



# **Agenda for 54<sup>th</sup> GST Council Meeting**

**09<sup>th</sup> September, 2024**

**Volume - I**







## **GST Council Secretariat New Delhi**

5<sup>th</sup> Floor, Tower-II, Jeevan Bharti Building, New Delhi  
09<sup>th</sup> August, 2024

### **OFFICE MEMORANDUM**

**Subject: Notice for the 54<sup>th</sup> GST Council Meeting to be held on 09<sup>th</sup> September, 2024-reg**

The undersigned is directed to refer to the above subject and to convey that the 54<sup>th</sup> Meeting of the GST Council will be held on 09<sup>th</sup> September, 2024 at New Delhi. The schedule of the meeting is as follows:-

- **Monday, 9<sup>th</sup> September, 2024, from 11.00 A.M. onwards**
2. In addition, an Officers' Meeting will be held on 8<sup>th</sup> September, 2024 at New Delhi as per the following schedule:
- **Sunday, 8<sup>th</sup> September, 2024 from 2.30 P.M. onwards**
3. The venue of the meeting, agenda items and other details for the 54<sup>th</sup> Meeting of the GST Council and officers' Meeting will be communicated in due course of time.
4. Kindly convey the invitation to the Hon'ble Member of the GST Council to attend the 54<sup>th</sup> 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 proceedings of the Council.
5. CEO, GST Network



**TABLE OF CONTENTS**  
**(VOLUME-I)**

<b><u>Sl. No.</u></b>	<b><u>Agenda Item</u></b>	<b><u>Page No.</u></b>
1.	Confirmation of Minutes of the 53 <sup>rd</sup> GST Council Meeting held on 22 <sup>nd</sup> June, 2024	7-150
2.	Deemed ratification by the GST Council of the Notifications and Circulars issued by the Central Government and decisions of GST Implementation Committee for the information of the Council.	151-157
3.	Issues recommended by the <b>Law Committee</b> for the consideration of the GST Council	
	i) Clarification on refund of IGST paid on exports under rule 96(10) of the CGST Rules, 2017 and amendments in Rule 89 and Rule 96 of CGST Rules, 2017	158-167
	ii) Clarification on the place of supply of advertising services provided to foreign entities	168-180
	iii) Amendment in CGST Rules, 2017	
	I Consequential Amendment in Form REG-20 & REG-31 due to amendment in Rule 10A, 21 (h) and 21(i)	181-185
	II Agenda to modify FORM INS-01 on account of replacement of IPC, 1860, with BNS, 2023	186-187
	III Consequential rule and form amendments subsequent to insertion of Section 74A of CGST Act, 2017	188-195
	iv) Clarification regarding the availability of Input Tax Credit on demo vehicles by the dealers of the vehicle manufacturers	196-203
	v) Providing a mechanism for implementing sub-sections (5) and (6) of Section 16 of the CGST Act, 2017.	204-219
	vi) Clarification on the place of supply in case of data hosting services provided by service providers located in India to cloud computing service providers located outside India.	220-231
4.	Recommendations of the <b>Fitment Committee</b> for the consideration of the GST Council	232
	a) Recommendations made by the Fitment Committee for making changes in GST rates or for issuing clarifications in relation to goods (5 issues) – Annexure-I	233-238
	b) Issues where no change has been proposed by the Fitment Committee in relation to goods (7 issues) – Annexure-II	239-244
	c) Recommendations made by the Fitment Committee for making changes in GST rates or for issuing clarifications in relation to services (18 issues) – Annexure-IV	245-303
	d) Issues where no change has been proposed by the Fitment Committee in relation to services (15 issues)– Annexure-V	304-333

	e) Issues which have been proposed by the Fitment Committee for deferring in relation to services (8 issues)- Annexure-VI	334-345
	f) Agenda note on review of 51 <sup>st</sup> GST Council meeting's recommendation to amend GST laws to provide clarity on the taxation of supplies in casinos, horse racing and online gaming.	346
5.	Recommendations of the 21 <sup>st</sup> meeting of the IT Grievance Redressal Committee for approval/decision of the GST Council	347-463

# Discussion on Agenda Items

## Agenda Item 1: Confirmation of Minutes of 53<sup>rd</sup> GST Council Meeting held on 22<sup>nd</sup> June, 2024

The 53<sup>rd</sup> meeting of the GST Council was held on 22<sup>nd</sup> June, 2024 under the Chairpersonship of the Hon'ble Union Finance Minister, Smt. Nirmala Sitharaman at Bharat Mandapam, New Delhi. 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, 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 53<sup>rd</sup> meeting of the GST Council:

<u>Sl. No.</u>	<u>Agenda Item</u>
1.	Confirmation of Minutes of 52 <sup>nd</sup> GST Council Meeting held on 07 <sup>th</sup> October, 2023
2.	Deemed ratification by the GST Council of the Notifications, Circulars and Orders issued by the Central Government and decisions of GST Implementation Committee for the information of the Council.
3.	Issues recommended by the <b>Law Committee</b> for the consideration of the GST Council
	i) Law amendment proposals to amend the CGST Act, 2017 and IGST Act, 2017:
	I Amendment of Section 9 of CGST Act, 2017 regarding non-applicability of Goods and Services Tax on Extra Neutral Alcohol (ENA) used for manufacture of alcoholic liquor for human consumption.
	II Insertion of Section 11A in CGST Act, for granting power not to recover duties not levied or short-levied as a result of general practice under GST Acts.
	III Law Amendments in Section 13 and Section 31 of the CGST Act, 2017 regarding time of supply and issuance of invoices in respect of RCM supplies.
	IV Amendment in Section 16 of IGST Act, 2017 along with corresponding provisions in Section 54 of CGST Act, 2017, to curtail refund of IGST in cases where export duty is payable, and also to rationalize the said provisions.
	V Amendment in section 70 of the CGST Act, to provide clarity regarding appearance by authorised representative in response to summons.
	VI Amendment of sub-section (1B) of section 122 of the CGST Act, 2017 with respect to penalty provisions for non-compliant electronic commerce operators.

VII	Amendment of section 140(7) of CGST Act to provide for transitional credit in respect of invoices pertaining to services provided before appointed date and where invoices were received by ISD before the appointed date.
ii)	Law Amendment regarding time of filing appeal in GST Appellate Tribunal
iii)	Law Amendment regarding GST Appellate Tribunal
(a)	Providing for sunset clause for Anti-Profiteering provisions under the GST laws and the handling of Anti-Profiteering cases under Section 171 of the Central Goods and Services Act, 2017 by Appellate Tribunal.
(b)	Providing for enabling provision for notifying the scope of cases that can be heard by the Principal Bench of GSTAT only.
iv)	Amendments in Section 73 and Section 74 of CGST Act, 2017 and insertion of a new Section 74A in CGST Act, to provide for common time limit for issuance of demand notices and orders irrespective of whether case involves fraud, suppression, wilful misstatement etc., or not.
v)	Amendment in section 39 of CGST Act and rule 66 of CGST Rules, 2017 for mandating filing of NIL returns by TDS deductors and waiver of late fee for late filing of NIL FORMGSTR-7 along with changes in FORM GSTR 07 for inserting invoice/document wise details of tax deducted at source
vi)	Relaxation in condition of section 16(4) of the CGST Act with respect to cases where returns have been filed after revocation of cancellation of registration for initial years of implementation of GST.
vii)	Insertion of Section 128A in CGST Act, to provide for conditional waiver of interest or penalty or both relating to demands raised under Section 73, for FY 2017-18 to FY2019-20.
viii)	Reduction of Government Litigation – fixing monetary limits for filing appeals or applications by the Department before GSTAT, High Courts and Supreme Court
ix)	Insertion of new forms FORM GSTR-1A for the amendment and declaring additional details to FORM GSTR-1, for enabling locking of FORM GSTR-3B based on FORM GSTR- 1.
x)	Issue of liability of payment of interest under Section 50 of CGST Act in case of delayed payment of tax, even though credit is available in Electronic Cash Ledger (ECL).
xi)	Reduction in rate of TCS to be collected by the ECOs for supplies being made through them.
xii)	Clarifications on various issues pertaining to special procedure for the manufacturers of the specified commodities, like pan masala, tobacco etc.

xiii)	Clarification on the provisions of clause (ca) of Section 10(1) of the Integrated Goods and Service Tax Act, 2017 relating to place of supply of goods to unregistered persons.
xiv)	Providing a mechanism for adjustment of payments made through FORM DRC-03, in respect of a demand against pre- deposit as well as for adjustment of liability in Electronic Liability Register (Amendment in Rule 142 of CGST Rules, 2017 along with clarification circular).
xv)	Clarification on valuation of supply of import of services by a related person where recipient is eligible to full input tax credit.
xvi)	Clarification regarding applicability of provisions of Section 16 (4) of CGST Act, 2017, in respect of invoices issued by the recipient under RCM.
xvii)	Clarification in case of taxability of corporate guarantee provided between related persons after insertion of Rule 28(2) of CGST Rules, 2017.
xviii)	Clarification on mechanism for providing evidence of compliance of conditions of Section 15(3)(b)(ii) of the CGST Act, 2017 in respect of post-sale discounts by the suppliers.
xix)	Court matter regarding extending amnesty scheme for filing of appeals in respect of cases under Sections 129 and 130 of CGST Act.
xx)	Amendment in Rules 110 and 111 of the CGST Rules, 2017 pertaining to filing and processing of appeals in GST Appellate Tribunal.
xxi)	Clarification on taxability of re- imbursement of securities/shares as ESOP/ESPP/RSU provided by a company to its employees.
xxii)	Clarification on requirement of reversal of ITC in respect of balance of taxable premium in cases of Life Insurance services after applying valuation rule.
xxiii)	Clarification on taxability of wreck and salvage values in motor insurance claims.
xxiv)	Clarification in respect of Extended Warranty provided by Manufacturers to the end customers in view of Circular No. 195/07/2023-GST dated 17.07.2023
xxv)	Clarification regarding ITC entitlement on repair expenses incurred in case of reimbursement mode of claim settlement.
xxvi)	Clarification on taxability of loans granted between group companies.
xxvii)	Clarification regarding availability of Input Tax Credit (ITC) on ducts and manholes used in the network of Optical Fibre Cables (OFCs).

xxviii)	Clarification on the place of supply applicable for custodial services provided by banks to Foreign Portfolio Investors.
xxix)	Clarification on time of supply on Annuity Payments under Hybrid Annuity Mode Projects (HAM) of NHAI.
xxx)	Refund of additional Integrated Tax (IGST) paid on account of upward revision in price of the goods subsequent to export of such goods.
xxxi)	Implementation of functionality for online filing of refund application by Canteen Stores Department (CSD) in GST-RFD 10A.
xxxii)	Procedure for payment of IGST by SEZ unit located in Noida SEZ on DTA clearances.
xxxiii)	Time of supply in respect of supply of allotment of Spectrum to Telecom companies in cases where an option is given to the Telecom Companies for payment of licence fee and Spectrum usage charges in instalments in addition to an option of upfront payment.
xxxiv)	Creation of unique identifiers for unregistered persons opting to generate e-waybill
xxxv)	Alignment of rule 96A of CGST Rules, 2017 with the provision of FEMA Act, 1999
xxxvi)	Change in due date for filing of return in FORM GSTR 4 for composition taxpayers from 30th April to 30th June.
xxxvii)	Amendment in FORM GSTR -8 to capture place of supply
xxxviii)	Amendment in GST Rules and FORM GSTR-1 to reduce the current threshold of invoice value of Rs. 2.5 lakhs for inter- state B2C supplies to Rs. 1 lakh
xxxix)	Agenda on rationalisation of the quantum of pre-deposit required to be paid for filing of appeals under GST.
xl)	Change in Payment table of Form GSTR-3B to provide for a separate table for RCM supplies and Section 9(5) supplies.
xli)	Notifying Annual Return in FORM GSTR-9 for Financial Year 2023-24 and extending exemption from filing FORM GSTR-9 for taxpayers with turnover up to Rs. 2 crores.
xlii)	Rolling out of Biometric based Aadhar Authentication of registration on Pan-India basis.

4.	Recommendations of the <b>Fitment Committee</b> 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 (17 issues) — Annexure-I
	b) Issues where no change has been proposed by the Fitment Committee in relation to goods (3 issues) — Annexure-II
	c) Issue in relation to goods placed before the Council for information (1 issue) — Annexure-III
	d) Recommendations made by the Fitment Committee for making changes in GST rates or for issuing clarifications in relation to services (9 issues) — Annexure-IV
	e) Issues where no change has been proposed by the Fitment Committee in relation to services (1 issue)— Annexure-V
5.	Issues recommended by GSTN
	a) All India roll-out of the Biometric-based Aadhaar Authentication and Document Verification System
	b) Waiver of Interest on delayed receipt of Advance User Charges (AUC) from a few states and CBIC.
6.	Recommendations of the 20 <sup>th</sup> meeting of the IT Grievance Redressal Committee for approval/decision of the GST Council
7.	a) Review of revenue position under Goods and Services Tax.
	b) GST Appellate Tribunal - Status update and issues for approval
8.	Performance Report of the Anti-profiteering authorities for the 2 <sup>nd</sup> quarter (July to September 2023) 3 <sup>rd</sup> quarter (October to December 2023) and 4 <sup>th</sup> quarter (January to March, 2024) for the information of the GST Council
9.	Ad-hoc Exemptions Orders issued under Section 25(2) of the Customs Act, 1962 to be placed before the GST Council for information.
10.	Any other agenda item with the permission of the Chairperson

1.3 The Secretary to the GST Council (hereinafter called ‘The Secretary’), welcomed all the Hon’ble Members of the Council and participating officers to the 53<sup>rd</sup> meeting of the GST Council. He extended greetings to the Hon’ble Chief Minister of Goa, Dr. Pramod Sawant and Hon’ble Chief Minister of Meghalaya, Sh. Conrad K. Sangma and all the incoming Hon’ble Members of the GST Council to their first Council meeting namely-

- a. Shri. Payyavula Keshav, Hon’ble Minister for Finance, Planning, Commercial Taxes and Legislative affairs, Andhra Pradesh
- b. Shri. Samrat Choudhary, Hon’ble Deputy Chief Minister/Minister of Commercial Tax, Bihar
- c. Shri. O. P. Choudhary, Hon’ble Minister of Finance & Commercial Tax, Chhattisgarh
- d. Shri. J.P. Dalal, Hon’ble Deputy Chief Minister/Finance Minister, Haryana

- e. Shri. Jagdish Devda, Hon'ble Deputy Chief Minister/Minister of Commercial Tax & Finance, Madhya Pradesh
- f. Dr. Vanlalhlana, Hon'ble Minister, Taxation Department, Mizoram
- g. Shri. Kanak Vardhan Singh Deo, Hon'ble Deputy Chief Minister, Odisha
- h. Shri. Gajendra Singh Khimar, Hon'ble Minister of Medical Health and Services, Rajasthan
- i. Shri. G.T. Dhungel, Hon'ble Minister for Health & Family Welfare Department and Culture Department, Sikkim
- j. Shri. Mallu Bhatti Vikramarka, Hon'ble Deputy Chief Minister/Finance Minister, Telangana
- k. Shri Pranjit Singh Roy, Hon'ble Finance Minister, Tripura.

1.4 The Secretary stated that in the Council meeting important agenda on law amendment proposals recommended by Law Committee to amend the CGST Act and IGST Act would be taken up along with various Fitment Committee recommendations on tax rate changes and clarifications on certain Goods and Services besides some other agenda.

1.5 The Secretary informed the Council that the agenda for 53<sup>rd</sup> Council meeting was discussed in detail during the Officers' Meeting a day before which would immensely benefit the Council in its deliberations.

1.6 The Secretary sought the permission of the Chair to begin deliberations on each agenda item.

## **2. Agenda item 1: Confirmation of the Minutes of 52<sup>nd</sup> meeting of the GST Council held on 7<sup>th</sup> October, 2023**

2.1 The Secretary informed the Council that the draft minutes of 52<sup>nd</sup> meeting of the GST Council were circulated to all States and requests for changes were received from some States which were accepted and incorporated in the draft minutes. The revised minutes were circulated in the agenda.

2.2 The Hon'ble Member from Karnataka stated that their intervention in the 52<sup>nd</sup> meeting of the GST Council were accurately recorded and there is no discrepancy in the same. He further drew attention of the Hon'ble Chairperson to their request for setting up a mechanism for continuation of cesses to which the Hon'ble Chairperson had a positive response and indicated that soon a discussion might be initiated on the same.

2.3 The Secretary noted the request of the Hon'ble Member from Karnataka. He requested the Council to adopt the minutes of the 52<sup>nd</sup> meeting of the GST Council.

**Decision: The Council adopted the Minutes of the 52<sup>nd</sup> meeting of the GST Council held on 7<sup>th</sup> October, 2023.**

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

3.1 The Secretary took up the next agenda pertaining to the deemed ratification by the GST

Council of the Notifications, Circulars and Orders issued by the Central Government and decisions of GST Implementation Committee (GIC) for the information of the Council (Page 132-151 of the Volume-I of the agenda). He stated that this agenda was discussed in the Officers' meeting held the day before and there was consensus on the same. He requested the Council to ratify the Notifications, Circulars and Orders issued and take note of the decisions of the GST Implementation Committee (GIC).

3.2 The Hon'ble Member from Bihar thanked the Hon'ble Chairperson for consideration of their request through GIC for relaxation in the eligibility criteria for selection of Technical Member (State) of Goods and Services Tax Appellate Tribunal (GSTAT) in respect of Bihar.

**Decision: The Council ratified the Notifications, Circulars and Orders issued and took note of the decisions of GST Implementation Committee (GIC).**

#### **4. Agenda Item 3: Issues recommended by the Law Committee for the consideration of the GST Council**

4.1 The Secretary took up the next agenda for the consideration of the GST Council. He informed that these agendas were discussed in detail in the Officers' meeting held on 21<sup>st</sup> June, 2024 and there was an agreement among the officers on most of the issues.

