the CGST/SGST Act upto a certain limit (Rs.5000/- per day) of inward supply from 01.07.2017. [CGST Notification No. 08/2017-CT(Rate) dt. 28.06.2017.]

The Gist of the said notification is as under:

- If the amount of inward supplies of goods or services or both, received in a day by a registered person from all unregistered suppliers, does not exceed Rs.5000/-, no tax is payable on RCM under section 9(4) by a registered recipient.
- If a registered person receives inward supplies of goods or services or both exceeding Rs. 5000/- in a day from all unregistered suppliers, he is liable to pay tax on RCM basis on the entire amount of such supplies received by him.

Example - on 01.08.2017, a registered person X receives goods and/or services from five suppliers. Three of such suppliers are unregistered from whom total supplies have been received to the tune of Rs. 4900/-. In this

case, the entire amount of Rs. 4900/- is exempted from payment of any tax u/s 9(4) by virtue of the notification No. 1132-F.T. Now, on the same day another registered person Y has received supplies of goods and/or services from ten suppliers out of whom six are unregistered from whom, total supplies received on that day is of Rs. 5100/-. In this scenario, Y is liable to pay tax on the entire value of supplies received from the unregistered persons i.e., on Rs.5100/-.

- **The above provision was effective from 01.07.2017 to 12.10.2017.**

From 13.10.2017 the provision for payment of tax under section 9(4) of SGST/CGST Act and section 5(4) of IGST Act have been omitted by amending CGST Notification No. 08/2017-CT(Rate) dated 28.06.2017 and CGST Notification No. 38/2017-CT(Rate) both dated 13.10.17.

CGST Notification No. 08/2017-CT(Rate) dated 28.06.2017 have been finally rescinded w.e.f. 01.02.2019 vide CGST Notification No. 01/2019-CT(Rate) dated 29.01.2019.

d. Supplies received from unregistered person under amended provisions of sec 9(4):

Finally, the provision is amended w.e.f. 01.02.2019 as below:

“Govt. may specify by notification a class of Registered recipients who shall pay tax on RCM on supply received from an unregistered supplier.

CGST Notification No. 07/2019-CT(Rate) dated 29.03.2019 have been issued w.e.f. 01.04.2019 to specify that subject to certain conditions a promoter is liable to pay tax under section 9 (4).

e. Compulsory Liability of Registration for a person liable to pay tax on RCM:

As per the provisions of section 24(iii) of the SGST/CGST Act, persons who are required to pay tax under reverse charge are liable to be registered without any threshold.

Hence if any person receives inward supply of goods and/or services for the purpose of business on which tax is payable on RCM, he is liable to be registered without any threshold.

f. Tax payable by e-commerce operator [Sec 9(5)]:

The Government on the recommendation of the GST Council may notify categories of services wherein the person responsible for payment of taxes in GST would neither be the supplier nor the recipient of supply, but the e-commerce operator through which the notified services are effected. It is important to know that all the provisions of the Act are applicable to such e-commerce operator as if he is the supplier of the specified services and liable to pay tax.

The Govt. has notified certain services in this regard vide, CGST Notification No.17/2017-CT (R), dated 28.06.2017 as amended time to time, including services by way of transportation of passengers by a radio-taxi, motor cab, maxi cab and motor cycle, etc. on which tax will be payable by the e-commerce operator u/s 9(5).

Where the e-commerce operator does not have a physical presence in the taxable territory, any person representing him in the taxable territory would be liable to pay the taxes. If no such representative exists, the e-commerce operator is liable to appoint such a person to discharge all the obligations.

g. Some queries on RCM

Sl. No.	Question	Answer
1	<p>A registered person receives service from a Goods Transport Agency (GTA) who doesn't charge any GST.</p> <p>a. Is the registered person liable to pay tax on RCM?</p> <p>b. What would happen if the recipient was unregistered? In that case, who will pay the tax, and at which rate?</p>	<p>a. Yes. (vide, Entry No. 1 of CGST Notification No. 13/2017-CT(Rate) dt.28.6.2017)</p> <p>b. The recipient, other than an individual or a HUF, is liable to pay tax on RCM.</p> <p>(i) From 01.07.2017 till 21.08.2017, the GTA was liable to pay tax @ 5% without ITC;</p> <p>(ii) from 22.08.2017 to 12.10.2017 the GTA may pay tax @ 5% without ITC or @12% with ITC; and</p> <p>(iii) from 13.10.2017, no tax is payable on such supply to an unregistered individual as it became "NIL" rated only in such cases vide Entry No. 21A of CGST Notification No. 12/2017-CT(Rate) dated 28.06.2017.</p>

2	<p>i) XYZ Co. is the title sponsor of a cricket tournament. In this case, is there any supply involved? What is the nature of such supply?</p> <p>(i) Who is the supplier, and who is the recipient?</p> <p>(ii) Who is liable to pay GST?</p>	<p>(i) In this case, there is a supply of "Sponsorship service (SAC Code-998397)".</p> <p>(ii) Here, the tournament's organizing body is the supplier of such services and XYZ Co. is the recipient.</p> <p>(iii) Here, the tax is payable under RCM by XYZ Co. .</p>
3	<p>A registered person in India imports services (other than OIDAR services provided by a person in a non-taxable territory received by a non-taxable online recipient) from a company in the USA. Is there any liability to pay tax under GST by either of the parties? If the answer is 'Yes', who is liable to pay tax?</p>	<p>Yes. Notification No. 10/2017-ITR dated 28.06.2017 issued under section 5(3) of the IGST Act stipulates that the recipient registered person is liable to pay tax on RCM.</p> <p>Note: In case of OIDAR services provided by a person in a non-taxable territory received by a non-taxable online recipient, the supplier of services located in a non-taxable territory is liable for paying integrated tax.</p>
4	<p>A Panchayat Samithi sells old and used goods to a registered person. In this case who is liable to pay tax ? If such sale would have been effected on say, 01.11.2017 who is liable to pay tax?</p>	<p>If the recipient of the supply is a registered person, then such recipient was liable to pay tax on RCM. (Entry No. 6 of CGST Notification No. 04/2017-CT(Rate), dated 28.06.2017 inserted by CGST Notification No. 36/2017-CT(Rate) w.e.f. 13.10.2017). However, if the said supply is made to an unregistered person, the Panchayat Samithi itself has to charge tax on forward charge basis.</p>

5	A registered person imports goods from Bangladesh. Is he liable to pay tax (IGST) on RCM as in case of importer of services?	While importing goods from Bangladesh, he has to pay IGST. But such tax is paid by him in accordance with section 3 of the Customs Tariff Act, 1975. It is worthwhile to mention that subject to conditions, the importer is eligible to avail ITC on such payment of IGST.
6	A GTA has accrued liability for registration. He thinks that as tax is payable on GTA service by the recipient on RCM basis, he is not required to be registered under GST. Is he correct?	As per CGST Notification No. 05/2017-CT dated 19.06.2017, persons who are only engaged in making supplies of taxable goods and/or services, the total tax on which is liable to be paid on RCM by the recipient under section 9(3) of the CGST/SGST Act are exempted from obtaining registration. But in the case of a supplier of GTA services, the option is there to pay tax on forward charge also. So, it cannot be said that total tax on that service is liable to be paid on RCM by the recipient under section 9(3). Thus, the person is not correct, and may be required to get himself registered.
7	An Advocate decided not to get registration even though he has crossed the threshold of Rs. 20 lakhs. Is he correct as per GST Law?	Yes. Advocate service is exclusively taxable on RCM under section 9(3). So, the said Advocate is correct in his position.

h. Court judgements on RCM under GST

Several judgments have been pronounced by different High Courts on reverse charge mechanism under GST. Gist of some important judgements are compiled in the Table below:

Sl. No.	Issue of the case	Gist of the Judgement
1.	Bombay High Court Bai Mamubai Trust and 2 Ors vs	Q.1. Whether GST is liable to be paid on services or assistance rendered by the Court Receiver appointed by Court? A.1 There may be instances where payments received by the Court Receiver may attract GST-

	<p>Suchitra Wd/Of Sadhu Koraga ... on 13 September, 2019</p> <p>Bench: S.J. Kathawalla</p> <p>(Courtesy: Indian Kanoon Org)</p>	<p>(i) Where the Court Receiver is appointed to run the business of a partnership firm in dissolution, the business of the firm under the control of receivership may generate taxable revenues.</p> <p>(ii) Where the Court authorises the Court Receiver to let out the suit property on leave and licence, the licence fees paid may attract GST.</p> <p>(iii) Where the Court Receiver collects rents or profits from occupants of properties under receivership, the same will be liable to payment of GST.</p> <p>(iv) Consideration received for assignment, licence or permitted use of intellectual property.</p> <p>In such cases, GST may be collected from the Court Receiver as a representative assessee under Section 92 and as such the Court Receiver may be required to obtain registration under the relevant GST laws. [Para. 84 & 85]</p> <p>However, if the Court Receiver is deputed to make an inventory of goods, collect rents with respect to immovable property in dispute or where the property has to be sealed, or the Receiver is appointed to call bids for letting out the premises on leave and licence, the fees or charges of the Court Receiver are exempt. [Para. 86]</p> <p>Q.2. Whether GST is liable to be paid on royalty or payments under a different head paid by a defendant (or in a given case by the plaintiff or third party) to the Court Receiver in respect of properties over which a Court Receiver has been appointed?</p> <p>A.2. The answer is in the affirmative, subject to the payment towards royalty or the payment to the Court Receiver (described by whatever name) is towards or in relation to a “supply” within the meaning of the CGST Act. [para. 87]</p> <p>Q.3. Specifically, in the facts of the present Suit, where the Plaintiff alleges the Defendant is in illegal</p>
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		<p>occupation of the Suit Premises: Whether there is any 'supply' within the meaning of the CGST Act? Whether payment of royalty for remaining in possession of the Suit Premises, either during the pendency of the Suit, or at the time of passing of the decree, falls within the definition of 'consideration' for a 'supply' chargeable to payment of GST under Section 9 of the CGST Act?</p> <p>A.3. The answer is in the negative. [Para. 88]</p> <p>Q.4. If in any circumstance, GST is payable or applicable to payments made to the Court Receiver, how that statutory liability is to be discharged? Is it to be paid by the Defendant / party in occupation directly, or by the Court Receiver?</p> <p>A.4. Where any payment to be made under an order of the Court attracts GST, the agent appointed by the Court Receiver must have or must obtain CGST registration and make such payment on behalf of the Receiver and indemnify the Receiver for any liability that may fall upon the Receiver under Section 92 of the concerned GST Act. Where no agent is appointed, naturally the Court Receiver will have to obtain registration. [Para. 91 & 92]</p>
2.	<p>Rajasthan High Court - Jodhpur</p> <p>Vinod Kumar Sharam vs State Of Rajasthan on 10 April, 2019 read with Ladu Lal Hiran and Ors vs State Of Rajasthan And Ors on 28 August, 2018</p>	<p>(i) Whether Royalty Contractors (termed as ERCC Contractors) appointed by the Government of Rajasthan exclusively for collecting the royalty on behalf of the Government from the mining lessee of natural resources without supply of such natural resources can collect GST @ 18% as forward charges – the answer is in the negative.</p> <p>(ii) Whether the royalty paid for mining activities as chargeable under the notification dated 28.06.2017 provides that the lease holders are required to pay the GST under the reverse charge mechanism – the answer is in the affirmative.</p>

Annexure 10: Key points for value of supply and details of value of supply (p.55)

TABLE II: KEY POINTS FOR VALUE OF SUPPLY			
SR. NO.	KEY POINTS IN RELATION TO SCOPE OF SUPPLY	Reference Points from returns	Accounts
1	Whether the transaction value is in accordance with the terms of the contract?	<ul style="list-style-type: none"> Contracts/Agreement Purchase order Invoices File of Correspondence with Client/Customer 	
2	Whether the discounts allowed are in accordance with regular practice of the taxpayer and the purchaser has paid the sum originally charged less the discount?	<ul style="list-style-type: none"> Price Circular Invoice linked to Discount 	
3	Whether any amount that the supplier is liable to pay but incurred by the purchaser has been included in the value of supply?	<ul style="list-style-type: none"> Price circular Contract/Agreement 	
4	Whether interest or late fee or penalty for delayed payment of any consideration for any supply collected from the purchaser is included in the value of supply?	Debit Notes	
5	Whether there are supporting documents for the credit notes issued for supplies made?	Price circular Contract/Agreement	
6	Whether there are supporting documents for the debit notes issued for supplies made?		
7	Whether terms of contract detail any consideration flowing from the third party?	Contract/Agreement	
8	Whether the taxpayer has engaged in any supplies to related persons as defined in section 15? If so, check whether there is significant variation in the value in comparison to similar transactions with unrelated buyers.	List of related persons Inter-unit movement check through delivery challan.	

9	Whether the taxpayer has made any supplies where money is not the sole consideration?		
10	Whether any exchange offer or scheme has been offered by the taxpayer?	Exchange offers during festive months.	

Value of supply

The GST is applied on the value of supply of goods and services. The consideration may be in money or in other forms. Buyer can also pay for his inward supply with non-monetary considerations by giving the seller other goods or services in exchange. There may be a situation when there is no consideration at all. Then what will be the value of supply? Hence it is really important to calculate the value of supply properly as per provisions of laws.



EXHIBIT 28

There are several situations where valuation takes a vital role, such as the case of different sales offers, free distribution, combo offers etc. Therefore, what can be part of the value of supply or what does not, is very important to understand to levy GST.

A. The methodology of valuation of a particular supply is exclusively discussed in Section 15 of the CGST/SGST Act, 2017.

What is the value of supply under GST?

As per Section 15(1), the value of supply is the transaction value actually paid or payable for the supply of goods and / or services between parties **not related** and where **price is the sole consideration**. The value of supply shall include -

- (a) any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than CGST Act, SGST Act, UTGST Act and the GST (Compensation to States) Act, if charged separately by the supplier;
- (b) any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;
- (c) incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services;
- (d) interest or late fee or penalty for delayed payment of any consideration for any supply; and
- (e) subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments.

The above provisions of Section 15(1) are applicable to determine value of supply when [the parties are not related](#). So, it is important to know first as to who are related parties and who are not.

Related Parties

The supplier and recipient of a particular supply will be considered as related persons if they satisfy the below mentioned situations enumerated in the explanation to Section 15(5) of the CGST /SGST Act 2017:

- (i) such persons are officers or directors of one another's businesses;
- (ii) such persons are legally recognised partners in business;
- (iii) such persons are employer and employee;
- (iv) any person directly or indirectly owns, controls or holds twenty-five per cent. or more of the outstanding voting stock or shares of both of them;
- (v) one of them directly or indirectly controls the other;
- (vi) both of them are directly or indirectly controlled by a third person;
- (vii) together they directly or indirectly control a third person; or
- (viii) they are members of the same family;

Where persons are related, price determined under section 15(1) is irrelevant and is subject to verification under section 15(4) by reference to the rules applicable.

Price is the sole consideration

It is important then to understand the term 'price is the sole consideration'. If there is any consideration not in money, the money actually paid cannot be taken as the basis of valuation. Any additional consideration received apart from the monetary consideration shall also be considered to arrive at the actual transaction value. In fact, the consideration can be both monetary and non-monetary which is well defined in Section 2(31) of the CGST / SGST Act.

There is an important clause in the provisions of valuation – “any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable..”

This clause is a check to ascertain that any amount of a supply may not be diverted by the supplier from the actual value of supply.

Example: There is a supply agreement between a principal and an agent where the principal fixed his supply value to the agent at Rs.500/- per unit for a taxable item and also fixed the sale price of the agent to any buyer at Rs.600/- per unit of that item where Rs.50/- per unit will be retained by the agent as commission and balance as incidental expenses. Question arises now, what will be the supply value of principal to the agent? As per the above clause of valuation provision, the supply value should include this commission and incidental expenses of the agent. The supplier (here the principal) manages to escape from the liability of paying commission and incidental expenses to the agent by transferring them to the buyer. But, it shall be part of supply value from principal to agent.

Incidental expenses as a part of supply value – Incidental charges incurred before or at the time of supply shall form part of supply value.

Example – There is a supply contract of door delivery of fragile goods with proper packing. Suppose, the value of the goods is Rs.10,000/-, packing

charges are Rs.500/- and door delivery cost is Rs.600/-. Then, it will be a composite supply with the supply of that goods as principal supply and value of supply is Rs.11,100/-.

So, the incidental charges incurred before or at the time of supply shall be part of supply value. But, if such charges incurred after the supply whether that should not be part of supply value? Let us explain it with an example –

Warranty supply of parts to end-customers through a dealership – Suppose a company sold a car with a consideration of Rs.10 Lakh to a customer with 3 years free service warranty. An authorised service centre of that car company supplies service of servicing of the car to that car owner. This service is actually provided by the car company (as per terms of purchase of car), through the authorised service centre. There may be replacement of parts under warranty also. Now, the transaction of free service and / or warranty replacement between the car company to the customer is not liable to GST not because it is free now, but since the price for the replacement is built into the price of the car originally supplied and therefore tax has already been paid by the car company at the time of selling of the car. Now, the question arises then what is the role of the service centre here? In fact, the service centre delivers the part and rendered service to the customer but ‘supplies’ it to the car company. Hence, there is another supply involved here between the service provider and the car company which is taxable supply in GST.

[Reference: Mohd. Ekram Khan’s decision of SC in 144 STC 542. As such, warranty involves two supplies and neither of which are free from tax. One is tax pre-paid and another is currently taxed though not involving the end customer].

Interest, late fee or penalty for delayed payment are also part of supply value- All these special charges are linked to an underlying original supply, therefore, shall be part of supply value. So many questions may arise – what will be the time of supply for these special charges? Whether the rate of tax of original supply will be applied for the special charges also? Whether all such special charges are liable to GST? It is better to explain it with an example –

Example: A contractee awarded a contractor with a ‘turnkey project’ to build a road with an agreed price of Rs.100 Cr (Excluding GST). Some of the terms of agreement were as follows –

i. The contractor must pay earnest money Rs.5 Cr in the form of FD as a security to abide by the terms and conditions to use machinery and materials not below the specified standard and also for timely completion of the project. However, if completion is delayed by more than 6 months, 50% of the security will be forfeited. Similarly, any breach in the condition of quality is liable to forfeiture of 10% of the security. At the same time, if it is completed 2 months prior to the date, the company will provide prize money of Rs.50 Lakh to the contractor. There was also a clause that if the contractee fails to provide land in time the contractor will charge 1 Cr. for each month of delay.

ii. The contractor finished the work 2 months prior to scheduled time. Due to bad quality of machinery used, the contractee forfeited 5% of earnest money. The contractee failed to deliver land to the contractor in due time therefore, the contractor charged Rs. 4 Cr extra to the contractee. The contractor also charged interest of Rs.60 lakh for late payment.

In this example, there are so many incidental charges. But, all are not taxable in GST. Earnest money is a kind of security only. So, GST is not leviable on the same. The taxability of the above charges is explained the table below –

Sl. No.	Description	Amount	Remarks
1	Turnkey project of construction of road	100 Cr	Taxable as works contract service.
2	Security	5 Cr.	Not a supply in GST
3	Forfeiture of security by the contractee	2.5 lakh	It is a penalty for not using the specified quality of machinery and hence it is not a supply
4	Award for early completion	50 Lakh	Taxable service being a supply ancillary to the main

			supply of construction service
5	Penalty for delay to handover land.	4 Cr	It is a penalty (hence not a supply) for not adhering to the terms of the contract which stipulated transfer/providing land on a specific date
6	Interest for delayed payment of contractual price	60 Lakh	Taxable and shall be part of the value of construction service.

Thus, there are so many special charges but only the last one is for the underlying original supply of construction service.

Discounts to be excluded from Taxable Value – As per Sec 15(3) value of supply will not include discount, provided:

- It is allowed before supply, or
- It is allowed after supply, provided that it is established in agreement linked to specific supplies and corresponding credit is reversed by the recipient.

Example: M/s. A of Kolkata supplied 10 pcs of i-Phone to M/s. B of Kolkata on 20.09.2019 where basic price of such phones is Rs. 10 lakh. A discount of Rs. 1 lakh is offered and courier charges of Rs.1000.00 is charged at the time of supply. **What is the value of supply in the above transaction if the tax rate of such i-phones is 12%?** As per the conditions, 50% payment was made at the time of delivery and further condition was that if balance payment is made within 20.10.2019 then 10% further discount on basic price will be allowed. If such payment is made in time, **whether this discount will also be deducted from the supply value?**

In this example, courier charges are to be added to the value of supply as incidental charges and discount is to be deducted as it is offered at the time of supply. Hence, taxable value will be Rs. 9,01,000/-. GST @ 12% is to be added to Rs. 9,01,000/- to get the value of supply i.e. Rs. 10,09,120/-. If 50% of the amount is paid and rest is paid within 20.10.2019, further

discount of 10% on basic price will be allowed. Though it is a post-sale discount, the condition was fixed at the time of supply. So, the discount is allowed as a deduction. Accordingly, M/s A may decrease his output tax subject to the condition that M/s B reverses an equal amount of ITC.

In lieu of discounts if promotional items are offered by the supplier to increase sales volume and to attract new customers for their products, such promotional items are not discounts as not satisfying the requirements of section 15(3).

Example: Two goods, say A (tax rate 12%) & B (tax rate 18%) are offered for a single price of Rs. 3000/- under the scheme 'Buy one get one free'. Now, what will be the transaction value? What will be the rate of tax on such supply?

In this example, it may appear first at a glance that one item is being 'supplied free of cost' without any consideration. But it is not an individual supply of free goods rather a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one. Hence, here transaction value will be Rs. 3000/-. Taxability of such supply will be dependent upon whether the supply is a composite supply or a mixed supply. If it is a composite supply, then the tax rate of the principal supply will be applicable and if it is a mixed supply, tax rate shall be 18%.

B. Determination of Value of Supply as per GST Rules:

Reference to GST Rules related to valuation is permitted only if the transaction value cannot be determined as discussed above. These are cases where either the parties are related/distinct/agent or the price is not the sole consideration. Valuation Rules are prescribed under Chapter IV of the CGST/SGST Rules, 2017 from Rule 27 to Rule 35.

The above Rules are explained below:

1. Where consideration is not wholly in money - Rule 27

This rule is applicable for the supplies like barter, exchange and transactions listed in schedule I where the transaction is not wholly in money as they fail to qualify for application of section 15(1).

Now, the order of application of the methods to determine the value of supply has to be maintained in the following sequence.

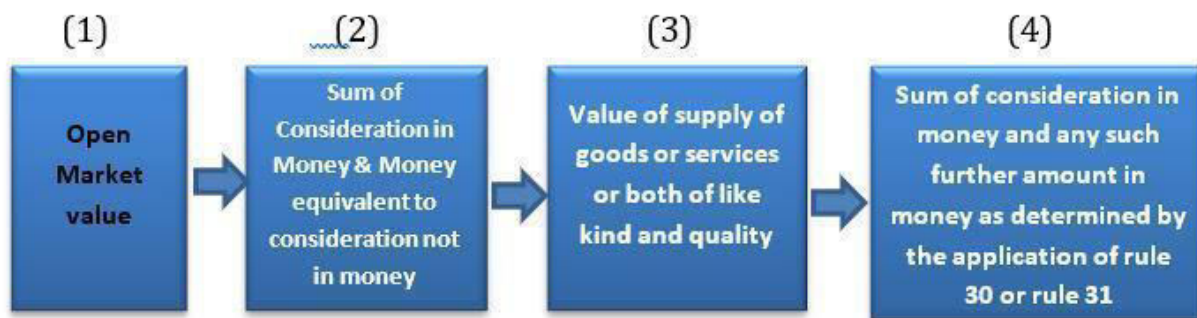


EXHIBIT 29

Example 1:

(a) X Co. supplied a car to Mr. Sen in exchange for Mr. Sen's old car and on payment by Mr. Sen of Rs. 5,00,000/-. If the price of the new car without exchange is Rs. 9,00,000/-, then the open market value of the new car is Rs. 9,00,000/-.

(b) If the open market value of the new car is not known, and the price of the old car is Rs. 4,00,000/- at the time of supply, then the value of supply of the new car will be Rs. 9,00,000/-.

(c) A customized air conditioning unit whose open market value is not available is installed at an office wherein the consideration is paid in the form of money of Rs. 40,000 and an old air conditioning unit whose price is not available at the time of supply. A similar air conditioning unit in terms of characteristics, quality, functional components, materials and reputation etc. has been installed by the company at another client's premises for Rs. 60,000/-. Since, the value of goods of like kind and quality is available, the value of Rs. 60,000/- will be taken under Rule 27.

(d) value determined by rule 30 or rule 31.

2. Where supply is made between related persons with or without consideration and distinct persons without consideration - Rule 28

The value of supply under this rule will be:

(a) **Open market value:** Example: A cell phone dealer gifts a cell phone set worth Rs. 23,000/- to his son. Since, this is the open market value, it will be the value of supply for the mobile set supplied to a related person.

(b) **Value of Supply of Like kind and quality:** If open market value is not available, then value of supply may be determined on the basis of supply of like kind and quality.

(c) Value determined by rule 30 or rule 31.

The two provisos to this rule are of significance:

(i) If the supply to a related or distinct person is for further supply, then the value may be an amount equivalent to 90% of the value of supply of like kind & quality to non-related person.

(ii) where it is the recipient, who is entitled to full credit, the value declared in the invoice is deemed to be open market value. This provision appears to accommodate internal preferences between distinct persons.

[Reference: In a case of GKB Lens Pvt Ltd, Advance Ruling had been sought on whether goods supplied to the branches in the States other than West Bengal can be valued in terms of the Cost Price under the Second Proviso to Rule 28 of CGST Rules, 2017, instead of 90% of MRP as required under the First Proviso of the same Rule. AAR West Bengal held - The Applicant has the option of not supplying goods to its branches under the First Proviso of Rule 28 and is eligible to value these goods by applying the terms of the Second Proviso to Rule 28 of GST Act.]

3. Where supply is made or received through agent - Rule 29

This rule is applicable only in case of ‘**supply of goods**’ and not ‘supply of services’. The value of supply under this rule will be:

(a) Open market value or ‘at the option’ of supplier 90% of the price charged for goods of ‘like kind and quality’ by the Agent.

Example: Agent supplies groundnut @5000/- per Qtl. Agent is purchasing groundnut from a non-related supplier @4550/- per Qtl. What should be the supply value from principal to agent?

It should be 90% of Rs. 5000/- ie. Rs. 4500/-

(b) Value determined by rule 30 or rule 31.

This rule is applicable only in case of those transactions where the Agent ‘handles’ the goods of the Principal. It is clarified vide Circular No. 73/47/2018-GST dated 05-11-2018 that in case of supply of goods, if the invoice is issued by supplier to customer either himself or through del credere agent (DCA) then it does not fall under the ambit of agent. However, in a case where the invoice is issued by the del credere agent then it would fall under the ambit of an agent.