The Pr. Commissioner, GST Policy Wing made a detailed presentation (**attached as Annexure 3**) giving an overview of the recommendations made by the Law Committee as well as the gist of the discussions held in the Officers' meeting.

#### **Agenda Item 3(i)(I) : Amendment to Section 9 of CGST Act regarding non- applicability of GST on Extra Neutral Alcohol (ENA) used for manufacture of alcoholic liquor for human consumption**

4.2 The Pr. Commissioner, GST Policy Wing stated that issue of Taxation of rectified spirit/Extra Neutral Alcohol (ENA) under GST was deliberated by the GST Council in 52<sup>nd</sup> Meeting and the following recommendations were made by the Council on the taxability of rectified spirit/ Extra Neutral Alcohol (ENA) under GST:

- i. To place before Supreme Court that GST Council has no intention to levy GST on ENA for manufacture of alcoholic liquors for human consumption.
- ii. **To make suitable amendment in law to exclude ENA (both grain-based and molasses-based) from ambit of GST when supplied for manufacture of alcoholic liquors for human consumption.**
- iii. To reduce GST on Molasses from 28% to 5%.
- iv. To notify GST rate of 18% for new tariff item at 8-digit level created for Rectified spirits (ENA) for industrial use (HS 2207 10 12).

4.3 He further informed that as regards recommendation of Council at S. No. ii above, Law Committee in its meeting held on 18.10.2023 recommended amendment in sub-section (1) of Section 9 of the CGST Act, 2017 for not levying GST on Extra Neutral Alcohol used for manufacture of alcoholic liquor for human consumption, as detailed in the agenda note. Law Committee also recommended that similar amendments may be carried out in the SGST Act, the UTGST Act and the IGST Act.

4.4 The Pr. Commissioner, GST Policy Wing further informed the updated status of action on other recommendations of GST Council made in 52<sup>nd</sup> meeting on this issue, as below:

- i. The Department is in the process of filing an IA in Supreme Court in the matter to inform that it does not intend to levy GST on ENA.
- ii. The GST rate on molasses has been reduced to 5% vide Notification no. 17/2023 — Central Tax (Rate) dated 19.10.2023.
- iii. Vide the same notification, the GST rate on spirits for industrial use has also been notified.
- iv. A Committee of Officers (CoO) convened by JS TRU, with officers from the States of Karnataka, Uttar Pradesh, West Bengal, Rajasthan, Maharashtra, Madhya Pradesh, Punjab and Andhra Pradesh, was constituted to study the taxation of Extra Neutral Alcohol (ENA) under Goods and Services Tax (GST) for the past period. Two meetings of the said committee have been held on the 3<sup>rd</sup> November, 2023 and 11<sup>th</sup> January, 2024.

4.5 The Hon'ble Member from Tamil Nadu stated that the matter is being referred to the Hon'ble Supreme Court and is also under review by the CoO for the past period. He suggested that a decision on this issue can be taken at a later date once the Hon'ble Supreme Court's verdict is delivered and the CoO's findings are presented to the Council.

4.6 The Secretary stated that the Council has already decided to exclude ENA from the purview of the GST, and further deliberation would delay the implementation of this decision. The CoO has been constituted to study the taxation of ENA under GST for the past period. Moreover, the Interlocutory Application intended to be moved in the Supreme Court aims to inform the Court that the Council does not intend to levy GST on ENA used for manufacturing alcoholic liquor for human consumption. He stated that delaying the process, which has already been agreed upon by the Council, would not be beneficial.

4.7 The Hon'ble Member from Andhra Pradesh agreed with the proposed amendment and also suggested that measures to regularize past transactions may also be taken. He stated that many States have collected money, and without clarity, this could lead to further litigation and would drain the resources. He also suggested that necessary amendments, as proposed in the agenda, should be made to enable the States to continue collecting VAT in the future.

4.8 The Hon'ble Member from Karnataka welcomed the remarks made by the Revenue Secretary, stating that the decision has been made after several years of discussion. He advised against reconsidering the original decision but mentioned that lingering issues should be addressed by the CoO.

4.9 The Hon'ble Members from Meghalaya and Goa also welcomed the remarks made by the Secretary and expressed their agreement with the proposal.

4.10 The Secretary urged the CoO members to expedite their study and analysis and provide recommendations for the taxation of ENA under GST for the past period. He also informed that filing the Interlocutory Application in the Supreme Court would help resolve the dispute pending before the Court.

4.11 The Chairperson directed the CoO to thoroughly examine the lingering issues and come back with their findings by the next meeting.

**Decision: The Council agreed with the said recommendations of the Law Committee regarding the amendment to Section 9 of the CGST Act, and the similar amendments in the SGST Act, the UTGST Act and the IGST Act.**

**Agenda Item 3(i)(II): Insertion of Section 11A in CGST Act for granting power not to recover duties not levied or short-levied as a result of general practice under GST Acts**

4.12 The Pr. Commissioner, GST Policy Wing stated that the GST Council has in the past recommended regularization of certain assessments on “as is where is basis”. The regularization was necessitated due to reasons such as ambiguity in provisions of law, overlapping entries of notifications, divergent practices being followed in the field, etc.

4.13 He further mentioned that various recommendations of the GST Council to regularize past assessments on *as is where is basis* were implemented by Central and State governments through circulars. There is no specific provision under GST law which empowers the Central/State Governments not to recover GST not levied or short-levied as a result of any ambiguity or general practice.

4.14 He informed that such powers existed in the Customs Act, 1962 and Central Excise Act, 1944 which also applied to Service Tax. Section 28A under Customs Act, 1962 and Section 11C of Central Excise Act, 1944 provided for the same. The Customs Act and Central Excise Act also provides for refund of any duty paid in excess of what was paid as a matter of general practice where a notification was issued under the above provisions. Accordingly, there may be a need for incorporation of suitable provisions in GST laws also to empower the Government for such regularization in cases where such non levy or short levy was a result of general practice in the trade or a section of trade.

4.15 He further mentioned that the Law Committee in its meeting held on 30.05.2024, recommended that a provision may be incorporated in GST laws (CGST Act, SGST Act, IGST Act, UTGST Act and Compensation Cess Act) empowering the Central and State Governments to regularize, on the basis of the recommendations of the GST Council, non –levy or short levy of GST or Compensation Cess where it is found that such non levy or short levy was a result of general practice in the trade or a section of trade. Law Committee also recommended that no refund of GST or Compensation Cess may be allowed on account of any notification issued in this regard. The Law Committee proposed inserting a new section 11A in the CGST Act, 2017, as detailed in the agenda note.

4.16 Further, Law Committee also recommended similar provision to be inserted in other GST Acts as detailed below:

- Section 6A in Integrated Goods and Services Tax Act, 2017. In this Act, references to "central tax" in the proposed section will have to be replaced with "integrated tax”.
- Section 8A in Union Territory Goods and Services Tax Act, 2017. In this Act, references to "central tax" in the proposed section will have to be replaced with "Union territory tax”.

- Section 8A in Goods and Services Tax (Compensation to States) Act, 2017. In this Act, references to "central tax" in the proposed section will have to be replaced with "cess".
- Also, *pari-materia* amendments need to be made in State GST Acts.

4.17 He further stated that in the Officers' Meeting held on 21<sup>st</sup> June 2024, it was recommended that sub-section (2) of the proposed section 11A of the CGST Act, which provides that no refund to be given in respect of tax already collected which would not have been collected had the notification issued under sub-section (1) of the proposed section 11A been in force at all material time, may be deleted, as similar provision denying refund did not exist in Customs Act and Central Excise Act. He also informed that it was also discussed in Officers' meeting as to whether there is a need to define the term "general practice" in the said proposed section. However, a consensus emerged in the said meeting that there may not be any need for the same, as similar definition was also not incorporated in Customs Act and Central Excise Act.

**Decision: The Council agreed with the said recommendations of the Law Committee to insert Section 11A in the CGST Act, 2017, but without the proposed sub-section (2), and to make *pari-materia* amendments in other GST Acts.**

**Agenda Item 3(i)(III): Amendment in Section 13 and Section 31 of the CGST Act, 2017 regarding time of supply and issuance of invoices in respect of RCM supplies.**

4.18 The Pr. Commissioner, GST Policy Wing stated that Section 13 of CGST Act, 2017 provides for determination of time of supply of services. Sub-section (3) of section 13 of CGST Act provides for determination of time of supply of services in cases where the tax is paid or liable to be paid on reverse charge basis by the recipient of the services. Clause (b) of section 13(3) of CGST Act links time of supply with the date of issue of invoice, or any other document in lieu thereof, by the supplier. However, as per clause (f) of section 31(3) of CGST Act, in cases of supplies received from the unregistered persons, where tax is to be paid on reverse charge basis by the recipient, the invoice is to be issued by the recipient. Clause (b) of section 13(3) of CGST Act does not specifically cover the scenarios where invoice is required to be issued by the recipient in case of RCM supplies as per section 31(3)(f) of CGST Act, which is creating ambiguity regarding interpretation of time of supply in such cases.

4.19 Law Committee in its meetings held on 31.01.2024 and 25.04.2024 recommended that suitable amendment may be done in Section 13(3) of CGST Act to provide for a specific provision in section 13(3) for covering the cases where the invoice is required to be issued by the recipient of services in case of RCM supplies. Law Committee recommended that amendments may be made in clause (b) of sub-section (3) of section 13 of the CGST Act and a separate clause (c) may be inserted in the said sub-section to cover the said scenario. Further, amendment may also be required in the proviso to the said sub-section. The amendment as recommended by the Law Committee are detailed in the agenda note.

4.20 Further, Law Committee also observed that there is a lack of clarity in clause (f) of sub-section (3) of section 31 of the CGST Act, read with rule 47 of CGST Rules, 2017, regarding the time period within which the invoice is required to be issued by the recipient in case of RCM supplies. Therefore, Law Committee recommended that amendment, as detailed in the agenda note, may be made in section 31(3)(f) of the CGST Act, 2017 to specifically provide for the same.

4.21 Further, Law Committee also recommended that such time period for issuance of invoice by the recipient in case of RCM supplies may be prescribed in the CGST Rules, 2017. Accordingly, Law Committee recommended for insertion of Rule 47A in CGST Rules, 2017 providing for the same. Also, Law Committee recommended that the second proviso to Rule 46 of CGST Rules, 2017 may be omitted as the same is not relevant now, as very few supplies have been notified under section 9(4) of CGST Act, 2017.

4.22 Law Committee also observed that since in case of RCM supplies, the liability to issue invoice is on the registered recipient of supplies, therefore, a doubt emerges as to whether a supplier who is registered solely for the purposes of TDS deduction under Section 51 of CGST Act, is to be considered as a registered person for the purpose of clause (f) of sub-section (3) of section 31 of the CGST Act.

4.23 In order to clarify the same, the Law Committee recommended that an explanation may be inserted in sub-section (3) of Section 31 of CGST Act so as to clearly provide that a supplier who is registered solely for the purposes of TDS deduction under Section 51 of CGST Act, 2017 shall not be considered as a registered person for the purpose of clause (f) of sub-section (3) of section 31 of the CGST Act.

4.24 Pr. Commissioner, GST Policy Wing informed that this agenda was discussed in Officers' Meeting on 21<sup>st</sup> June 2024 and it was agreed to by all.

**Decision: The Council agreed with the said recommendations of the Law Committee.**

**Agenda Item 3(i)(IV): Amendment in Section 16 of IGST Act, 2017 along with corresponding provisions in Section 54 of CGST Act, 2017, to curtail refund of IGST in cases where export duty is payable, and also to rationalise the provisions of section 16 of IGST Act, 2017.**

**Issue I: Amendment pertaining to the issue of restriction on refund claim on goods on which export duty is payable**

4.25 The Pr. Commissioner, GST Policy Wing stated that vide second proviso to sub-section (3) of Section 54 of CGST Act, a restriction has been provided that no refund of unutilised input tax credit shall be allowed in cases where the goods exported out of India are subjected to export duty. Doubts have been raised by some field formations that whether this restriction is also applicable in respect of grant of refund of integrated tax paid on goods exported out of India, and also in respect of supplies from Domestic Tariff Area to Special Economic Zones, where the said goods exported out of India are subject to export duty.

4.26 Law Committee observed that as the restriction provided by second proviso to sub-section (3) of section 54 of CGST Act is specifically provided only in respect of refund of unutilised input tax credit in cases where the goods are exported out of India under bond or Letter of Undertaking route, this restriction on grant of refund does not appear to be applicable on refund of integrated tax in respect of goods exported out of India on payment of integrated tax or on goods supplied to a Special Economic Zone developer or a Special Economic Zone unit for authorized operations.

4.27 The Law Committee felt that since the purpose of imposing export duty is to ensure that domestic availability of goods is met and price of such goods are stable/ retained in domestic economy i.e. curb on inflationary tendency, therefore, it is desirable that refund in respect of goods which are subjected to export duty should be prohibited irrespective of the fact that whether the said goods are exported without payment of taxes or with payment of taxes, and such prohibition should also be applicable if such goods are supplied to a Special Economic Zone developer or a Special Economic Zone unit for authorized operations.

4.28 The Law Committee recommended that second proviso to sub-section (3) of Section 54 of CGST Act may be omitted and sub-section (15) may be inserted in the said section, along with the insertion of sub-section (5) in Section 16 of IGST Act, 2017, as detailed in the agenda note, to provide that no refund of unutilized input tax credit or integrated tax shall be allowed in cases where the zero rated supply of goods are subjected to export duty.

**Decision: The Council agreed with the said recommendations of the Law Committee.**

**Issue II: Amendment to rationalise the provisions to notify class of goods or services in respect of which IGST refund route is available.**

4.29 The Pr. Commissioner, GST Policy Wing stated that while clause (i) of sub- section (4) of section 16 of IGST Act, 2017, refers to the class of persons who may make zero rated supplies on payment of integrated tax, clause (ii) of sub-section (4) of section 16 of IGST Act, 2017 only refers to the phrase “a class of goods or services which may be exported on payment of integrated tax”, and does not refer to zero-rated supplies of such goods or services. An interpretation can be made that under sub-section (4) of section 16 of IGST Act, while Government can notify class of persons who may make zero rated supplies on payment of IGST and claim refund of the tax so paid (i.e. including exports and supplies to Special Economic Zones units or Special Economic Zones developers for authorized operations) but the Government can notify only the class of goods or services which may be exported on payment of IGST and claim refund of the tax so paid and cannot notify the class of goods or services which are supplied to Special Economic Zones units or Special Economic Zones developers for authorized operations, on payment of IGST.

4.30 Further, while sub-section (3) of section 16 of IGST Act mentions that refund of unutilised input tax credit in respect of zero rated supply of goods or services without payment of tax can be claimed in accordance with provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder, subject to such conditions, safeguards and procedure as may be prescribed, no such specific reference to section 54 of CGST Act has been made in sub-section (4) of section 16 of IGST Act.

4.31 He mentioned that to harmonise these sub-sections and to remove any doubts, Law Committee recommended that clause (ii) of sub-section (4) of Section 16 of the IGST Act, 2017 may be amended to provide for notification of class of goods or services which may be supplied with payment of integrated tax on zero rated basis. Law Committee also recommended that clause (i) and clause (ii) of sub-section(4) of section 16 of IGST Act may specifically provide for claim of refund on payment of IGST in respect of zero- rated supplies in accordance with provisions of section 54 of the Central Goods and Services Tax Act or the rules

made thereunder, subject to such conditions, safeguards and procedure as may be prescribed.

**Decision: The Council agreed with the said recommendations of the Law Committee.**

**Agenda Item 3(i)(V): Amendment in section 70 of the CGST Act, to provide clarity regarding appearance by authorised representative in response to summons.**

4.32 The Pr. Commissioner, GST Policy Wing stated that as section 70 of the CGST Act does not mention the words ‘authorised representative’, doubts have been raised as to whether the summoned person may appear through an authorised representative in response to a summon issued under section 70 of CGST Act.

4.33 Ministry of Law & Justice has opined that to expand the provisions of section 70 of CGST Act to include ‘authorised representative’ or ‘oath’ by placing reliance on provisions of section 116 of the CGST Act may tantamount to rewriting the provisions of section 70 and may not withstand judicial scrutiny. The Central Excise Act, 1944 and Customs Act, 1962 provide in the section itself for an option for the appearance through authorised agent against the summons issued to the person.

4.34 The issue was deliberated by the Law Committee. The Law Committee recommended to insert sub-section (1A) in section 70 of the CGST Act, as detailed in the agenda note, to provide an explicit reference to appearance through ‘authorised representative’.

**Decision: The Council agreed with the said recommendations of the Law Committee.**

**Agenda Item 3(i)(VI): Amendment in sub-section (1B) of section 122 of the CGST Act, 2017 with respect to penalty provisions for non-compliant electronic commerce operators**

4.35 The Pr. Commissioner, GST Policy Wing stated that the GST Council in its 47<sup>th</sup> meeting held on 28th and 29th June 2022, approved waiver from requirement of mandatory registration under section 24(ix) of CGST Act for unregistered person supplying goods intra-State through Electronic Commerce Operator (“ECO”) up to threshold turnover for registration subject to certain conditions and also allowed composition taxpayers to make intra-State supply of goods through ECOs subject to certain conditions. Accordingly, Notification No. 34/2023–Central Tax dated 31.07.2023, Notification No. 37/2023–Central Tax dated 04.08.2023 and Notification No. 28/2023 — Central Tax dated 31.07.2023 were issued providing a special procedure to be followed by ECOs and the conditions to be fulfilled by the ECOs and such unregistered person for availing the benefit of such waiver from requirement of mandatory registration.

4.36 In order to ensure due compliance of the conditions as laid down through the said Notifications, penal provisions were provided under sub-section (1B) of Section 122 of CGST Act for contraventions by ECOs related to supply of goods made through ECOs by unregistered persons and composition taxpayers. The said penal provision were brought in force with effect from 01.10.2023 vide Notification no. 28/2023–Central Tax dated 31.07.2023.