4. Value of supply based on cost - Rule 30

This rule is applicable for valuation of supply of goods and services, only where the other methods of valuation do not apply. It provides that the value will be ‘**cost plus 10%**’.

Example: Suppose ABC Limited is a manufacturer of office furniture. Say, the cost of manufacturing a chair is Rs. 4,000/-. Similar chair in the open market is valued at Rs. 4,500. These chairs are supplied to a furniture showroom at the rate Rs. 3,000 and balance in non-monetary consideration. Now since the open market value is available, Rs. 4,500 will be considered for valuation of supply. However, if Open Market Value is not available, the value of supply as per cost method will be 110% of the cost of manufacturing i.e. $\text{Rs. } 4,000 \times 110\% = \text{Rs. } 4,400$.

5. Residual method of valuation - Rule 31

As per the residual method, where the value of supply of goods or services or both cannot be determined under the cost method, the same shall be determined using reasonable means consistent with the principles and general provisions of the GST law. Unitary method or number of man hours required to complete a job can be examples of such valuation method.

6. Lottery, betting, gambling and horse racing - Rule 31A

Supply Value in case of Lottery: Value shall be 100/128 of the face value of ticket or of the price as notified in the Official Gazette by the Organising State, whichever is higher.

Note: The above Rule is as amended by the CGST/SGST (Second Amendment)

Rules, 2020, w.e.f. 1-3-2020. Prior to the amendment, the Rule provided for determination of value of supply for lottery run by state Government as 100/112 of the face value of ticket or the price as notified in the Official Gazette by the organising State whichever is higher. Value of supply for the lottery authorized by a State Government is determined as 100/128 of the face value of ticket or the price as notified in the Official Gazette by the organising State whichever is higher.

Betting, Gambling or Horse Racing: Actionable claim in the form of chance to win in betting, gambling or horse racing in a race club shall be 100% of the face value of the bet or the amount paid to the totalisator. This implies that the value on which GST has to be paid will be the amount of bet placed or the amount paid to the totalisator instead of the commission or share of revenue of the race club.

Actionable claim is “goods” under section 2(52). Hence, actionable claim in the form of chance to win betting, gambling and horse racing with reference to the above definitions will be goods and not services. The tax rate notifications issued for goods states that ‘actionable claim in the form of chance to win in betting, gambling, or

horse racing in a race club' is liable to tax at the rate of 28%. The rate notification issued for services also specifies that the gambling as an activity involving services and accordingly, liable to tax at 28% (refer entry No. 34(v) of Notification No. 11/2017 (Rate)).

With the above ambiguities there may be some confusion whether to tax actionable claims as goods or services.

7. Specific valuation provisions – Rule 32

Rule 32 is only an option available to the supplier for determination of valuation of certain specific supplies. He may opt for the mechanisms specified in rule 32 or in rules 27-31 or in section 15 as the case may be.

(a) Purchase and sale of foreign currency including money changing:

Option 1	Option 2
<p>Difference between buying-selling rate and the RBI reference rate.</p> <p>Where reference rate is not available, 1% of gross Indian Rupee provided/received. And where the conversion is not into Indian Rupees, then 1% of the lesser of the Indian Rupee equivalent of each currency exchanged.</p> <p><u>Example:</u> Suppose a company M/s Thomas Cook Ltd, a money changer, converts 1000 Euro into rupees @90 per Euro. The RBI reference rate for Euro is Rs. 88.</p> <p>So, the value of supply shall be = $(90-88) \times 1000$ = Rs. 2000/-.</p>	<p>For currency exchange ≤ Rs. 1 L: 1% or Rs.250/- which one is higher.</p> <p>For currency exchange > Rs. 1L but ≤ 10L 0.5% of exchanged amount exceeding 1 L plus Rs.1000/-</p> <p>For currency exchange > Rs. 10L: 0.1% of exchanged amount exceeding 1 L plus Rs.5500/- but maximum Rs.60000/-</p> <p><u>Example:</u> Suppose a money exchanger received Singapore Dollar and provided Indian Rs. 5,00,000/-.</p> <p>The value of supply shall be $(4,00,000 \times 0.5\%) + 1000$ = Rs. 3000/-</p>

(b) Value of service in relation to air travel agents: 5% of basic fare in case of domestic booking and 10% of basic fare in case of international booking of passengers by air. Commission to the travel agent may flow from passenger or airline or any other person and the value determined here will be the tax for all the sources of commission.

(c) Supply of services in relation to life insurance

- If in the policy allocation for investment of certain amount is intimated to the policy holder: Gross premium - Investment amount
- In case of single premium other than (i): 10% of single premium

(iii) In cases other than (i) & (ii): 25% of premium charged for first year & 12.5% for subsequent year

(d) Supply of services of person dealing in second-hand goods

(i) If supplied as it is or after minor processing without changing nature of goods and without availing ITC: Sale price - Purchase price (If this difference is negligible, that shall be ignored)

(ii) Purchase price in case of repossessed goods from a defaulting borrower who is unregistered: Purchase price - 5% from purchase price for each quarter from date of purchase to date of disposal after repossession.

(e) Supply of voucher: The value will be the redemption value of the voucher. Voucher includes coupon, stamp, token, et

8. Service of pure agent - Rule 33

This rule applies only to supply of services. The cost incurred by the supplier shall be excluded from value of supply if the following tests are satisfied:

- (a) the supplier acts as a pure agent of the recipient of the supply, when he makes payment to the third party on authorisation by such recipient;
- (b) the payment made by the pure agent on behalf of the recipient of supply is separately indicated in the invoice issued by the pure agent to the recipient of service;
- (c) the supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.

Pure agent:

- A person who enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure in the course of supply of goods or services or both;
- Neither intends to hold or holds any title to the goods or services or both so procured or supplied as pure agent of the recipient of supply.
- Does not use for his own interest such goods or services so procured as pure agent.
- Receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account.

Example: Mr. A is an importer who goes to Mr. B for Customs clearance work in respect of import of a consignment. The clearance of goods would also require taking of transporter service. Mr. A also authorizes Mr. B to incur expenditure on his behalf for procuring the transporter service and agrees to reimburse such expenses. In this scenario, Mr. B is providing custom broker service to Mr. A, which is principal to principal basis and the transportation services procured by Mr. B on behalf of Mr. A is a pure agent service and expenses incurred by Mr. B on transportation shall not form part of the value of the Customs broker service.

9. Rate of exchange of foreign currency - Rule 34

Any transactions undertaken in foreign currency must be converted into INR and the rate of such exchange is as follows:

- (a) For determination of the value of taxable goods the rate of exchange shall be the applicable one as notified by the Board under section 14 of the Customs Act, 1962.
- (b) for determination of the value of taxable services rate of exchange shall be the applicable one determined as per the generally accepted accounting principles for the date of time of supply of such services in terms of section 13 of the Act.

10. Value of supply inclusive of integrated tax, central tax, state tax, union territory tax – Rule 35

In such cases, the tax amount shall be determined in the following manner:

Tax amount = (Value inclusive of taxes X tax rate in % of IGST or, as the case may be, CGST, SGST or UTGST) ÷ (100 + sum of tax rates, as applicable, in %)

Annexure 11: Input Tax Credit (p. 52)

Availability of Input Tax Credit throughout the value chain is the essence of GST in India. Needless to say that examining the veracity of ITC availed by an auditee is of paramount importance to an auditor. The provisions related to ITC are as follows:



EXHIBIT 30

Sec 16 Eligibility and conditions for taking input tax credit.

Sec 17 Apportionment of credit and blocked credit.

Sec 18 Availability of credit in special circumstances.

Sec 19 Taking ITC in respect of inputs and capital goods sent for job work.

Sec 20 Manner of distribution of credit by Input Service Distributors.

Sec 21 Manner of recovery of credit distributed in excess.

EXHIBIT 31

Relevant Rules

Rule 36	Rule 37	Rule 38	Rule 39	Rule 40
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Rule 41	Rule 42	Rule 43	Rule 44 & 44A	Rule 45
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a. **How is Input Tax Credit (ITC) defined in GST**

Section 2(63) of the CGST/SGST Act defines Input Tax Credit as the **credit of input tax**.

Section 2(62) defines input tax as follows: **“input tax”** in relation to a registered person **means any tax** such as Central Tax, State Tax, Integrated Tax or Union territory tax **charged on any supply of goods or services or both** made to him & **includes** -

- **Integrated Tax charged on import of goods &**
- **Tax payable under reverse charge mechanism,**

but does not include the tax paid under the composition levy.

Input is defined in Sec 2(59) as any goods other than capital goods used or intended to be used by the supplier in the course or furtherance of business.

Capital goods is defined in Sec 2(19) as goods, the value of which is capitalized in the books of account of the person claiming ITC and which are used or intended to be used in the course or furtherance of business.

Input service is defined in Sec 2(60) as any service used or intended to be used by a supplier in the course or furtherance of business.

b. **Provisions of section 16(1)**

Who can claim ITC?	In respect of which?	Primary condition?
Every registered person subject to conditions and restrictions	In respect of credit of input tax charged on any supply of goods or services or both	Used or intended to be used in the course or furtherance of his business.

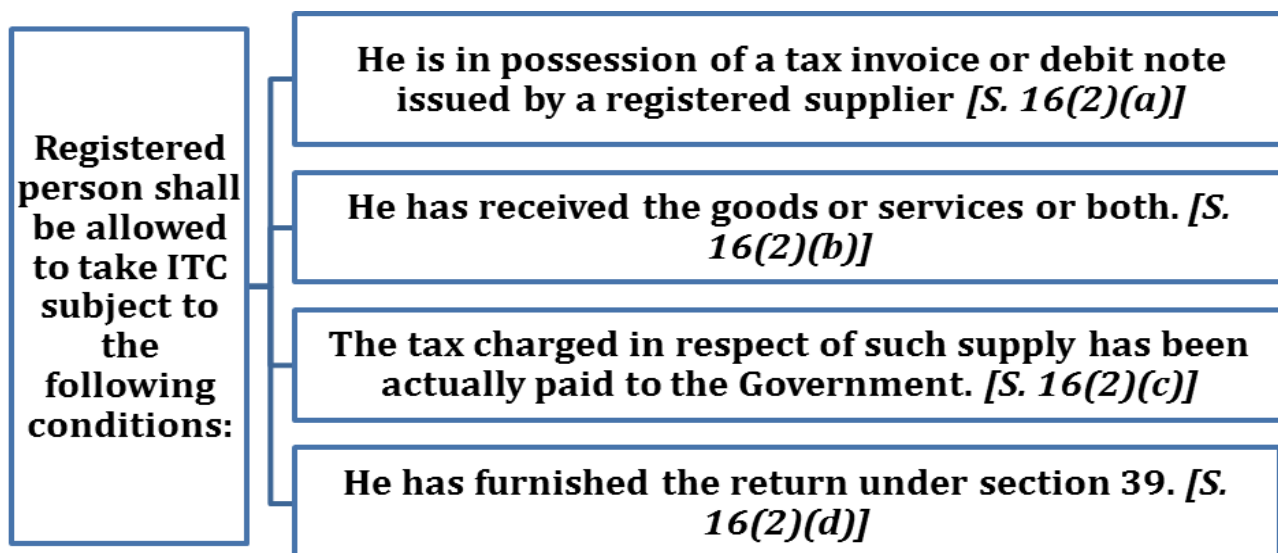
EXHIBIT 32

In accordance with Section 16(1) of the CGST/SGST Act, 2017:

- (i). Only a registered person other than persons under composition scheme is entitled to claim ITC.

- (ii).However, this claim is not unconditional and is subject to conditions and restrictions as prescribed.
- (iii).Self-assessed ITC taken in the return is credited to the electronic credit ledger of the taxpayer.
- (iv).ITC can be taken on such supply of goods or services or both to the registered person which are used or intended to be used in the course or furtherance of his business.

c. Provisions of sec 16(2) provide conditions to avail of ITC –



With effect from 01.01.2022 another condition to the effect that supplies in respect of which credit is being claimed have been declared by the supplier in his GSTR-1 and the credit available has been communicated to the recipient (vide GSTR-2B) and that the credit is not restricted in terms of the said communication

d. Deemed recipient of goods / services

Where goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods either by way of transfer of documents of title to goods or otherwise, it shall be deemed that the registered person has received the goods for the purpose of Section 16(2)(b).

Where services are provided by the supplier to any person on the directions of and on account of another registered person, it shall be deemed that the

registered person has received the services for the purpose of Section 16(2)(b).

It may be noted in this regard that the date of receipt of the goods or services is vital for availing ITC. It may happen that the supplier issues invoice on 30th of a particular month and uploads details of the same in Form GSTR-1 of that month and the same is auto-populated in GSTR-2A of the recipient in the same month. However, this does not make the recipient eligible to avail of ITC in the return of this said month if he receives the goods in the subsequent month. In the case of goods, many audit trails can be found in respect of receipt of goods in documents like E-Waybill, GRN etc.

This, however, may be difficult to ascertain in the case of services. Further, there may be a situation where goods are received in the subsequent month but purchase is auto populated in GSTR 2A in the month of sale as disclosed by the supplier in GSTR 1. In such cases there is a probability to claim ITC wrongly by the recipient though the goods are not received.

e. **Goods received in lots**

If goods are received in instalments against a single invoice, credit can be availed only upon receipt of the last instalment of goods.

Suppose, a consignment of iron ores was dispatched from Jharkhand to Kolkata by 10 trucks. Invoice was raised to the recipient on 28.10.2018. Three trucks reached Kolkata by 30.10.2018 but the truck carrying the final lot of the consignment reached the recipient on 03.11.2018. The supplier also disclosed such sales in his GSTR 1 for the month of Oct'18. In this case, **ITC in respect of the invoice issued on 28.10.2018 can be availed not before the month of November, 2018.**

f. **Payment in respect of the supply as a condition to avail ITC:**

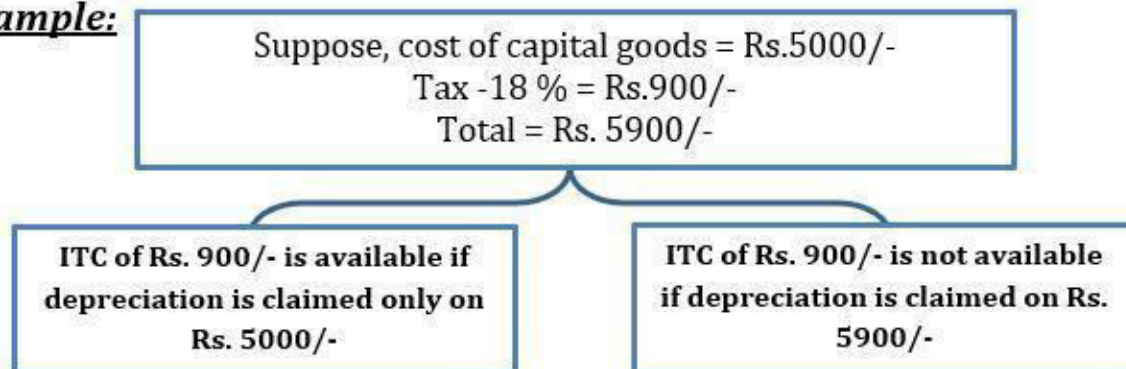
When a recipient fails to pay his supplier (other than supplies on which tax is payable under RCM), the amount of value of supply along with tax payable thereon within a period of 180 days from the date of issue of invoice, the recipient is liable to add the ITC availed on such supply to his output tax liability along with interest thereon.

However, the recipient is also entitled to avail the credit of ITC once he makes the payment towards the amount of value of supply along with tax payable thereon.

Capital goods and plant & machinery on which depreciation is claimed on the tax component under the Income Tax Act:

Sec 16 (3) **does not allow** a registered person to take **ITC on such a tax component** of the **cost of capital goods** and **plant and machinery**, on which he has **claimed depreciation** under the provisions of the **Income Tax Act, 1961**.

Example:



g. Time limit to claim ITC

As per Sec 16(4), a registered person shall not be entitled to take ITC in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return (Form GSTR-3B) under section 39 for the month of September following the end of financial year to which such invoice or 'invoice relating to such debit note pertains' or furnishing of the relevant annual return, whichever is earlier.

- **For F/Y 2017-18**, a taxpayer shall be allowed to take ITC till the due date of furnishing of the return for the month of March, 2019 i.e. 23.04.2019 in respect of any invoice or invoice relating to such debit note for supply of goods or services or both made during the FY 2017-18, the details of which have been uploaded in the Form GSTR-1 for the month of March, 2019.
- **For F/Y 2018-19**, a taxpayer shall be allowed to take ITC till the due date for furnishing of the return for the month of September, 2019 i.e. 20.10.2019. For the FY 2018-19, for the taxpayers having aggregate turnover upto Rs. 2 cr, filing of GSTR-9 is optional and for the taxpayers having aggregate turnover upto Rs. 5 cr filing of GSTR-9C is optional. The Ministry of Finance, GoI in an Official Press Release dt.24.10.2020 announced the extension of due date to file GSTR 9, GSTR 9A & GSTR 9C for the FY 2018-19 to 31st December, 2020.

h. ITC in respect of supplies not declared by the supplier in Form GSTR-1

A supplier is supposed to disclose all B2B supplies in Form GSTR 1 which gets auto populated in Form GSTR 2A of the recipient. Auto-population of invoices in Form GSTR 2A primarily assures disclosure of relevant supply by the supplier. However, disclosure in Form GSTR-1 does not sufficiently ensure that tax in respect of such supplies has been paid by the supplier which is paid in the return in Form GSTR-3B.

Rule 36(4) has been inserted vide notification No 49/2019-CT, dt. 09-10-2019 (corresponding State notification. No 1730-F.T. dt.16.10.2019) and it applies to all returns filed after 9th Oct 2019. In accordance with Rule 36(4), a registered person is entitled to avail of maximum 10% (20% from 09.10.2019 to 31.12.2019) of eligible credit on the basis of auto-populated details in Form GSTR-2A of a particular month in respect of details of invoices or debit notes which have not been uploaded by the corresponding suppliers (i.e. which have not been auto-populated in Form GSTR-2A).

Illustration:

Suppose X calculates ITC at Rs. 100/- for the month of January 2020 on the basis of invoices in his possession. However, his suppliers declare invoices whose corresponding ITC calculates to Rs. 60/- only, in their Form GSTR-1 which is auto-populated in Form GSTR-2A for the month of January 2020 of X. It is also found out that ITC is eligible for Rs. 60/- since nothing in this amount is restricted by Section 17(1)/ (2)/ (5) etc.

In this case, X is eligible to avail of ITC to the tune of Rs. 66/- [Rs. 60/- + Rs. 6/- (=Eligible ITC: Rs. 60/- x 10%)]

i. Apportionment of Credit [Sec 17(1)]

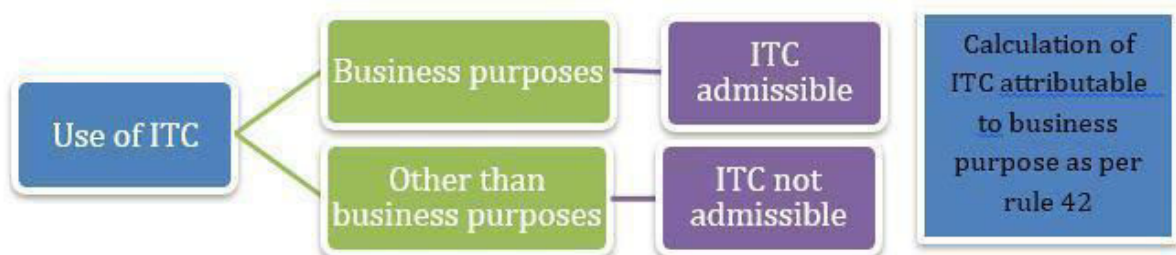


EXHIBIT 33

Example: A registered person claims ITC as follows –

- ITC of Rs.20,000/- for purchase of taxable goods for resale.
- ITC of Rs.5000/- on rent payment for a two storied building, where 1st floor is used for business purpose and 2nd floor for residential purpose.

- c. ITC of Rs.1500/- for renting cab services both for business and for personal use.
- d. ITC of Rs.6000/- for purchase of furniture for residence.

Ineligible ITC:

Rs.1500/-: Restricted in accordance with section 17(5)

Rs.6000/-: On purchase of Furniture for residence (for purpose other than business).

Eligible ITC:

Rs.20,000/-

ITC to be apportioned in accordance with rule 42

Rs.5,000/-: Common Credit for service availed for both business and non – business purpose.

Eligible to claim portion of ITC out of Rs.5, 000/- which is attributable to business purpose (to be calculated in accordance with rule 42)

j. Availability / apportionment of ITC when used for taxable supplies (including zero-rated supplies) as well as exempt supplies [Sec 17(2)]

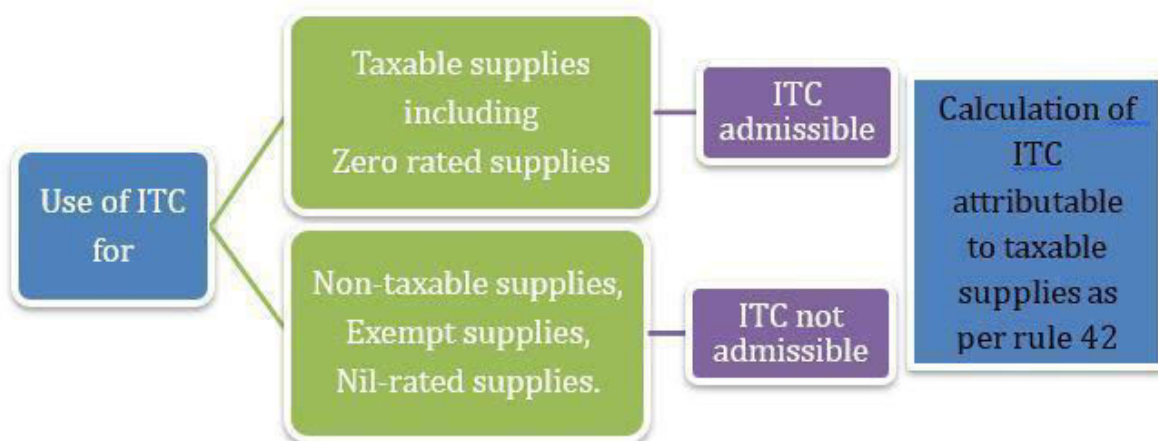


EXHIBIT 34

Value of exempt supply for the purpose of apportionment of ITC [Sec 17(3)] Exempt supply has been defined in sec 2(47) of the CGST/SGST Act as supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11 of the CGST/SGST Act or under section 6 of the IGST Act, and it includes non-taxable supply.

For the purpose of apportionment of ITC as per sec 17(2) exempt supply includes the outward supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause 5(b) of Schedule-II, sale of building.

However, it shall not include the value of activities or transactions specified in Schedule III, except sale of land & subject to clause 5(b) of Schedule II, sale of building.

Example: A registered person engaged in manufacturing of both taxable and exempted goods and pays tax amounting to Rs.1,50,000/- on procurement of inputs and input services for a particular period.

The corresponding tax paid on inputs and input services which are used as follows –

- a. Rs.5,000/- exclusively for non-business purposes.
- b. Rs.45,000/- exclusively for exempt supply.
- c. Rs.10,000/- ineligible credit u/s 17(5).
- d. Rs.40,000/- exclusively for taxable supplies including zero rated supply.
- e. Rs.50,000/- Common credit for both taxable and exempt supply.
- f. Exempt supply during the period was Rs.1,20,00,000/- and taxable supply was Rs.80,00,000/-.

What will be the eligible credit during the period?

Answer:

Ineligible ITC:

Rs.5,000/-: exclusively for non-business purposes.

Rs.45,000/-: exclusively for exempt supply

Rs.10,000/-: Restricted in accordance with section 17(5)

Eligible ITC:

Rs.40,000/-: exclusively for taxable supplies including zero rated supply

ITC to be apportioned in accordance with rule 42

Rs.50,000/-: Common Credit used for both taxable supply & exempted supply

Eligible to claim portion of ITC out of Rs.50, 000/- which is attributable to taxable supply (calculated in accordance with rule 42)

$$\text{Rs.50,000} \times (\text{Rs.80,00,000} / (\text{Rs.80,00,000} + \text{Rs.1,20,00,000})) = \text{Rs.20,000/-}$$

Total eligible credit available to the registered person: Rs.40,000/- + Rs.20,000/- = Rs.60,000/-

Availability of Credit for a banking Company or a financial institution including NBFC [Sec 17(4)]

Descriptions	Options of availing of ITC	Conditions
Banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances.	<ul style="list-style-type: none"> Either apportion the ITC as per provisions of section 17(2). OR Avail 50% of the eligible ITC on inputs, capital goods and input services every month and the rest shall lapse. 	<ul style="list-style-type: none"> Option once exercised shall not be withdrawn during the remaining part of the FY The restriction of 50% shall not apply to the tax paid on supplies made by one registered person to another registered person having the same PAN.

k. Ineligible Input Tax Credit [Sec 17(5)]

Input tax credit is not available in respect of certain inward supply of goods or services in accordance with Section 17(5) (**blocked credit**). The provision of Section 17(5) was amended w.e.f 1st February, 2019. Hence, the provisions are discussed accordingly:

i. Motor vehicles and other conveyances (valid upto 31.01.2019)–

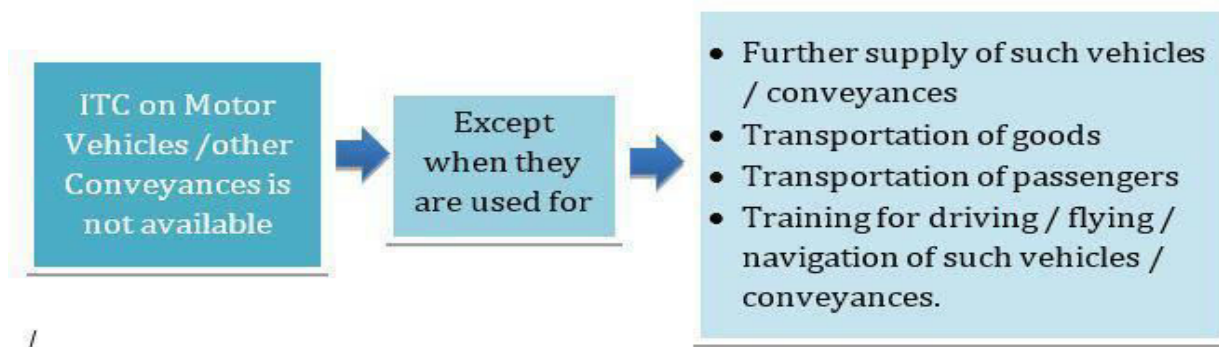


EXHIBIT 35

Example:

ABC Pvt Ltd has purchased an SUV @ Rs 7.5 lac +GST on 31.12.2018 to be used by one of its directors. Shall the company be allowed to avail of this ITC?

Ans: No, the company is not eligible avail of this ITC since this is blocked as per the provisions of Sec 17(5).

There may be a situation where a company may claim ITC on cars purchased in the name of the company with the plea that cars are used to carry employees to office / factory / work site.

Whether ITC is allowable in such cases?

No, ITC is not allowable in this case also.

ii. Food, beverages, outdoor catering, beauty treatment etc (valid up to 31.01.2019)

Supply of goods and services being:

Food & Beverages	Beauty Treatment	Cosmetic & Plastic surgery
Outdoor Catering	Health Services	Rent-a-cab

ITC is not available except where the inward supply is used for making taxable outward supplies of the same category of goods or services or both or as an element of taxable composite or mixed supply.

Membership of club	Health and fitness centre	Travel benefit to employee for leave
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ITC always blocked

Rent a cab	Life/ Health Insurance
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ITC is not available except:
(i) where the services are obligatory for an employer to provide to its employees under any prevalent law.
(ii) the inward supply is used for making taxable outward supplies of the same category of goods or services or both or as an element of taxable composite or mixed supply

EXHIBIT 36

Example: A company pays tax on procurement on some input services as follows:

- Rs.15,000/- on food and beverages for factory workers.
- Rs.2,500/- for outdoor catering for picnic of office employees
- Rs.3,500/- for health-related services to employees
- Rs.3000/- on rent-a-cab services for guests,
- Rs.10,000/- for purchase of GI policy for workers (150 workers),
- Rs.12,000/- for health insurance policies of office staff
- Rs.4,000/- for membership and other expenses of club
- Rs.5,000/- for travel benefit to employees for visiting different sites.
- Rs.2,600/- for travel benefit to employees going on leave.

Calculation of eligible ITC.

Group insurance to workers is obligatory on the part of the employer as per Workmen Compensation Act. Therefore, ITC is admissible on such input service. Travel benefit is restricted only during leave. Thus, input tax credit for procurement of services under sl. No. 'e' and 'h' above are only eligible for availing.

iii. Motor vehicles and other conveyances (valid w.e.f. 01.02.2019)

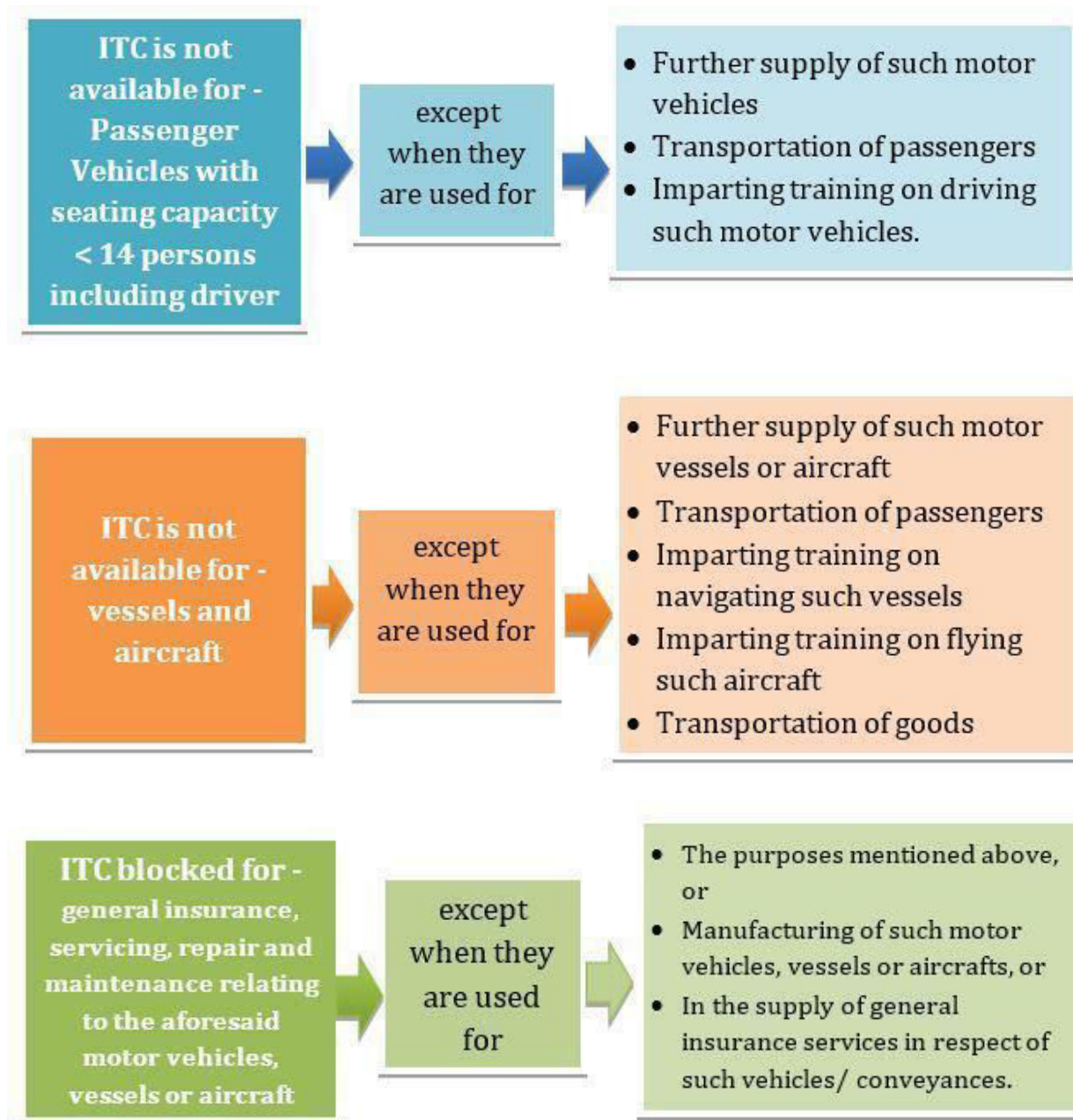


EXHIBIT 37

Subsequent to amendment of Section 17(5) the ambit of availability of ITC on motor vehicles is expanded. Prior to 01.02.2019, passenger vehicles, goods vehicles and other conveyances were treated at par and ITC was available for specific purposes only as mentioned above in Table in (i) above. However, subsequent to the amendment w.e.f. 01.02.2019, ITC is made available for goods vehicles. In respect of the passenger vehicles, ITC has been denied for vehicles with seating capacity not more than 13 persons including the driver. This means that, ITC is available on passenger vehicles with seating capacity more than 13 persons including the driver w.e.f. 01.02.2019. However, doubts may prevail in respect of availability of ITC in respect of construction machineries like tractor, crane, road roller, tippers and dumpers etc. i.e. Whether they can be classified as motor vehicles?

It may be noted that, most of the earth moving machineries require registration under MV Act as motor vehicle. Since, earth moving machineries like tractor, crane, road roller, tippers, dumpers etc are also considered as motor vehicles, they are not outside the restriction clause in section 17(5).

It may further be noted in this regard that, fulfilment of conditions specified in section 16 and 17 of the CGST/SGST Act may not be sufficient sometimes for availing of ITC. Certain restrictions in respect of availability of ITC are also provided in the rate notifications.

Illustration–

Tax paid on purchase of a goods vehicle by a GTA would otherwise be available as ITC, but as per rate notification no.13/2017 – CT(R) dt.28.06.2017, services of a GTA in relation to transportation of goods is taxable @ 5% provided that the ITC on goods and services used in supplying the service has not been taken

iv. **Food, beverages, outdoor catering, beauty treatment etc (w-e-f 01.02.2019)**

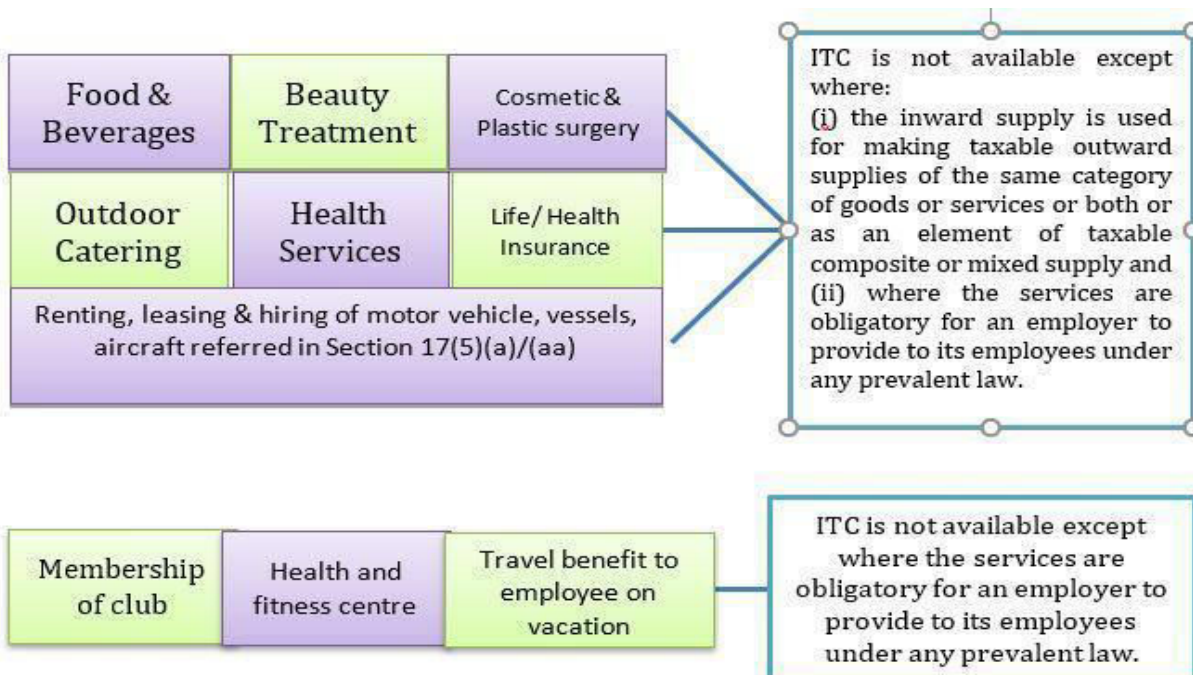


EXHIBIT 38

Hence, w-e-f 01.02.2019, ITC would be available in respect of the aforesaid services if it is obligatory on the part of employer to provide the same to its employees under any law for the time being in force.

v. Works Contract Service used for immovable property other than plant & machinery but including repair maintenance and renovation to the extent of capitalization

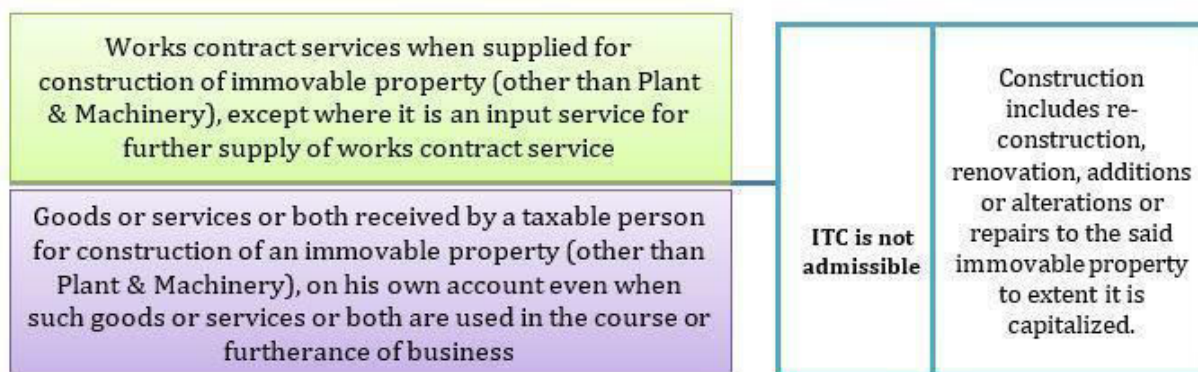


EXHIBIT 39

Works contract is defined under section 2(119) as a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in

goods (whether as goods or in some other form) is involved in the execution of such contract.

Works contract as defined under section 2(119) though being a composite supply is treated as a supply of services as per Para 6(a) of Schedule II of the CGST/SGST Act, 2017. If a registered person avails of works contract service as input service for further supply of works contract service, then in such a scenario he would be eligible to avail of the ITC on such service procured by him.

Illustration- A taxpayer is constructing his new factory for manufacture of taxable goods. Contractor 'A' supplies construction services and another vendor 'B' supplies 'Plant & Machinery'. The taxpayer also procures goods and services on his own account to develop the boundary wall of the factory premises.

In this case, the taxpayer is not in the business of supplying works contract service. Therefore, he is not eligible to claim ITC in respect of tax paid on inward supplies of works contract service. He is eligible to claim ITC on plant & machinery. The taxpayer is also not eligible to claim ITC on tax paid on procurement of goods and services on his own account for building the boundary wall.

However, if contractor 'A' engages a subcontractor, he is eligible to claim ITC on procurement of works contract service from the sub-contractor since the same is procured for further supply of works contract service.

Plant and Machinery may also be of the nature of immovable property in certain cases when affixed permanently to the earth. It may be noted that, when a works contract service is procured for construction of plant and machinery, ITC would be available to the recipient, since works contract service procured for construction of plant and machinery is excluded from the negative list.

For the purpose of Input Tax Credit “plant and machinery” means apparatus, equipment, & machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes—

- (i) land, building or any other civil structures;
- (ii) telecommunication towers; and

(iii) pipelines laid outside the factory premises.

vi. **Other unavailable credit –**

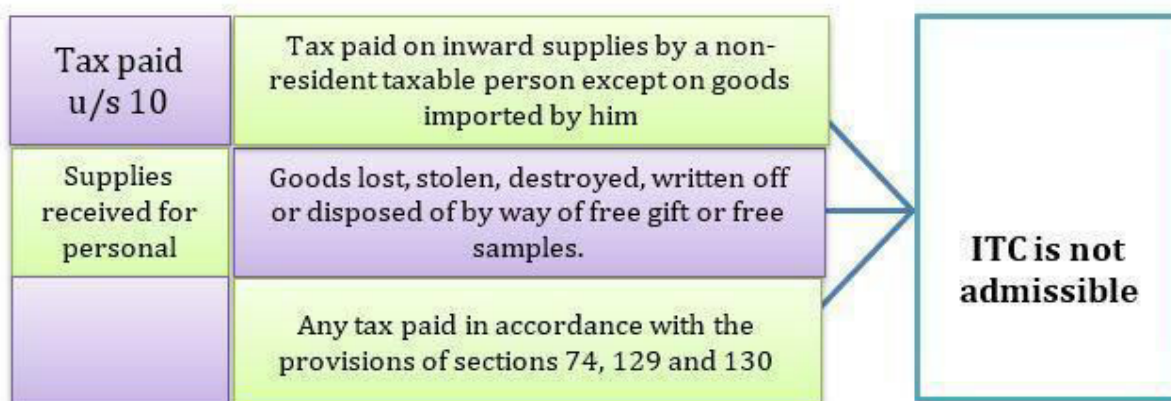


EXHIBIT 40

ITC is blocked in respect goods lost, stolen, destroyed, written off or disposed off by way of free gift or free samples. Confusion may arise that whether those goods are only inputs and capital goods or also manufactured end product or any intermediary products. Since, there is no such condition, so whether those goods are inputs, capital goods, finished product or any intermediary products ITC is required to be reversed when such goods are lost, stolen, destroyed, written off or disposed off by way of free gift or free samples.

I. Availability of credit in special circumstances:

a. Sec 18(1) and 18(2) -

Supplier	Stock held as			Stock to be considered as on
	Inputs or Inputs contained in semi-finished/ finished goods	Input Services	Capital Goods	
Person, who has applied for registration within 30 days from the date of incurring liability for registration and who has been granted such registration	ITC available	Stock of service is not possible. ITC not available	ITC not available	The day immediately preceding the date from which he becomes liable to pay tax

Voluntarily Registered	ITC available	ITC not available	ITC not available	The day immediately preceding the date from which supplier is liable to pay tax under the regular scheme.
Person ceases to pay tax under the composition scheme	ITC available	ITC not available	ITC available	The day immediately preceding the date from which supplier is liable to pay tax under the regular scheme.
Exempt supplies become taxable	ITC available on inputs relatable to such exempt supply	ITC not available	ITC available on capital goods exclusively used for such exempt supply	The day immediately preceding the date from which exempt supplies become taxable.

Note:

a. ITC in respect of inputs or inputs contained in semi-finished/ finished goods or capital goods held in stock as noted in the above table would be available only within one year from the date of issuance of the tax invoice related to such supply.

b. The credit on capital goods shall be reduced by five percentage points per quarter or part thereof from the date of invoice.

b. Transfer of credit in special circumstances [Sec 18(3)]



EXHIBIT 41

c. Other circumstances provided under section 18

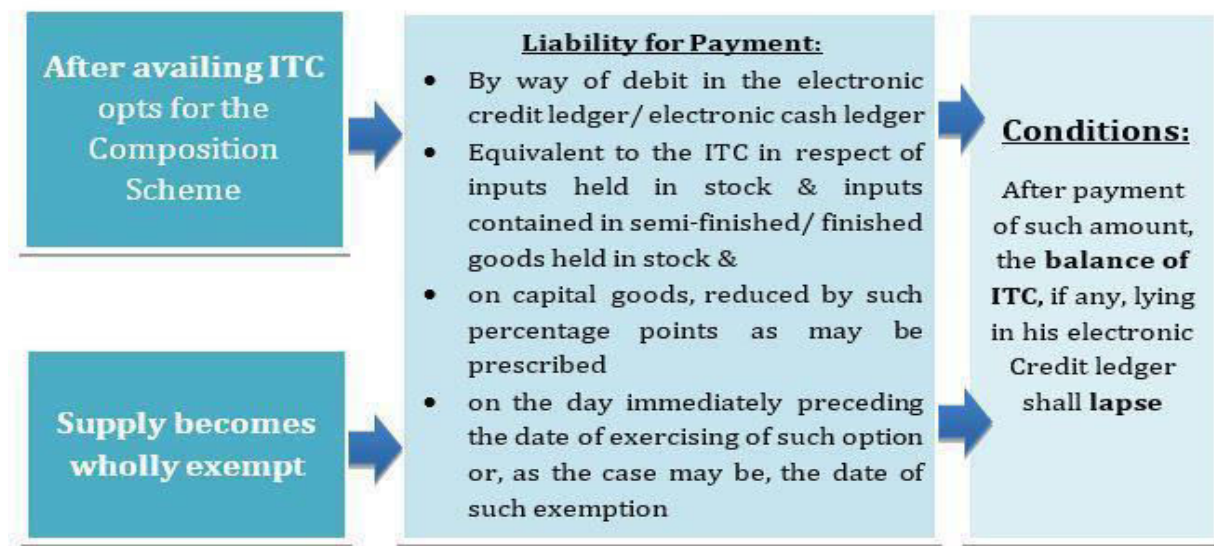


EXHIBIT 42

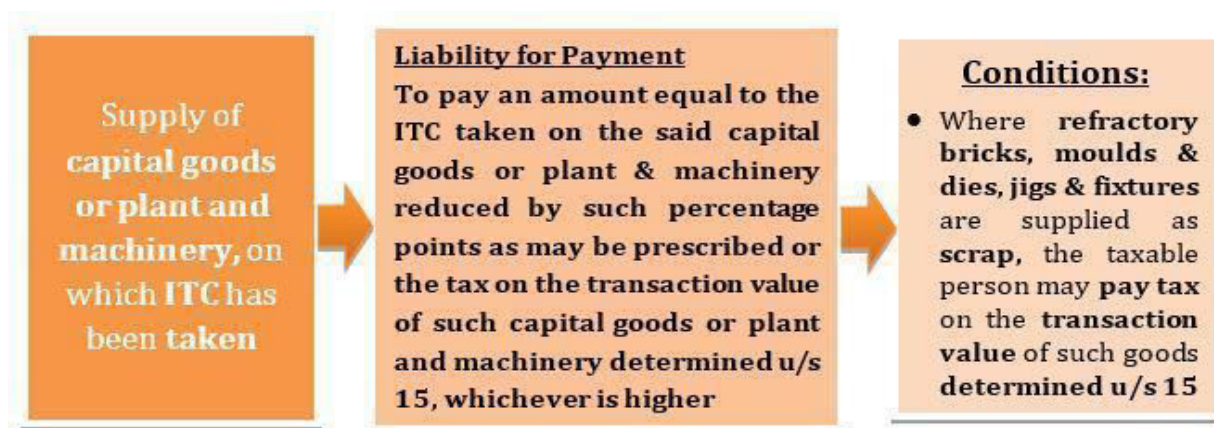


EXHIBIT 43

d. ITC in respect of inputs and capital goods sent for job work.



EXHIBIT 44

If the inputs/ capital goods sent for job work are not received back by the principal after completion of job work or otherwise or are not supplied from the place of business of the job worker (Sec 19)

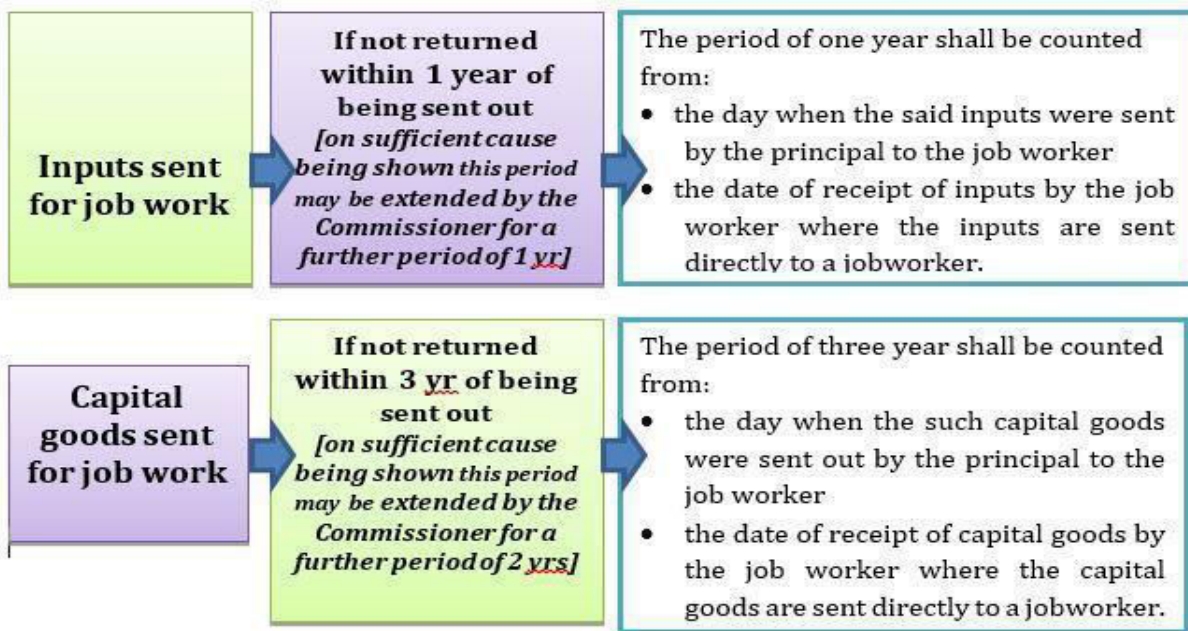


EXHIBIT 45

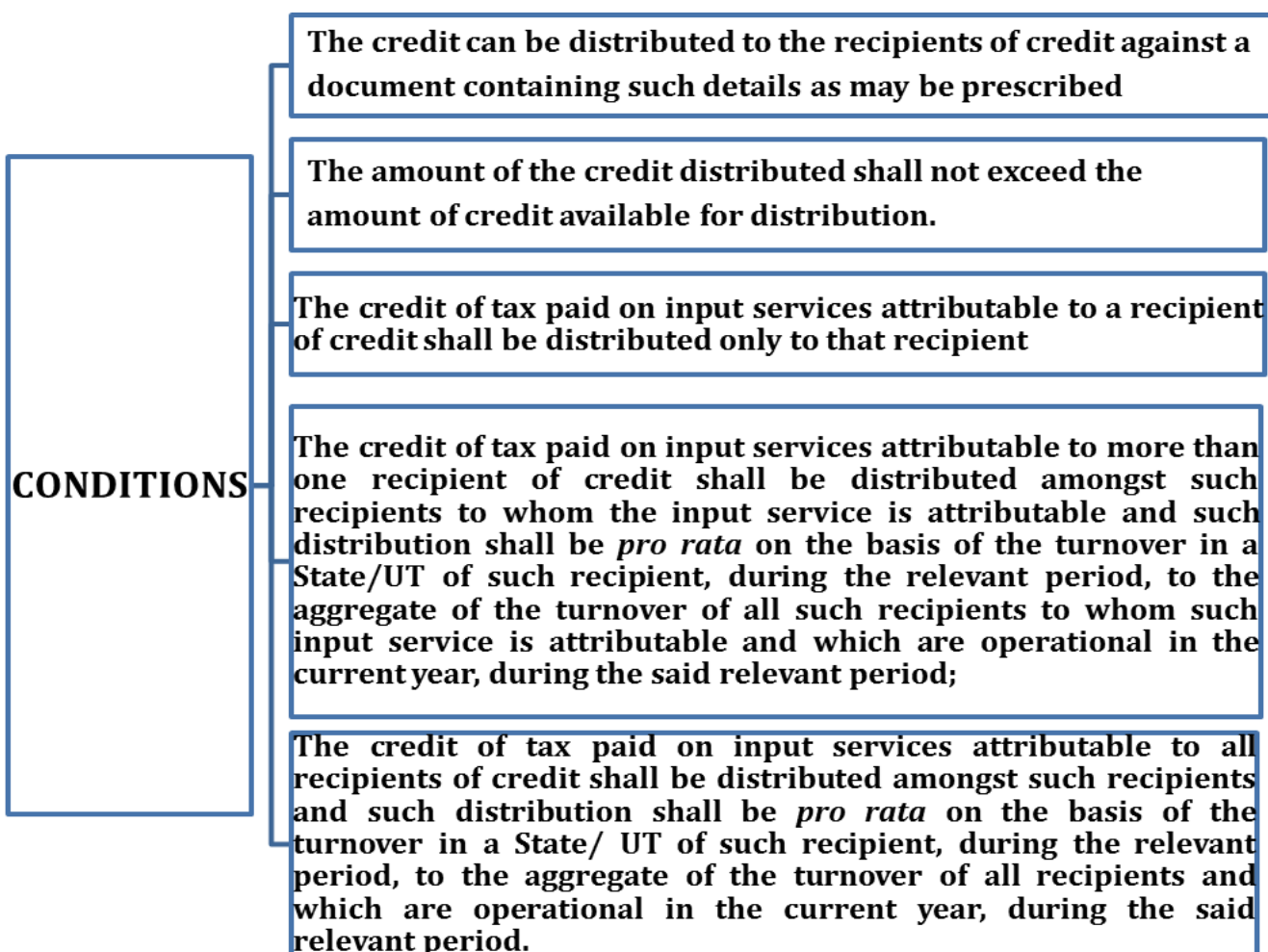
- The above time period for returning back inputs/ capital goods from job workers to the principal shall not apply to moulds and dies, jigs and fixtures, or tools sent out to a job worker for job work.
- Principal means a registered person referred to in section 143(1)
- For the purposes of job work, input includes intermediate goods arising from any treatment or process carried out on the inputs by the principal or the job worker

e. Manner of distribution of credit by Input Service Distributors.