4.37 He stated that representations have been received from trade seeking clarification on the

applicability of these penal provisions in respect of ECOs who are not required to collect tax at source from suppliers under section 52 of the CGST Act.

4.38 He further stated that the penal provisions under section 122 (1B) of the CGST Act have been provided in respect of ECOs, who are required to ensure compliance with the conditions of supply of goods by unregistered suppliers and compositions taxpayers through them, as provided vide the said concerned notifications. Such compliance is required from the ECOs who are required to collect tax at source under section 52 of the CGST Act and **not from other category of ECOs**, who are **not** required to collect tax at source under section 52 of the CGST Act.

4.39 The Law Committee recommended that the applicability of sub-section (1B) of section 122 of CGST Act may be restricted to ECOs, who are required to collect tax at source under section 52 of CGST Act, by making the amendment in section 122(1B) of CGST Act, as detailed in the agenda note, **retrospectively with effect from 01.10.2023** (i.e. date from which section 122(1B) of CGST Act has come into effect).

**Decision: The Council agreed with the said recommendations of the Law Committee.**

**Agenda Item 3(i)(VII): Amendment in section 140(7) of the CGST Act to provide for transitional credit in respect of invoices pertaining to services provided before appointed date and where invoices were received by ISD before the appointed date**

4.40 The Pr. Commissioner, GST Policy Wing stated that Hon'ble High Court of Bombay, in its order dated 29.02.2024 in the case of Siemens Ltd Vs Union of India relating to the eligibility of transition credit in the case of an Input Service Distributor (ISD) in respect of invoices received before the appointed date, has observed that it would be appropriate that the GST Council considers the issues inter alia the effect that sub-section (7) of section 140 of CGST Act would bring about on the transition of input tax credit. He added that a reference has been received from Additional Solicitor General of India (ASG) in this regard, where he has mentioned that the High Court expects the government to carry out an amendment in the provisions of Section 140(7) of CGST Act, 2017 in the interest of the trade subject to legitimate conditions including proper scrutiny and verification.

4.41 The Pr. Commissioner, GST Policy Wing informed that the issue was deliberated by the Law Committee. The Law Committee felt that transitional credit should be available to ISDs even for such cases where inputs and input services have been received along with invoices prior to 30.06.2017. Law Committee recommended that an amendment may be made in Section 140(7) of CGST Act, 2017, as detailed in the agenda note, **retrospectively with effect from 01st July 2017**, so as to enable the taxpayers to avail transitional credit of eligible CENVAT credit on account of input services received by an ISD prior to the appointed day, for which invoices were also received prior to the appointed date.

4.42 He also stated that this amendment is required only in CGST Act, 2017 and no corresponding amendment is required in SGST Act/ UTGST Act.

4.43 The Pr. Commissioner, GST Policy Wing mentioned that the issue was discussed in the Officers' Meeting held on 21.06.2024 and it was suggested in the said meeting to slightly modify the amendment to be made in sub-section (7) of section 140 of CGST Act, 2017, as below:

**Section 140 of CGST Act, 2017:**

...

- (7) *Notwithstanding anything to the contrary contained in this Act, the input tax credit on account of any services received prior to the appointed day by an Input Service Distributor shall be eligible for distribution as credit under this Act, within such time and in such manner as may be prescribed, whether the invoices relating to such services are received before, on or after the appointed day.*

**Decision:** The Council agreed with the said recommendations of the Law Committee to amend sub-section (7) of section 140 of CGST Act, 2017, retrospectively with effect from 01.07.2017, along with the suggestion made in the Officers' Meeting to modify the draft amendment in the said sub-section, as detailed in Para 4.44.

**Agenda Item 3(ii): Law Amendment regarding time of filing appeal in GST Appellate Tribunal**

4.44 The Pr. Commissioner, GST Policy Wing stated that the President of the Principal Bench of the GST Appellate Tribunal (GSTAT) has entered office on 6th May, 2024. As per the Central Goods and Services Tax (Ninth Removal of Difficulties) Order, 2019, the period for filing appeals to GSTAT as per section 112 of CGST Act would start from this date. However, as the appointment of other Judicial and Technical Members of the Principal Bench and various State Benches may take further time, therefore, there was a need to revise the time limit for filing appeals.

4.45 The said issue was deliberated by the Law Committee and the Law Committee recommended amendment in sub-section (1) and sub-section (3) of section 112 of CGST Act, as detailed in the agenda note, to allow filing of appeals in Appellate Tribunal within three months/six months, as the case may be, from the date of communication of the order appealed against or the date as may be notified by the Government on the recommendations of the Council, whichever is later.

4.46 The Pr. Commissioner, GST Policy Wing added that Law Committee also recommended that the said date, to be notified, can be decided based on the readiness of the functionality in respect of Tribunal on the portal as well as based on the status of appointment of Members of various Benches as well as operational readiness of the Benches of the Tribunal. Besides, it was also recommended by the Law Committee that the amendments proposed in sub-section (1) and sub-section (3) of section 112 of CGST Act, may be brought into effect before the completion of three months from the date on which the President of the Appellate Tribunal has entered into office.

4.47 The Pr. Commissioner, GST Policy Wing further mentioned that as per sub-section (6) of section 112 of the CGST Act, the Tribunal is given the power to admit the appeal within three months after the expiry of the appeal filing period of 3 months by the taxpayer as provided in sub-section (1) of the said section. However, similar provision is not provided for allowing the appeals to be filed by the department in the Tribunal under sub-section (3) of section 112 of CGST Act beyond the period of six months specified therein. Law Committee recommended that the Tribunal may be empowered to entertain appeals from the department also for a further period of 3

months after expiry of the period of 6 months as provided in sub-section (3) of the section 112 of CGST Act, in case the Tribunal is satisfied that there was a sufficient cause for such delay. The Law Committee recommended amendment in sub-section (6) of section 112 of CGST Act for this purpose.

**Decision: The Council agreed to amendments in section 112 of the CGST Act as per recommendations of the Law Committee.**

**Agenda Item 3 (iii) : Law Amendment regarding GST Appellate Tribunal**

- (a) Providing for sunset clause for Anti-Profiteering provisions under the GST laws and the handling of Anti-Profiteering cases under Section 171 of the Central Goods and Services Act, 2017 by Appellate Tribunal.**
- (b) Providing for enabling provision for notifying the scope of cases that can be heard by the Principal Bench of GSTAT only.**

4.48 The Pr. Commissioner, GST Policy Wing informed that substantial time-period has passed since the introduction of the GST law, and now it is prudent to re-assess the relevance of the Anti-profiteering provisions which were meant to be transitional provision post the implementation of GST regime in 2017. He further informed that the number of cases coming before Anti profiteering authority are very less in number and therefore, such provisions may no longer be necessary. He added that National Anti- Profiteering Authority (NAA) was constituted to handle the cases relating to anti- profiteering. NAA was operational until November 2022. Vide Notification dated 23<sup>rd</sup> November, 2022, the Competition Commission of India (CCI) was empowered to examine the anti-profiteering cases w.e.f. 01.12.2022. However, CCI has expressed its inability to handle anti-profiteering cases and has requested that adjudication of anti-profiteering matters may be given to an appropriate GST authority.

4.49 The issue was deliberated by the Law Committee and the Law Committee recommended amendment in sub-section (2) of section 171 of the CGST Act, as detailed in the agenda note, by inserting a proviso in the said sub-section to provide for power to the Government to notify the date from which the Authority under section 171 of the CGST Act will not accept any request for examination for anti-profiteering, also by inserting an Explanation in the said sub-section that “request for examination” in the said proviso means the written application filed by an applicant for such examination. Law Committee also recommended notifying 1<sup>st</sup> April, 2025 as the date from which the Authority under section 171 of the CGST Act would not accept any request for examination regarding anti-profiteering.

4.50 Law Committee also recommended that the Principal Bench of GST Appellate Tribunal may be given the mandate to adjudicate anti-profiteering cases under section 171 of the CGST Act considering the inability expressed by Competition Commission of India to handle anti-profiteering cases.

4.51 The Pr. Commissioner, GST Policy Wing, further informed that presently, cases which pertain to Place of Supply, are to be heard only by the Principal Bench of GSTAT. However, there may be requirement of other type of cases also to be heard by Principal Bench of GSTAT only.

4.52 Law Committee recommended amendment of section 109 of CGST Act (amendment of sub-section (1) and insertion of sub-section 5A), as detailed in the agenda note, to provide that

Principal Bench of the Tribunal shall also adjudicate or examine such other matters as may be notified by the Government on the recommendations of the Council. Law Committee also recommended amendment in sub-section 5 & 6 of section 109 of CGST Act, as detailed in the agenda note, to provide for the power to notify other cases or class of cases which shall be heard only by the Principal Bench of GST Appellate Tribunal.

4.53 The Hon'ble Member from Kerala expressed his concern over the said sunset clause for anti-profiteering provisions and stated that there is a need to have a re-look at the said sunset clause. He highlighted the instances where rates have been reduced but the benefit of such rate reduction has not been passed on to the consumer. He, therefore, insisted on devising some mechanism to safeguard the transfer of tax benefits to ultimate consumers.

4.54 The Secretary informed that Anti profiteering provisions are transitional provisions brought specifically in GST law and were extremely necessary at that time considering the monumental transformation brought about by the GST regime. He hoped that now, as GST has already stabilized, market forces would take care of the reduction in prices in case of rate reduction.

4.55 The Hon'ble Chairperson stated that the concern of the Hon'ble Member of Kerala is valid and showed her concern that if the benefits of rate reduction do not accrue to the ultimate consumer then through redressal mechanism, justice could be given to the consumer who is not benefited by such rate reduction. She assured that such redressal could be done by the GST Appellate Tribunal and in case it does not happen, the Council can anytime bring the issue for discussion at the forum.

4.56 The Hon'ble Member from Meghalaya supported the viewpoint of Hon'ble Member from Kerala, however, concurred with the recommendation of Law Committee and agreed to implementing the provision recommended by the Law Committee.

**Decision: The Council agreed with the recommendations of the Law Committee along with the draft Notification.**

**Agenda Item 3 (iv): Amendments in Section 73 and Section 74 of CGST Act, 2017 and insertion of a new Section 74A in CGST Act, to provide for common time limit for issuance of demand notices and orders irrespective of whether case involves fraud, suppression, wilful misstatement etc., or not**

4.57 The Pr. Commissioner, GST Policy Wing stated that different time limits have been specified for issuing demand notice under sections 73 and 74 of the CGST Act. While section 73 covers cases where fraud, suppression, wilful misstatement etc., are not involved, section 74 covers those cases involving fraud or willful misstatement etc. Due to the different time limits for issuing demand notices under sections 73 and 74, revenue can be lost on account of the demand getting time-barred, when cases initially issued under section 74 are subsequently found to be covered under section 73, as charges of fraud, willful misstatement, etc. are not found substantiated. This is due to shorter time limit in section 73 in comparison to section 74. Accordingly, there may be a need to address this concern.

4.58 Therefore, Law Committee felt that it may be desirable that to avoid such revenue loss, there may be a need to have the same the limitation period for issuing demand notices and orders under both type of cases, viz, those involving fraud, suppression of facts, wilful misstatement and those not involving fraud, suppression of facts, wilful misstatement, while keeping a higher penalty

for cases involving fraud, wilful misstatement, or suppression of facts.

4.59 He added that also, the time available for issuance of adjudication order under sections 73 and 74 of the CGST Act of 3 months and 6 months respectively is not sufficient to complete the process in a sound legal way, as the noticee is required to be provided with an opportunity to explain his stand and present evidence of the same which is a time-consuming process since the noticee may need ample time and opportunity to present his case and for the tax authority to verify the same.

4.60 He stated that Law Committee felt that there may be a need to amend the provisions to provide for the same time limit for issuing of demand notices under both type of cases, viz, those involving fraud, suppression, wilful misstatement and those not involving fraud, suppression, wilful misstatement. Besides, the time limit for issuance of demand orders also needs to be increased to provide more time to taxpayers and tax officers for the adjudication process.

4.61 Law Committee further recommended that the limitation period for issuing demand notices, may be made forty two months from the relevant date, and the time limit for issuance of demand orders may be kept at twelve months from the date of issuance of the demand notice, irrespective of whether the charges of fraud, suppression or willful misstatement of facts are invoked or not. It was also recommended that some flexibility of time limit for issuance of demand order may be provided in cases where the proper officer is not able to issue the order within the period specified above due to some situations, and in the deserving cases, the Commissioner, or an officer authorized by the Commissioner senior in rank to the proper officer but not below the rank of Joint Commissioner of Central Tax, may extend the said period further by a maximum of six months, after recording the reasons in writing.

4.62 He further mentioned that there is a need to have a relook at the time period provided for payment of entire tax demanded along with interest and reduced penalty by the taxpayer for concluding the proceedings under the said sections. He stated that the Law Committee felt that the time period of **thirty days** is too short for the taxpayers to analyse the said notice, and take a decision for payment of full amount of tax demanded, along with interest, and reduced penalty, as applicable. **In view of above, the Law Committee recommended to increase the said time limit from '30 days' to '60 days' under the sub-section (8) of section 73 and sub-section (8) of Section 74.**

4.63 Law Committee recommended that these amendments may be made prospective, in respect of demands for the period FY 2023-24 onwards. Law Committee after due deliberations recommended the insertion of a new section, Section 74A to the CGST Act, 2017, as detailed in the agenda note. The Law Committee also recommended amendments in Sections 73 and 74 of the CGST Act, to restrict their applicability up to FY 2022-23.

4.64 He also mentioned that consequential amendments may also need to be done in multiple sections of CGST Act, 2017, as detailed in the agenda note. He mentioned that one of the consequential amendment recommended by the Law Committee pertain to that in section 17(5) of the CGST Act so as to restrict clause (i) of section 17(5) in respect of tax paid upto FY 2022-23. He mentioned that after insertion of proposed section 74A in CGST Act for determination of tax demands for FY 2023-24 onwards, there shall be no distinction between the tax demanded and paid in terms of section 73 and section 74, and therefore, there

will be no need to block input tax credit on the tax paid in accordance with section 74 in the said clause for FY 2023-24 onwards. Besides, it was felt that this will also help in recovery of taxes demanded under Section 74A of the CGST Act, 2017.

4.65 He stated that Officers' meeting held on 21.06.2024, officer from State of Bihar in mentioned that there are cases where SCNs for FY 2023-24 have already been issued under existing Section 73. He mentioned that it was accordingly suggested in Officers' meeting that the proposed Section 74A may be implemented for demands of FY 2024-25 onwards. He also mentioned that consequential changes, including in section 17(5)(i) of CGST Act, may also be done accordingly for implementing them for demands for FY 2024-25 onwards.

4.66 The Hon'ble Member from West Bengal raised concerns regarding the merger of sections 73 and 74 of the CGST Act, 2017, questioning the appropriateness of allowing input tax credit (ITC) on taxes paid in cases involving fraud.

4.67 In response, Pr. Commissioner, GST Policy Wing clarified that penalties differ significantly between fraud and non-fraud cases, with fraud cases attracting a 100% penalty on the tax demanded compared to 10% for non-fraud cases. He stated that the issue is whether recipient should be denied credit altogether where tax has been paid along with interest and higher penalties are being charged from the taxpayer. The Law Committee deliberated on this and felt that consequent of having a single provision for demands in cases involving fraud and not involving fraud, there may not be a case for blocking input tax credit on the tax paid.

4.68 Responding to the concern raised by the Hon'ble Member from West Bengal, the Secretary stated that denying ITC could lead to double taxation and excessively harsh penalties, including penal interest at 18% per annum. This coupled with a 100% penalty on tax demands, would discourage compliance, if input tax credit is also denied to the recipient. He proposed allowing ITC where taxes have been paid, arguing that penalties are different between fraud and non-fraud cases to maintain fairness. He also added that overly stringent penal provisions, by denial of input tax credit to recipients, would significantly burden taxpayers.

**Decision: The Council agreed with the said recommendations of the Law Committee, along with the suggestions made in Officers' meeting and to implement the proposed Section 74A for demands for FY 2024-25 onwards.**

**Agenda Item 3(v): Amendment in section 39 of CGST Act and rule 66 of CGST Rules, 2017 for mandating NIL returns by TDS deductors and waiver of late fee for late filing of NIL FORM GSTR-7, along with changes in FORM GSTR - 07 for inserting invoice/ document-wise details of tax deducted at source.**

4.69 The Pr. Commissioner, GST Policy Wing stated that FORM GSTR-7, i.e. return to be filed by TDS deductors in terms of section 39(3) of CGST Act read with rule 66 of CGST Rules, is required to be filed only for the months in which deductions have been made. Due to this, the tax administrators are finding it difficult to monitor the filing of the FORM GSTR-7 by the TDS deductors. .

4.70 He informed that the Law Committee recommended that FORM GSTR-7 may be made mandatory to be filed each month, irrespective of whether any deductions have been made by the TDS deductors in the said month or not, by way of amendment to section 39(3) of CGST Act.

Law Committee also recommended that no late fee should be payable in respect of delayed filing of such nil FORM GSTR-7 returns. Also, GSTN may provide functionality for single click filing of a nil return in FORM GSTR-7 on the common portal and/ or a mobile application. Law Committee also recommended that the time limit to furnish FORM GSTR-7 return within 10 days of the end of such month may be brought under the Rule 66(1) of CGST Rules instead of Section 39(3) of CGST Act.

4.71 He added that representations have also been received from the trade that as the extant format of FORM GSTR-7 does not require invoice-wise details to be furnished, the deductee is forced to accept/ reject the entire amount passed by a particular deductor. Requests have been made to provide for invoice-wise details in the said return. The Law Committee recommended that Table 3 and Table 4 of FORM GSTR-7 may be amended to provide for invoice wise details.