Who can distribute?	What to distribute?	How?
The Input Service Distributor	<ul style="list-style-type: none"> • the credit of State tax as State tax /IGST • the credit of Central tax as Central tax /IGST • IGST as IGST or State tax/Central Tax 	By way of issue of documents containing the amount of ITC being distributed in such manner as may be prescribed

EXHIBIT 46

a. Conditions for distribution of Credit by ISD



- **“relevant period”** for the purposes of Section 20 shall be–
 - (i) if the recipients of credit have turnover in their States or UTs in the financial year preceding the year during which credit is to be distributed, the said financial year; or
 - (ii) if some or all recipients of the credit do not have any turnover in their States or UTs in the financial year preceding the year during which the credit is to be distributed, the last quarter for which details of such turnover of all the recipients are available, previous to the month during which credit is to be distributed
- **“recipient of credit”** means the supplier of goods or services or both having the same Permanent Account Number as that of the Input Service Distributor;
- **“turnover”**, in relation to any registered person engaged in the supply of taxable goods as well as goods not taxable under this Act, means the value of turnover, reduced by the amount of any duty or tax levied under entries 84

and 92A of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule.

Example of distribution of ITC by ISD:

A company has 6 numbers of GSTIN under a single PAN in the following States:

- i. In Delhi as normal taxpayer
- ii. In Delhi as ISD
- iii. In West Bengal as normal taxpayer
- iv. In Bihar as normal taxpayer
- v. In Uttar Pradesh as normal taxpayer
- vi. In Punjab as normal taxpayer

The ISD received invoices from different vendors as follows:

- a. Factory building renovation in West Bengal involving IGST of Rs.1,00,000/- (renovation works duly capitalized in the books in HQ Delhi)
- b. Advertisement in all the above States involving input tax of Rs.30,000/- as IGST.
- c. Repairing of plant & machinery at Delhi and UP involving input tax of Rs.10, 000/- as CGST and Rs.10, 000/- as SGST.
- d. Tax audit in Punjab involving input tax of Rs.20, 000/- as IGST.

Turnover of previous year of the above GSTINs was as follows:

	Delhi	UP	Punjab	MP	WB	Bihar
Turnover	10 Cr	10 Cr	4 Cr	5 Cr	8 Cr	1 Cr
Pro-rata ratio	25%	25%	10%	12.5%	20%	2.5%

The ISD distributed ITC as follows:

Invoice wise total credit (Rs.)	Delhi	UP	Punjab	MP	WB	Bihar
Inv. a 1,00,000					IGST=10000 0	
Inv. b 30000	CGST=375 0 SGST=375 0	IGST=7500	IGST=3000	IGST=375 0	IGST=6000	IGST=750

Inv. c 20000	CGST=500 0 SGST=500 0	IGST=1000 0				
Inv. d 20000			IGST=2000 0			

Distribution of ITC by the ISD as appeared in the above tables is correctly done except in respect on Inv. a. for which ITC is blocked as per provisions of section 17(5) of the CGST/SGST Act. Now, the question arises how and from whom that can be recovered? Let us go through the provisions of section 21 below.


Manner of recovery of credit distributed in excess [Sec21].

Distributes excess credit	What to do?	How?
When the Input Service Distributor distributes the credit in contravention of the provisions contained in sec 20 to one or more recipients of credit	The excess credit so distributed shall be recovered from such recipients along with interest	The provisions of section 73 or section 74, as the case may be, shall, mutatis mutandis, apply for determination of amount to be recovered.

EXHIBIT 47

Thus, the credit distributed in excess to West Bengal by the ISD as IGST of Rs.1,00,000/- for renovation of factory building which has been capitalized can be recovered under section 73 or 74 as applicable along with interest from the distinct person in West Bengal as he was the recipient in this case.

Annexure 12: Important Changes in GST Laws and Rates during 2017-18 & 2018-19 (p.49)



Introduction:

Good and Services Tax came into force on the 1st day of July, 2017. With passage of time the provisions of the said laws have been changed on amending the GST Acts through issuance of notifications under sections 23, 128, 148 and 172 to give relief to the stakeholders. The Acts were also amended twice through legislation with effect from 1st February, 2019 and with effect from 1st January, 2020 respectively. Moreover, the rates of taxes were amended several times during 2017-18 and 2018-19. It is felt that some of the changes discussed above have direct impact over the payability of GST by a registered person. Hence those important changes are being enlisted in the following paragraphs.

EXHIBIT 48

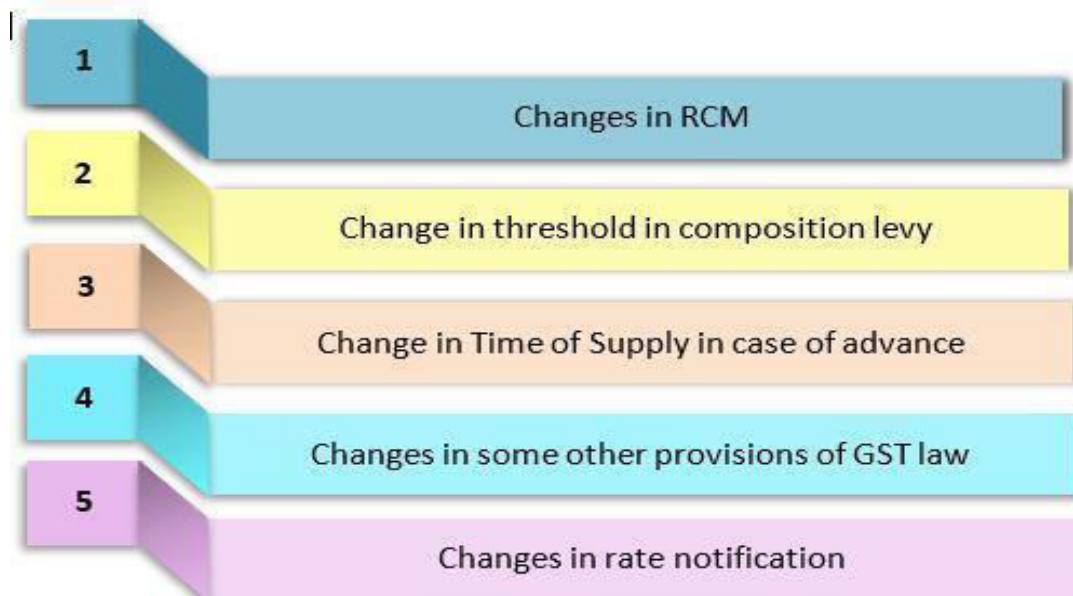


EXHIBIT 49

Changes in Reverse Charge Mechanism (RCM)

Reverse charge is a mechanism under which the recipient of the goods or services is liable to pay the tax instead of the provider of the goods and services. Under the normal taxation regime, the supplier collects the tax from the buyer and deposits the same after adjusting the output tax liability with the input tax credit available. But under reverse charge mechanism (RCM), liability to pay tax shifts from supplier to recipient.

In respect of RCM u/s 9(3) of the SGST/CGST Acts, 2017, the CGST Notification no. 04/2017-CT(Rate), dt.28.06.2017 and CGST Notification no. 13/2017-CT (Rate), dt.28.06.2017 notify certain specified Goods and Services for the supply of which tax is payable under RCM.

In respect of section 9(4) of CGST/SGST Act and section 5(4) of IGST Act the original provision has been amended as follows:

- If the amount of inward supplies of goods or services or both, received in a day by a registered person from all unregistered suppliers, does not exceed Rs.5000/-, no tax is payable on RCM under section 9(4) by a registered recipient.
- If a registered person receives inward supplies of goods or services or both exceeding Rs. 5000/- in a day from all unregistered suppliers, he is liable to pay tax on RCM basis on entire amount of such supplies received by him.

From 13.10.2017 the provisions of section 9(4) of SGST/CGST Act and section 5(4) of IGST Act have been kept suspended.

Finally, the provision has been amended w.e.f. 01.02.2019 as below:

“Govt. may specify by notification a class of Registered recipients who shall pay tax on RCM on supply received from an unregistered supplier.”

It may be noted that, w.e.f. 01.04.2019 CGST Notification no. 03/2019 CTR dt.29.03.2019 have been issued on certain specific conditions and situations of “Construction Services” where tax is to be paid under reverse charge mechanism.

Changes at a glance in Sec 9(4) of CGST/SGST Act, Sec 5(4) of IGST Act
Tax payable by registered person in respect of supply by unregistered person



Composition levy

- Threshold limit for opting Composition Levy was 75 lakh rupees at the advent of GST. Said threshold has been extended to 1 Crore rupees.
[CGST Notification No. 46/2017-CT, dated 13.10.17]
- Option for Composition Levy in the middle of 2017-18 has been allowed by inserting sub-rule (3A) to rule 3.
[CGST (Ninth Amendment) Rules, 2017 issued vide Notification No. 45/2017-CT, dated 13.10.17]
- Restaurants, eateries etc. shall not be barred from Composition Levy even if it supplies any exempt services including services by way of extending deposits, loans or advances
[RoD Order issued vide CGST Order No. 01/2017-CT, dated 13.10.17]
- Rate Reduction with effect from 01.01.2018:

- Rate of Composition Levy for manufacturers has been reduced from one (01) per cent. of turnover in the State to half (0.5) per cent. of turnover in the State.
- Rate of Composition Levy for traders has been reduced from half (0.5) per cent. on turnover in the State to half (0.5) per cent. of the **turnover of taxable supplies of goods** in the State

[CGST (1st Amendment) rules, 2018 issued vide notification No. 03/2018-CT, dated 24.01.2018]

Tax on Advance received

Section 12(2) of the SGST/CGST Act:

“The time of supply of goods shall be the earlier of the following dates, namely:

- (a) the date of issue of invoice by the supplier or the last date on which he is required, under section 31, to issue the invoice with respect to the supply; or
- (b) the date on which the supplier receives the payment with respect to the supply.”

- So, in terms of the above provisions, tax is payable when advance payment is received for supply of both goods or services.

- But taxpayers having aggregate turnover in the preceding financial year upto 1.5 crore are exempted from payment of tax on Advance received in case of **supply of goods** with effect from 13.10.2017

[CGST Notification No. 40/2017-CT, dated 13.10.17]

- The above benefit has been extended to all taxpayers from 15.11.2017.
[CGST Notification No. 66/2017-CT, dated 15.11.17]

Changes in SGST/CGST Act relevant for 2017-18 & 2018-19

- Import of services without consideration by a **taxable person** from a related person or from any of his other establishments outside India, in the course or furtherance of business has been treated a supply as per para. 4 of Schedule I. Such provision is amended so that it will be applicable not only to a taxable person, but to **any person**. [w.e.f. 01.07.17]
- Scope of No supply extended w.e.f. 01.02.2019 by amending Schedule III:

- Supply of goods from non-taxable territory to another non-taxable territory without entering into India. (Para. 7)
- Supply of warehoused goods to any person before clearance for home consumption; and
- Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption. [*In common parlance **HIGH SEAS SALE***] (Para. 8)

Input Tax Credit:

- Where the **services** are provided by the supplier to any person on the **direction and on account of a registered person**, for the purpose of **entitlement of input tax credit** it shall be deemed that the said registered person has **received services** [*Explanation to Sec. 16(2)(b) of SGST/CGST Act amended w.e.f. 01.02.2019*]
- Subject to conditions, Input tax credit in respect of invoices or invoice relating to such debit notes for **supplies made during 2017-18** can be availed till the due date of furnishing return (GSTR-3B) for the month of **March, 2019** i.e. 23.04.2019 (*as extended by Notification No. [09/2019-C.T./GST](#) dated 22.04.2019*)
- **Condition:** Details of such invoices or debit notes are uploaded by the supplier in GSTR-1 till the due date for furnishing GSTR-1 for the month of March, 2019.
[*Proviso added to section 16(4) by ROD Order No. 2/2018 dated 31.12.2018*]
- ITC can be transferred on obtaining separate registration for multiple places of business within the State w.e.f. 01.02.2019 [*rule 41A inserted, [dated 29.01.2019](#)*]
- **Order of utilisation of ITC changed:**
- **Existing provision (from 01.07.17 to 31.01.19):** For payment of State tax/central tax, ITC of State tax/central tax has to be debited first, then ITC of integrated tax can be debited
- **New provision:** ITC of State tax/central tax shall be utilised for payment of integrated tax or State tax/central tax, only after the ITC of integrated tax has first been utilized fully towards such payment. [New section 49A inserted w.e.f. 01.02.2019.]

Important Changes in the IGST Act in relation to export of services and place of supply made by [IGST \(Amendment\) Act, 2018](#)

- ❖ **Export of services [sec. 2(6)(iv)]:**

- **Original provision [01.07.17 to 31.01.19]:** One of the condition to be satisfied for export of services is that the payment has to be received in convertible foreign currency
- **Changed provision from 01.02.19:** Now even if payment is received in Indian rupees wherever permitted by the RBI, if other conditions are satisfied such supply would be treated as export of services
- **Place of supply:**
- **Original provision [01.07.17 to 31.01.19]:** POS of services by way of transportation of goods to a registered person, shall be the location of such person, and that to an unregistered person, shall be the location at which such goods are handed over for their transportation. *[section 12(8) of the IGST Act]*
- **Changed provision from 01.02.2019:** Where the transportation of goods is to a place outside India, POS shall be the place of destination of such goods *[proviso added to section 12(8)]*
- **Original provision [01.07.17 to 31.01.19]:** Subject to other conditions, **POS of services** supplied in respect of **goods temporarily imported** into India **for repairs** is the **location of the recipient**
- **Changed provision from 01.02.2019:** Now, **POS of services** supplied in respect of **goods temporarily imported** into India **for repairs or for any other process or treatment** also is the **location of the recipient** *[Second proviso to section 13(3)(a) substituted]*.

Annexure 13: Due dates and extension of due dates of submission of various returns (p.58)

Financial Year (2017-2018)

a. Return type – Form GSTR - 3B

Month	Due date/Extended due date	Submitted on	Days of delay	Late fee payable per day	Total Late fee payable	Remarks
July, 17	25.08.2017 ¹					Waived (CGST Notification No, 28/2017-CT, dt. 01.09.2017)
July, 17	28.08.2017 ²					
Aug'17	20.09.2017					Waived (CGST Notification No, 50/2017-CT, dt. 24.10.2017)
Sep'17	20.10.2017					
Oct'17	20.11.2017					@Rs. 25/day (Where total amount of tax payable in a return is nil, Rs. 10/day) subject to max of Rs. 5000/- under each of the CGST/SGST Act from the due date of return, till the date on which return is filed. (CGST Notification No, 64/2017-CT, dt. 15.11.2017)
Nov'17	20.12.2017					
Dec'17	22.01.2018					
Jan'18	20.02.2018					
Feb'18	20.03.2018					
Mar'18	20.04.2018					
Total late fee payable						
Total late fee paid						
Late fee due						
1. for all registered dealers other than those specified in 2 below. [06–C.T./GST dt. 21.08.17] 2. for registered dealers entitled to avail ITC and opting to file GST TRAN-1 (conditions apply) [05–C.T./GST dt. 17.08.17]						

a.1 Conditional waiver of late fee for delayed furnishing of return in Form GSTR-3B

Tax period	Late fee waived	Condition
October, 2017	Waived in full	❖ Return in FORM GSTR-3B was submitted but not filed on the common portal, after generation of the application reference number. [CGST Notification No. 41/2018-CT, dt. 04.09.2018]
July, 2017 to March, 2018	Waived in full	❖ If the said return is furnished between the period from 22nd December, 2018 to 31st March, 2019. [CGST Notification No. 76/2018-CT, both dt. 31.12.2018]

a.2 Conditional waiver of late fee for delayed furnishing of return in Form GSTR-3B

Tax period	Return in GSTR-3B furnished between 01.07.2020 to 30.09.2020	Return in GSTR-3B furnished after 30.09.2020
July, 2017 to March, 2018	❖ Maximum Rs. 250/- under each of the CGST/SGST Act for each return period. ❖ Nil where the total amount of tax payable in the return for a tax period is nil.	❖ @ Rs. 25 / day subject to maximum of Rs. 5000/- under each of the CGST/SGST Act from the due date of return, till the date on which return is filed ❖ Where total amount of tax payable in a return is nil: @ Rs. 10 / day subject to a maximum of Rs. 5000/- under each of the CGST/SGST Act from the due date of return, till the date on which return is filed [CGST notification no. 52/2020-CT, dt. 10.07.2020]

b. Return type – Form GSTR - 9

Period	Due date	Submit on	Days of delay	Late fee payable per day	Total Late fee payable
2017-18	07.02.2020 [01/2020-C.T./GST, dt. 18.03.2020]			Rs. 100 per day max. quarter per cent. of turnover in the state	
Total late fee payable					

Total late fee paid		
Late fee due		

c. **Form GSTR - 1**

Period (Month / Quarter)	Due date	Submitted on	Days of delay	Late fee payable per day	Total Late fee payable
Jul'17	31.10.2018			@Rs. 25/day (Where total amount of tax payable in a return is nil, Rs.10/day) subject to max of Rs. 5000/- under each of the CGST/SGST Act from the due date of return, till the date on which return is filed. (CGST Notification no. 04/2018-CT dt. 23.01.2018)	
Aug'17	31.10.2018				
Sep'17	31.10.2018				
Oct'17	31.10.2018				
Nov'17	31.10.2018				
Dec'17	31.10.2018				
Jan'18	31.10.2018				
Feb'18	31.10.2018				
Mar'18	31.10.2018				
Total late fee payable					
Total late fee paid					
Late fee due					

Amnesty: No late fee is payable for the registered persons who failed to furnish FORM GSTR-1 for the months/quarters from **July, 2017 to September, 2018** by the due date **but furnishes FORM GSTR-1 between the period from 22nd December, 2018 to 31st March 2019** [CGST Notification no. 75/2018, dt. 31.12.2018]

No late fee is payable for the registered persons who failed to furnish FORM GSTR-1 for the months/quarters from **July, 2017 to November, 2019** by the due date **but furnishes FORM GSTR-1 between the period from 19th December, 2019 to 17th January, 2020** [CGST Notification no. 74/2019-CT dt. 26.12.2019 read with CGST Notification no. 04/2020, dt. 17.01.2020]

Financial Year (2018-2019)

a. Return type – Form GSTR - 3B

Month	Due date / Extended due date	Submit on	Days of delay	Late fee payable per day	Total Late fee payable
Apr'18	22.05.2018			@Rs. 25/day (Where total amount of tax payable in a return is nil, Rs.10/day) subject to max of Rs. 5000/- under each of the CGST/SGST Act from the due date of return, till the date on which return is filed. <i>(CGST Notification no. 64/2017-CT, both dt. 15.11.2017)</i>	
May'18	20.06.2018				
Jun'18	20.07.2018				
Jul'18	24.08.2018				
Aug'18	20.09.2018				
Sep'18	25.10.2018				
Oct'18	20.11.2018				
Nov'18	20.12.2018				
Dec'18	20.01.2019				
Jan'19	22.02.2019				
Feb'19	20.03.2019				
Mar'19	23.04.2019				
Total late fee payable					
Total late fee paid					
Late fee due					

a.1 Conditional waiver of late fee for delayed furnishing of return in Form GSTR-3B

Tax period	Late fee waived	Condition
April, 2018 to Sept, 2018	Waived in full	❖ If the said return is furnished between the period from 22nd December, 2018 to 31st March, 2019. [CGST Notification no. 76/2018-CT, dt. 31.12.2018]

a.2 Conditional waiver of late fee for delayed furnishing of return in Form GSTR-3B

Tax period	Return in GSTR-3B furnished between 01.07.2020 to 30.09.2020	Return in GSTR-3B furnished after 30.09.2020
April, 2018 to March, 2019	<p>❖ Maximum Rs. 250/- under each of the CGST/SGST Act for each return period.</p> <p>❖ Nil where the total amount of tax payable in the return for a tax period is nil. [CGST notification no. 52/2020-CT, dt. 10.07.2020]</p>	<p>❖ @ Rs. 25 / day subject to maximum of Rs. 5000/- under each of the CGST/SGST Act from the due date of return, till the date on which return is filed</p> <p>❖ Where total amount of tax payable in a return is nil: @ Rs. 10 / day subject to a maximum of Rs. 5000/- under each of the CGST/SGST Act from the due date of return, till the date on which return is filed</p>

b. Return type – Form GSTR 9

Period	Due date	Submit on	Days of delay	Late fee payable per day	Total Late fee payable
2018-19	31.12.2020 [12/2020- C.T./GST, dt. 04.11.2020]			Rs. 100 per day max. quarter per cent. of turnover in the state	
Total late fee payable					
Total late fee paid					
Late fee due					

c. Form GSTR - 1

Period (Monthly/ Quarterly)	Due date	Submitted on	Days of delay	Late fee payable per day	Total Late fee payable
Apr'18	31.10.2018			@Rs.25/day (Where total amount of tax payable in a return	
May'18	31.10.2018				
Jun'18	31.10.2018				

Jul'18	31.10.2018			is nil, Rs.10/day) subject to max of Rs. 5000/- under each of the CGST/SGST Act from the due date of return, till the date on which return is filed. (CGST Notification no. 04/2018-CT, dt. 23.01.2018)	
Aug'18	31.10.2018				
Sep'18	31.10.2018				
Oct'18	11.11.2018				
Nov'18	11.12.2018				
Dec'18	11.01.2019				
Jan'19	11.02.2019				
Feb'19	11.03.2019				
Mar'19	11.04.2019				
Apr-Jun 2018	31.10.2018				
Jul-Sept 2018	31.10.2018				
Oct-Dec 2018	31.01.2019				
Jan-Mar 2019	30.04.2019				
Total late fee payable					
Total late fee paid					
Late fee due					

Amnesty:

No late fee is payable for the registered persons who failed to furnish FORM GSTR-1 for the months/ quarters from **July, 2017 to September, 2018** by the due date **but furnishes FORM GSTR-1 between the period from 22nd December, 2018 to 31st March 2019** [CGST Notification no. 75/2018, dt. 31.12.2018]

No late fee is payable for the registered persons who failed to furnish FORM GSTR-1 for the months/ quarters from **July, 2017 to November, 2019** by the due date **but furnishes FORM GSTR-1 between the period from 19th December, 2019 to 17th January, 2020** [CGST Notification no. 74/2019-CT dt. 26.12.2019 read with CGST Notification no. 04/2020, dt. 17.01.2020]

Financial Year (2019-2020)

a. Return type – GSTR 3B

	Due date	Due date (Aggr. T.O. up to Rs. 5 Crore)	Submi t on	Days of delay	Late fee payable per day	Total Late fee payable
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Apr'19	20.05.2019				@Rs. 25/day (Where total amount of tax payable in a return is nil, Rs.10/day) subject to max of Rs. 5000/- under each of the CGST/SGST Act from the due date of return, till the date on which return is filed. <i>(CGST Notification no. 64/2017-CT, dt. 15.11.2017)</i>	
May'19	20.06.2019					
Jun'19	20.07.2019					
Jul'19	22.08.2019					
Aug'19	20.09.2019					
Sep'19	20.10.2019					
Oct'19	20.11.2019					
Nov'19	23.12.2019					
Dec'19	20.01.2020					
Jan'20	22.02.2020	24.02.2020 0				
Feb'20	20.03.2020	24.03.2020 0				
Mar'20	20.04.2020	24.04.2020 0				
	Total late fee payable					
	Total late fee paid					
	Late fee due					

a-1 Conditional waiver of late fee for delayed furnishing of return in Form GSTR-3B

Tax period	Return in GSTR-3B furnished between 01.07.2020 to 30.09.2020	Return in GSTR-3B furnished after 30.09.2020
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<p>April, 2019</p> <p>to</p> <p>March, 2020</p>	<p>❖ Maximum Rs. 250/- under each of the CGST/SGST Act for each return period.</p> <p>❖ Nil where the total amount of tax payable in the return for a tax period is nil. [CGST notification no. 52/2020-CT, dt. 10.07.2020]</p>	<p>❖ @ Rs. 25 / day subject to maximum of Rs. 5000/- under each of the CGST/SGST Act from the due date of return, till the date on which return is filed</p> <p>❖ Where total amount of tax payable in a return is nil: @ Rs. 10 / day subject to a maximum of Rs. 5000/- under each of the CGST/SGST Act from the due date of return, till the date on which return is filed</p>
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b. Return type – Form GSTR - 9

Period	Due date	Submit on	Days of delay	Late fee payable per day	Total Late fee payable
2019-20	31.12.2020			Rs. 100 per day max. quarter per cent. of turnover in the state	
Total late fee payable					
Total late fee paid					
Late fee due					

c. Form GSTR - 1

Period (Month / Quarter)	Due date	Submit on	Days of delay	Late fee payable per day	Total Late fee payable
Apr'19	11.05.2019			@Rs. 25/day (Where total amount of tax payable in a return is nil, Rs.10/day) subject to max of Rs. 5000/- under each of the CGST/SGST Act from the due date	
May'19	11.06.2019				
Jun'19	11.07.2019				
Jul'19	11.08.2019				
Aug'19	11.09.2019				
Sep'19	11.10.2019				
Oct'19	11.11.2019				

Nov'19	11.12.2019			of return, till the date on which return is filed. (CGST Notification no. 04/2018-CT, dt. 23.01.2018)	
Dec'19	11.01.2020				
Jan'20	11.02.2020				
Feb'20	11.03.2020				
Mar'20	11.04.2020				
Apr-Jun 2019	31.07.2019				
Jul-Sept 2019	31.10.2019				
Oct-Dec 2019	31.01.2020				
Jan-Mar 2020	30.04.2020				
Total late fee payable					
Total late fee paid					
Late fee due					

Amnesty:

- No late fee is payable** for the registered persons who failed to furnish FORM GSTR-1 for the months/ quarters from **July, 2017 to September, 2018** by the due date **but furnishes FORM GSTR-1 between the period from 22nd December, 2018 to 31st March 2019**[CGST Notification no. 75/2018, dt. 31.12.2018]
- No late fee is payable** for the registered persons who failed to furnish FORM GSTR-1 for the months/ quarters from **July, 2017 to November, 2019** by the due date **but furnishes FORM GSTR-1 between the period from 19th Dec, 2019 to 17th January, 2020** [CGST Notification no. 74/2019-CT dt. 26.12.2019 read with CGST Notification no. 04/2020, dt. 17.01.2020]
- No late fee is payable** for the registered persons who failed to furnish FORM GSTR-1 for the month **March, 2020** and for the quarter **Jan-Mar 2020** by the due date **but furnishes FORM GSTR-1 on/before 10.07.2020 and 17.07.2020** respectively. [CGST Notification no. 53/2020-CT dt. 10.07.2020 read with CGST Notification no. 04/2020, dt. 17.01.2020]
- The months of Return filing as shown in the Tables below are based on all months of any FY. However, the audit officer should consider the months applicable for the period under audit.

a. Return type – GSTR 3B

Period (Month / Quarter)	Due date	Submitted on	Days of delay	Late fee payable
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Apr				
May	Notes: System generally automatically calculates late fee during submission of return. However, for the return periods of different FYs various extensions of due dates and conditional extensions of due date were allowed.			
Jun				
Jul				
Aug				
Sep				
Oct				
Nov				
Dec				
Jan				
Feb				
Mar				
Total late fee payable				
Total late fee paid				
Late fee due				

b. **Statement in GSTR 1**

Period (Month / Quarter)	Due date	Submitted on	Days of delay	Late fee payable
Apr				
May				
Jun				
Jul				
Aug				
Sep				
Oct				
Nov				
Dec				
Jan				
Feb				
Mar				
Total late fee payable				
Total late fee paid				
Late fee due				

c. **Return type – GSTR 9 / 9A**

Period	Due date	Submitted on	Days of delay	Late fee payable
FY.....				

Total late fee payable	
Total late fee paid	
Late fee due	

Part D [Correctness of turnover in State (monthly statement)]

Turnover disclosed in GSTR 3B (Rs.)	Turnover disclosed in GSTR 1 (Rs.)	Turnover disclosed in GSTR 9 / 9A (Rs.)	Turnover as in P/L account (Rs.)	Difference (Rs.)
Reconciliation statement with supporting documents needs to be examined.				
Any other supply which is not disclosed in any of the above fields but disclosed at the time of audit.				

Additional information from the books / other sources to examine correctness of the turnover disclosed finally at the time of audit (monthly statement):

Areas of concern	Examination	Value of supply		Disclosed in return (Y/N)	Additional tax liability (if any)			
		Intra-State (S)	Inter-State (I) with POS (State Code) *		State tax	Central tax	Integrated tax	Cesses
Other/Misc. income								
Whether in the pre-GST or in the GST regime, "Other Income" ledger has always been an important ledger to examine. It is important to go through every transaction reflected in this ledger to confirm as to whether GST is applicable on any transaction for which tax compliance has not been made. For example, penal interest, penalty / damages recovered etc.								

Stock transfer to other State(s)/UT (s)								
<p>Stock transfer to distinct persons in the State and other States never form part of turnover in P/L account in consolidated books of accounts. In the erstwhile VAT regime, stock transfer to branches and consignment agents in other States were nil rated subject to production of declarations in Form F under the CST Act, 1956. In GST, stock transfers to distinct persons are taxable. Therefore, it is very important to check the stock transfer value (both inwards and outwards) to ascertain the compliance. There is a specific rule for valuation in this regard. If any auditee takes the benefit of the 2nd proviso of Rule 28 then the audit officer should check whether such has been taken properly or not.</p> <p>An example is given below for proper understanding of the Audit Officers:</p> <p>e.g: A banking company purchased 4 cars and dispatched those to 4 branches in 4 States (1 car / branch) by raising tax invoice where value of each car is shown at a nominal price of Rs.10,000/-. On being asked, the auditee bank may reply that valuation has been done as per rule 28 of CGST Act, 2017. Is it a correct valuation done by the bank?</p> <p>As per the 2nd proviso of rule 28, the value declared in the invoice shall be deemed to be the open market value where the recipient is eligible for full input tax credit. In the instant case, the recipient is not eligible to avail of ITC and therefore, the value declared cannot be accepted as open market value.</p>								
Sale of assets								
	<p>Sale of assets is always taxable in GST. Moreover, permanent transfer or disposal of business assets on which input tax credit has been availed is also considered as supply even if no consideration is received (Sch. I of Sec 7).</p> <p>Donation of business assets or scrapping or disposal in any other manner (other than as a sale – i.e., for a consideration) would also qualify as ‘supply’, where input tax credit has been claimed.</p>							

Goods sent on approval basis	<p>Goods Sent on approval basis before 1st July, 2017 (but not more than six months earlier from 1.7.2017) if returned within 6 months (2 months more in case of sufficient cause) from GST implementation, then no tax is payable by the person returning the goods. If it is returned after the time limit, then GST is payable by the person who returned the goods [sec 142 (12)]. If the goods are not returned within above time limit, the person who sent the goods is liable to pay GST.</p> <p>In GST regime: The invoice with respect of goods sent on approval basis has to be issued at the earliest of – (i) Before or at the time of supply, (ii) 6 months from the date of removal of goods from factory / godown etc. If the goods are not approved within 6 months, it will be deemed that sale of the said goods has taken place by the person who has sent the goods for approval. [S. 31(7) read with S. 12(2)]</p>							
Goods sent to job workers								

	<p>Inputs sent for job work are not received back by the principal after completion of job work or otherwise not received within 01 year of their being sent out, it shall be deemed that such inputs had been supplied by the principal to the job worker on the day when the said inputs were sent out [sec 143(3)]. <i>In such cases liability to pay interest will also arise</i></p> <p>Capital goods, other than moulds and dies, jigs and fixtures, or tools, sent for jobwork are not received back by the principal after completion of job work or otherwise not received within 03 years of their being sent out, it shall be deemed that such capital goods had been supplied by the principal to the job worker on the day when the said capital goods were sent out [sec 143(4)]. <i>In such cases liability to pay interest will also arise</i></p> <p>Any waste and scrap generated during the job work may be supplied by the job worker directly from his place of business on payment of tax, if such job worker is registered, or by the principal, if the job worker is not registered [sec 143(5)].</p>						
Disposal of assets without any							

<p>consideration [Entry 1 of Sch – I]. Supply of goods or services to related person or to distinct person even without consideration) [Entry 2 of Sch – I]</p> <p>Note: When the related persons are employee and employer then the next row is applicable.</p>	<p>There is no doubt that disposal of business assets against consideration is a supply. But, if ITC on any business asset is taken then disposal of such business assets even made without consideration is also to be treated as supply.</p> <p>Suppose XYZ Ltd., is in the business of Hotel. He purchased AC for business purposes and availed ITC and a car for which no ITC has been claimed. After 2 years, he permanently transfers the AC to one director and the car to another director without any consideration. Though there is no consideration in case of transfer of AC machine still it shall be a supply as per schedule I and supplier has to pay an amount determined according to sec 18(6). In the case of permanent transfer of the car, it will not be treated as supply since no ITC has been claimed on the same.</p>							
<p>Supply of goods or services to related person or to distinct person (even without consideration) [Entry 2 of Sch – I] When the related persons are employee and employer.</p>								
	<p>Distinct person is defined in Sec 25(4) and related person is defined in Explanation to sec 15.</p> <p>This issue needs careful examination because in most of the cases there may not be any reflection of transactions with related or distinct persons in P/L account or in any ledger. In the case of goods there may be an audit trail of transactions among the distinct or related person without any consideration. But in the case of services, such trails may not be found in the books of accounts. The auditor needs to study the particular business pattern of the auditee and should try to find out probable areas. Valuation of such supply needs examination.</p>							
<p>Expenses accounts to ascertain if</p>								

there are any expenses for free gift or facility (free holiday package, etc.) to any employee for value exceeding Rs. 50,000/- in a year.	This is another important area where the auditee may fail to comply with the provisions [entry no.2 of Sch I of sec 7]. Most of such supplies may be found in different expense ledgers like misc. expenses / other expenses, wages-salary-allowances, benefits to the employees, directors' remunerations, etc.							
Commission agent of goods (both the commission and the supply value of goods on behalf of the principal will form part of supply value) [Entry 3 of Sch – I].								
	As per the provisions of the GST Laws, in the case of supply through agent both the principal and the agent are liable to pay tax. So, the value of supply of goods made or received through an agent as prescribed in Rule – 29 needs proper examination.							
Income from land and building								
	Many transactions are linked with Land; e.g. sale of land and building subject to entry no.5 of sch. III, rent, lease, easement, licence to occupy land, development, transfer of tenancy right, transfer of development right, and building apart from sale of under construction real estate property etc.							
Agreeing to the obligation – i. to refrain from an act ii. to tolerate an act or a situation iii. to do an act								
	Section 7(1A) of the CGST/SGST Act, 2017, includes activities referred to in Schedule II in the scope of supply. Clause 5(e) to Schedule II provides that 'agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act' shall be treated as supply of service.							
Any other areas of concern								

	The above Tables may not be exhaustive for an audit officer in respect of particular auditee and there may be other areas of concern. The audit officer should mention his detection in this table. These would include adjustments on account of unbilled revenue (at the beginning and at the end of the year) and adjustments on account of advances received in respect of services						
Total undisclosed supply value							
Tax involvement on undisclosed supply							

*Refer to next table for list of State Codes

LIST OF STATE CODES: For noting Places of supply

STATE/UNION TERRITORY	CODE	STATE/UNION TERRITORY	CODE
Jammu and Kashmir	1	Jharkhand	20
Himachal Pradesh	2	Odisha	21
Punjab	3	Chhattisgarh	22
Chandigarh	4	Madhya Pradesh	23
Uttarakhand	5	Gujarat	24
Haryana	6	Daman and Diu	25
Delhi	7	Dadra and Nagar Haveli	26
Rajasthan	8	Maharashtra	27
Uttar Pradesh	9	Andhra Pradesh(before division)	28
Bihar	10	Karnataka	29
Sikkim	11	Goa	30
Arunachal Pradesh	12	Lakshadweep	31
Nagaland	13	Kerala	32
Manipur	14	Tamil Nadu	33
Mizoram	15	Puducherry	34
Tripura	16	Andaman and Nicobar Islands	35
Meghalaya	17	Telangana	36
Assam	18	Andhra Pradesh (new)	37
West Bengal	19	Ladakh	38

Part E (Correctness of purchase / procurement for which tax is payable u/s 9(3) & 9(4) of the SGST/CGST Act and u/s 5(3) & 5(4) of the IGST Act)

As disclosed in GSTR 3B (Rs.)	As disclosed in GSTR 9/9A (Rs.)	As disclosed in P/L (Rs.)	Difference (Rs.)
Reconciliation statement with supporting documents needs to be examined.			
Any other supply which is not disclosed in any of the above fields but disclosed at the time of audit.			

Additional information from the books / other sources to examine correctness of the finally disclosed liability to pay tax u/s 9(3) & 9(4) of the SGST/CGST Act and u/s 5(3) and 5(4) of the IGST Act (month wise statement):

Relevant section	Areas of concern	E x a m i n a t i o n	Taxable value (Rs.)		Discl osed in retur n (Y/N)	Additional tax liability (if any)			
			Intra - Stat e (S)	Inter- State (I) with POS (State Code)		St at e ta x	C e n t r a l ta x	I n t e g r a t e d ta x	C e s s
9(3) of SGST / CGST Act	Goods under Notification no.4/2017 (R) dt.28.6.2017.								
5(3) of IGST Act	Goods under Notification no. 4/17-IT(R) dt.28.6.17.		Normally a supplier collects tax from the buyer and deposits the same after adjustment of the output tax liability with the input tax credit available. Liability to pay tax shifts from supplier to recipient under reverse charge mechanism (RCM), Apart from this, in the case of import of goods and/or services also, the recipient is liable to pay tax except in some specific cases like OIDAR services from outside the territory of India to non-taxable person in India.						
9(3) of SGST / CGST Act	Services under Notification no.13/17 (R) dt.28.6.17								
5(3) of IGST Act	Services under Notification no.10/17-IT(R) dt.28.6.17.								
7(1)(c) of SGST / CGST Act and sec 20 of IGST Act [Entry 4 of sch – I]	Import of services (with or without consideration) from related person in the course or furtherance of business.								
7(1)(b) of SGST/ CGST Act	Import of services for a consideration.								

Proviso of Sec 5(1) of IGST Act	Import of goods								
9(4) of SGST / CGST Act	Intra-state procurement of goods and services from unregistered person where daily amount of such purchase is more than Rs.5000/- [applicable for 01.07.17 to 12.10.17]								
5(4) of IGST Act	Inter-state procurement of goods and services from unregistered person where such purchase is more than Rs.5000/- per day [applicable for 01.07.17 to 12.10.17].								
Residual	Any other areas of concern								
Total undisclosed supply value									
Tax involvement on undisclosed supply									

*Refer to previous page for list of State Codes

Part F (Correctness of claim of Input Tax Credit)

Details of ITC [month-wise]	Integrated Tax		Central Tax		State Tax		Cess	
	A s p e r 3 B	A s p e r a u d i t	A s p e r 3 B	A s p e r a u d i t	A s p e r 3 B	A s p e r a u d i t	A s p e r 3 B	A s p e r a u d i t
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
a. Import of goods								
b. Import of Services								
c. Inward supplies liable to Reverse Charge (except a, b above)		In GST, ITC can be availed by every registered taxable person on all inputs, input services and						
d. Inward supplies from ISD								
e. All other ITC including ITC on TRAN								

A. ITC available (a+b+c+d+e)		capital goods used or intended to be used in the course of or for the furtherance of business with a few exceptions.	
f. ITC required to be reversed as per Rule 42 & 43			
g. Other ITC required to be reversed			
B. ITC required to be Reversed (f+g)			
C. Net ITC Available [A-B]			
h. Ineligible ITC as per Sec. 17(5)		However, there are conditions to avail such ITC. The situation becomes more complex when there is common credit used in business and non- business, or used in taxable supply and exempt supply.	
i. Other ineligible ITC			
D. Ineligible ITC			
E. Net eligible ITC[C-D]			

Part G (Payment of Tax)

Month	Type	Apr	Ma y	Ju n	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
Tax paid upon setting off ITC	IGST													
	CGST													
	SGST													
	Cess													
Tax paid in cash	IGST													
	CGST													
	SGST													
	Cess													
Total tax paid as per GSTR-3B	IGST													
	CGST													
	SGST													
	Cess													
Total														

Month	Tax paid as per GSTR-3B or otherwise*				Tax payable as per Audit				Balance Tax payable			
	CGS T	SGS T	IGST	Cess	CGS T	SGST	IGST	Cess	CGST	SGST	IGST	Cess
Apr												
May												
Jun												
Jul												
Aug												
Sep												
Oct												
Nov												
Dec												
Jan												
Feb												
Mar												
Total												

*payment made by any other instrument like DRC-03, payment against DRC-07 etc.

Part H (Correctness of Payment of Interest)

1. Interest payable due to late payment of tax

Particulars	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
Amount of tax paid													
Due Date of payment													
Date of payment													
Default period (days)													
Rate of Interest													
Interest payable													

2. Interest payable due to non/short payment of tax

Particulars	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
Amount of non/ short payment of tax													
Due Date of payment													
Date of FAR													
Default period (days upto the date of FAR)*													
Rate of Interest													
Interest payable													

*The actual interest payable shall be calculated till the date on which such interest is actually paid.

3. Interest payable due to excess ITC availed

Particulars	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
Amount of excess ITC availed													
Date of claim													
Date of FAR													
Default period (days upto the date of FAR)*													
Rate of Interest													
Interest payable													

*The actual interest payable shall be calculated till the date on which such interest is actually paid.

4. Interest payable due to excess amount Refunded

Particulars	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
Amount of excess refund													
Date of receipt of refund													
Date of FAR													
Default period (days upto the date of FAR)*													
Rate of Interest													

Interest payable													
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*The actual interest payable shall be calculated till the date on which such interest is actually paid.

Particulars	Amount (Rs.)
Total Interest payable (as observed upon audit) [Sum of Interests payable under Tables 1 to 4 above]	
(-) Interest paid [as disclosed in GSTR-3B]	
(-) Interest paid [as voluntarily through DRC-03 or through GSTR-9 or in the course of audit, other than any payment made in compliance of Sec. 73 or 74]	
Interest Due	

*The actual interest due shall be calculated till the date on which such interest is actually paid.

Part I (Correctness of Any other amount due)

Particulars	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
Any other amount due													
Due date of payment of such amount													
Date of FAR													
Default period (days upto the date of FAR)*													
Rate of Interest													
Interest payable													

Annexure 14: Ratio Analysis & Trend Analysis (p.53)

The relative values of one data field when compared with another could help to detect potential errors or areas of non-compliance. It also helps to detect wrong Input Tax Credit availed, wrong valuation, claiming of input tax credit on inputs used in exempted goods / services, availment of ITC without receipt/actual use of input, etc.



EXHIBIT 50

Example 1

Audit Officer finds that the RTP (auditee) has a tax liability of Rs. 72 lakh out of which Rs. 70 lakh has been paid upon setting off ITC from his credit ledger and only Rs. 2 lakh has been paid in cash.

In this case, the Officer should apply the ratio of [ITC availed : Total tax paid through Electronic cash ledger + tax paid through Electronic credit ledger].

In this case,

The result is $70/(2+70) = 70/72 = 0.972$, i.e. 97.2%.

The result on such higher side may be of various reasons including accumulation of high stock resulting in accumulation of ITC.

But, if the RTP is a reseller without having significant warehouses, or if the goods dealt in are perishable in nature, the issue of stock holding will not stand good.

This should ring a bell in the audit officer's head that there may be a case of:

- wrong availment of input tax credit on goods/services in excess including claiming of input tax credit on inputs used in exempted products.

- under valuation of goods as value-addition should involve adequate difference between the two.
- or suppression of sales.

Example 2

The auditee deals with both exempted goods and taxable goods. Total supply in the audit period is of Rs. 10 crore out of which exempted supplies amount to Rs. 6.5 crore.

In this case, the Audit Officer should apply the ratio of [Value of exempted outward supply: value of total outward supplies made]. This ratio helps to identify:

- outward supplies made in the guise of exempted supplies.
- supply of essential parts of outward supply as exempted supplies.
- under valuation of outward supplies by overvaluing exempted outward supply

As in this case, the ratio comes out as 0.65 or 65%.

If the audit officer is satisfied that the figures pertain to actual supply of exempted goods, it should be thoroughly examined whether the supplier has availed any ITC on inputs related to such exempted supplies. In such case, including cases of availing common credit, proportionate ITC is to be reversed.

Example 3

Ratio analysis for over a continuous period, say 3 years gives a holistic picture of the trend of the RTP. Taking an example, if the ratio of [Amount of input tax credit availed on inward supply : Total tax liability on outward supply] is studied over a period of 3-4 years, and if the ratio is increasing there is the possibility of the following irregularities:-

- Rendering of unaccounted outward supply;
- Under valuation of outward supply;
- Showing outward supply income as non-taxable outward supply income.
- Inflation of inward supply credit.

Some of the indicative ratio analysis and trend analysis as follows may be carried out by the audit officer

RATIO ANALYSIS

I. BASED ON RETURN DATA

Sl.	RATIO	2017-18	2018-19	2019-20
i)	Inward supply value : outward supply value			
ii)	EWB value of inward supply : EWB value of outward supply			
iii)	Non-GST Turnover : Total Turnover			
iv)	Exempted Supply value: Total Turnover			
v)	Value of Goods Sent for Job Work : Total Turnover			
vi)	ITC on inward supply : Total inward supply			
vii)	Total ITC available : Total GST payable			
viii)	ITC availed on capital goods purchased during the years : addition to capital goods			
ix)	ITC availed on Capital Goods : Total ITC availed			
x)	Transitional ITC availed : ITC availed in the year			
xi)	Tax payable: Total turnover			
xii)	Total Ineligible & Reversed ITC : Total ITC Availed			
xiii)	Tax payment by ITC : Total Tax paid			
xiv)	Tax paid in cash : Tax paid on setting off ITC			

II. BASED ON FINAL ACCOUNTS DATA

Sl.	RATIO	2017-18	2018-19	2019-20
i)	Inward supply value : outward supply value			
ii)	Other income : outward supplies			
iii)	Gross profit : Gross revenue			

iv)	Power consumption/fuel consumption (Qty) : production quantity as per P&L Account			
v)	Production of Goods : Scrap Scrap: Production of goods			
vi)	Quantity of Actual production : installed capacity			
vii)	Cost of Major input: Value of outward supplies			
viii)	Consumables value: Value of taxable supplies.			
ix)	Net profit : Value of outward supplies			
x)	Capital employed : Value of outward supplies			

TREND ANALYSIS

I.GENERAL TRENDS

Sl.	PARTICULARS	2017-18	2018-19	2019-20
a)	Total Turnover			
b)	Total Zero Rated (Exports) Supply,			
c)	Supply to SEZ			
d)	Deemed Export			
e)	Total Exempted Supply			
f)	Total NIL rated Supply			
g)	Total Non-GST Supply			
h)	Total Taxable Outward Supply			
i)	Total Inward Supply subject to Reverse Charge			
j)	Total Tax payable on Outward Supplies			
k)	Additional Tax paid by DRC-03 (Annual Return)			
l)	GST of a particular goods/service vis-a-vis overall growth of that industry. (%)			
m)	Trend in proportion of value of exempted goods/services to the total value of goods/services. (%)			

n)	Gross operating profit			
o)	GST paid by debit in Electronic Cash ledger vis-à-vis GST paid by debit in Electronic Credit Ledger			
p)	GST paid by debit in Electronic Credit ledger vis-à-vis Total GST paid			
q)	Value of outward supplies made to related person vis-a-vis total value of supplies. (%)			
r)	Inter unit transfers /sales to related party as per Balance Sheet			
s)	Total refund claimed			
t)	Total refund sanctioned			
u)	Demand raised (if any)			
v)	Value of EWB outward			
w)	Value of EWB inward			

II.ANALYSIS FOR MANUFACTURER OF GOODS

Sl.	PARTICULARS	2017-18	2018-19	2019-20
a)	Cost of production of major finished Goods (as per cost record)			
b)	Quantity of inputs consumed in the production of Finished Goods			
c)	Value of inputs consumed in the production of Finished Goods			
d)	Production of finished goods compared to outward supplies			
e)	Production of scrap compared to Production of finished goods			
f)	Production of taxable outward supplies vis-a-vis exempted supplies			
g)	Movement of inward supplies vis-a-vis total production			
h)	Movement of inward supplies for goods manufactured on job-work vis-a-vis total production			

III.ANALYSIS FOR MANUFACTURER AS WELL AS RESELLER OF GOODS

Sl.	PARTICULARS	2017-18	2018-19	2019-20
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a)	Difference in ITC taken & ITC available on purchase of raw materials			
b)	Job work income as per P&L Account or Trial balance			
c)	Movement of inward supplies vis-a-vis total outward supply			

IV. ANALYSIS FOR SUPPLIER OF SERVICES

Sl.	PARTICULARS	2017-18	2018-19	2019-20
a)	Difference in ITC taken & ITC available on input services			
b)	Cost of procurement of major services provided (as per books)			

V. ITC TREND ANALYSIS

Particulars	2017-18	2018-19	2019-20
Opening balance			
Total ITC availed on Inputs			
Total ITC availed on Input Services			
Total ITC availed on Capital Goods			
Total ITC received from ISD			
TRAN credit claimed			
Total ITC eligible & availed			
Ineligible ITC, Not availed			
Credit utilized for payment of tax (Debit entries in e-credit ledger)			
ITC reversed			
Closing balance			

VI.TURNOVER TREND ANALYSIS

Year	Turnover as per P&L A/c or Trial Balance	Other Income	Value of Taxable Supplies	Total GST paid	GST paid in cash	GST paid by setting of ITC
2017-18						
2018-19						
2019-20						

Annexure 15: Study of Profit and Loss Account and Balance sheet (p.51)

Financial Statement, Accounts and GST

- i. Every business organization draws up financial statements in respect of any financial year comprising (a) the Balance Sheet as on the last day of the financial year {summarising the value of "owings" (what it owns) and "owings" (what it owes) or the value of assets, liabilities and capital} of the entity as on the said last date, (b) the Profit and Loss Account or the Income Statement {summarising the revenue receipts during the year from its business operations (does not include receipts of a capital nature) and the expenses incurred for earning the said revenue during the year}.
- ii. The aforesaid financial statements are generally referred to as the final accounts of the entity and are prepared for every distinct legal entity (as opposed to a "distinct person" in terms of Section 25). Thus, branch offices of a company/entity having business operations in more than one State will have consolidated financial statements in respect of all its transactions across the country, unless the different State "Units" ("distinct person" in terms of Section 25) are independent profit centres recognized as such by the company itself. Thus, in cases where the different State Units are not recognized as independent profit centres, the returns filed by the entity in a particular State cannot be mapped on to the financial statements on a one-to-one basis. In such cases (and even otherwise) every unit prepares a trial balance as at the end of the year (which also forms the basis for preparation of financial statement); the trial balance comprises balances/totals in respect of each item of revenue, expenditure, capital receipts, capital expenditure, assets/properties and liabilities/obligations. Thus, wherever the audited final accounts, i.e. profit and loss account and balance sheet are not available, the reconciliation of the return with books of accounts should be carried out *vis-a-vis* the trial balance. It may be noted that the trial balance may not be readily available in respect of individual units of a multi-location entity (*viz. some Pan-India entities with centralised control on debtors, creditors and payments*) operating on a SAP/ERP platform where the vendors, customers or the bank accounts are operated centrally. In such cases the trial balance has to be extracted with some effort.

iii. Different kinds of businesses entities like companies, banking companies, insurance companies, public utility (e.g. electricity generation/transmission/distribution) companies, etc. are governed by different statutes which have generally prescribed formats for the preparation of final accounts and also the information to be contained in such accounts. By and large, the formats and content prescribed under the Companies Act *vis-a-vis* final accounts for companies is a standard document in the accounting world and all relatively large undertakings, whether or not companies, adopt the same.

iv. Schedule III to the Companies Act, 2013 prescribes the norms, content and format of the balance sheet and the profit and loss account of a limited company. The Schedule also contains instructions for preparation of the financial statements.

v. An important component of the financial statements is the Notes to accounts which contain detailed information and break-up regarding different items of the information and contents of the Balance Sheet and the Profit and Loss Statement.

vi. The most important of which, for our purposes, is the Statement of Profit and Loss (Part-II of the said Schedule III). This statement comprises information regarding "Total Revenue" which has two significant and separate components viz. "Revenue from Operations" and "Other Income". This statement also has information regarding "Cost of materials consumed", "Purchases of Stock-in-Trade", "Changes" in inventory levels, "Employee" costs, "Finance costs", "Depreciation" and "Other" expenses. On the basis of this information, the operating profit is derived and disclosed; it is from this profit that adjustments towards prior periods and exceptional items, tax, effect of discontinuing operations are made and the net resultant earnings are derived.