4.72 The Law Committee has, accordingly, recommended amendments in sub-section (3) of Section 39 of CGST Act, sub-rule (1) of Rule 66 of CGST Rules and FORM GSTR- 7, and issuance of a notification to waive late fee for delayed filing of Nil FORM GSTR-7 return, as detailed in the agenda note.

**Decision: The Council agreed with the said recommendations of the Law Committee along with the draft Notification.**

**Agenda Item 3(vi): Relaxation in condition of section 16(4) of the CGST Act with respect to cases where returns have been filed after revocation for initial years of implementation of GST.**

4.73 The Pr. Commissioner, GST Policy Wing informed that several representations have been received from the trade and industry requesting for relaxation of the timelines stipulated in section 16(4) of CGST Act, 2017 for availment of input tax credit in respect of:-

- a. initial years of GST i.e. FY 2017-18, FY 2018-19, FY 2019-20 and FY 2020-21; and
- b. cases where the returns for the period from date of cancellation of registration/ effective date of cancellation of registration till the date of revocation of cancellation of registration are filed after revocation of cancellation of registration.

4.74 He informed that in respect of cases at (b) above, the Law Committee observed that as such return for the period from date of cancellation of registration/ effective date of cancellation of registration till the date of revocation of cancellation of registration cannot be filed on the portal by such taxpayers till their cancellation of registration is revoked, there is a need to extend the time lines for section 16(4) of CGST Act in such cases, subject to certain conditions. Law Committee felt that relaxation is warranted in respect of time limit for availment of input tax credit under section 16(4) of CGST Act in cases where the returns for the period from date of cancellation of registration/ effective date of cancellation of registration till the date of revocation of cancellation of registration are filed after revocation of cancellation of registration, but where the due date to avail input tax credit under section 16(4) of CGST Act is already over. It was proposed that the time limit to avail input tax credit under Section 16(4) of CGST Act in respect of any invoice or debit note, may be extended till the date of filing return in cases where the returns for the period from date of cancellation of registration/effective date of cancellation of registration till the date of revocation of cancellation of registration are filed within 30 days of revocation of cancellation of

registration, subject to the condition that the time limit to avail input tax credit in respect of the said invoice or the debit note under section 16(4) of CGST Act had not already expired on the date of cancellation of registration. This could be done by retrospective amendment of section 16(4) of CGST Act, with effect from 01.07.2017, as detailed in the agenda note.

4.75 It was also recommended by the Law Committee that a clause may be inserted in the Finance Act to the effect that no refund shall be admissible on account of the said retrospective amendment in cases where such amount had already been paid or reversed on account of contravention of section 16(4) of the Act.

4.76 The Law Committee also recommended that a specific clause may be inserted in section 30(2) of the CGST Act to provide for enabling provision to prescribe conditions and restrictions for revocation of cancellation of registration. Besides, a specific clause may be inserted in rule 21 of CGST Rules providing for cancellation of registration in respect of contravention of provisions of third and fourth proviso to rule 23(1) of CGST Rules i.e. if the taxpayer fails to file returns pertaining to the period from date of cancellation of registration/ effective date of cancellation of registration till the date of revocation of cancellation of registration, within 30 days of revocation of cancellation of registration.

4.77 He further stated that as regards the cases referred in (a) of Para 4.74, i.e. the cases where the returns for initial years of GST viz. FY 2017-18, FY 2018-19, FY 2019-20 and FY 2020-21 were filed delayed, by when, the time limit to avail input tax credit under section 16(4) had already expired. The Law Committee deliberated upon the three options by retrospective amendment of section 16(4) of CGST Act, with effect from 01.07.2017, for providing relief to such taxpayers who filed delayed returns during these initial years, by which time limit under section 16(4) had expired:

**Option 1:** The time limit to avail input tax credit under Section 16(4) of CGST Act, through any FORM GSTR 3B filed till 30.11.2021 for the financial years 2017-18, 2018-19, 2019-20 and 2020-21, may be deemed to be 30.11.2021.

**Option 2:** The time limit to avail input tax credit under Section 16(4) of the CGST Act for the financial years 2017-18, 2018-19, 2019-20 and 2020-21, in any FORM GSTR 3B return of the month upto September following the financial year to which such invoice or debit note pertains, which is filed upto 30.11.2021, may be extended upto 30.11.2021.

**Option 3:** The time limit to avail input tax credit under Section 16(4) of the CGST Act may be extended to the actual date of filing of FORM GSTR 3B or the date specified in Section 16(4) of the Act, whichever is later, in respect of returns in FORM GSTR 3B filed within the time period specified in the Late fee Amnesty schemes, as under:

- (a) GSTR 3Bs pertaining to July 2017 to January 2020, filed between 01.07.2020 to 30.09.2020, in pursuance to Notification No. 52/2020 — Central Tax dated 24.06.2020.
- (b) GSTR 3Bs pertaining to July 2017 to March 2021, filed between 01.06.2021 to 30.11.2021, in pursuance to Notification No. 19/2021 — Central Tax dated 01.06.2021 as amended by Notification No. 33/2021 — Central Tax dated 31.08.2021.

4.78 In respect of all these options, it was also proposed that no refund shall be admissible on account of the said retrospective amendment in cases where the amount of ITC has already been paid or reversed in such cases. The Law committee deliberated on the matter, however, no consensus could be achieved in respect of the said issue.

4.79 The Principal Commissioner, GST Policy Wing informed that the matter was further deliberated in the Officers' Meeting held on 21.06.2024 and a view emerged that Option 1, detailed in Para 4.78 above, can be considered for providing relief to the taxpayers for initial years of GST, viz. financial years 2017-18, 2018-19, 2019-20 and 2020-21. However, it was suggested in the said meeting that the issue may be decided by the GST Council.

4.80 The Hon'ble Member from Uttar Pradesh stated that providing relief for time limit of section 16(4) in respect of FY 2017-18, FY 2018-19, FY 2019-20 and FY 2020-21, might place a great burden on the States' exchequer and would not be feasible.

4.81 The Pr. Commissioner, GST Policy Wing explained that taxpayers have already availed the input tax credit. The current issue is with taxpayers who filed late returns after the due date of section 16(4) and availed ITC in those returns. This situation could result in excessive demands and potential litigation, with low chances of recovery, especially from small taxpayers. He further stated that it was also deliberated in the Law Committee and it was observed that recovery would be challenging in these cases. Therefore, it may be desirable to go ahead with option 1 as suggested in Officers' Meeting, as it would not only provide relief to the taxpayers for the initial years, but will also reduce the work load of the officers by reducing unnecessary litigation, specially when recovery would be difficult.

4.82 The Hon'ble Member from Uttar Pradesh stated that taxpayers are already being received relief of interest and penalty through another amnesty scheme mentioned in the agenda notes. Providing another such amnesty would not be appropriate and could open a Pandora's box.

4.83 The Secretary clarified that several late fee amnesty schemes were notified for the initial years, as per which the waiver/ reduction of late fee for delayed filing of returns was provided after detailed deliberation in the Council. The reduction in late fees was a small amount. Despite this, taxpayers still had to file returns, pay tax and interest @18% per annum. However, no parallel relaxation of conditions under Section 16(4) of the CGST Act was extended for returns filed pursuant to such schemes. Consequently, all the input tax credit availed in such delayed filed returns is being denied and demanded as irregularly availed ITC. This is because the ITC was taken in returns filed after the due date to avail ITC in terms of Section 16(4) of the CGST Act. He stated that denying ITC in such cases would be very harsh on taxpayers.

4.84 The Hon'ble Member from Uttar Pradesh suggested that penalty and interest could be waived for taxpayers in cases other than fraud. However, opening the Pandora's box for ITC in terms of such an amnesty scheme would be a great burden on the State, potentially affecting the demand of nearly Rs 5000 crores.

4.85 The Secretary clarified that this amount is not the actual demand to be collected but an demand for the already availed ITC, which has been availed in delayed filed returns, along with tax, interest, and penalty.

4.86 The Pr. Commissioner, GST Policy Wing added that these cases involve a number of small taxpayers who will be adversely affected by such demands. Recovery would be very difficult for tax officials and would take years to complete the process.

4.87 The Hon'ble Member from Karnataka mentioned that taxes have been paid with already adjustments made for Input Tax Credit, and are primarily related to the initial periods, mostly involving smaller assesses. Notably, no large or institutional assesses are implicated, and the financial implications are minor rather than substantial. He highlighted that there are 15,000 cases in Karnataka involving only Rs. 600 crores. Expressing concerns over the operational impact, he cautioned against pursuing these cases extensively and as a potential distraction for officers, akin to a wild goose chase. Consequently, he urged the Hon'ble Member from Uttar Pradesh to support the proposal, emphasizing its role in system cleanup and expediting new demand processes.

4.88 The Hon'ble Member from Goa endorsed Karnataka's stance, noting that earlier while relaxation in the timeline was given with respect to the filing returns, but unfortunately, there was no relaxation of the condition imposed under the section 16 (4) regarding the claiming of the input tax credit.

4.89 The Hon'ble Member from Bihar affirmed that the proposal had good potential to enhance ease of doing business. Members from Madhya Pradesh and Haryana concurred with the proposal.

4.90 The Hon'ble Chairperson subsequently sought the opinion of the Hon'ble Member from Uttar Pradesh, who then agreed with the perspectives shared by other members and endorsed the proposal as given in the concerned Agenda notes, along with view taken in the Officers' meeting regarding going ahead with Option 1.

**Decision: The Council agreed with the recommendations of the Law Committee, along with the suggestion made in the Officers' Meeting for option 1, as detailed in Para 4.78, in respect of cases at para 4.74 (a).**

**Agenda Item 3(vii): Insertion of Section 128A in CGST Act, to provide for conditional waiver of interest or penalty or both relating to demands raised under Section 73, for FY 2017-18 to FY 2019-20.**

4.91 The Pr. Commissioner, GST Policy Wing stated that a large number of representations have been received seeking relief from interest and penalties, considering the challenges faced by taxpayers during the initial years of implementation of GST, and to encourage compliance and support businesses to move forward.

4.92 He stated that Law Committee deliberated on this issue and recommended providing a waiver of interest and penalty to the demand notices issued under Section 73 of the CGST Act, 2017, for FY 2017-18, FY 2018-19 and FY 2019-20, i.e. cases not involving fraud or wilful misstatement or suppression of facts, subject to the condition that the said taxpayer pays the full amount of tax demanded upto a date as may be notified on the recommendations of the Council. Law Committee also recommended that such waiver may not be extended in respect of cases involving charges of fraud or wilful misstatement or suppression of facts to evade tax, i.e. where demand notices have been issued under section 74 of CGST Act and also in cases involving demands of erroneous refund.

4.93 Law Committee also recommended that in case, where demand notice has been issued under section 74 of CGST Act, but during the appellate or court proceedings, it is concluded that charges of fraud or wilful misstatement or suppression of facts to evade tax are not established against the noticee, and the tax is required to be determined by proper officer under section 73 of

CGST Act as per section 75(2) of CGST Act, the benefit of such waiver of interest and penalty may be made available in such cases as well. He further stated that the Law Committee has also recommended that in cases where interest and penalty have already been paid in respect of any demand/ proceedings for the said financial years, no refund shall be admissible for the same. To implement the said recommendations for waiver of interest and penalty, the Law Committee recommended insertion of Section 128A in the CGST Act as detailed in the agenda note.

4.94 He added that in the Officers' Meeting held on 21.06.2024, State of Andhra Pradesh raised the issue whether the payment of tax in proposed section 128A also includes payment of cess, or the same needs to be modified to provide for payment of cess also. It was discussed that cess, where applicable, is also required to be paid to avail the benefit of the proposed waiver of interest and penalty. It was also discussed that from the joint reading of the proposed Section 128A of CGST Act, along with Section 20 of IGST Act and Section 11 of GST (Compensation to States) Act, it appears that payment of tax under the proposed section 128A also covers cess. However, Ministry of Law and Justice may be consulted while finalizing the draft of the proposed section.

4.95 The Hon'ble Member from Haryana suggested including demands pertaining to FY 2020-21 in the waiver, considering the impact of the pandemic.

4.96 The Secretary responded that the demands for FY 2020-21 are not yet finalized, making it challenging to assess the potential benefits of extending the Amnesty to that period. He proposed waiting until the finalization of payments and demands for FY 2020-21. If necessary, the matter can be reconsidered at later stage.

4.97 The Hon'ble Member from Tamil Nadu supported the proposal, highlighting that it encourages taxpayers to settle their dues, thus enabling the government to realize the full tax amount. He further suggested that enhancing the IT system to distinguish the demand raised under section 73 of the CGST Act, 2017, and the payment made towards it in the demand collection register to study the revenue implications as this data is crucial for accurately assessing revenue implications. Currently, the amount paid through FORM GST DRC-03 towards the demands raised is not readily available in MIS reports.

4.98 The Secretary requested the State of Tamil Nadu to submit a formal proposal. Upon consideration, necessary amendments in the forms may be examined by the Law Committee to enable to know how much of the demand is being paid through FORM DRC-03. Secretary also suggested that 31.03.2025 may be notified as the date upto which the the taxpayers may be required to pay the full due amount of tax demanded to avail the said waiver of interest and penalty in proposed section 128A.

4.99 The Hon'ble Chairperson then sought opinion from the Members for making the amendments in respect of law amendments being proposed in their respective Acts till 01.10.2024. All Members were in agreement with the same.

**Decision: The Council agreed with the said recommendations of the Law Committee, along with the suggestion of the Secretary regarding the date to be notified for payment of due tax liability.**

**Agenda Item 3 (viii): Reduction of Government Litigation – fixing monetary limits for filing appeals or applications by the Department before GSTAT, High Courts and Supreme Court**

4.100 The Pr. Commissioner, GST Policy Wing informed that Section 120 of the CGST Act allows for setting of monetary limits to regulate appeals by tax authorities. However, no monetary limits for filing appeals by tax authorities have been specified in GST. To ensure that appeals are filed by the Department in GST Appellate Tribunal (GSTAT), High Court and Supreme Court only for significant revenue or important policy matters, it is prudent to prescribe monetary limit as are also set under Central Excise, Service Tax, Customs and Income Tax Act.

4.101 The matter was deliberated by the Law Committee. The Law Committee recommended issuance of a circular for providing the following monetary limits for filing appeal by the Department:

<b>Appellate Forum</b>	<b>Monetary Limit (Rs.)</b>
GSTAT	20,00,000/-
High Court	1,00,00,000/-
Supreme Court	2,00,00,000/-

4.102 The Law Committee recommended principles to determine if a case falls within the specified monetary limits. It also advised that these limits for filing appeals by the department before GSTAT, High Court, and the Supreme Court should not apply in certain circumstances as per the Agenda notes. In such cases, the decision to file an appeal should be based on merits, regardless of the monetary limits.

4.103 The Hon'ble Member from Puducherry suggested to reduce the limit to file appeal in GSTAT so that second appeal can be filed for cases under Rs 20,00,000/- in such cases where the first appeal has been decided in favor of the taxpayer.

4.104 The Pr. Commissioner, GST Policy Wing clarified that the proposed monetary limit is only for the department to file appeal and not taxpayers. He further clarified that proposed Circular to be issued provides for exclusion of cases from the monetary limit where Acts, Rules, Circulars or Notifications are challenged or when a recurring issue involves interpretation. Additionally, the Board (or the Commissioner, in case of States) can order an appeal in the interest of revenue, regardless of the monetary limit.

4.105 The Hon'ble Member from Tamil Nadu agreed in principle for setting monetary limit for filing appeals but raised the concern that the proposed monetary limit is on higher side which may lead to benefit for the taxpayers. He also informed that Tamil Nadu has a separate litigation policy with monetary limits set at Rs. 1,00,000 for the Tribunal, Rs. 5,00,000 for the High Court and Rs. 20,00,000 for the Supreme Court. However, in the proposed amendment, the limit is proposed as Rs. 20,00,000 even for the Tribunal. The Hon'ble Member further suggested to set the limit at Rs. 5,00,000 for the Tribunal, Rs. 10,00,000 for the High Court and Rs. 20,00,000 for the Supreme Court.

4.106 The Hon'ble Member from Karnataka agreed with the proposal from Tamil Nadu and further suggested implementing a lower monetary ceiling for one year, which can be revisited and potentially relaxed based on experience. He added that otherwise, officers may be constrained in pursuing matters, requiring approval from higher authorities for every small appeal.

4.107 The Hon'ble Member from Kerala emphasized the need to eliminate arbitrariness in the process, echoing concerns raised by the Minister from Tamil Nadu, further highlighting that numerous cases could arise, especially when amounts are set for Rs. 1,00,00,000/- for High Court and Rs. 2,00,00,000/- for Supreme Court. Such scenario potentially allows large businesses to exploit loopholes, leading to arbitrariness.

4.108 The Hon'ble Member from Chhattisgarh agreed with the limits proposed in the agenda and emphasized that higher limit is necessary to reduce litigation.

4.109 The Hon'ble Member from Maharashtra agreed with the proposal in the agenda and highlighted the cost of litigation incurred in higher courts i.e. High Court and Supreme Court.

4.110 The Hon'ble Member from Uttarakhand informed that out of 2,00,000 registered traders in the State, 85% have turnovers up to Rs. 1,00,00,000. He expressed agreement with the limit proposed by the Hon'ble Member of Tamil Nadu stating that such limits are suitable for smaller states like theirs.

4.111 The Hon'ble Member from West Bengal agreed with the proposal in the agenda stating that if the need arises, then the limits may be reviewed.

4.112 The Secretary emphasized the need to reduce litigation highlighting that GST Tribunal is not yet operational. Meanwhile, the High Courts and the Supreme Court are overwhelmed with cases, leading to prolonged disputes and uncertainty for taxpayers. Further, the Secretary stated that most of the States agree with the proposal of Law Committee assuring that if need arise these limits can be reconsidered in future.