vii. The general instructions for preparing this Statement (as contained in this Part) specify that companies (other than finance companies i.e. those generally engaged in financing operations of other business entities or extending/accepting loans/deposits) are required to separately disclose in the Notes to the Accounts, revenue from sale of goods/products, sale/supply of services and other operating revenues and the said Notes are to also separately disclose Excise Duty (now GST). In respect of finance companies, the revenue from operations shall include revenue from Interest and Other

financial services. In case of supply of services, supplies under broad heads are to be separately disclosed.

viii. Each such category of supply would refer to an "outward" supply in terms of GST and the values of such supplies as appearing in the financial statement/trial balance should be traced to the respective ledger accounts in the books of accounts. The business operations of an entity may comprise different kinds of goods/services and transactions involving them may be recorded differently in the books by different entities. For instance, an entity engaged in supply of readymade garments may have separate ledger accounts for supply of hosiery, shirts/trousers, kids clothing, woollen garments and accessories. These items may attract different rates of tax, depending on their classification. In such a case, the validation of outward supplies declared in the return may ideally begin with seeking a break-up of the aggregate value of each category of outward supply declared in the said returns into its various items/sub-items i.e. hosiery, shirts/trousers, kids clothing, woollen garments and accessories. The value of each such item/sub-item (separately recorded by the auditor in a document forming part of his working papers) may be validated by the auditor through the profit and loss statement/trial balance. The scheme of validation to be adopted by the auditor has to depend on (and, ideally, follow) the scheme of classification of his activities/transactions and the level of detail adopted by the supplier in the ordinary course of his business.

ix. The details regarding "Other Income" in the Profit and Loss Statement are to be classified in the Notes as "Interest income" (in case of other than finance companies), "Dividend", net gain/loss on sale of investments (i.e. shares, debentures, bonds, etc.), and other non-operating income. It is this component of "Other Income" which is of particular significance in verifying whether all 'other supplies' (transactions that are incidental or connected, whether related or unrelated, to the primary operations of the entity) have been disclosed properly in the GST returns or not. Hence, the details of this component should be carefully examined by the auditor and every item should be co-related to the corresponding entry in the trial balance and from there be verified from the appropriate ledger accounts in the books of accounts maintained by the entity.

x. In the process of seeking a break-up of the aggregate value of each category of outward supply as referred to in Para above, the auditor may encounter categories of such supplies which are not in the nature of the primary

activities of the business entity. For instance, the said entity engaged in the supply of readymade garments may have, during the said period, sold off/disposed empty cartons in which it may have received the items that it sells. It may also have sold off/disposed old furniture or old air conditioners/computers. The entity is engaged in the business of selling readymade garments and the supply of empty cartons (related to its main business), air conditioners/computers (not so related) is not part of its main activity; but it is connected to/incidental therewith. The supply of these items is also leviable to tax and has been clubbed together in the outward supplies declared in Table 3.1 of GSTR-3B. But the same will not appear in the "Revenue from operations" component of its profit and loss statement; rather, the same will be disclosed as "Other Income" component. Accordingly, each such item may be verified with respect to the ledger accounts.

xi. The auditor should pay particular attention to the mapping of every item of revenue recorded in the books of accounts (appearing on the 'income' side of the profit and loss statement or 'credit' side of the trial balance) on to the break-up of outward supplies referred to above. Care should be taken to ensure that every item of income appearing in the profit and loss statement/trial balance (except the "no supplies" referred to below) plus the "deemed supplies" explained below is included in some item of the break-up of outward supplies as derived from Table 3.1 of GSTR-3B and the aggregate value of all such items of income appearing in the profit and loss statement/trial balance (as adjusted for "no supplies" and "deemed supplies") matches with that of the aggregate value of outward supplies declared in Table 3.1 of GSTR-3B. If not, it is indicative of supplies on which tax not being paid/short paid.

xii. It is important to note that the outward supplies reported in Table 3.1 of GSTR-3B may include values of supplies for which no corresponding values are available in the profit and loss statement and/or trial balance (except where any asset has been permanently alienated, in which case there will be a "write/written off" account/balance in the profit and loss statement/trial balance and also a reduction/disposal in the fixed asset account, in case of such an asset). These are the "deemed supplies" of Schedule I of the Act. The major transactions in this category are transfers of goods or cross-charge on account of services to other branch offices/depots/agents/units (this will reflect as ITC in case of receipts under similar circumstances). In the case of goods, such

transactions are easily verifiable from the stock register/statements and/or goods transfer register. The valuation in such cases is not a problem if the same is a B2B transaction where credit is fully available; the value in the invoice suffices. However, in case of B2C transactions of this nature, valuation rules 27-31 will have to be applied. Transactions in services under such circumstances present a different problem, however. Where centrally procured services have not been dealt with in accordance with the ISD mechanism, there could be entries (and tax invoices) relating to supply of services by the Head Office (HO) to a Branch Office (BO) or by one BO to another Bo or by BO/s to HO (who are all distinct persons within the meaning of section 25). It is in such cases that the auditor has to tread with caution as even the fact that whether services have actually been supplied as claimed or the issuance of tax invoices is just an attempt to move credit around from one such entity to another entity in view of the second proviso to rule 28. The auditor should carefully examine and seek evidence/documents to validate whether the 'supplier' has the wherewithal and has deployed the quantum of resources necessary for the generation of services claimed to have been so provided to other units because no service can be supplied unless it is 'generated' through some resources or method.

xiii. There is another category of transactions which are reflected in the profit and loss statement/trial balance but are not part of supplies liable to tax as reflected in Table 3.1 of GSTR-3B. These are the "no supplies" of Schedule III. Of particular importance in this category are supplies of land, supplies of building (before completion certificate), high sea sales or supply of goods in the customs area before filing a bill of entry. These are all business transactions involving goods or services between different persons with consideration and, as such, they are recorded in the books of accounts (and reflected in the profit and loss statement/trial balance) but they have been declared as not being leviable to GST and, hence, they will not appear in GSTR-3B.

xiv. The value of 'inward supplies liable to reverse charge', as disclosed in Table 3.1 of GSTR-3B may also be sought to be dis-aggregated similarly with reference to supplies of goods and/or services on which payment on reverse charge has been notified. This can be validated with reference to entries on the debit side of the trial balance or the expenditure side of the profit and loss statement. While very few goods have been notified as taxable on reverse

charge basis, there is a long list of services on which tax is payable on reverse charge by the recipient.

xv. Accordingly, the value shown at serial (d) of Table 3.1 of GSTR-3B should be broken-up into its separate components. An illustrative list could be as follows:-

Goods			Services		
Description	Value	Tax	Description	Value	Tax
Import of the Goods			Import of Services		
Separately for each item dealt in (e.g. cashew, biri leaves, etc.)	<i>(separately for Inter-State and Intra state)</i>	<i>(separately For IGST, CGST, SGST, Cess)</i>	Services received from GTA	<i>(separately for Inter-state and Intra- state)</i>	<i>(separately for IGST, CGST, SGST, Cess)</i>
			Legal Services		
			Services received from Government/ LT (service-wise separately)		
			TDR or FSI		
			Long term lease of land		
			<i>Add rows for other RCM services if received</i>		

xvi. Each of the above items (except possibly in case of goods) will correspond to different entries in the trial balance from where they can be referred back to the respective ledger accounts. The value of import of goods is separately disclosed in the Notes to accounts. Receipt of certain services (e.g. services from Government, import of services, TDR/FSI, etc.) may not be available as separate headings in the trial balance. These have to be ascertained from the ledger of the personal accounts to whom payments have

been made e.g. Government, Builder, Foreign Supplier, etc. The values in respect of each of the above items is to be validated with reference to the ledger accounts and/or purchase register, where available, via the trial balance.

xvii. The ITC availed is to be validated with reference to Table 4 of GSTR-3B. The ITC availed on account of import of goods, import of services and other inward supplies liable to tax on reverse charge basis is to be validated in the manner specified above. ITC availed on account of receipts from ISD is not readily verifiable from the trial balance or profit and loss statement (except where HQ- Branch/Branch-HQ/Inter-Unit services are billed on cross-charge basis), since this does not involve any monetary consideration. Thus, ISD credit is to be verified with reference to the Journal book in which they are specifically entered. There are other means of verification of such ISD credit, particularly the GSTR-2A.

xviii. By far, the largest component of ITC is reported at serial (e) of Table 4 of GSTR-3B under the head "All other ITC". This is the most frequent and most widely availed ITC since it pertains to purchase/receipt of goods and/or services in the normal, primary and routine course of business, relating to the essential activities of the business entity.

xix. This item too should be segregated by the auditor under its various components viz. inputs, input services, capital goods and each of these components may be further segregated into each of its various heads (e.g. 'inputs' into different goods, HSN wise, 'input services' into various services, again HSN wise and 'capital goods' into each of different category of capital goods). In so far as 'inputs' are concerned, these are generally recorded separately category-wise and may be traced back from the dis-aggregated GSTR-3B to the separate ledger accounts via the trial balance. 'Input services' too can be validated similarly. In this context, it must be remembered that no credit is availed on account of anything that is not recorded in the books of accounts and is not reflected in the profit and loss statement/trial balance (except in case of receipt of "deemed supplies" or ISD). If so, it would be indicative of a case of credit being "wrongly availed".

xx. As explained above while every item of income/receipt (including "deemed supplies" but excluding "no supplies") is to appear in the outward supplies of GSTR-3B, failing which it would be indicative of tax being not/short paid.

However, every item of expenditure will not appear in Table 4 of GSTR-3B since credit is not available in certain cases (Section 17(5) of the Act). However, where the credit is not otherwise blocked under Section 17(5), and if it is still not availed it may be indicative of the credit availment being either deferred to a future period or the credit not being availed in which case it may be indicative of the purchase/receipt being suppressed; this needs to be investigated further.

Examples of some types of Account that require thorough examination

S I. N O .	Examp les of some types of Accoun t that require thoroug h examin ation	Remarks	
1	Introduct ory Director' s Report and Auditor's Notes	<p>The Annual Report prepared by a company <i>inter alia</i> contains the following:</p> <p>a) Director's Report: This gives information like overall financial results of the company, important happenings during the year and future plans of the company. Information in respect of advance received and order booked. Some of the important happenings like fire and loss of material in the company, details of new products launched, change in the marketing pattern etc. reported in the report may be useful to the auditor. It will help to know the business model of the company. It may contain certain details such as:</p> <p>□ Classification of goods and services dealt with. It will help audit officers to determine applicable rate of tax. So, audit officer shall have adequate knowledge in classification of goods and services disclosed by the auditee. Incorrect classification of</p>	

	<p>goods or services can lead to incorrect GST payment.</p> <ul style="list-style-type: none"> <input type="checkbox"/> Foreign Exchange earned during the year; <input type="checkbox"/> Foreign Exchange paid during the year, e.g. may be on account of taxable services received by the Auditee where he is liable to pay GST under reverse charge mechanism. <input type="checkbox"/> Advance received. Audit officer should then concentrate on operational liability (current & recurring) where such advance is accounted for. <input type="checkbox"/> Information on the operations carried out by the Auditee during the year under report. This may help in finding the exact nature of services provided by the Auditee. <input type="checkbox"/> It may show some of the Directors having commission and some having received sitting fees. Are these receipts liable to GST? If, yes what will be the value of supply? Besides sitting fees if other facilities like car, flat, club membership etc are provided whether all such will be part of consideration or not? Audit officers should follow provisions of sec 15 read with rule 27 of the CGST/SGST Act, 2017. <input type="checkbox"/> If any Director helped the company by standing as a guarantor in taking a loan whether that will be treated as supply or not? <input type="checkbox"/> We may get information in respect of <u>Seconded by Foreign entity</u> to render services to an Indian Entity not as employee of Indian entity. This importation of service is treated as supply as per entry no.4 of Sch.I appended to section 7 of the CGST/SGST Act, 2017. <p>b) Auditor's Report:</p> <ul style="list-style-type: none"> <input type="checkbox"/> These may be reports of Statutory auditor or Internal auditor or C & AG Audit. In the case of statutory 	
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	<p>audit, a separate report under CARO (Companies Auditor's Report Order, 2003/2015) is required to be given. The same should be studied to find out any qualified/adverse opinion given by the auditors which may have impact on GST liability. For example, Auditor may report that goods meant for outward supply, available in stock were not reconciled or provision for obsolete items have not been made during the year. Tax auditor may like to examine such opinion in detail.</p> <p>□ Company Auditor's Report Order (CARO) may be studied to find out whether the fixed assets records have been maintained properly or whether physical verification of inward supply and goods meant for outward supply was under taken and whether any discrepancies were noticed on such verification or whether the company has maintained proper records for unserviceable or damaged goods. It also shows disputed tax liabilities separately for Customs, Income Tax, GST etc. Cases booked under Income Tax may be examined to find out any implication on GST.</p> <p>□ In the case of Public Sector unit, C & AG report and comment of the company available in the Annual Report should be examined.</p> <p>□ Disclosure of accounting policies followed in the presentation of financial statement – Auditor's Notes may contain accounting standards with the disclosure of significant accounting policies followed in the preparation and presentation of financial statements. Such policies often give additional valuable information, e.g. The auditee may disclose revenue as per AS 7, where the principles of accrual system of revenue are acknowledged. But, the auditee for GST purpose may disclose supply</p>	
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		value from works contract on certified bill basis.	
2	P & L A/c	<p>Profit & Loss Account:</p> <p>The Profit and Loss Account shows major items of expenditure and income. This is one of the important documents used during desk review to find out the overall working of the unit. In the main body of the Profit & Loss Account, only major heads of expenditure and income are given and the constituents of these headings are given in a separate annexure. The said annexure should be studied in detail.</p> <p>P/L account may be studied for the following purposes:</p> <ul style="list-style-type: none"> □ The most important step of audit is to determine the Total Turnover in the State and the tax liability of the auditee. This information in the P&L A/c may be available as Sale or Operating Revenue or in any other similar nomenclature. However, this part denotes only the operating income, i.e. income from the main activity of business. □ The auditee may have other incomes like scrap, insurance claims receipt, profit on sale of fixed assets, commission received, erection and commissioning, freight and insurance recovered etc. which may be examined in detail to find out the exact nature of such incomes and whether these have any bearing on the valuation or whether these are liable for GST. They should carefully study the nature of business income – some of which may have accrued from the supply of taxable services and the balance from the supply of non-taxable services. The exact nature of these services may be determined from the supporting documents such as vouchers, bills or 	

		<p>contracts.</p> <p>□ The primary documents to be examined in this case are: Supply Invoices; Bank Statement; Debtors Ledger; Party-wise customer list. To ascertain the veracity of the figure reported in the Sale A/c vis-à-vis the Turnover disclosed in the Returns, additional documents like Sale contracts, Delivery Challan, Material Transfer Notes may be examined.</p>	
3	General Ledger A/cs for various expenses	<p>Scrutiny of expenses ledger is very important for an Audit Officer as the expenditure accounts have direct impact on availment of ITC, valuation of finished goods and payment of GST on the taxable value, value of inward supply on which GST is pay able under Reverse Charge. (e.g. Expense Accounts: Purchase, Packing and Forwarding Expenses, Advertisement Expenses, Transportation/Freight Charges, Outward supply Expenses, Sale Promotion, benefits to employees, entertainment expenses etc.)</p> <p>The General Ledger may contain various accounts depending upon the scale of business of the auditee. Hence, selection of account for scrutiny is an important task for an auditor. For this purpose, accounts should be selected from the Trial Balance (if available) which gives names of all the accounts maintained by a unit.</p> <p>While making the detail examination -</p> <p>□ All the important Purchase accounts need to be checked to find</p>	

		<p>out whether any rejection of raw material or short receipt of input have taken place which will have impact on the ITC availed by the auditee.</p> <p>□ Raw material consumption account may also be verified to find out with regard to writing off obsolete material.</p> <p>□ Expenditure accounts where recovery of expenses is possible like Packing and Forwarding Expenses Account, Advertisement Expenses Account, Transportation/Freight Charges Account, Outward supply Expenses Account etc. may be scrutinized in order to find out any recoveries being made from the customer.</p> <p>□ From the Trial Balance, the income accounts (these types of accounts will have credit balances) should be selected for scrutiny and the exact nature of such income's accounts should be found out from the study of the documents mentioned in the relevant ledger accounts. Some of these accounts might have direct impact on the valuation of finished goods or it may also affect the GST liability.</p>	
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4	Income Tax Audit Report	<p>The Tax Audit Report is given by Chartered Accountant. The said report is given in the form 3 CD and it is required to be enclosed along with the Income tax return filed by the taxable person.</p> <p>Depreciation statement as per the provisions of Income Tax Act enclosed with Tax Audit Report may be verified to confirm the correctness of availment of ITC on capital goods.</p> <p>As per Clause 27(a) of the said report, amount of ITC availed or utilised during the year and its treatment in the Profit & Loss Account and treatment of outstanding ITC in the account is required to be given. Tax Auditor may compare the said information with the information as per taxable value records.</p> <p>As per clause 35(a) to 35(c), details like opening stock, purchases, outward supply and closing stock of trading activities and in the case of manufacturing unit quantitative details or principal items of raw materials, finished goods and by-products showing opening stock, purchases, consumption, outward supply, closing stock, yield of finished goods, percentage of yield and shortages/excesses is required to be given. This information may be used by Tax Auditor to verify the input-output ratio. The reasons for excessive shortage/ excesses and whether GST has been paid on the outward supply of raw material as reported in the tax audit report may</p>	
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		be inquired into.	
6	Internal Audit Report	<p>This is the report submitted by internal auditors appointed by the company which looks into day-to-day activities and the systems followed by the unit.</p> <p>This report can be used for cross verification of loss of any input, excess availment of ITC, collection of additional consideration. Also the implications on the past period for any short payment or non-payment of tax can be examined from this report.</p> <p>Internal Auditor also reports about stock verification and in case of shortages the ITC availment needs</p>	

		to be examined.	
7	Fixed Asset Schedule [available in Balance Sheet]	<p>This schedule contains the details of addition, deletion to the asset and depreciation charged thereupon. The examination thereof has multiple impact – in terms of turnover arising out of miscellaneous income and reversal of ITC under certain conditions. An asset can be deleted upon various circumstances – it may lose its working condition and hence may be written off. In such case, it may yield a scrap value. Whether any consideration has been received in this case can be verified from the Other Income/Miscellaneous Income A/c. This will have an impact on the Turnover. An old asset may also be permanently transferred to any related or distinct person. In such case, the matter should be looked into from the angle of Schedule I of Sec 7 of the SGST/CGST Acts, 2017. In case ITC has been availed on such asset, such has to be reversed. Furthermore, running assets are depreciated in prescribed rates. In case depreciation has been charged on a value inclusive of GST, such</p>	

		<p>ITC has to be reversed. Verification of the claim of depreciation on capital goods should be made from the Income tax return filed by the taxable person or from the Income Tax Audit Report (Form 3CD).</p> <p>There may also be possibilities of recording both expenses as well as income relating to a particular asset in the same account, thus affecting the net balance of such account. In this case, each Ledger Account for individual assets need to be checked to ascertain whether there are any sale or disposal or transfer of such asset hidden in such account. Presence of such may have impact on the tax liability of the auditee.</p>	
8	Other Income/ Miscellaneous Income	<p>Other income/Miscellaneous Income as reported in the P & L A/c comprises of income from all those sources which do not form its operating revenue.</p> <p>A supplier in GST has its operational revenue generating from supply of goods or service or both. But there are other sources from which he may earn something more which is not booked under the A/c heads of Sales or Services or Revenue, as the case may be. Such incomes in a consolidated manner are known as Other incomes/Miscellaneous Income. Some major sources of other/miscellaneous income are income from:</p> <ul style="list-style-type: none"> • Sale of scrap 	

	<ul style="list-style-type: none"> • Receipt of insurance claim • Profit on sale of fixed assets • Commission received • Penalty / demurrage/ compensation received from employee/customers/suppliers • Rental income • Interest from Bank • Interest from debtors for late payment • Revaluation gain on fixed assets • Gain on exchange rate • Discount received • Dividends • Freight and insurance recovered etc. <p>Many of such incomes are subject to GST such as sale of scrap or sale of fixed assets, as the nomenclature sale suggests. But there are many other account heads forming part of miscellaneous income (except a few) which also qualify as supply and should be forming a part of the GST Aggregate Turnover. Thus, these incomes are required to be examined in detail to find out the exact nature of such incomes and whether these have any bearing on the valuation or whether these are liable for GST.</p>	
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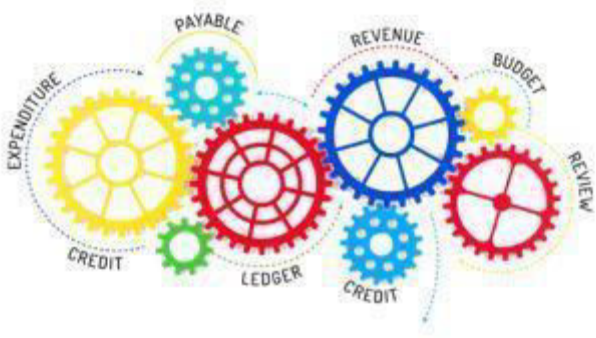
9	Unbilled revenue	<p>Un-billed revenue is actually recorded in the books of account and reflected in the financial statements, but in different accounting periods and it arises mainly in the context of supply of services. This arises from the concept of revenue recognition i.e. the question as to when should revenue in respect of a transaction or activity be recognized and recorded as such in the books of accounts and taken therefrom to the financial statements. Accounting Standard 9, issued by the Institute of Chartered Accountant of India, deals with revenue recognition and states that, generally:</p> <p><i>"Revenue from sales or service transactions should be recognised when the requirements as to performance are satisfied, provided that at the time of performance it is not unreasonable to expect ultimate collection. If at the time of raising of any claim it is unreasonable to expect ultimate collection, revenue recognition should be postponed."</i></p> <p>It may so happen that the terms of the contract stipulate that the invoice in relation thereto may be issued on the happening of a certain milestone, say the seventh day of the month following the month in which the work has been certified. But in such a case the revenue accrues on certification even though the invoice should be issued next month. If such an event were to happen in the last month of the financial year, the books of accounts and the financial statements would recognize the revenue on this count and the turnover declared in the financial statement would include this. However, since the invoice is issued in the next year, this turnover would be reported in the GST return</p>	
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		<p>for the next year. Thus, for the purpose of reconciling the turnover declared in the returns for any year (say, Y1), the value of unbilled revenue in respect of the preceding year (Y-1) shall be added to the turnover declared in the financial statements of Y1. Similarly, the unbilled revenue as at the end of financial year Y1 should be deducted from the turnover declared in the financial statements of Y1. This information is also available in rows A and I of Table 5 in Part II of Form GSTR-9C. The exact amount of unbilled revenue as at the beginning and as at the end of any financial year can be verified from the financial of the relevant years; however, in respect of 2017-18, this exercise would have to be carried out separately for the period between April, 2017 to June, 2017 since this information may not be readily available from the financial statements as such.</p>	
10	Un-adjusted Advances	<p>Un-adjusted Advances in respect of which GST has been paid during the financial year in accordance with the provisions of Section 12 and 13 of the Act also need to be added to (where such advances have been received during the <i>current</i> financial year) or deducted from (where such advances have been received during the <i>preceding</i> financial year) the turnover declared in the financial statements for the current financial year. This adjustment is necessary for reconciliation since GST liability on advances received has been discharged in the year in which such advances has been received while the revenue in respect of the said advances has been recognized in the books of accounts/financial statements of either the preceding or succeeding year;</p>	

1 1	Other adjustments	<p>Other adjustments are also required to be carried out to the turnover as declared in the books of accounts/ financial statements drawn from such books of accounts in order to reconcile the said turnover with the turnover declared in the GST returns. Such adjustments have been listed at serial numbers 5E to 5O, <i>except</i> serial numbers 5H and 5I thereof (which have already been discussed above, of the Reconciliation Statement in Form GSTR-9C. It may be noted that although, in accordance with the provisions of section 35(5) read with section 44(2) of the Act, the reconciliation statement may not be required in cases where the annual turnover is below Rs. 2 crores, the aforesaid adjustments will apply to every taxpayer the turnover declared by whom in his returns is to be compared with the turnover declared in his books of accounts and the financial statements drawn on the basis of such books of accounts. The adjustments noted here in this para, and the preceding paras, should be recorded separately in a Tabular manner showing clearly the nature of the adjustments (e.g. unbilled revenue, credit notes, advances, etc.), the value as per the returns, the value as reflected in the books of accounts or financial statements and the difference, if any. That there will be differences in the turnover as per the return and the turnover as per the books/financial statements is inevitable and the two can be reconciled within the framework of preparation of financial statements and maintenance of books of accounts and the framework of the GST Law. However, where the turnover as declared in the returns</p>	
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		<p>does not reconcile with that recorded in the accounts even after carrying out the aforesaid adjustments, the reasons for such difference may be examined in the light of the evidence and records presented to the auditor and explanations may be sought from the taxpayer. The tax implications of such unreconciled differences may be worked out, the workings and documentation should be made part of the working papers/file/record of audit and should form part of the audit team's report which is also made available to the taxpayer.</p>	
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Annexure 16: Indian Accounting Standard in the perspective of GST (p.49)

<p>Indian Accounting Standards (Ind ASs) are Standards prescribed under Section 211(3C) of the Companies Act, 1956. This Standard prescribes the basis for presentation of general purpose financial statements to ensure comparability both with the entity's financial statements of previous periods and with the financial statements of other entities.</p>	 <p style="text-align: center;">Accounting Standard</p> <p style="text-align: center;">EXHIBIT 51</p>
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It sets out overall requirements for the presentation of financial statements, guidelines for their structure and minimum requirements for their content.

There are various fields where the manner of the accounting and provisions under GST may vary. GST in India is a paradigm shift with complete business change, which impacts finance, accounting and reporting functions.

The following illustrative examples are for primary understanding before conducting audit and there could be many more cases of differences in the turnovers between the financial statements and the GST Law when the auditor will audit in practical field.

1. AS 1 / IND AS 1: DISCLOSURE OF ACCOUNTING POLICIES

AS 1 deal with the disclosure of significant accounting policies followed in the preparation and presentation of financial statements. It states that an enterprise needs to disclose significant accounting policies followed by it to prepare and present its financial statements.

The following are a few examples of the areas in which different accounting policies may be adopted by different enterprises.

- a) Methods of depreciation, depletion and amortisation
- b) Treatment of expenditure during construction
- c) Conversion or translation of foreign currency items

- d) Valuation of inventories
- e) Treatment of goodwill
- f) Valuation of investments
- g) Treatment of retirement benefits
- h) Recognition of profit on long-term contracts
- i) Valuation of fixed assets
- j) Treatment of contingent liabilities.

e.g.1: Supplies on behalf of the principal are not reflected in the financial statements of the agent and only commission is shown as the revenue of the agent. Under the GST Law, such turnover would be treated as part of the agent's turnover also *[Ref: Sch I under sec 7]*.

e.g.2: Disposal of business assets without any consideration – Suppose assets of a company are damaged due to flood. The company claimed insurance and also received the claim amount. The company disposed of such damaged assets. If no consideration is received on such disposal of business asset then also it will be considered as sale of assets in GST if input tax credit has been availed on such business assets *[Ref: Entry no. 1 of Sch I under sec 7]*.

e.g.3: Other income from penal interest

The interest may be for various reasons like bank interest against deposit, penal interest received for payment received beyond interest free credit period, etc. So, when examining such other income, the audit officer should check whether such interest is taxable or exempted. In the present case interest received from bank against deposit is exempted but interest received from the recipient of goods and/or services for late payment is taxable if the supplied goods and/or services were taxable *[Ref: sec 15(2)(d)]*.

e.g.4: Sometimes auditee may prepare his final statement by showing certain income in different head of expenses. The following are a few examples of expenses in which supply may be involved-

- a) Printing & Stationery,
- b) Repairing of office and godown,
- c) Repairing of furniture & Fixture,

For example, the auditee incurred expenses for purchase of office stationery and at the same time also received some sale proceeds against sale of old

office stationeries. This sale proceeds may be accounted as other income or may be treated as credit entry in the printing & stationery head. So, the audit officer should check such expenses account to identify whether any supply is also clubbed in such expenses account or not.

e.g.5: Accrual accounting: The auditee may disclose revenue as per Accounting Standard 7 (AS 7), where the principles of accrual system of revenue are acknowledged. But, the auditee for GST purpose may disclose supply value from such works contract on certified bill basis. In this situation there may be difference in turnover as per books and as disclosed in GST return. While dealing with these cases the audit officer should know the exact provisions of time of supply and time limit to issue tax invoice to ensure whether there is any under reporting of supply value or not [Ref: Sec 13, Sec 31 and Rule 47].

e.g.6: As per Ind AS, excise duty is included in value of supply but, GST is not included [Sec 15(2)(a) of CGST/SGST Act]. For the first three months of 2017-18 revenue would be presented at Gross for Excise Less Excise Duty paid, and for the subsequent period it would be shown only the net.

2. AS 2 / IND AS 2: VALUATION OF INVENTORY

As per AS-2 the costs of purchase of inventories comprise the purchase price, import duties and other taxes (other than those subsequently recoverable by the entity from the taxing authorities), and transport, handling and other costs directly attributable to the acquisition of finished goods, materials and services. Trade discounts, rebates and similar items are deducted in determining the costs of purchase.

In the CGST/SGST Act several provisions are there for the availment of input tax credit and refund of input tax credit in specified situations. Thus, to the extent credit is available or refund is available, it would not form part of the cost of inventory. But, in following situations input tax is not available for credit:

- (i). Input / input services / capital goods are used for other than business purposes.
- (ii). Tax paid on inward supplies by the composition tax payers.
- (iii). Restricted credits u/s 17(5) of the CGST/SGST Act;
- (iv). Depreciation claimed on tax element;
- (v). Input/input services/capital goods used for exempted supply.

(vi).Any other ineligible input tax credit.

Thus, a systematic evaluative process is required to determine “what” credit is claimed and “what is” part of the cost of inventory as per the applicable accounting standard.

e.g.1: Goods and or services are procured where basic value is Rs. 1,00,000/- and tax paid @ 18% is of Rs. 18,000/-. Now, if ITC is available for set off against this inward supply, the cost would be recorded to the tune of Rs. 1,00,000/- only in the books whereas if availability of ITC is restricted u/s 17(5), the entire bill value of Rs. 1,18,000/- will be recorded as cost in the books as per AS 2.

e.g.2: A proprietor of a business having purchased face-masks distributes some to his office staffs and keeps a few for his home consumption. In that case, as per the AS2, the cost of such goods for business use as well as for personal use cost needs to be segregated keeping in mind that ITC is not available for goods used for personal use. Accordingly, the cost of goods is to be calculated and recorded in the books.

3. AS 3 / IND AS 7: CASH FLOW STATEMENTS

The AS 3 deals with the provision of information about the historical changes in cash and cash equivalents of an enterprise by means of a Cash Flow Statement which classifies cash flows during the period from operating, investing and financing activities.

The Cash Flow Statement reports the cash flows during the period for the following activities:

- (i).**Operating activity:** Principal revenue producing activities and other activities that are not investing or financing activities.
- (ii).**Investing activity:** Acquisition and disposal of long-term assets and other investments not included in cash equivalents.
- (iii).**Financing activity:** Activities that result in changes in the size and composition of the owners’ capital (including preference share capital in the case of a company) and borrowing.

However, out of the operating activities as stated above, the principal revenue producing activities and other activities that are not investing or financing activities, i.e. sale of goods or services or both will have GST implication except in a case where purely money is dealt with. This is because money is not goods as per the CGST/SGST Act(s).

Again, relating to investing activities, permanent transfer or disposal of business assets where input tax credit has been availed on such assets have been termed as an activity to be treated as supply even if made without consideration.

Furthermore, where financing activities are concerned, services by way of (a) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services) and (b) *inter se* sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers are exempted from GST.

As per the GST Laws, interest means interest payable in any manner in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) but does not include any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilised.

So, acquisition of capital, taking a loan, payment/receipt of interest or dividend will not attract GST, but any service charge or /processing fee incurred at the time of a loan will attract GST.

e.g.1: A business firm receives Rs. 10,00,000/- as dividend from its investments in share capital. This will be reflected in the cash flow statement as per AS 3 but will not have any GST implication.

e.g.2: A business firm borrows Rs. 10 crore from the bank for its business expansion. It pays Rs. 10 lakh as processing charge and starts repaying the loan with principal and interest components. Both the inflow of fund (as loan) and outflow (as EMI and processing charge) will be reflected in the cash flow statement as per AS 3 out of which, the firm has to pay GST only on the service charge part.

4. AS 4 / IND AS 10: CONTINGENCIES AND EVENTS OCCURRING AFTER THE BALANCE SHEET DATE

A contingency is a condition or situation, the ultimate outcome of which, gain or loss, will be known or determined only on the occurrence or nonoccurrence, of one or more uncertain future events.

A contingent asset is a *potential* asset that is associated with a potential gain. The asset and gain are contingent because they are dependent upon some future event occurring or not occurring.

For example, Company X has filed a lawsuit claiming for Rs. 1 crore from another Company Y. Even if it is probable that Company A will win the lawsuit it cannot be held as certain till a favourable judgement is declared. Thus, the probable gain of Rs. 1 crore is a contingent asset and a contingent gain. As such, it will not be recorded in Company A's general ledger accounts until the lawsuit is settled.

As per AS 4, a contingency gain is reported only when realised/earned. If a specific event causing such gain occurs and the gain is realised, then only the gain is disclosed.

In terms of GST, in this case, the contingent gain of Rs. 1 crore will be against services provided by Company X to Company Y as agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act and will be subject to GST only after actual occurrence of the event.

Similarly, contingent Liability is that kind of a liability which is non-existent as on date, but it may become an actual liability in the future.

For example, a customer has filed a suit against the company for compensation. This can become an actual liability in the future if the firm loses the case. However, as on date, it is not a liability as the outcome is not known today. Now, let's assume that the company's legal department thinks that the claimant has a strong case, and the business estimates a Rs. 2 lakh loss if the firm loses the case.

Since this liability is estimated, the firm will disclose this liability in its books as a footnote below balance sheet.

Product warranties given by the company can also be considered a contingent liability, since there is no certainty about the exact number of units that will be returned by customers for repair or replacement.

5. AS 5/ IND AS 8 : NET PROFIT OR LOSS FOR THE PERIOD, PRIOR PERIOD ITEMS AND CHANGES IN ACCOUNTING POLICIES

AS 5 mainly deals with the following items:

- (i). Net Profit or Loss for the Period – These can be categorized into Profit/Loss from ordinary activities and from extraordinary activities.
- (ii). Prior Period Items - While preparing the financial statements, there are certain items which actually correspond to prior accounting periods. The income or losses due to these items are a result of error or omission in the financial statements of the prior period. By nature, these items are not frequent.

Now, Profit or loss from ordinary activities is such which arise in the normal course of business, i.e. they are a part of business and related activities. Examples: Profit/loss on sale of goods, services.

Profit or loss from extraordinary activities is such which do not arise under the normal course of business. These activities do not occur regularly. Example: – Profit on sale of fixed assets, Loss due to theft.

As, profit out of normal business activities have GST implication, the point of concern can be whether the goods/services dealt with are exempted or taxable and whether the turnover for which such profit element has been disclosed is at par with the Turnover on which GST liabilities have been fulfilled or not.

Similar is the case for profit out of extraordinary activities. Even if such activities are extraordinary, they will form a part of the Turnover for GST Audit and accordingly tax should be paid.

However, it may be stated that permanent transfer/disposal of fixed assets will be treated as supply even if made without consideration where input tax credit has been availed on such assets.

Again, availment of ITC will be blocked for goods lost, stolen, destroyed, written off.

So, any profit/loss arising out of extraordinary events will indicate a counter-check of such transactions from the GST angle.

Furthermore, there are certain estimates which are used while preparing the financial statements for any period. For example estimate on the useful life of machinery, estimate on the realisable value of an item in inventory. At times, these estimates are required to be revised due to any reason Accounting policies are the accounting principles and method of applying those principles while preparing the financial statements. A change in accounting policy should be undertaken only in two cases: (i) If the change is required by law or accounting standard; or (ii) If the change helps in better presentation of financial statements

Any change in an accounting policy which has a substantial/material effect is also disclosed as per AS 5.

e.g. 1, There was a theft of goods in the warehouse of ABC Pvt. Ltd. in the 2018-19 amounting to Rs. 40 lakh. The same has been detected in the year 2019-20 at the time of physical verification of inventory. The theft is not expected to take place on a frequent or regular basis and is not in a normal course of business of ABC Pvt. Ltd. Thus, the same qualifies to be an extraordinary item. Also, the theft took place in the financial year 2018-19 but was discovered in 2019-20. This suggests that although the loss related to

prior period, it was not shown and the profit was overstated by such amount i.e. Rs. 40 lakh. While taking the effect of such loss in the current year, this is a prior period item. Thus, such loss will be disclosed in the current year's financial statements as per AS 5. Accordingly, appropriate ITC already enjoyed on such goods is to be reversed as per GST Laws.

e.g. 2, the rate of depreciation of a particular asset is changed from 7% to 10% due to a statutory change. The business firm charges depreciation in his books which is inclusive of GST. Such tax portion depreciated is not entitled for ITC. Accordingly in the changed scenario where the depreciation amount will be enhanced as per AS 5, the amount of ITC reversal will also increase as per the GST Laws.

6. AS 6 & 10/ IND AS 16: PROPERTY, PLANT AND EQUIPMENT (PPE) & DEPRECIATION ACCOUNTING AND ACCOUNTING FOR FIXED ASSETS

As per AS 6 & 10, at the time of recognition, an item of property, plant and equipment (PPE) that qualifies for recognition as an asset should be measured at its cost.

Elements of cost include Purchase cost i.e. purchase price including import duties after deducting applicable discounts/rebates + Directly attributable and necessary costs to bring the asset to the location and condition necessary for it to be operating + costs of dismantling and restoration.

Some examples of directly attributable costs are – (i) Costs of employee benefits arising directly from the construction or acquisition of the item of PPE; (ii) Costs of site preparation; (iii) Initial delivery and handling costs; (iv) Installation and assembly costs; (v) Professional fees; (vi) Costs of testing whether the asset is functioning properly, after deducting the net proceeds from selling any items produced while bringing the asset to that location and condition (such as samples produced when testing equipment) Administration and other general overhead expenses are usually excluded from the cost of fixed assets because they do not relate to a specific fixed asset. However, in some circumstances, such expenses as are specifically attributable to the construction of a project or to the acquisition of a fixed asset or bringing it to its working condition, may be included as part of the cost of the construction project or as part of the cost of the fixed asset.

In this case, three sections of the GST laws, viz. S. 16(1), S. 16(3) and S. 17(5) need to be referred to. S. 16(1) of the CGST/SGST Act(s) mandates that to enjoy ITC on the asset (i.e. PPE in terms of the AS), the related goods

or services or both need to be of the nature of being used or intended to be used in the course or furtherance of business. This is also to mention that business is also defined in the GST Laws.

At the same time, S. 17(5), lays down conditions where ITC is not available.

So, although an asset may be booked and accordingly depreciated as per AS 6 & 10, the same may not qualify for ITC.

e.g. Company X manufacturing processed food receives works contract service for constructing a warehouse. The same property will be recognized in the books as per AS 6 & 10, but ITC on the same will not be available as per Sec. 17(5) of the CGST/SGST Act(s).

Now, as per AS 6 & 10, the cost of Fixed Assets is the amount of cash paid or the fair value of the other considerations given to acquire an asset at the time of its acquisition or construction. Where applicable, that amount recorded as per the books may be the amount attributable to that asset when initially acquired in accordance with the specific requirement of other Indian accounting standards.

From the GST perspective, as per Section 16(3) where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income-tax Act, 1961, the input tax credit on the said tax component shall not be allowed. In nutshell, Input tax credit shall not be allowed on the tax component of the cost of capital goods and plant and machinery if depreciation on such tax component has been claimed under the provisions of the Income Tax Act, 1961.

7. AS 7/ IND AS 11: CONSTRUCTION CONTRACT

AS 7 Construction Contract describes the accounting treatment of the revenue and of a construction contract. There are different types of construction contract like fixed price contract, cost-plus contract etc. Fixed price contract is very common where the contract between the contractee and contractor is agreed against a fixed price. In some cases, there may be a clause of escalation in the contract which is mutually agreed for various reasons like increase of the cost of raw materials, delay in completion etc.

Divisible contract and indivisible contract: In divisible contract the elements of each contracts are clearly segregated. But in indivisible contract both the contractor and contractee agree lump-sum consideration for the entire contract. The word "Turnkey" is commonly used in the construction industry

in case of indivisible contract. It represents an indivisible composite contract with “single point Turnkey responsibility”. According to this single point turnkey responsibility the Contractor undertakes all the things necessary for the project implementation from design to procurement of materials and construction of Works, from inception to completion, and makes ready for the use of the Owner. Here, only one entity takes the total responsibility for design, supply and execution of a project and provides a fully-equipped facility, ready for operation “at the ‘turn of the key’”.

Revenue of a contract and costs of a contract are two important areas for the audit officers. Revenue of a contract includes agreed initial revenue as well as revenue from escalation. In cost plus remuneration or cost plus a margin type of agreement both the cost and the remuneration and percentage amount on such cost will form part of revenue. Even claim of incentive for completion of project before time or for various reasons will also form part of revenue. The treatment of such revenue may vary in GST.

e.g.1: A contractor received mobilization advance of Rs.50 lakh on 30.08.2017. it will form part of GST revenue. The time of supply is the date of raising receipt voucher or 30.08.2017 whichever is earlier. If, this advance is adjusted with any RA bill within one year it will be treated as liability of the contractor though it is a revenue in GST.

e.g.2: A contractor maintaining books as per AS 7 booked revenue for FY 2017-18 for Rs.1.5 Cr for which revenue accrued on 25.11.2017 but no invoice is generated (commonly known as unbilled revenue). Whether it will be part of GST Turnover for the FY 2017-18?

Yes, it will be part of GST turnover. As per provisions of sec 13 read with sec 31 and rule 47 the time of supply of this service in this case is the date of payment or provisions of service whichever is earlier. Provision of service is made on 25.11.2017. As per provisions of rule 47 the contractor was supposed to raise invoice within 30 days of provisions of service. But, he failed. So, 25.11.2017 is the time of supply.

e.g.3: A contractor received an incentive of Rs.55 Lakh due to completion of construction project before the agreed time. Whether it will be part Turnover in GST? Then which type of supply is this?

Yes, it will form part of turnover in GST, since there is a supply of service. But, this is not any construction service. This is nothing but 'agreeing to the obligation to do an act' which is a kind of service as per 5 (e) of Sch. II under sec 7 of the CGST/SGST Act.

e.g.4: There may be a situation when the contractee may claim a penalty from the contractor for various reasons like delay in completion, inferior quality of works, construction machinery used not as per specification of the agreement etc. Whether this penalty will also be part of turnover in GST? If so, then what kind of service is it and who is the supplier of service?

Yes, it will form part of turnover in GST, since there is a supply of service. But, this is not any construction service. This service is nothing but 'agreeing to the obligation to tolerate an act' which is a kind of service as per 5 (e) of Sch. II under sec 7 of the CGST/SGST Act. The contractee is the supplier of such service to the contractor in this case.

Work-in-progress – As per AS 7 when a contractor incurs costs that relate to future activity in a contract. Such costs are recognized as an asset if it is probable that they will be recovered.

In such cases the RTP as a contractor is eligible to claim ITC on such costs subject to fulfillment of conditions and restrictions of the Acts and Rules made there under.

8. AS 13/ IND AS 40: ACCOUNTING FOR INVESTMENTS

A business entity may have investments for various diverse reasons such as, operations, where the assessment of the performance of the business may largely, or solely, depend on the results of such investment activity.

Some investments are intangible e.g., shares while others exist in a physical form e.g., land & buildings. By nature, an investment may be in the form of a debt, other than a short- or long-term loan or a trade debt, representing a monetary amount owing to the holder and usually bearing interest. Again, it may be in the form of results and net assets of an enterprise such as equity shares.

As per this AS 13, the financial accounts are required to disclose the acquisition and disposal of all the investments.

Accordingly, the P/L A/c is required to include the following items:

- Income from interest & dividends;
- Profits and losses on disposal of current investments;
- Profits and losses on disposal of investments;

Now, as money is not covered under goods as per the GST Act(s).

Again, relating to investing activities, permanent transfer or disposal of business assets where input tax credit has been availed on such assets have been termed as an activity to be treated as supply even if made without consideration.

Furthermore, where financing activities are concerned, services by way of (a) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services) and (b) inter se sale or purchase of foreign currency amongst banks or authorized dealers of foreign exchange or amongst banks and such dealers are exempted from GST.

As per the GST Laws, interest means interest payable in any manner in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) but does not include any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilized.

So, acquisition of capital, taking a loan, payment/receipt of interest or dividend will not attract GST, but any service charge or /processing fee incurred at the time of a loan will attract GST.

9. AS 15/ IND AS 19: EMPLOYEE BENEFITS

The objective of this Standard is to prescribe the accounting treatment and disclosure for employee benefits in the books of employers except employee share-based payments.

Employee benefits are all forms of consideration given by an enterprise in exchange for service rendered by employees. This may be in the form of long/short term employee benefits, post-employment benefits, termination/retirement benefits etc.

Now, as per entry no. 1 of Schedule III, Services by an employee to the employer in the course of or in relation to his employment, is an activity which is treated neither as a supply of goods nor as a supply of services. Thus the employee benefits provided to an employee and recorded as per AS 15, does not come under the purview of GST.

e.g. 1, Mr. A receives an arrear payment of Rs. 70,000/- after retiring from Company X. Here, the expense will be recorded as post-employment benefit as per AS 15. From the GST perspective it may be said that, although at the time of recording of such expense, there exists no employer-employee relation between A & X, the said expense will not attract any GST as it is an accrued expense for Company X in terms of employer-employee relation only.

The guiding factor in this case will be the term “employee”. If the expenses are borne on a person who is not an employee as per the pay-roll, the same will be treated as a consideration paid against receipt of supply of services from that person.

e.g. 2, Salary paid to a full-time Director of a company is a consideration paid to him out of employer-employee relationship. Hence such will not attract GST. But, remuneration paid to independent director and remuneration other than salary to employee director (such as, sitting fees) are not considerations out of employer-employee relationship. Hence, such will be treated as consideration paid against receipt of supply of services as per the GST Act(s) and will be taxable @ 18%.

Furthermore, as per the provision to entry no. 2 of Schedule I, gifts of value upto Rs. 50,000/- in a financial year by an employer to an employee shall not be treated as supply of goods or services or both. Otherwise, such gift whose value exceeds Rs. 50,000/- will be treated as a supply even though made without a consideration.

e.g. 3, Company X gives a mobile phone worth Rs. 25000/- to each member of its sales team as a gift in 2018-19. This will not be treated as a supply. But if the same Company X gives a high-end laptop worth Rs. 60,000/- to the head of the sales team, the same will be treated as a supply.

10. AS 16/ IND AS 23: BORROWING COSTS

This Standard is applied in accounting for borrowing costs. Borrowing costs are interest and other costs incurred by an enterprise in connection with the borrowing of funds. This includes:

- Interest and commitment charges on borrowings
- Discounts and premiums related to borrowings
- Ancillary costs incurred in connection with arrangement of borrowings
- Finance charges in respect of assets acquired under finance lease
- Exchange differences arising from foreign currency borrowings to the extent they are regarded as adjustment to interest costs.

In this case, this is to mention that detailed discussions regarding GST implication on interests, other financial fees (processing fees etc) and that on foreign exchange have already been made in Paras 3 & 9 respectively.

11. AS 17/ IND AS 108: SEGMENT REPORTING

The objective of this Standard is to establish principles for reporting financial information, about the different types of products and services an enterprise produces and the different geographical areas in which it operates.

If a single financial report contains both consolidated financial statements and the separate financial statements of the parent, segment information needs to be presented only on the basis of the consolidated financial statements.

Here, the concept of related person and distinct person comes in under the GST Laws.

As per entry no. 2 of Schedule I, Supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business is an activity to be treated as supply even if made without any consideration.

In the explanation provided to Section 15(5) of the CGST/SGST Act(s), persons will be “related” if:

- such persons are officers or directors of one another’s businesses;
- such persons are legally recognised partners in business;
- such persons are employer and employee;
- any person directly or indirectly owns, controls or holds 25% or more of the outstanding voting stock or shares of both of them;
- one of them directly or indirectly controls the other;
- both of them are directly or indirectly controlled by a third person;

- together they directly or indirectly control a third person; or
- they are members of the same family.

Again, as per Section 25(4) of the CGST/SGST Act(s), a person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as “distinct persons”.

This means that two separate branches, or cost centres, or business segments (as per AS 17) of the same Company having two different GST registration numbers will be treated as related and distinct persons.

In this case, if such segmented accounting happen to be of two different cost centres having one single GST registration, special care needs to be taken to ensure that the summation of the segmented accounts have been duly reported in the GST Returns under the single registration and accordingly tax liability has been discharged.

12. AS 20/ IND AS 33: EARNINGS PER SHARE

AS 20 prescribes principles for the determination and presentation of earnings per share for comparison of performance among different enterprises for the same period and among different accounting periods for the same enterprise.

In common parlance, earnings from shares means dividend. The term ‘dividend’ has not been defined under the GST law. However, Section 2(35) of the Companies Act, 2013 defines the term ‘dividend’ to include any interim dividend. It is an inclusive and not an exhaustive definition. In common parlance, ‘dividend’ means the profits of a company, not retained in the business but distributed among the shareholders in proportion to the amount paid-up on the shares held by them.

The Supreme Court in CIT vs. Girdhardas & Co. (Private) Ltd. [1967 SCR (1) 777] observed that the expression “dividend” has two meanings-

- As applied to a company which is a going concern, it ordinarily means the portion of the profits of the company which is allocated to the holders of shares in the company.
- In case of a winding up, it means a division of the realised assets among the creditors and contributories according to their respective rights.

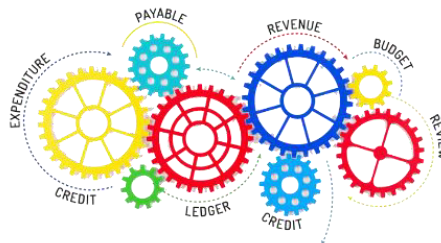
Now, as per S. 2(52) of the CGST/SGST Acts, “goods” means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply.

Thus, dividend Income may be treated as not being in the ambit of GST as such is a money income and money is excluded from goods.

Also, Section 17(3) of the CGST/SGST Act provides that the value of exempt supply under Section 17(2) shall be as prescribed and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.

It is pertinent to note that Section 2(101) of the said Acts provides that “securities” shall have the same meaning as assigned to it in Section 2(h) of the Securities Contracts (Regulation) Act. The term ‘dividend’ in itself is not included in the said definition. However, it becomes relevant to examine if the earning of dividend on account of holding shares (qualifying as ‘security’ under the definition) is in any manner connected to the expression, “transaction in security”.

The above examples and discussion on accounting standards are indicative only. Audit officer may go through other accounting standards also if required.



ANNEXURE 17 (p.xi)

Recommendations for Model GST Audit Best Practices and Procedure as per the report of the sub-committee on point No, 1 of the Terms of Reference for the CoO on GST Audit

Recommendation – 01

Basis for selection of cases for audit

Identification of cases for audit is of threefold:

Based on risk assessment:

Selection of cases on the basis of compliance risks is very essential and integral to GST audit. Currently, the returns data of taxpayers i.e., GSTR-3Bs are being considered by various States and the Centre. The guiding principle of audit envisages selection of taxpayers for audit based on certain risk parameters. The Commissioner/Appropriate authority by a general or specific order may select any registered person for audit of his books of accounts for a specific period. on certain parameters as he may deem fit.

The Commissioner/ Appropriate Authority may fix the criteria of selection basis This turnover limit while fixing the selection criteria may vary from State to State, in different Zonal levels of a particular State and also for service sector when compared to that for goods.



EXHIBIT 52

All risk parameters are required to be identified and all probable aspects need to be considered to identify non- compliance and non-payment / short payment of tax, interest, late fee, penalty etc. avilment of credit and claims for refund and evasion of tax. The taxpayers may be classified into three

segments, Large/Medium/Small based on the total turnover. The States can also be divided into three Categories, viz. I II and III based on the taxpayer's spread across various segments. By and large, the categorization may be uniform across the States subject to the availability of more risky taxpayers in a particular category. Example for categorization is given below. This may vary from State to State and in the Centre. An illustrative scheme of classification is discussed hereinbelow:

Large - taxpayers with turnover more than Rs. 40 Crore for category 1 Commissionerates, Rs. 30 Crores for category 2 Commissionerates and Rs. 20 crores for category 3 Commissionerates.

Medium – taxpayers with turnover Rs.10 Crores to Rs.40 Crores for category 1 Commissionerates, Rs. 7.5 Crores to Rs. 30 Crores for category 2 Commissionerates and Rs. 5 Crores to Rs.20 crores for category 3 Commissionerates.

Small – taxpayers with turnover below Rs. 10 Crores for category 1 Commissionerates, below Rs. 7.5 Crores for category 2 Commissionerates and below Rs. 5 Crores for category 3 Commissionerates.

The above schema is only indicative and should be adapted keeping in view the risk profiles, revenue involved and the resources available to conduct the audit.