**Decision: The Council agreed with the said recommendations of the Law Committee.**

**Agenda Item 3(ix): Insertion of new form FORM GSTR-1A for the amendment and declaring additional details to FORM GSTR-1, for enabling locking of FORM GSTR- 3B based on liability declared in FORM GSTR-1**

4.113 The Pr. Commissioner, GST Policy Wing presented the agenda item regarding the introduction of a new optional facility by way of FORM GSTR-1A which would allow a taxpayer to add any particulars of outwards supply of the current tax period missed out in reporting in FORM GSTR-1 of the current tax period or to amend any particulars already declared in FORM GSTR-1 of the current tax period, before filing of the return in FORM GSTR-3B of the current tax period.

4.114 He informed that currently, such amendment can be carried out only in a FORM GSTR-1 of a subsequent tax period. He added that such functionality will facilitate the taxpayers to make corrections in the liability reported in FORM GSTR-1, before filing of the return in FORM GSTR-3B, so that the correct liability is auto-populated in FORM GSTR-3B. This will prevent flagging of the difference in liability in FORM GSTR-1 and FORM GSTR-3B by the system.

4.115 He stated that introduction of new optional FORM GSTR-1A would streamline the filing of FORM GSTR-3B by auto-populating tax liability from FORM GSTR-1 and would facilitate locking the liability in FORM GSTR-3B from the liability declared in FORM GSTR-1 (along with amendments done through FORM GSTR-1A) in future, to minimize manual interference and unintended errors. These changes would improve the accuracy of tax reporting, reduce compliance burden and enhance the overall efficiency of the GST return filing process.

4.116 He further informed that the Law Committee recommended in Rules 59, 60 and 88C of CGST Rules to implement FORM GSTR-1A. Law Committee also recommended consequential amendments in various other forms and rules, as detailed in the agenda note.

4.117 He added that Law Committee also recommended changes in FORM GSTR-2B on account of:

- i. introduction of a table to provide details (on annual basis) of invoice or debit note against which ITC is required to be reversed in terms of Rule 37A of CGST Rules;
- ii. furnishing the details of section 9(5) supplies in FORM GSTR-1 by E- commerce operators; and
- iii. amendment in advisory/instructions in the FORM GSTR-2B to the effect that negative credit (on account of amendment of invoice or debit note or due to a credit note) is to be netted off in respective rows in Table 4(A) of FORM GSTR-3B instead of Table 4(B)(2) of the same.

**Decision:** The Council agreed with the recommendations of the Law Committee detailed in the agenda note.

**Agenda Item 3(x): Issue of liability of payment of interest under Section 50 of CGST Act in case of delayed payment of tax, even though the credit is available in Electronic Cash Ledger (ECL)**

4.118 The Pr. Commissioner, GST Policy Wing presented the agenda item regarding the issue of liability for interest payment under Section 50 of CGST Act in cases of delayed tax payment, when some balance is available in the Electronic Cash Ledger (ECL). He stated that references have been received regarding liability to pay interest under section 50 of CGST Act, 2017 in cases where balance is available in the ECL of the taxpayer, but the GSTR-3B return could not be filed by the due date due to various reasons. He explained that in such cases, the taxpayers' liability to pay interest arises on delayed filing of the return, as the tax is considered to be paid only upon filing of the return and debiting the tax due from the ECL or Electronic Credit Ledger.

4.119 The Pr. Commissioner, GST Policy Wing emphasized that the amount deposited in the ECL has already been credited to the Government account, regardless of whether it has been debited through the ledger, or not. He added that demanding interest on such amounts for delayed filing of return appears unfair and amounts to levying interest on funds already lying with the Government.

4.120 Law Committee observed that as the amount credited in Electronic Cash Ledger is already available with the Government, it would be desirable to modify the interest provisions to provide that interest is not payable in respect of the amount available in the Electronic Cash Ledger of the taxpayer on the due date of filing return, where GSTR 3B return for a tax period is filed beyond the due date. Accordingly, Law Committee recommended that rule 88B of CGST Rules, 2017, which provides for the manner for calculation of interest on delayed payment of tax, may be amended by inserting a proviso to the sub-rule (1) of rule 88B of CGST Rules, 2017 to provide that in cases of delayed filing of return, any amount which is already available in the Electronic Cash Ledger on the due date of filing of the said return and which is subsequently

debited from the said ledger along with the return, shall not be included while calculating the interest under section 50 of the CGST Act.

**Decision: The Council agreed with the recommendations of the Law Committee and proposed amendments in Rule 88B of CGST Rules, 2017 regarding the calculation of interest on delayed payment of tax in cases where balance is available in the Electronic Cash Ledger.**

**Agenda Item 3(xi): Reduction in rate of TCS to be collected by the ECOs for supplies being made through them**

4.121 The Pr. Commissioner, GST Policy Wing presented the agenda item regarding the reduction in the rate of Tax Collected at Source (TCS) to be collected by Electronic Commerce Operators (ECOs) for supplies made through them.

4.122 He stated that the current TCS rate is 1% (0.5% CGST + 0.5% SGST/ UTGST, or 1% IGST) of the net value of taxable supplies made through ECOs. He added that the data provided by GSTN has showed that about 50% of TCS collected was being refunded to the suppliers due to inability to utilize the cash credited in their Electronic Cash Ledger. This situation causes working capital constraints for the suppliers and increases the workload of tax officers processing such refund applications.

4.123 The Pr. Commissioner, GST Policy Wing emphasized that the original intent of TCS was to ensure tracking and not to withhold significant working capital from the suppliers.

4.124 The Law Committee recommended to reduce the TCS rate from 1% to 0.5% (0.25% CGST + 0.25% SGST/UTGST, or 0.5% IGST) by amending Notification No. 52/2018-CT dated 20.09.2018, Notification No. 02/2018-IT dated 20.09.2024 and Notification No. 12/2018-UTT dated 28.09.2018.

**Decision: The Council agreed with the recommendations of the Law Committee and proposed amendments in the relevant notifications.**

**Agenda Item 3(xii): Clarifications on various issues pertaining to special procedure for the manufacturers of the specified commodities, like pan masala, tobacco etc.**

4.125 The Pr. Commissioner, GST Policy Wing presented the agenda item regarding clarifications on various issues pertaining to the special procedure for manufacturers of specified commodities, such as pan masala, tobacco, etc., as per Notification No. 04/2024-Central Tax dated 05.01.2024. He informed that a special procedure has been notified by the Government, based on the recommendations of the Council, vide Notification No. 30/2023-Central Tax dated 31.07.2023, superseded by Notification No. 04/2024-Central Tax dated 05.01.2024, read with Notification No. 08/2024-CT dated 10.04.2024, to be followed by the manufacturers of the goods mentioned in the Schedule to the said notification, including pan masala, chewing tobacco, gutkha, etc. with effect from 15.05.2024. The said special procedure requires the taxpayer to file two FORMs, viz. one, for registration and disposal of the machines i.e. FORM SRM-I and the second, for filing monthly details of inputs and outputs i.e. FORM SRM-II. Representations have been received from trade and industry requesting for clarification about various issues pertaining to the said special procedure.

4.126 He further stated that the Law Committee felt that certain issues raised by industry in representations need to be clarified through a Circular. The Law Committee recommended

issuance of a Circular for inter alia clarifying the following:

- a. If the make, model number and machine number is not available for a particular machine, then any numeric number can be declared for the said machine as machine number and make will be the year of purchase of the machine.
- b. In cases where the electricity consumption rating of the packing machine is not available in specifications of the machine, then the manufacturer may get such electricity consumption per hour of the said machine calculated through a Chartered Engineer and get the same certified by the said Chartered Engineer.
- c. In case of goods having no MRP, then the sale price of the goods so manufactured may be entered in FORM GST SRM-II.
- d. The said special procedure is not applicable to the manufacturing units located in Special Economic Zone.
- e. The said special procedure is not applicable in respect of manual seamer/ sealer being used for packing operations.
- f. The said special procedure shall be applicable to all persons involved in manufacturing process including a job worker / contract manufacturer. However, if the job worker/ contract manufacturer is unregistered, then the liability to comply with the said special procedure will be of the concerned principal manufacturer.

**Decision: The Council agreed with the recommendations of the Law Committee regarding the issuance of the Circular for clarifying various issues pertaining to the special procedure for manufacturers of specified commodities, as per Notification No. 04/2024-Central Tax dated 05.01.2024.**

**Agenda Item 3(xiii): Clarification on the provisions of clause (ca) of Section 10(1) of the Integrated Goods and Service Tax Act, 2017 relating to place of supply of goods to unregistered persons.**

4.127 The Pr. Commissioner, GST Policy Wing presented the agenda item regarding clarification on the provisions of clause (ca) of Section 10(1) of the Integrated Goods and Service Tax Act, 2017 (IGST Act) relating to the place of supply of goods to the unregistered persons.

4.128 He informed the Council that references have been received from trade and industry seeking clarification regarding the place of supply in terms of newly added clause (ca) of section 10(1) of the IGST Act, in case of supply of goods made to an unregistered person where the billing address is different from the address of delivery of goods, especially in the context of supply being made through e-commerce platforms.

4.129 He further informed that the Law Committee recommended issuance of a circular clarifying that in cases involving supply of goods to unregistered persons, where the address of delivery of goods recorded on the invoice is different from the billing address of the said unregistered person on the invoice, the place of supply of goods in accordance with the provisions of clause (ca) of sub-section (1) of section 10 of IGST Act, shall be the address of delivery of goods recorded on the invoice. Besides, where the billing address and delivery address are different in cases of supply of goods to an unregistered person, the supplier may record the delivery address as the address of the recipient on the invoice for the purpose of determination of place of supply of the said supply of goods.

4.130 The Pr. Commissioner, GST Policy Wing, presented the draft circular, as recommended by the Law Committee, for the approval of the GST Council.

**Decision: The Council agreed with the recommendations of the Law Committee for issuance of the proposed circular clarifying the provisions of clause (ca) of Section 10(1) of the Integrated Goods and Service Tax Act, 2017 relating to the place of supply of goods to unregistered persons.**

**Agenda Item 3(xiv): Providing a mechanism for adjustment of payments made through FORM DRC-03, in respect of a demand against pre-deposit as well as for adjustment of liability in Electronic Liability Register (Amendment in Rule 142 of CGST Rules, 2017 along with clarification circular).**

4.131 The Principal Commissioner, GST Policy Wing mentioned that when a taxpayer makes a payment vide FORM GST DRC-03, in respect of an amount to be paid against a demand, either voluntarily or on persuasion of the tax authorities, currently, there is no mechanism to adjust the payment so made through DRC-03 against the payment to be made towards a particular demand. This is causing difficulty to the taxpayers to pay the amounts required to be paid as pre-deposit for filing appeals, as well. There may be a need to provide for a functionality for adjustment of the said amount paid for a demand through DRC-03 against the amount to be paid as pre-deposit for filing appeal or for adjustment of liability created by a demand in Electronic Liability Register. He added that a need has also been felt for conclusion of proceedings initiated vide FORM GST DRC- 01A, in cases where the reply or the payment or both submitted by the taxpayer is found satisfactory by the proper officer. Further, it has also been felt that FORM DRC-03 may be auto-acknowledged on the system.

4.132 The Law Committee deliberated on these issues and recommended the following:

- a. For processing such cases, where the payment to be made in respect of a demand has been paid through FORM GST DRC-03, a new form FORM GST DRC-03A may be inserted in CGST Rules, which will enable the taxpayers to adjust the amounts paid through FORM GST DRC-03, towards the amounts to be paid towards a demand.
- b. Some amendments may be made in FORM GST DRC-03.
- c. A circular may be issued to clarify the mechanism for adjustment of payments made through FORM DRC-03 in respect of a demand, against pre-deposit as well as for adjustment of liability in Electronic Liability Register.
- d. Amendment in Rule 142 of CGST Rules for the above as well as to provide for auto-acknowledgement of FORM GST DRC-03 on the common portal, and for conclusion of proceedings initiated vide FORM GST DRC-01A, in cases where the reply or the payment or both submitted by the taxpayer is found satisfactory by the proper officer.

4.133 The Pr. Commissioner, GST Policy Wing, informed that in the Officers' meeting held on 21.06.2024, the officer from Kerala requested to separately examine the possibility of auto-acknowledgement of FORM DRC -03 for the past periods also.

**Decision: The Council agreed with the recommendations of the Law Committee and approved proposed amendments in Rule 142 of CGST Rules, FORM GST DRC- 03, FORM**

**GST DRC-04, along with insertion of FORM GST DRC-03A, and also issuance of the proposed draft Circular.**

**Agenda Item 3(xv): Clarification on valuation of supply of import of services by a related person where recipient is eligible to full input tax credit**

4.134 The Pr. Commissioner, GST Policy Wing informed that representations have been received from the trade stating that demands are being raised by field formations on taxability of certain activities undertaken by the related person based outside India, without any consideration, in the hand of the related person in India as import of services based on the deeming fiction in S. No. 4 of Schedule I of CGST Act, 2017. It has been requested that the same treatment, which is being given to domestic related parties as per clarification provided by Circular No. 199/11/2023-GST dated 17.07.2023, may also be provided in all such cases where a foreign entity is providing service to its related party located in India and where full ITC is available to the recipient located in India.

4.135 He informed that the matter was deliberated by the Law Committee and the Law Committee recommended that it may be clarified through a Circular that in cases where the foreign affiliate is providing certain services to the related domestic entity, for which full input tax credit is available to the said related domestic entity, the value of such supply of services declared in the invoice by the said related domestic entity may be deemed as open market value in terms of second proviso to rule 28(1) of CGST Rules. The Law Committee also recommended to further clarify that in cases where full input tax credit is available to the recipient, if the invoice is not issued by the related domestic entity with respect to any service provided by the foreign affiliate to it, the value of such services may be deemed to be declared as Nil, and may be deemed as open market value in terms of second proviso to rule 28(1) of CGST Rules.

**Decision: The Council agreed with the said recommendations of the Law Committee along with the draft circular.**

**Agenda Item 3(xvi): Clarification regarding applicability of provisions of Section 16(4) of CGST Act, 2017, in respect of invoices issued by the recipient under RCM.**

4.136 The Pr. Commissioner, GST Policy Wing informed that representations have been received from trade and industry seeking clarity on the applicability of time limit specified under section 16(4) of Central Goods & Services Tax Act, 2017 for the purpose of availment of input tax credit (ITC) by the recipient on the tax paid by him under reverse charge mechanism (RCM) in respect of supplies received from unregistered persons. He mentioned that doubts are being raised as to whether the relevant financial year to which invoice pertains, for the purpose of section 16(4) of CGST Act, is the year in which the said supply was received or the year in which the invoice for the said RCM supply has been issued by the recipient.

4.137 The matter was deliberated by the Law Committee and the Law Committee recommended to clarify through a circular that in cases of supplies received from unregistered suppliers, where tax has to be paid by the recipient under reverse charge mechanism (RCM) and where invoice is to be issued by the recipient of the supplies in accordance with section 31(3)(f) of CGST Act, the relevant financial year for calculation of time limit for availment of input tax credit under the provisions of section 16(4) of CGST Act will be the financial year in which the invoice has been issued by the recipient under section 31(3)(f) of CGST Act, subject to payment of tax on the said supply by the recipient and fulfilment of other conditions and

restrictions of section 16 and 17 of CGST Act. In case, the recipient issues the invoice after the time of supply of the said supply and pays tax accordingly, he will be required to pay interest on such delayed payment of tax. Further, in cases of such delayed issuance of invoice by the recipient, he may also be liable to penal action under the provisions of Section 122 of the CGST Act.

**Decision: The Council agreed with the said recommendations of the Law Committee along with the draft circular.**

**Agenda Item 3(xvii): Clarification in case of taxability of corporate guarantee provided between related persons after insertion of Rule 28(2) of CGST Rules, 2017**

4.138 The Pr. Commissioner, GST Policy Wing informed that on the recommendations of 52<sup>nd</sup> GST Council Meeting, sub-rule (2) was inserted in rule 28 of CGST Rules, 2017 vide Notification No. 52/2023-Central Tax dated 26.10.2023 to provide for a specific clause for valuation of supply of services of providing corporate guarantee to any banking company or financial institution by an entity on behalf of a related person. Further, Circular No. 204/16/2023-GST dated 27.10.2023 was issued to provide clarity regarding applicability of the said sub-rule.

4.139 However, trade has requested for amendments in the said sub-rule (2) of Rule 28 of CGST Rules, 2017, and has also sought clarifications on the issue of taxability and valuation of the supply of services of providing corporate guarantee between related persons.

4.140 The said issue was deliberated by the Law Committee and the Law Committee recommended retrospective amendment in sub-rule (2) of Rule 28 of CGST Rules, 2017 with effect from 26.10.2023 to clearly provide that the deemed valuation created by the said rule, i.e., one per cent of the amount guaranteed, shall be applicable per annum, to exempt export of services of corporate guarantee from the said rule and to clarify that deemed valuation under rule 28(2) would not be applicable in cases where the recipient is eligible for full input tax credit.

4.141 The Law Committee also recommended to issue a circular to clarify other issues involving the taxability and valuation of services of providing corporate guarantee between related persons.

**Decision: The Council agreed with the said recommendations of the Law Committee along with the draft circular.**

**Agenda Item 3(xviii): Clarification on mechanism for providing evidence of compliance of conditions of Section 15(3)(b)(ii) of the CGST Act, 2017 in respect of post-sale discounts by the suppliers**

4.142 The Pr. Commissioner, GST Policy Wing informed that in cases where a discount is given by the supplier to the recipient, subsequent to the supply of goods or services or both (post-sale discount), by issuing a tax credit note under section 34 of the Central Goods And Services Tax Act, 2017, the taxable value of the said supply can be reduced by the supplier to the extent of discount as per Section 15(3)(b) of the CGST Act only if the recipient of supply has proportionately reversed the input tax credit (ITC) in respect of the said discount. However, no system functionality is presently available on the common portal to enable the supplier or the tax officers to verify electronically whether the recipient has reversed the proportionate ITC in respect of such discount or not. Also, no alternate mechanism has been provided in CGST Act or CGST Rules or otherwise to enable the supplier as well as the tax officers to verify such reversal of input tax credit by the recipient. In absence of such functionality or any other mechanism to verify such

reversal of input tax credit by the recipient, demands are being raised by the field formations on the suppliers alleging that they have failed to produce evidence of compliance of Section 15(3)(b)(ii) of CGST Act. Representations have been received from trade and industry to provide for a suitable mechanism for providing evidence of the compliance of the conditions of Section 15(3)(b)(ii) of CGST Act.

4.143 He added that in view of the above, there is a requirement to develop a functionality on the common portal by GSTN for enabling verification of such reversal of ITC by the recipients. One of the mechanism can be provided for acceptance/ rejection of such credit notes by the recipients on the portal. The tax liability of the supplier may be reduced only in those cases, where such credit notes have been accepted by the recipients, and in such cases, input tax credit of the recipient may be reduced/ reversed in hard lock manner on the portal in FORM GSTR-3B return. Alternate functionality/ mechanism could also be explored by the GSTN on the portal for enabling verification of such reversal of ITC by the recipients.

4.144 The Law Committee recommended that it may be clarified through a circular that till the time such functionality for verification is made available by GSTN on the common portal, the supplier in order to provide evidence in terms of section 15(3)(b)(ii) of CGST Act may procure a certificate from the recipient of supply, issued by the Chartered Accountant (CA) or the Cost Accountant (CMA), certifying that the recipient has made the required proportionate reversal of input tax credit at his end in respect of such credit note issued by the supplier. The said CA/CMA certificate may include details such as the details of the credit notes, the details of the relevant invoice number against which the said credit note has been issued, the amount of ITC reversal in respect of each of the said credit notes along with the details of the FORM GST DRC -03/ return / any other relevant document through which such reversal of ITC has been made by the recipient. Such certificate issued by CA or CMA shall also contain UDIN (Unique Document Identification Number). Further, in cases, where the amount of tax (CGST+SGST+IGST and including compensation cess, if any) involved in the discount given by the supplier to a recipient through tax credit notes in a Financial Year is not exceeding Rs 5,00,000 (rupees five lakhs only), then instead of CA/CMA certificate, the said supplier may procure an undertaking/ certificate from the said recipient that the said input tax credit attributable to such discount has been reversed by him, along with the desired details.

4.145 Law Committee recommended that such certificates issued by CA/CMA or the undertakings/ certificates issued by the recipient of supply, as the case may be, may be treated as a suitable and admissible evidence for the purpose of section 15(3)(b)(ii) of the CGST Act, 2017 and could be produced before the tax officers during any proceedings such as scrutiny, audit, investigations, etc., even for the past period.

**Decision: The Council agreed with the recommendations of the Law Committee along with draft circular.**

**Agenda Item 3(xix): Court matter regarding extending amnesty scheme for filing of appeals in respect of cases under Section 129 and 130 of CGST Act.**

4.146 The Pr. Commissioner, GST Policy Wing informed that the GST Council in its 52<sup>nd</sup> meeting recommended a one-time relief to taxpayers for filing of appeals against demand orders passed till specified period i.e., orders passed up to 31.3.2023, subject to the condition of payment of an amount of pre-deposit of 12.5% of the tax under dispute by the said person. This scheme

was implemented through Notification No. 53/2023-CT dated 02.11.2023, which allowed filing of appeals until 31.01.2024, for those taxpayers who could not file appeals against demand order issued under section 73 and 74 of CGST Act upto 31.03.2023 in due time period. However, Hon'ble High Court, Allahabad in the case of M/s Risansi Industries Ltd. (No. 275 of 2021) has directed the Government to consider inclusion of section 129 and section 130 of CGST Act in the said notification.

4.147 He informed that Law Committee deliberated on the issue and was of the view that said amnesty scheme was considered by the Council only in respect of orders passed under Sections 73 and 74 of the CGST Act, on the basis that a number of such orders under Sections 73 and 74 were issued online on the common portal, without any physical serving to the taxpayers and in a large number of such cases, the common portal was not accessed by the taxpayers. Hence, taxpayers were not aware of the notices/ orders issued to them through the common portal. Accordingly, a one-time opportunity was recommended by the Council to provide relief to the taxpayers to file appeal in such cases. However, the Law Committee felt that this rationale would not be applicable to orders passed under Sections 129 and 130 of the CGST Act, 2017, as those orders were relating to confiscation/ seizure of goods and conveyances in transit, and essentially the taxpayers would have had the knowledge of such orders being passed. Therefore, Law Committee recommended that there is no need to extend the scope of the amnesty scheme notified vide Notification No 53/2023-Central Tax dated 02.11.2023, to include orders passed under Sections 129 and 130 of the CGST Act.

**Decision: The Council agreed with the recommendations of the Law Committee.**

**Agenda Item 3(xx): Amendment in Rules 110 and 111 of the CGST Rules, 2017 pertaining to filing and processing of appeals in GST Appellate Tribunal.**

4.148 The Pr. Commissioner, GST Policy Wing informed that the operationalization of GST Appellate Tribunal (GSTAT) is under process and the system based functionality for the GST Appellate Tribunal [e-Tribunal for GST] is being developed by the GSTN. Every appeal (or application) before the Appellate Tribunal would be required to be filed electronically on the system for Appellate Tribunal giving reference number of the order appealed against. The existing provisions of filing of appeal “electronically or otherwise as may be notified by the Registrar” before the Appellate Tribunal or the requirement of submission of a certified copy of the order by the appellant to vouch for its authenticity in accordance with the existing rule 110 and rule 111 of CGST Rules do not seem to be in alignment with the system being developed. Further, there is no provision currently for withdrawal of appeal filed before the Tribunal.

4.149 The said issue was deliberated by the Law Committee and the Law Committee recommended to substitute rule 110 and rule 111 of CGST Rules to align the same with the system being developed for filing and processing of appeals before the Tribunal. Law Committee also recommended to insert rule 113A and FORM GST APL-05/07W to provide for option to withdraw appeal filed before the Tribunal. Consequential amendment in header of FORM GST APL-02 is also required to be made.

4.150 He further informed that during the Officers’ meeting held on 21.06.2024, a suggestion was made that in cases where appeals are filed manually on the special orders of Registrar of Tribunal, such appeals should be uploaded on the system within a reasonable time period. For such cases, Circular/ rule may also be required in order to specify a time limit to upload the manually

filed appeals so as to make entire process online. It was suggested that Law Committee may separately examine this matter.

**Decision: The Council agreed with the recommendations of the Law Committee, along with proposed amendment in Rule 110 and Rule 111 of CGST Rules, 2017, amendment in header of FORM GST APL-02 and insertion of new Rule 113A and Form GST APL-05/07W, along with the suggestions made in the Officers' meeting.**

**Agenda Item 3(xxi): Clarification on taxability of re-imbursement of securities/shares as ESOP/ESPP/RSU provided by a company to its employees**

4.151 The Pr. Commissioner, GST Policy Wing informed that trade and industry have represented to clarify as to whether any taxable supply is involved in transfer of securities/shares by the foreign holding company to the employees of domestic subsidiary company in cases where such securities/shares of foreign holding company are provided to an employee of Indian subsidiary company as part of terms of contract of employment as Employee Stock Option Plan (ESOP) or Employee Stock Purchase Plan (ESPP) or Restricted Stock Unit (RSU). It has been requested to clarify specifically, as to whether the transfer of securities/shares from foreign holding company to the employees of domestic subsidiary company can be considered as import of services by domestic subsidiary company from the foreign holding company in the course or furtherance of business or otherwise.

4.152 He explained that as per the definition of supply under GST Act, securities are neither classified as supply of goods nor as supply of services, and as per Schedule III of CGST Act, 2017, the services by an employee to the employer in the course of or in relation to his employment is neither supply of goods nor supply of services under GST. However, since the obligation of providing securities as per the employment contract rests with the domestic subsidiary company, which in turn is fulfilled by the foreign holding company, the said transaction is being considered by some tax officers as import of financial service by the domestic subsidiary company from the foreign holding company, and is being considered as liable to be charged under GST on RCM basis, as per entry 4 of Schedule I of CGST Act.

4.153 The Law Committee deliberated on the issue and observed that no supply of service appears to be taking place between a foreign holding company and the domestic subsidiary company where the foreign holding company issues ESOP/ESPP/RSU to the employees of domestic subsidiary company, and the domestic subsidiary company reimburses the cost of such securities/shares to the foreign holding company on cost-to-cost basis. However, in cases where an additional fee, markup, or commission, is charged by the foreign holding company from the domestic subsidiary company, over and above the cost of the securities/shares, GST would be leviable on such amount of additional fee, markup, or commission charged as consideration for the supply of services of facilitating/arranging the transaction in securities/shares by the foreign holding company to the domestic subsidiary company. The GST shall be payable by the domestic subsidiary company on reverse charge basis in such a case on the said import of services. The Law Committee recommended to clarify the same through a Circular.

**Decision: The Council agreed with the recommendations of the Law Committee along with draft Circular.**

**Agenda Item 3 (xxii): Clarification on requirement of reversal of ITC in respect of balance of taxable premium in cases of Life Insurance services after applying valuation rule.**

4.154 The Pr. Commissioner, GST Policy Wing informed that representation has been received from Life Insurance Corporation of India seeking clarity as to whether the portion of the premium charged by the insurance company from the insured person/ policy holder, which is not included in the taxable value as per sub-rule (4) of Rule 32 of CGST Rules, 2017, can be treated as an exempt supply/ non-taxable supply and whether the input tax credit availed in respect of the said amount is required to be reversed or not.

4.155 He mentioned that the portion of premium, which is not includible in taxable value as per provisions of Rule 32(4) of CGST Rules, 2017, is neither nil rated, nor wholly exempted from tax under section 11 of CGST Act, 2017 and also is not a non-taxable supply.

4.156 Accordingly, Law Committee recommended to clarify that the portion of premium which is not includible in taxable value of supply as per Rule 32(4) of CGST Rules, 2017 cannot be considered as pertaining to non-business purpose or pertaining to exempt supply and therefore, there is no requirement of reversal of credit in respect of the said amount not includible in the taxable value as per provisions of Rule 42/43 of CGST Rules, 2017 read with sub-section (1) and sub-section (2) of Section 17 of CGST Act, 2017.

**Decision: The Council agreed with the recommendations of the Law Committee, along with the draft circular.**

**Agenda Item 3(xxiii): Clarification on the taxability of wreck and salvage values in motor insurance claims.**

4.157 The Pr. Commissioner, GST Policy Wing informed that representations have been received from the General Insurance Industry seeking clarity on the applicability of GST on salvage/ wreck value earmarked in the claim assessment of the damage caused to the motor vehicle.

4.158 The Law Committee recommended that in cases, where due to the conditions mentioned in the contract itself, general insurance companies are deducting the value of salvage as compulsory deductibles from the claim amount, there the salvage remains the property of insured and insurance companies are not liable to discharge GST liability against the same. However, in cases, where the insurance claim is settled on full claim amount, without deduction of value of salvage/ wreck (as per the contract), the salvage becomes the property of insurance company and the insurance company will be obligated to discharge GST on salvage's outward supply to the salvage buyer. Law Committee also recommended that the treatment of salvage and its taxability in various situations may be clarified by issuing a circular.

**Decision: The Council agreed with the recommendations of the Law Committee, along with the draft circular.**

**Agenda Item 3(xxiv): Clarification in respect of Extended Warranty provided by Manufacturers to the end customers in view of Circular No. 195/07/2023-GST dated 17.07.2023.**

4.159 Pr. Commissioner, GST Policy Wing informed that Circular No. 195/07/2023-GST dated 17.07.2023 was issued to clarify certain issues regarding availability of ITC in respect of

warranty replacement of parts and repair services during warranty period. However, subsequent to the issuance of the said Circular, queries have been raised by trade and Industry on some other issues.

4.160 The said issues were deliberated by the Law Committee and the Law Committee recommended to clarify through a Circular that:

- a. Clarification in Circular No. 195/07/2023-GST regarding the liability to pay GST and liability to reverse ITC also applies in cases involving warranty replacement of 'entire goods' (i.e. where goods as such are replaced).
- b. In cases where the distributor replaces the goods or its parts to the customer under warranty by using his stock and then raises a requisition to the manufacturer for the goods or the parts, which are then provided by the manufacturer to the distributor, without separately charging any consideration, no GST is payable on such replenishment of goods or the parts and no reversal of ITC is required to be made by the manufacturer.
- c. If the customer enters into an agreement of extended warranty with the supplier of the goods at the time of original supply, then the consideration for such extended warranty becomes part of the value of the composite supply, the principal supply being the supply of goods, and GST would be payable accordingly. However, if the supply of extended warranty is made by a person different from the supplier of the goods, then supply of extended warranty will be treated as a separate supply from the original supply of goods and will be taxable as supply of services.
- d. In case where a consumer enters into an agreement of extended warranty at any time after the original supply, then the same shall be treated as a supply of services distinct from the original supply of goods and the supplier of the said extended warranty shall be liable to discharge GST liability applicable on such supply of services.

**Decision: The Council agreed with the recommendations of the Law Committee, along with the draft circular.**

**Agenda Item 3(xxv): Clarification regarding ITC entitlement on repair expenses incurred in case of reimbursement mode of claim settlement.**

4.161 The Pr. Commissioner, GST Policy Wing, informed that the insurance companies, which are engaged in providing general insurance services in respect of insurance of motor vehicles, insure the cost of repairs/ damages of motor vehicles incurred by the policyholders and settle the claims in two modes viz. Cashless or Reimbursement. Representations have been received seeking clarity on availability of input tax credit (ITC) in respect of expenses incurred on repair of motor vehicles in case of reimbursement mode of insurance claim settlement, as some field formations are raising demands on availment of ITC by insurance companies in respect of invoices for repair services provided by garages. It is being claimed by these field formations that in case of reimbursement mode of claim settlement, the supply of repair service is provided by the garage to the policyholder/ insured and not to the insurance company and therefore, ITC of repair services is not available to the insurance company.

4.162 The Law Committee deliberated on the issue and observed that the expenditure, which is incurred in repair of the vehicle, is integrally connected to the provision of insurance services. Such

costs incurred as repair are, therefore, input services to the insurance companies used in the course and furtherance of their business. A mere change in the mode of claim settlement i.e., reimbursement over cashless settlement cannot alter the underlying nature of transaction. Thus, in both cashless mode as well as reimbursement mode, insurance company is the “recipient” of the services of vehicle repair provided by the garage, to the extent of approved repair liability. However, there may be cases, where the invoice also includes an amount in excess of the approved repair liability, wherein the insurance company only pays or reimburses the approved repair liability to the garage after considering the standard deductions viz. the compulsory deductibles to be borne by the insured, depreciation, improvements outside the coverage, value of salvage of the damaged parts of the motor vehicles, etc. The remaining amount is to be paid by the insured to the garage. In such cases, the input tax credit may be available to the insurance company only to the extent of payment made by them to the garage directly, or through reimbursement to the insured, and not on the full invoice value. Also, in cases, where the invoice for the repair of the vehicle is not issued in name of the insurance company, the condition of clause (a) and (aa) of section 16(2) of CGST Act, 2017 may not be satisfied and accordingly, input tax credit may not be available to the insurance company in respect of such an invoice.

4.163 The Law Committee recommended to clarify the issue through a Circular.

**Decision: The Council agreed with the recommendations of the Law Committee, along with the draft circular.**

**Agenda Item 3(xxvi): Clarification regarding taxability of the transaction of providing loan by an overseas affiliate to its related Indian affiliate or by a person in India to a related person.**

4.164 The Pr. Commissioner, GST Policy Wing informed that representations have been received from trade and industry seeking clarity on the taxability and valuation of the services of processing/ administering/ facilitating the loan provided by a person to a related person or by an overseas affiliate to its related person in India, even when made without consideration, by deeming the same as supply as per S. No. 2 and S. No. 4 of Schedule I of CGST Act.

4.165 He mentioned that the Law Committee deliberated on the matter and observed that in the cases, where no consideration is charged by a person from a related person, or by an overseas affiliate from its related Indian entity, for extending loan or credit, other than by the way of interest or discount, it cannot be said that any supply of service is being provided between the said related persons in form of processing/ facilitating/ administering the loan, by deeming the same as supply of services as per clause (c) of sub-section (1) of section 7 of the CGST Act, 2017, read with S. No. 2 and S. No. 4 of Schedule I of CGST Act. Therefore, there is no question of levy of GST on the same by resorting to open market value for valuation of the same as per rule 28 of CGST Rules, 2017. However, in cases of loans provided between related parties, wherever any fee in the nature of processing fee/ administrative charges/ service fee/ loan granting charges etc. is charged, over and above the amount charged by the way of interest or discount, the same may be considered to be the consideration for the supply of services of supply of services of processing/ facilitating/ administering of the loan, which will be liable to GST as supply of services by the lender to the related person availing the loan.

4.166 The Law Committee recommended to clarify the issue through a Circular.

**Decision: The Council agreed with the recommendations of the Law Committee, along with the draft circular.**

**Agenda Item 3(xxvii): – Clarification on availability of input tax credit on ducts and manholes used in network of optical fibre cables (OFCs).**

4.167 The Pr. Commissioner, GST Policy Wing stated that input tax credit (ITC) is being denied by some field formations on ducts and manholes used in network of optical fiber cables (OFCs) on the ground that the same is blocked under provisions of clause (c) and (d) of sub-section (5) of section 17 of the CGST Act, 2017, read with the Explanation after clause (d) of sub-section (5) of section 17 of CGST Act, being in nature of immovable property (other than Plant and Machinery). Representations have been received seeking clarification on the issue.

4.168 He further stated that if the goods or services or both are used for construction of immovable property, input tax credit is not restricted, if the said immovable property is in nature of plant and machinery as per Explanation at the end of section 17 of CGST Act.