The turnover includes total taxable, exempt and zero rated supplies of goods and services but excludes non-GST supplies during a financial year.

To select the taxpayers for audit in an effective manner, secondary data source (such as VAT/Service Tax/Central Excise/Custom data, Income Tax data etc.) may be considered along with the primary data source (i.e. GST data).

The weightage of each parameter may vary depending upon its importance in selection of taxpayers for audit. Based on the average weight, considering all the parameters, a final score may be calculated on the basis of which the final selection may be done.

The final selection of taxpayers to be audited may be done based on the descending order of the final score thus calculated. In case, more than one

RTP has the same final score, the parameter of declared liability will then be considered and a taxpayer with more declared liability will be selected first.

A Selection Committee may be constituted to identify various risk parameters for selection for audit considering all the aspects where there are chances of lack of compliance of the Act resulting in short payment of tax etc. such as: Entity level risks (e.g. Turnover, Tax, ITC, Refund, Commodity such as Iron & Steel, Paints & Chemicals, Textiles, Cement, Medicine, Footwear, Branded food grain, Automobiles etc., Service: Works contract, Real Estate, Information Technology, Consultancy service, Manpower service, Hospitality, Travel & Tourism, Leasing etc.).

Risks associated with compliance behaviour (e.g. late filing of return, non-submission of Form GSTR-1, Form GSTR-3B, Form GSTR-9 Form GSTR-9C).

Certain representative selection criteria that can be considered for risk assessment are given below:-

1. Ratio of Taxable turnover – present year vis-à-vis previous year.
2. Ratio of ITC reversed vis-à-vis Total ITC availed during the year.
3. Ratio of total ITC availed in this year vis-à-vis previous year. Ratio of IGST payment at the time of import vis-à-vis Total
4. ITC availed ({Col.2 of table 4(A) (1) & (2) of GSTR-3B} in corresponding period).
5. Ratio of tax paid through ITC to total tax liability
6. Ratio of nil/exempt supplies (Col.2 of Table 3.1(C) of GSTR- 3B) to total turnover (excluding non GST supplies) (col.2 of Table 3.1(a) + (b) + (c) of GSTR-3B).
7. Ratio of Zero-rated supplies (col.2 of Table 3.1(b) of GSTR-3B) to total turnover (excluding non-GST supplies) (col.2 of Table 3.1 (a)+(b) + (c) of (GSTR-3B).
8. Ratio of Non-GST supplies to total turnover. {(Col.2 of Table 3.1(e) / (col.2 of Table 3.1 (a) + (b) +(c) of GSTR-3B)}.
9. Ratio of inward supplies (liable to reverse charge) to total turnover [col.2 of Table 3.1(d)]/Col.2 of 3.1 (a)+(b)+(c) of GSTR-3B)].
10. Ratio of ITC shown in Table 4A(5) of GSTR 3B and ITC as per GSTR-2A.
11. Ratio of tax paid under reverse charge (as per {Col.3+4+5+6 of Table

3.1(d)} to ITC taken on import of services/other reverse charge (other than import of goods) {Col.2+3+4+5 of Table 4A (2+3) of GSTR 3-B}.

12. Ratio of ISD credit {Col.2+3+4+5 of Table 4A (4) of GSTR-3B} to total ITC taken {Col.2+3+4+5 Table 4A of GSTR-3B}.

13. Ratio of ITC reversed {Col.2+3+4+5 of table 4(B) of GSTR 3B} to ITC taken {Col.2+3+4+5 of table 4(A) of GSTR-3B}.

14. Ratio of zero-rated supply to SEZ as per Table 6(B) of GSTR-1 to total GST turnover.

15. Ratio of deemed exports as per Table 6(C) of GSTR-1 to total GST turnover.

16. Turnover declared in Form GSTR-3B vis-à-vis Form GSTR-1.

17. Claim of ITC from cancelled RTPs, aggregate turnover in GST return vis-à-vis Turnover disclosed in Income Tax return.

18. Turnover declared by RTP in Form GSTR-3B compared to turnover on which TDS deducted as reflected in Form GSTR-7 submitted by TDS deductor.

19. Turnover declared by RTP in Form GSTR-3B compared to turnover on which TCS collected as reflected in Form GSTR-8 submitted by TCS collector.

20. Refund claimed against purchase from taxpayer having no auto-population of ITC in Form GSTR-2A.

21. Purchases from non-existent RTPs.

22. RTPs having adverse reports in VAT/Service Tax/Central Excise who are operative in GST etc.)

23. In case, the RTP selected for audit has multiple registrations under the same PAN / TAN in the State, it is suggested that all such registration numbers may be selected for audit.

24. 10% of the selection of the taxpayers may be done on a random basis.

25. Relating to compliance behaviour-based risk (e.g. late filer of return)—RTPs defaulting in filing GSTR-3B for 3 months will be marked 5, those defaulting for 2 months will be marked 3.33 & those defaulting by 1 month will be marked 1.67.

26. Taxpayers claiming ITC of more than the amount from eligible ITC.

27. Taxpayers who have filed all returns and tax adjusted from cash ledger is less than an amount.

28. Taxpayers who have filed all returns and difference in tax liability in

GSTR-1 > GSTR-3b by n amount.

29. Composition tax payers having turnover more than 1.25 crore.
30. Newly registered taxpayers with high turnover more than an amount.
31. Newly registered taxpayers with turnover exceeding a pre-decided threshold and cash payout percentage below a certain threshold
32. Taxpayers with (a) multiple use of pan (b) multiple use of email id (c) multiple use of mobile no.
33. Refund amount is greater than the amount.
34. Shipping bill/export proof submitted by taxable person not verified from Ice gate.
35. Turnover declared in GSTR 3b must be compared with TDS/TCS deducted (it should be more than 100 times than TCS deducted and more than 50 times than TDS deducted).
36. Taxable persons dealing in evasion-prone commodities/services as per HSN/SAC code.
37. High spike by n amount in e-way bill value in n months.
38. Ratio of Output Tax paid in cash to the total turnover in the current year is n percentage higher to the ratio of the same in the previous year.
39. Ratio of Output Tax paid to Net Profit in the current year is “n” percent higher to the ratio of the same in the previous year.
40. Taxable Person whose Turnover is less than “n” percentage of turnover from previous year.
41. Ratio of expenses to turnover in the current year is greater than by “n” percent than the ratio of the same in the previous year.
42. Inward supply from bogus dealers.
43. Zero cash set-off against tax liability.
44. Inward supply received but no outward supply.
45. GSTR-1 submitted but GSTR-3B not submitted.
46. Manufactures whose cash set-off is less than 5 per cent.
47. Three or more cases apprehended by mobile squad.
48. Cancellation of E-way bill is more than 2 per cent.

Based on Local Risk parameters/wild card entry:

Several State GST Departments have mobile squads for checking the correctness of the documents carried in support of the goods transported in the state and it is an integral part of their enforcement activity to supplement

their efforts to prevent and check tax evasion. It is the experience of the States that tax is evaded by businesses by transporting goods without documents or with fake/ invalid documents or by recycling of old documents that were not checked earlier, enabling them not to record and declare the corresponding transactions in their books. Apart from the seller and purchaser, unscrupulous transporters also form part of the network indulging in tax evasion. Based on the inputs gathered from mobile squad vigilance, risk parameters can be identified by the Officers of Anti-evasion/Enforcement wings and the corresponding tax payers may be selected for audit based on the above risk assessment. Percentage of taxpayers that may be selected on the basis of the above risk assessment may be left to the decision of the State GST Departments.

Random selection:

Tax payers (roughly around 10%) may also be selected randomly on the basis of local intelligence networks which otherwise may not be covered strictly by the overall risk parameter selection. The discretion for selecting cases may rest with the appropriate authority of a Zone or a Division.

Recommendation – 02: Scope of audit

Whether restricted to only the flagged risk parameters or all business transactions of the auditee.

Risk parameters are meant for determining the total risk score based on which registered persons would be selected for audit. When, once a registered person is selected, the audit should be carried out as per definition of 'Audit' (under Section 2(13) of the CGST Act/ KGST Act). Thus, audit would not be restricted only to the flagged risk parameters and audit should be taken up based on desk review conducted by the audit team and audit plan prepared accordingly. An efficient and effective Audit system in all aspects based on a checklist will increase voluntary compliance. A focused audit increases taxpayers' cooperation, shortens audit and improves audit yield.

Recommendation – 03: Norms for audit and co-ordination among audit officers.

Audit of all or some of the other related registered persons in the value chain based on audit findings in selected primary cases. Norms for such action i.e., whether to have the same audit officer for all cases, approach for coordination among different audit officers, oversight etc.

State audit jurisdictions do not have an annual scheduling of Audit for a financial year. Such elasticity in planning Audit of related registered persons in the value chain based on audit findings in selected primary cases is possible. Whereas, in the CGST audit manual, the annual Schedule for audits for a financial year would be drawn at the beginning of the year and there is a need to adhere to such schedule, taking up the audits of other registered persons in the value chain based on audit findings, may not be possible during the same year. Furthermore, taking up audit of other persons in the value chain may not always yield good results unless they are part of a fake credit chain. However, if the risk scores of such registered persons in the value chain are identified to be higher, the same can be taken up for audit during subsequent audit years. Whether to have the same Audit Officer for all such cases including monitoring the same may be left to the discretion of the divisional heads or any officer authorized by the State Commissioner.

Recommendation – 04: Open ended assignment for Audit.

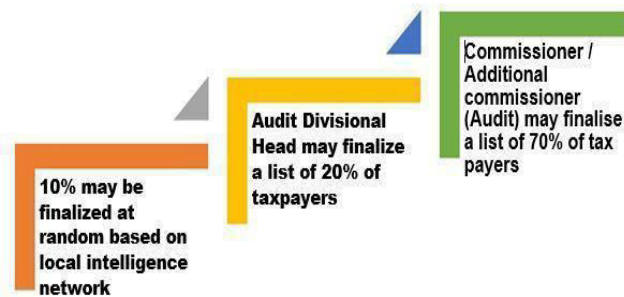
Audit of other years of the same auditee based on audit findings in selected cases.

In general, when a registered person is selected for audit based on risk scores arrived at for a financial year or multiples thereof, the audit is to be taken up for the entire period for which previous audit (GST audit) is not covered. It need not be restricted to a particular financial year, a complete audit by clubbing more than one financial year is to be done. In other words, a taxpayer may be subject to Audit from the un-audited period till the last return filed up to the date of visit. The Parameters to analyze data base can be ascertained by adopting the following method as -



Recommendation 05 - Authorization for Audit.

Authorization of the officers for selection of cases for audit and the process for final approval of a case for audit i.e., administrative system of audit in a State including the assignment issuing authority.



Commissioner/Additional Commissioners in-charge of Audit work or any other wing entrusted with the task of monitoring audit mechanism in a State may finalize a list of 70% of the taxpayers to be taken up for audit by each Joint Commissioner (Divisional Head), based on risk scores arrived at State level. Joint Commissioner (Divisional Head), may be authorized to select 20% of the tax payers for audit based on local risk parameters and 10% of the tax payers at random based on local intelligence network. However, all such selections must be ratified by the Commissioner/Pr. Commissioner head of Audit before the audit is authorised. The issue of overall number of cases that could be taken up for audit is dealt separately. These numbers may be changed from one year to the next based on audit detections and recoveries in each of these categories.

Note: The practice followed in CGST Audit is as under:-

The registered persons are selected on the basis of assessment of the risk to revenue. This process, which is an essential feature of audit selection, is known as 'Risk Assessment'. It involves ranking of the registered persons according to a quantitative indicator of risk known as a 'risk parameter'. Risk Assessment Programme jointly run by DG (Audit) & DGARM. Lists of

category– wise taxpayers provided by DGARM. Allocation of units as per Large, Medium and Small amongst the audit teams. Allot to the Audit teams 70% of the taxpayers out of the 80% list of Taxpayers provided by DGARM. Allot 10 % of taxpayers out of the Random list of Taxpayers amongst the Audit Teams. The remaining 20% of the taxpayers to be audited should be selected by the Audit Commissionerate based on local risk factors, after obtaining approval from the jurisdictional Chief Commissioner.

Recommendation – 06 -Basis/criteria for allocation of cases for audit-cadre, turnover

Taxable turnover-wise allocation of cases or pecuniary jurisdiction for audit may be considered based on the corresponding State's GST department's administrative architecture. Audit officers in many States are in the cadres of Deputy Commissioner, Assistant Commissioner and Commercial/State Tax Officer, while it may not be so in others. In keeping with the hierarchical structure in a State, taxpayers for audit may be assigned to the officers. Allocation of cases for audit may be based on the turnover as may be decided by the appropriate authority.

Recommendation – 07 Numerical targets for Audit

Fixing numerical targets, both upper and lower limits, on the number of cases that are to be audited in a year by the State

For conduct of audits in a State, targets may be fixed for every year depending upon the number of officers allocated/available for conduct of audits. The calculation of target can be made by taking into account the total number of working days in a year, the norms for number of days required to complete the audit of different years and the working strength of the audit officers.

Recommendation – 08: Time limit for completion of Audit

Time limit for completion of audit of various sectors: large, medium, small etc., (lesser than that mandated by the Act).

Section 65 (4) of the CGST Act/ SGST Act specifies that the audit initiated shall be completed within three months from the date of Commencement. The word commencement of audit as explained under the said subsection is the date on which the records and other documents called for by the authorities

are made available by registered person or date of actual institution of audit whichever is earlier. However, it would be reasonable to fix a lesser duration for Audit depending upon the volume and complexity so that the limited audit resources are utilised optimally. Reliance on documents already available in the system and devising a simpler procedure for audit for certain classes of taxpayers, such as small taxpayers would also enable earlier completion of audit.

Recommendation – 09: Feedback mechanism

Feedback mechanism and its functioning – in selection of cases for audit, in the process and conduct of audit and in the acceptance of final audit report.

Feedback mechanism under the GST Audit is an important component of the GST eco-system itself; feedback obtained from the taxpayer fraternity in regard to the strength and weakness of the audit system itself will go a long way in not only fixing the rough edges, but also establishing a vibrant and robust audit system. Feedback exercise should be a regular feature in the GST administrative calendar in each and every State. Feedback can be through various modes of taxpayer engagement, such as Third Party surveys, analysis of social media feeds for keywords related to taxpayer's experience of audit, interactive online and physical sessions with taxpayers through industry chambers and associations etc.

Further feedback from each exercise should also be made systematically available to their tax managers in order to enable refinement of targeting practises, increasing audit quality and performance, and to identify areas in which audit capacity can be augmented.

Recommendation – 10: Audit Monitoring Committee

Post-audit process –

- (i) Committee for review of the audit report
- (ii) recommendation for adjudication and the adjudicating authority.

Audit is treated to be completed, when an audit report which may contain objections detected during the audit is finalised by the Department. But before finalising the objections, the initial objections being raised by the audit officer

may be taken up for discussion by a Committee of officers in a monthly/periodical meeting (which could be called “Audit Monitoring Committee”) with regard to the sustainability/correctness or otherwise in respect of each objection. This system of AMC that may be instituted in each State department will probably reduce unproductive disputes and also standardise practices. The Audit Monitoring Committee may consist of the Joint Commissioner (Divisional Head), Deputy Commissioner, Assistant Commissioner and GST Officer (Commercial Tax Officer, Sales Tax Officer as the case may be). However, the constitution of such a committee may be decided by the State Commissioner to suit the administrative architecture in the State.

In addition to such a committee, an online exchange of Inter -zonal / Inter-divisional audit insights / findings may also be a useful knowledge sharing platform. Any zone or a division which has come across interesting audit findings may make use of the said platform and update it once in fifteen days (or such frequency that can be decided by State gst administration). such information sharing would be important for identifying productive areas of audit, documents and records required for supporting a particular line of audit inquiry. it would also help to build capacity by enabling exchange of knowledge.

Adjudication authority can be established as per the administrative arrangement of each state/centre. It should be ensured that the show cause notice for the recovery of tax as decided by the audit monitoring committee may, preferably, be raised within a period of one month of the meeting. the adjudication of such show cause notices maybe completed within a period of six months. Principles of natural justice should be followed in the adjudication proceedings.

Recommendation – 11: Post-adjudication proceedings follow- up

Mechanism for post-adjudication proceedings and follow-up of additional demand created, ascertaining the correctness of the order for its sustainability, putting up proper defence in appeal, etc.

Section 108 of the CGST Act/ SGST Act empowers a revisional authority to take up review of any decision taken by his subordinate officers. a Revision or Review wing under the supervisory control of jurisdictional Chief

Commissioner (CGST) or the State Commissioner (SGST) should take up review of all adjudication orders so as to ensure there is no loss of revenue on account of some incorrect interpretations/orders. existing Revisional Authorities in the State Administration can also be entrusted with the task of review of adjudication orders. review should end in full, partial or non-acceptance of the adjudication orders, with appropriate subsequent action in each of the three events.

Recommendation – 12: A Central repository of audit outcomes

CENTRAL REPOSITORY OF AUDIT OUTCOMES:

At the Central Government level, the Director General-Audit is preparing a monthly/quarterly audit bulletin containing important audit objections raised during each quarter. The same may be considered for circulation amongst the audit officers of all the States too. **The State of Karnataka** maintains a compilation of interesting audit paras that are discussed in the **‘IDEA-i Meet’ platform (Inter Divisional Exchange of Audit insights)** held once in a fortnight. Similarly, each State may have its own mechanism of maintaining and circulating Audit outcomes. gst administrations may consider creation of a joint knowledge sharing platform that would enable exchange of knowledge, audit findings and other relevant information. such a repository would go a long way in driving convergence of taxpayer experience of audit under different GST administrations.

Recommendation – 13: Coordination between State and Central audit officers

Coordination between State and Central audit officers - in similar cases, similar businesses, exchange of approaches, findings, outcome in appeals etc.

A coordination cell may be established by the GST Council consisting of senior officers from the Centre and the State in order to have collaborative and cohesive strategies for audit and also to share various initiatives developed by the Centre and the State and this will certainly usher in regular sharing of best practices.

Recommendation – 14: E-Audit Module

Role of technology in automating audit process – Connecting electronically every audit procedure seamlessly - the E-audit modules developed by States, or those in the pipeline, to introduce technology in the audit process and its interface with the audit officer and the auditee.

It is recommended that the e-audit module should attempt to capture as many functions as possible and senior administration should be able to extract all mis reports related to audits.

From the feedback submitted by various States, it is found that some of the States are preparing software requirement specification for Audit backend, based on the workflow system of Audit. Several states are also using the audit workflow created by GSTN. Some States and CGST already have functional audit modules. The functionalities that may be designed by the States should cover the entire Audit processes such as Selection, Planning, and actual conduct of Audit, Reporting, Payment, Closure and Adjudication. Capturing the data electronically at each stage of audit will probably enhance the performance of the Audit team and create intellectual and professional atmosphere.

2. The Department of Commercial Taxes, **Karnataka** has developed an automated online Audit module called ***E-Shodhane Online Audit module*** in collaboration with NIC, Bengaluru, *i.e.*, ***www.gst.kar.nic.in/gstprime*** whereby registered persons are selected for scrutiny based on risk evaluation method and the audit officers seek assignment for audit electronically. It's an end-to-end digital back office application which covers the entire audit process starting from the selection of cases to the finalisation of audit report and adjudication process with the exception of on-premises audits physically carried out by designated Audit teams. To be more precise, the Audit module is not 100% seamlessly connected electronically. Certain audit processes are to be carried out by the audit officers physically and results of such audit processes are to be uploaded onto the system.

3. The GSTN has also developed the GST Audit Module which is an end-to-end digital back-office application that helps in carrying out the entire GST audit process electronically (with the exception of on-premises audits physically carried out by the designated Audit teams). Right from selection of

taxpayers for auditing and assigning the same to various Audit Teams to serving the Final Audit report and/or SCN to the Taxpayer, every Audit proceeding is seamlessly connected electronically.

Some of the Model-II States are found to have adopted the GSTN Audit Module. GST Audit Modules developed by GSTN and the State of Karnataka broadly have the same features with minor tweaks as the GST Audit process is partly dictated by the GST Act itself. Therefore, E-audit Modules that may be developed by States may have these common audit tools with tweaks that conform to their administrative structure.

AUDIT MIS APP

MIS APP is a tool which focuses on the need for sound information for decision making and which aims to find the relationship between an audit officer and their audit practice.

MIS and Audit processes are targeted at satisfying the information required for appraisal of performance of Audit Divisions on a real time basis.

MIS is a system that enables the Audit Divisional head and the Head Office or Audit Commissionerate to have access to dependable information for planning and decision making. This information could be either qualitative or quantitative or both depending on the method employed in the process.

An MIS APP Tool on the lines mentioned herein may be developed exclusively for audit officers to upload the day- to-day activities with respect to the findings of the Audit, Audit observations made, demand created, collected and the recovery made thereof. Benefits for MIS: -

MIS plays the role of information generation, communication, decision making, management, Administration, and operation of an organisation. The benefits accruable from an effective MIS could be reiterated thus:

- 1) The MIS App fulfils the informational needs of an Individual or a group of individuals.
- 2) MIS satisfies a variety of systems such as query system, analysis system, modelling system & decision support system. The MIS helps in strategic planning, management control and operational control.

3) MIS helps in target setting like Audit disposals, recovery and Refund.

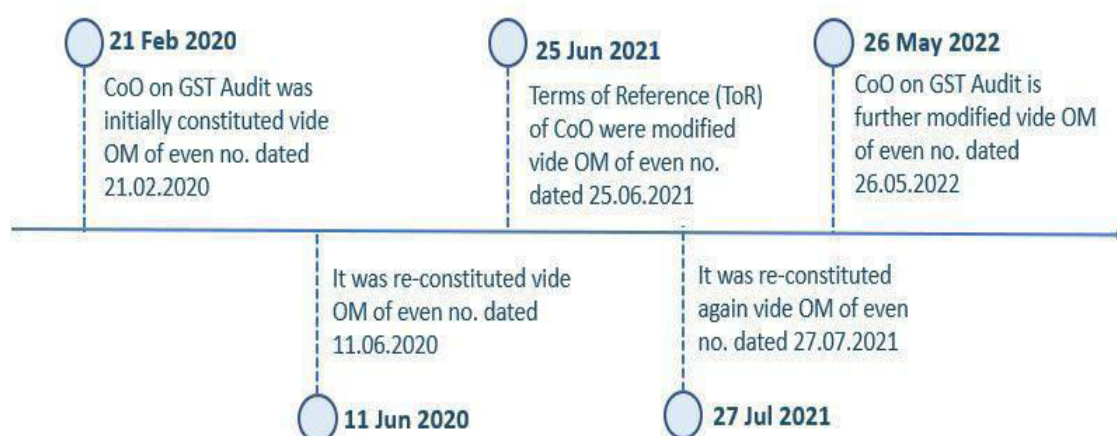
The MIS assists the Head Office or Audit Commissionerate in goal setting, strategic planning , evolving audit plans and implementation of the same.

ANNEXURE 18 (p.x)

Constitution and purpose of the Committee of Officers (CoO) on GST Audit¹ and modified Terms of reference.

Purpose of the formation of the Committee:

Committee of Officers (CoO) on GST Audit was constituted in pursuance of discussion and decision in the 1st National GST Conference held on 25.11.2019 to have joint & collaborative efforts for GST Audit; capacity building for audit and to follow uniform practices for GST Audit in Centre and State Tax administration. Timeline with respect to the Committee of Officers is presented below.



Initial Terms of Reference (ToR)

To prepare a **comprehensive All India GST Manual** taking into account procedures & practices in vogue in different States and Centre;

To explore having **joint and collective GST Audit** by Centre & State for the taxpayers in many sectors that have all India presence like Telecom, Airlines, Banking, Railway etc.;

To explore **conducting thematic audit** by both tax administration;

Using capability of **data analytics** developed by DGARM for identification of State taxpayers for audit;

To suggest measures of **capacity building in Services** for focused approach on audit of Services sector; and

To **build knowledge on financial accounting** and focused approach towards interpreting business contract/agreement and understanding of system driven business process through SAP, Oracle, Tally etc.;

¹ (From the Presentation of Ashima Bansal, Joint Secretary GST Council)

Modified Terms of Reference (ToR):



To study audit policy and practices of the Centre and the States which have already implemented certain procedures;



To develop model Audit Manual, taking into account the policies and practices adopted by Centre and States, with essential, preferred and best practices which may be adopted by States as per administrative suitability;



To broadly outline the procedural aspects of joint and thematic audit, if and as and when they undertaken with approval of Council;



Using capability of data analytics developed by DGARM for identification of State taxpayers for audit;



To suggest measures of capacity building in Services for focussed approach on audit of services sector; and



To build knowledge on financial accounting and focussed approach towards interpreting business contract/agreement and understanding of system driven business process through SAP, Oracle, Tally etc

Members (State):

Sl. No.	Name of the Member	Designation
1	Dr. Ravi Kumar Surpur [Co-Convenor]	Commissioner of Commercial Taxes, Rajasthan
2	Smt. Shikha C.	Commissioner of Commercial Taxes, Karnataka
3	Shri Samir Vakil	Special Commissioner, State Tax, Gujarat
4	Shri Anil Banka	Special Commissioner of State Tax, NCT of Delhi
5	Shri Amit Gupta	Additional Commissioner, State Tax, Uttarakhand
6	Shri Ravi Jesuraj S.	Additional Commissioner of Commercial Taxes, Karnataka
7	Shri Arun Kumar Mishra	Special Secretary, State Tax, Bihar
8	Shri Prasad Joshi	Joint Commissioner, State Tax, Maharashtra
9	Shri C. Palani	Joint Commissioner, State Tax, Tamil Nadu
10	Shri Narayan Chandra Guriya	Joint Commissioner, State Tax, West Bengal

11	Shri Vivek Singh	Joint Commissioner, State Tax, Uttar Pradesh
12	Shri K. Sridhar	Deputy Commissioner (ST), Puducherry

Members (Centre/GSTC/GSTN)

Sl. No.	Name of the Member	Designation
1	Dr. Amandeep Singh [Convenor]	Addl. DG, DG Audit Headquarters, CBIC - [Convenor]
2	Shri Sanjay Mangal	Pr. Commissioner/ Commissioner, GST Policy Wing, CBIC
3	Shri Rajiv Jain	Pr. Commissioner, Meerut
4	Shri Nitish Kumar Sinha	Principal ADG/ADG, DGGI Headquarters, CBIC
5	Shri Gurusharan Singh	Pr. ADG/ADG, DG Analytics & Risk Management
6	Shri Yogendra Garg	Pr. ADG/ADG, NACIN, Faridabad
7	Shri Dheeraj Rastogi	EVP, GSTN
8	Smt. Ashima Bansal	Joint Secretary, GST Council Secretariat
9	Shri Kshitendra Verma	Director, GST Council
10	Shri Karan Chaudhary	Under Secretary, GST Council