4.169 The Law Committee deliberated on the issue and observed that the ducts and manholes are fundamental components of the Optical Fiber Cable (OFC) network, which is crucial for providing telecommunication services. The OFC network is constructed using PVC ducts/sheaths that house the OFCs, and service/connectivity manholes that function as network nodes essential for cable laying, upkeep, and maintenance. These components, used in the OFC network for transmitting telecommunication signals, fall under the definition of "plant and machinery" according to the Explanation to section 17 of the CGST Act. They are not explicitly excluded from the definition of "plant and machinery", as they are neither land, buildings, civil structures, nor telecommunication towers or external pipelines. Consequently, the input tax credit for these ducts and manholes is not restricted under clauses (c) or (d) of sub-section (5) of section 17 of the CGST Act. The Law Committee, accordingly, recommended to clarify the issue through a Circular.

**Decision: The Council agreed with the recommendations of the Law Committee along with the proposed Circular.**

**Agenda Item 3(xxviii): Clarification on place of supply of custodial services provided by banks to Foreign Portfolio Investors.**

4.170 The Pr. Commissioner, GST Policy Wing stated that clarification is being sought regarding the Place of Supply (PoS) for custodial services provided by banks to Foreign Portfolio Investors (FPIs) as to whether it should be covered under Section 13(2) of the IGST Act, 2017, which specify location of the recipient as place of supply or whether the same should be covered under Section 13(8)(a) of the IGST Act, 2017, which specifies the location of the service provider (banks or financial institutions) as place of supply.

4.171 He further stated that all FPIs are statutorily obligated to appoint a local custodian i.e. Banks to manage transactions in 'securities' that are undertaken in India as per the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019. He also mentioned that 'Custodial Services' in relation to securities means safekeeping of securities of a client and providing services incidental thereto, and includes maintaining accounts of securities of a client, collecting the benefits or rights accruing to the client in respect of securities, keeping the client informed of the actions taken or to be taken by the issuer of securities having a

bearing on the benefits or rights accruing to the client, and maintaining and reconciling records of the services referred above. As per section 13(8) of IGST Act, 2017, the place of supply of the services provided by banks or financial institutions etc. to its account holders in relation to account bearing interest to the depositor, would be the location of the bank. In all other services provided by banks to its customers (other than holders of interest-bearing accounts), place of supply would be governed by the default provision under section 13(2) of IGST Act, i.e. the location of recipient.

4.172 He added that the matter was deliberated by the Law Committee. The Law Committee observed that the custodial services were not considered to be covered under the services provided by bank to account holders, as per the clarification provided through Question 5.9.4 of Education Guide under the Service Tax Law. As the provisions of section 13(8)(a) of the IGST Act are similar to the provisions of Rule 9(a) of the Service Tax Place of Provision of Supply Rules, 2012, the clarification given in the Education Guide under Service Tax regime is equally applicable under GST Regime. Law Committee, therefore observed that the custodial services being provided by the banks/financial institutions to the FPIs cannot be considered as the services provided by the banks/financial institutions to account holders and thus, cannot be covered under Section 13(8)(a) of the IGST Act, 2017. Accordingly, the Place of Supply of such services cannot be determined under Section 13(8)(a) of the IGST Act, 2017 but is required to be determined under the default provision i.e., sub-section (2) of section 13 of the IGST Act, 2017. The Law Committee recommended to clarify the same through a Circular.

**Decision: The Council agreed with the recommendations of the Law Committee along with the proposed Circular.**

**Agenda Item 3(xxix): Clarification on time of supply in respect of supply of services of construction of road and maintenance thereof of National Highway Projects of National Highways Authority of India (NHAI) in Hybrid Annuity Mode (HAM) model.**

4.173 The Pr. Commissioner, GST Policy Wing took up the next agenda to clarify the time of supply in respect of supply of services of construction of road and maintenance thereof of National Highway Projects in Hybrid Annuity Mode (HAM) model, where certain portion of Bid Project Cost is received during construction period and remaining payment is received through deferred payment (annuity) spread over years. Under this model, the government is required to finance only 40% of the construction cost during the construction phase, whereas the remaining 60% is arranged by the private player/concessionaire. The remaining 60% amount is paid by the government to the concessionaire in form of annuity/instalments along with interest over a period specified in the contract. Ministry of Road Transport & Highways has represented that the said supply of services under HAM contract are covered under the 'Continuous supply of services' as defined under section 2(33) of the CGST Act, 2017. It has also been submitted by them that the liability to raise invoice in respect of the said services arises as per clause (a) of Section 31(5) of CGST Act, 2017 on or before the due date of payment as mentioned in the contract agreement, and the time of supply should be the date of issue of invoice, or date of receipt of payment, whichever is earlier, as per Section 13(2) of CGST Act, 2017. They have, therefore, contended that the liability to pay GST in respect of the said services will arise at the time of issuance of invoice, or on receipt of payment, whichever is earlier, as per the terms of the contract.

4.174 Law Committee in its meeting dated 09.02.2024 deliberated on the issue. The Law Committee observed that under the HAM contract, the contract is a single contract for construction

as well as operation and maintenance of the highway, and the payment terms are so staggered that the concessionaire is held accountable for the repair and maintenance of the highway as well. The concessionaire is bound contractually to complete not only the construction of the highway but also to operate and maintain the same. The said services are in nature of continuous supply of services. The tax liability on the construction portion under the HAM contract would arise at the time of issuance of invoice, or receipt of payments, whichever is earlier, if the invoice is issued on or before the specified date or the date of completion of the event specified in the contract, as applicable. If invoices are not issued on or before the specified date or the date of completion of the event specified in the contract, tax liability would arise on the date of provision of the said service (i.e. due date of payment as per the contract), or the date of receipt of the payment, whichever is earlier. The Law Committee recommended to clarify the same by issuing a circular.

**Decision: The Council agreed with the recommendations of the Law Committee along with the proposed Circular.**

**Agenda Item 3(xxx): Refund of additional Integrated Tax (IGST) paid on account of upward revision in price of the goods subsequent to export of such goods.**

4.175 The Pr. Commissioner, GST Policy Wing stated that representations have been received from the trade/ industry requesting for prescribing a mechanism for seeking refund of additional Integrated Goods & Services Tax (IGST) paid on account of upward revision in price of the goods subsequent to exports, along with applicable interest, especially in cases where the prices of the export commodities are linked to some international index or as per the terms of contract between the two parties or due to any other reason, which may result in revision in the price of the goods subsequent to exports.

4.176 He informed that refund of IGST paid on export of goods is through an automated route through Customs system, as Shipping Bill itself is treated as refund claim. There is no mechanism at present for refund of such additional IGST paid post export of goods.

4.177 The Law Committee deliberated on the issue. Law Committee recommended the insertion of sub-rule (1B) in rule 89 of CGST Rules, along with corresponding amendment in sub-rule (1) of rule 96, to provide for filing of refund of additional IGST paid on account of upward revision in price of the goods subsequent to export through FORM RFD-01 and its processing by jurisdictional GST officers. Law Committee also recommended for insertion of clause (bb) and clause (bc) in sub-rule (2) of rule 89 of CGST Rules, and corresponding insertion of Statement 9A and Statement 9B in FORM GST RFD 01, to prescribe documents required to be accompanied with the said refund claim in order to establish that refund is due to the exporter. Further, it was recommended that a circular may be issue to clarify the procedure for such refunds and processing thereof by the proper GST officer *inter alia* providing for verification of such refund claims to check whether the exporter has deposited the excess refund amount in the cases where there is a downward revision in price of goods subsequent to exports.

**Decision: The Council agreed with the recommendations of the Law Committee to amend the rules along with the proposed Forms and Circulars.**

**Agenda Item 3(xxxi): Implementation of functionality for online filing of refund application by Canteen Stores Department (CSD) in GST-RFD 10A.**

4.178 The Pr. Commissioner, GST Policy Wing stated that vide notifications No. 6/2017-Central Tax (Rate), No. 6/2017-Integrated Tax (Rate) and No. 6/2017-Union territory Tax (Rate), all dated 28<sup>th</sup> June 2017, the Central Government has specified that the Canteen Stores Department (“CSD” for short), under the Ministry of Defence, as a person who shall be entitled to claim a refund of fifty per cent. of the applicable Central tax, Integrated tax and Union territory tax paid by the CSD on all inward supplies of goods received by the CSD for the purposes of subsequent supply of such goods to the Unit Run Canteens of the CSD or to the authorized customers of the CSD. Identical notifications have been issued by the State Governments allowing refund of fifty per cent of the State tax paid by the CSD on the inward supply of goods received by it and supplied subsequently. Consequent to the same, Circular No. 60/34/2018-GST dated 4<sup>th</sup> September 2018 was issued which outlined the steps to be followed for manual processing of refund applications in FORM GST RFD 10A filed by CSDs till the functionality to file online claim is available in the refund claim.

4.179 He added that it has now been informed by GSTN that functionality for online filing of refunds by CSDs is now ready for deployment on the common portal. The matter was deliberated by the Law Committee for requisite amendments in CGST Rules, 2017 for the implementation of the same. The Law Committee recommended insertion of rule 95B and FORM GST RFD-10A in CGST Rules, 2017 to provide for electronic filing of application of refund by CSD on taxes paid on inward supplies of goods and its processing electronically. Law Committee recommended that the validation of the input supplies should be made on the system with FORM GSTR-2B (instead of FORM GSTR- 2A) of the concerned tax period as well as of the previous tax periods. Besides, a circular may be issued to modify Circular No. 60/34/2018-GST dated 04.09.2018 on CSD refunds and to clarify the proposed changes. Further, the provisions of the said Circular No. 60/34/2018-GST dated 04.09.2018 may continue to apply for all refund applications filed manually before the said amendments are notified and the said functionality is made available on the portal.

**Decision: The Council agreed with the recommendations of the Law Committee to insert the said rule and Forms, along with the proposed circular.**

**Agenda Item 3(xxxii): Procedure for payment of IGST by SEZ unit located in Noida SEZ on DTA clearances.**

4.180 The Pr. Commissioner, GST Policy Wing informed that a reference was received from the Secretary, Department of Commerce seeking clarification on the following issues with respect to payment of IGST by SEZ units located in Noida SEZ on DTA clearances:

- i. Whether the procedure adopted in Noida SEZ, during the period of August 2017 to November 2018, regarding the payment of IGST on DTA clearances by depositing the IGST amount in the Electronic Cash Ledger, due to non- acceptance of TR-6 challans for such duty by Punjab National Bank, may be considered as payment of duties of Customs under Customs Tariff Act, 1975 read with Section 30 of SEZ Act and settlement of accounts from the Electronic Cash Ledger to the IGST head under Customs duty account be done accordingly; and
- ii. Whether in respect of the supply of goods to DTA by the SEZ Units/ Developer, in addition to payment of IGST as duties of Customs under sub- section (7) of Section 3 of Customs Tariff Act, 1975 (CTA, 1975) read with proviso to sub-section (1) of section 5

of the IGST Act, 2017 and section 30 of SEZ Act, 2005, payment of IGST is also required to be made simultaneously as inter-state supplies under sub-section (1) of Section 5 of the IGST Act, 2017 read with section 7(5)(b) of IGST Act.

4.181 The Principal Commissioner, GST Policy Wing mentioned that the Law Committee deliberated on these issues and proposed as follows:

- a. IGST cannot be levied twice on the same supply of goods from SEZ units to DTA and thus, IGST is payable on such supply only once as duties of customs as per Section 30 of SEZ Act read with sub-section (7) of section 3 of CTA, 1975 and proviso to Section 5(1) of IGST Act;
- b. The amount of IGST deposited by NSEZ units in their Electronic Cash Ledger through FORM GST PMT-06 challan during the period August 2017 to November 2018 in respect of the DTA clearances may be treated as payment of IGST as part of Customs duty under the provisions of sub-section (7) of section 3 of Customs Tariff Act, 1975, read with Section 30 of SEZ Act 2005 and proviso to Section 5(1) of IGST Act, and may be regularized as payment of duties of customs subject to the condition that ITC is not availed twice by the recipients;
- c. As the said IGST deposited in Electronic Cash Ledger is proposed to be considered as payment of IGST, the interest on delayed payment of tax under Section 50 of CGST Act may not be applicable in respect of the said payments, irrespective of whether the amount deposited in Electronic Cash Ledger has been debited or not;
- d. In respect of the amount which has not been debited, the amount lying un-utilized in Electronic Cash Ledger may be regularized and treated as IGST paid as duties of customs;
- e. In respect of amount debited through DRC-03 or the return, to ensure that no double benefit of ITC is availed by the DTA recipients, the concerned SEZ units may be asked to procure a Chartered Accountant (CA) or the Cost Accountant (CMA) certificate in respect of each of their DTA recipient unit during the period August 2017 to November 2018, and submit it to the concerned Specified Officer of NSEZ, certifying that the concerned DTA recipient has not availed ITC twice on the same supply in respect of all the DTA supplies made by the said SEZ unit during the said period; and
- f. For the regularization of amount of IGST deposited by these NSEZ units in their electronic cash ledger, Directorate General of Export Promotion (DGEP), CBIC may work out the modalities for such regularization in coordination with GSTN & DG Systems and in consultation with Office of Pr. CCA.

**Decision: The Council agreed with the recommendations of the Law Committee.**

**Agenda Item 3(xxxiii): Seeking clarity on Time of supply in respect of supply of allotment of Spectrum to Telecom companies in cases where an option is given to the Telecom Companies for payment of licence fee and Spectrum usage charges in instalments in addition to an option of upfront payment.**

4.182 The Pr. Commissioner, GST Policy Wing stated that clarification is needed regarding to the time of supply for the purpose of payment of GST in respect of supply of spectrum allocation

services in cases of deferred payment for the spectrum allocated to telecom operators. In respect of supply of spectrum allocation services, the telecom operators, being the recipients of the said supply, are required to discharge GST liability on reverse charge basis. The telecom operators are discharging their GST liability on the said supply at the time of making payment, either upfront fee or annual instalments with interest as specified in the Frequency Assignment Letter, to the Government. However, some of the tax authorities have issued letters to the telecom operators for payment of GST on the entire bid amount payable, irrespective of the payment option adopted by the operators and irrespective of the fact that in case of option for deferred payment scheme exercised by the telecom operator, payment may still be required to be made as per the date of the payment for instalments mentioned in Frequency Assignment Letter/ demand note.

4.183 The Law Committee deliberated on the issue and held that in case where full upfront payment is made by the telecom operator, GST would be payable when the payment of the said upfront amount is made or is due, whichever is earlier, whereas in case where deferred payment is made by the telecom operator, GST would be payable as and when such deferred payments are due or made, whichever is earlier. The Law Committee recommended that the issue of time of supply in respect of supply of service of allocation of spectrum and other natural resources may be clarified through a circular.

**Decision: The Council agreed with the recommendations of the Law Committee along with the proposed Circular.**

**Agenda Item 3(xxxiv): Proposal for creation of unique identifiers for unregistered persons opting to generate e-way bill.**

4.184 The Pr. Commissioner, GST Policy Wing informed that in the 2nd National Co-ordination meeting of Central and State Tax officers held on 14.12.2023 under the chairmanship of the Revenue Secretary, it was discussed that there is a need for providing a unique identifier for the unregistered persons desirous of generating e-way bill for causing movement of goods, so as to keep track of supplies made or received by such unregistered persons, as well as to relieve such unregistered persons from entering the same details on the portal over and over again for generation of e-way bills.

4.185 The issue was deliberated by the Law Committee. The Law Committee recommended insertion of a fourth proviso to sub-rule (3) of 138 of the CGST Rules, 2017, as detailed in the agenda note.

4.186 Further, Law Committee recommended that a new functionality may be created on the common portal for enrolment/ creation of a unique user id and password for unregistered persons engaged in business activities who opt to generate e-way bill and also to require them to use such enrolment number/ unique user id and password for generation of e-way bill. For the same, Law Committee recommended that a new FORM GST ENR-03 may be inserted in CGST Rules, 2017, which may allow unregistered persons who opt to generate e-way bill, to apply for unique enrolment number.

**Decision: The Council agreed with the recommendations of the Law Committee to insert the said rule and Form.**

**Agenda Item 3(xxxv): Alignment of rule 96A of CGST Rules, 2017 with the provision of FEMA Act, 1999.**

4.187 The Pr. Commissioner, GST Policy Wing stated that representations have been received from trade/industries for amendment in Rule 96A of the Central Goods & Services Rules, 2017 to align the clause for realization of sale proceeds for exports of services in Rule 96A of CGST Rules with the extensions permitted by the Reserve Bank of India (RBI) for realization of sale proceeds for such exports.

4.188 The matter was deliberated by the Law Committee and the Law Committee recommended to amend rule 96A of CGST Rules, as detailed in the agenda note.

**Decision: The Council agreed with the recommendations of the Law Committee to amend the said rule.**

**Agenda Item 3(xxxvi): Change in due date for filing of return in FORM GSTR-4 for composition taxpayers from 30<sup>th</sup> April to 30<sup>th</sup> June.**

4.189 The Pr. Commissioner, GST Policy Wing stated that representations have been received from trade and industry to extend the time limit to furnish FORM GSTR-4, i.e. the return required to be filed by a registered person who opts to pay tax under composition levy.

4.190 The matter was deliberated by the Law Committee and the Law Committee recommended that the due date of filing of FORM GSTR-4 be extended from 30<sup>th</sup> April of the following year, at present, to 30<sup>th</sup> June in respect of FORM GSTR-4 to be filed for the financial year 2024-25 onwards. Accordingly, the required amendment were recommended by the Law Committee in clause (ii) of sub-rule (1) of Rule 62 of CGST Rules and Instructions of the FORM GSTR-4 for returns for financial year 2024-25 onwards, as detailed in the agenda note.

**Decision: The Council agreed with the recommendations of the Law Committee to amend the said rule and instructions for returns for financial year 2024-25 onwards.**

**Agenda Item 3(xxxvii): Amendment in FORM GSTR -8 to capture place of supply.**

4.191 The Pr. Commissioner, GST Policy informed that some tax authorities have raised concerns regarding the current FORM GSTR-8, which is the statement to be furnished by an electronic commerce operator (ECO) required to collect tax at source under section 52, does not capture place of supply details in respect of the supplies effected through such ECO, due to which it is difficult for the tax authorities to verify whether the suppliers have correctly reported the place of supply in their FORM GSTR-1 and correctly paid tax in FORM GSTR-3B.

4.192 He informed that the matter was deliberated by the Law Committee wherein it was recommended that FORM GSTR-8 may be suitably amended to incorporate place of supply details in Table 3 and Table 4 of the said form through a Notification.

4.193 The Hon'ble Member from Tamil Nadu agreed to the amendment in FORM GSTR-8 for correct reporting of Place of Supply by the ECO so that IGST settlement is made to the actual consuming State. However, he emphasized the need of governing laws such as Information Technology Rules to ensure correct reporting by E-Commerce Operator especially when they are located in another State.

4.194 The Hon'ble Member from Kerala informed that revenue of SGST, Kerala has increased by 10-11% annually but IGST growth is only 3% indicating a systemic issue and stressed the urgency of correcting this discrepancy.

4.195 The Pr. Commissioner, GST Policy Wing requested the CCT of Tamil Nadu to send a detailed proposal on the issue for deliberation by the Law Committee.

**Decision: The Council agreed with the recommendations of the Law Committee to amend the said Form along with the proposed Notification.**

**Agenda Item 3(xxxviii): Amendment in GST Rules and FORM GSTR-1 to reduce the current threshold of invoice value of Rs. 2.5 lakhs for inter-state B2C supplies to Rs. 1 lakh.**

4.196 The Pr. Commissioner, GST Policy Wing informed that as per section 37 of CGST Act, 2017, read with rule 59 of CGST Rules, 2017, a statement of outward supplies has to be furnished by a registered person for a tax period in FORM GSTR-1. In respect of B2B supplies, invoice-wise details are required to be furnished in FORM GSTR-1. However, in respect of B2C supplies, invoice-wise details are required to be furnished in Table 5 in respect of inter-State supplies with invoice value more than Rs. 2.5 Lakh only, whereas for other B2C supplies, only consolidated details are required to be furnished in Table 7 thereof.

It has been represented by some tax administrations that this threshold of invoice value for declaration of invoice-wise details of intra-State supplies may be reduced from Rs. 2.5 Lakh now to facilitate availability of more information to the tax administrations for verification of correct reporting of B2C supplies by the suppliers, thus improving tax compliance, as well as to enable the consumption states to cross-verify the IGST settlement made to them.

4.197 The matter was deliberated by the Law Committee. It was observed that as per rule 46(e) of CGST Rules, a tax invoice of taxable value of Rs. 50,000/- or more, issued to an unregistered person, is required to capture the address of the recipient. Accordingly, the feasibility of reporting for invoices of Rs. 50,000 or more was discussed but it was noted that there would be compliance burden on reducing the threshold to Rs. 50,000 and also there may be increased load on the portal due to reduction in the threshold limit. Therefore, it recommended a phased reduction, starting with lowering the threshold from the present Rs. 2,50,000/- to Rs. 1,00,000/-. The Law Committee recommended amendments in clause (a)(ii) and (b)(ii) of sub-rule (4) of rule 59 of CGST Rules, Table 5 and 7 of FORM GSTR -1, Table 6 and Table 7 of FORM GSTR-5 and amendments in the respective instructions issued thereof, as detailed in the agenda note.

4.198 The Principal Commissioner, GST Policy Wing further informed that in the Officers' Meeting held on 21.06.2024, States of Kerala and Tamil Nadu requested to reduce the said threshold to Rs. 50,000/- so that the same will be in alignment with other provisions like requirement to generate EWB. However, it was discussed that the present proposal of reducing threshold to Rs. 1 lakh has been made by the Law Committee after considering the increased load on the system (common portal) and the increased compliance burden on the taxpayers. However, in future, depending upon the feedback of systems functioning, the request for reducing the threshold further to Rs. 50,000/- may be examined by the Law Committee, in due course.

**Decision: The Council agreed with the recommendations of the Law Committee to amend the said rule and related Forms.**

**Agenda Item 3 (xxxix): Agenda on rationalisation of the quantum of pre-deposit required to be paid for filing of appeals under GST.**

4.199 The Pr. Commissioner, GST Policy Wing stated that representations have been received from trade and industry to rationalize the quantum of pre-deposit under GST regime vis-à-vis erstwhile laws [i.e. service tax/ Central Excise or State Value Added Tax (VAT)] as the amount of pre-deposit required under GST regime is significantly higher vis-à-vis erstwhile regime, affecting the working capital requirement of companies who would be required to pay a pre-deposit equal to 10% of tax demand at the first appellate level (subject to maximum of CGST/ SGST of Rs. 25 crores each or IGST of Rs. 50 crores) and an additional 20% of tax demand (subject to the maximum of CGST/ SGST of Rs. 50 crores each or IGST of Rs. 100 crores) before the appellate tribunal, for filing of appeals against the orders passed by adjudicating authorities and appellate authorities respectively.

4.200 The said issue was deliberated by the Law Committee which recommended to keep the percentage of pre-deposit for filing appeal with appellate authority at 10% of the tax in dispute, while reducing the maximum amount of pre-deposit to Rs.20 crores each in CGST and SGST and Rs 40 crore in IGST), whereas the amount of pre-deposit to be paid for filing appeals in Appellate Tribunal was recommended to be reduced to 10% of the tax in dispute (subject to a maximum of Rs. 20 crores each in CGST and SGST and Rs 40 crore for IGST). The Law Committee recommended amendment in Section 107 of CGST Act, 2017, Section 112 of CGST Act, 2017 and Section 20 of IGST Act, 2017 for this purpose, along with similar amendment in SGST Act.

4.201 He further added that the Law Committee also recommended consequential amendments in FORM GST APL-01 and FORM GST APL -05.

**Decision: The Council agreed with the recommendations of the Law Committee to amend the said Acts and the related Forms.**

**Agenda Item 3 (xl): Change in Payment table of Form GSTR-3B to provide for a separate table for RCM supplies and Section 9(5) supplies-reg.**

4.202 The Pr. Commissioner, GST Policy Wing informed that presently, even if the taxpayer has a net negative liability in the corresponding FORM GSTR-1, which may arise on account of issuance of credit notes, downward revision of invoices etc., the portal does not allow the taxpayer to report negative tax liability in FORM GSTR-3B.

4.203 The Law Committee deliberated on the requisite amendment in FORM GSTR-3B for the above and recommended that net negative liability (in case net liability as per Table 3 comes out to be negative) of a tax period may be shown in Payment Table of FORM GSTR-3B i.e. Table 6. This will require creation of a Negative Liability Ledger and the adjustment of liability from the Negative Liability Ledger will be required to be incorporated in the payment Table 6 of FORM GSTR-3B. This requires changes in the existing payment table of FORM GSTR-3B.

4.204 The Pr. Commissioner, GST Policy Wing further informed that according to Circular No. 167/23/2021-GST dated 17.12.2021, liability under section 9(5) for E- commerce operators must be discharged in cash. However, in the current FORM GSTR- 3B, this liability is auto-populated under the "other than reverse charge" section, allowing payment through cash or ITC. Thus, the "reverse charge" section in FORM GSTR-3B needs to be renamed to "Reverse charge &

supplies made under sec 9(5)" to ensure that section 9(5) liability is discharged in cash only.

4.205 The Law Committee deliberated on the issue and recommended that Table 6.1 in FORM GSTR-3B may be substituted as detailed in the agenda note and Table 6.2 of FORM GSTR-3B may be omitted.

**Decision: The Council agreed with the recommendations of the Law Committee.**

**Agenda Item 3 (xli): Notifying Annual Return in FORM GSTR-9 for Financial Year 2023-24 and extending exemption from filing FORM GSTR-9 for taxpayers with turnover up to Rs. 2 crores.**

4.206 The Principal Commissioner, GST Policy Wing stated that representations have been received that though rule 36(4) of CGST Rules provides for availment of input tax credit in FORM GSTR-3B as per details in FORM GSTR-2B, however, the Table 8A of annual return in FORM GSTR-9 still requires auto-population of the ITC details from FORM GSTR-2A, which creates anomalies in reconciliation of ITC availment in FORM GSTR-3B and FORM GSTR-9. Accordingly, it has been requested to amend Table 8A of FORM GSTR-9 (along with corresponding entry in para 5 of the Instructions in FORM GSTR-9) to provide for auto-population of the same on the basis of FORM GSTR-2B rather than FORM GSTR-2A. The Principal Commissioner, GST Policy Wing further informed that changes are required in FORM GSTR-9 in view of insertion of Table 14 & 15 and amendment thereof in FORM GSTR-1 vide Notification No. 26/2022 — Central Tax dated 26.12.2022 for reporting supplies made through e-commerce platforms including supplies taxable under section 9(5).

4.207 The Law Committee recommended the following in respect of Annual Return forms for FY 2023-24:

- (i) The filing of annual return (in FORM GSTR-9/9A) for the FY 2023-24 may be exempted for taxpayers having aggregate annual turnover upto two crore rupees, as per the relaxation extended in previous FYs.
- (ii) The relaxations provided in FY 2022-23 in respect of various tables of FORM GSTR-9 and FORM GSTR-9C, may be continued for FY 2023-24.
- (iii) Table 8A of FORM GSTR-9 may be amended as "ITC as per GSTR-2B (table 3 thereof)" along with corresponding entry in para 5 of the Instructions in the said FORM to provide for auto-population of the table 8A on the basis of FORM GSTR-2B rather than FORM GSTR-2A.
- (iv) Requisite changes in FORM GSTR-9 may be carried out in view of insertion of table 14 & 15 and amendment thereof in FORM GSTR-1 vide Notification No. 26/2022 — Central Tax dated 26.12.2022 for reporting supplies made through e-commerce platforms including supplies taxable under section 9(5).

**Decision- The Council agreed with the said recommendations of the Law Committee to make changes in the Form along with draft Notifications.**

**Agenda Item 3 (xlii): Rolling out of Biometric based Aadhar Authentication of registration on Pan-India basis-reg.**

4.208 The Pr. Commissioner, GST Policy Wing informed that to strengthen registration process and to combat fraudulent input tax credit (ITC) claims made through fake invoices, a pilot is

being conducted in the States of Gujarat, Puducherry and Andhra Pradesh wherein applicants for registration who have opted for authentication of Aadhar number may have to undergo biometric based authentication of Aadhar number at GST Suvidha Kendras in the cases identified on the portal based on risk parameters and data analysis. Sub-rule (4A) of Rule 8 of CGST Rules was substituted vide Notification No. 04/2023 dated 31.03.2023 for the same. As per feedback received from the State of Gujarat, in the first 7 months of the said pilot, new registration applications have reduced by approx. 25% in Gujarat. This suggests the new measures are effectively deterring fraudulent registrations. Given these encouraging outcomes, there may be a need to implement robust, risk-based biometric based Aadhaar authentication system nation- wide to further prevent fraudulent registration attempts.

4.209 The issue was deliberated in the meeting of Law Committee. The Law committee observed that the pilots were a success in reducing fraudulent registrations and recommended extending biometric Aadhaar authentication for GST registration applicants nationwide. The Law Committee recommended that this rollout should be in phased manner based on the readiness of tax authorities in different States/UTs. The Law Committee further suggested that all the States/UTs, other than the States of Gujarat, Puducherry and Andhra Pradesh, shall be required to substitute sub-rule (4A) of rule 8 of their respective SGST Rules on the same lines as done by the Centre vide notification no. 04/2023 dated 31.03.2023, to implement the said biometric based Aadhaar authentication for GST registration in their respective jurisdictions. Law Committee observed that based on the feedback received in the pilot, there may be a requirement to call the applicants, who have not opted for Aadhaar authentication, also to GST Seva Kendras for photo capturing and document verification. It was therefore recommended that **sub-rule (4A) of rule 8 of CGST Rules, 2017 may be suitably amended by inserting a second proviso** to the said sub-rule so as to make it mandatory for those applicants, who do not opt for Aadhaar authentication, also to visit GST Seva Kendras for photo capturing and original document verification. It was also recommended that in cases where the applicant fails to come for biometric authentication, or where biometric authentication fails, no ARN should be generated on the portal.

4.210 The Law Committee also recommended that the notifications (Notification no. 27/2022-Central Tax dated 26.12.2022 as amended by Notification no.31/2023 dated 31.07.2023 and Notification no. 54/2023 dated 17.11.2023) issued by the Central Government under sub-rule (4B) of rule 8 of CGST, for all States/UTs other than the States of Gujarat, Puducherry and Andhra Pradesh Rules, may be rescinded for enabling All India roll out of the biometric based Aadhaar authentication.

4.211 The Pr. Commissioner, GST Policy Wing further informed that in the Officers' Meeting held on 21.06.2024, State of Maharashtra requested that there may be a need to make modifications in the existing functionality on the portal to provide that applications for registration are distributed between Centre and States before biometric authentication process, instead on present allocation on generation of ARN, after biometric authentication,, so that the same can be processed separately by the Centre and State tax officers in their separate GST Suvidha Kendras. . He added that it was suggested in the Officers' Meeting that roll out of biometric authenticated may be implemented presently as per existing functionality on the portal. In the meantime, GSTN may examine and make the requisite changes in the functionality for this as well as regarding any other requests.

4.212 The Hon'ble Member from Tamil Nadu welcomed the introduction of Biometric based Aadhaar Authentication of registration. While discussing the data pertaining to FY 2023-24 for

Tamil Nadu, Hon'ble Member highlighted that approximately 80% of applications necessitated officer interface for Aadhar authentication compliance. The Hon'ble Member expressed concerns regarding Ease of Doing Business under GST and other associated administrative challenges.

4.213 The Hon'ble Chairperson invited the States for comments on their experience with conducting the pilot of biometric based Aadhaar authentication

4.214 The Hon'ble Member from Gujarat highlighted that implementing Biometric-based Aadhar authentication for registration has led to 30% reduction in registration applications and has narrowed the gap between rejections by the Central and State authorities. The establishment of GST Suvidha Kendra for registration authentication has significantly improved transparency, speed, and accuracy in the registration process.

4.215 The Hon'ble Member from Andhra Pradesh emphasized the positive impact of Biometric-based Aadhar authentication on the registration process, highlighting a notable decrease in fraudulent registrations.

4.216 The Hon'ble Member from Puducherry stated that they have also introduced an App along with Biometric-based Aadhar authentication of applications.

4.217 The Hon'ble Chairperson stated that Gujarat's experience indicates a reduction in discrepancies between Central and State processes. Additionally, findings from Andhra Pradesh corroborated by Gujarat show a significant decrease in fraudulent registration claims.

4.218 The Secretary clarified that not everyone will be required to visit biometric registration stations. Only those identified as high-risk, based on risk parameters and data analysis, will be required to undergo this process.

**Decision- The Council agreed with the said recommendations of the Law Committee along with amendment in the said rules.**

4.219 It was also discussed that as per the recommendations made by the Council, certain amendments have been brought in CGST Act vide Sections 11, 12 and 13 of the Finance Act, 2024. While Section 11 and 12 of the Finance Act, 2024 are for making ISD mechanism mandatory for distribution of the input tax credit (ITC) for common services, section 13 is regarding the penal provisions for manufacturers of specified evasion prone commodities. These sections of the Finance Act, 2024 need to be notified, along with corresponding rules prescribing the mechanism for distribution of common ITC by ISDs. It has been represented by various trade bodies that implementation of mandatory provision of ISD requires a substantial change to be made in their internal ERP systems and a suitable time frame of 6 months may be provided to them from the date the amended section and the concerned rules are notified by the Government. The matter was deliberated in the Officers' meeting held on 21.06.2024 and it was proposed that Section 11 and 12 of the Finance Act, 2024 may be notified with effect from 1st April 2025 and Section 13 of the Finance Act, 2024 may be notified with effect from 1st October, 2024.

The Hon'ble Chairperson directed that the views of the states should be sought. Accordingly, the matter was circulated to the States for their concurrence. All the States/UTs have agreed with the proposal.

**Decision: Section 11 and 12 of the Finance Act, 2024 are to be notified with effect from 1st April 2025 and Section 13 of the Finance Act, 2024 is to be notified with effect from 1st October, 2024.**

## **5. Agenda Item 4 : Recommendations of the Fitment Committee for the consideration of the GST Council**

5.1 The Secretary introduced the agenda item relating to recommendations of the Fitment Committee and asked the Joint Secretary, Tax Research Unit (TRU) to present the agenda.

5.2 Joint Secretary, TRU stated that the Fitment Committee agenda was summarized in five Annexures (I to V) wherein the first three related to goods and the other two related to services. There were a total of 21 agenda items relating to goods out of which the Fitment Committee had recommended making changes in the GST Rate or issue of clarifications in case of 17 items (Annexure-I of the Agenda Volume-II), no change was recommended in respect of 3 items (Annexure-II of the Agenda Volume-II). One agenda item was placed before the Council for information (Annexure-III of the Agenda Volume-II). In the case of services, there were a total of 10 agenda items, of which the Fitment Committee had recommended making changes in the GST Rate or issue of clarifications in case of 9 items (Annexure-IV of the Agenda Volume-II) and no change has been recommended in respect of 1 item (Annexure-V of the Agenda Volume-II).

5.3 Thereafter, Joint Secretary, TRU presented the agendas pertaining to the recommendations of the Fitment Committee. (**Annexure 4**)

5.4 The first item for consideration of the Council was concerning Compensation Cess on goods imported in SEZ by a SEZ unit or SEZ developer for authorised operations. JS, TRU stated that prior to introduction of GST, all imports by SEZ units or a SEZ developer for authorized operations were exempt from Basic Customs duty (BCD), CVD in lieu of Central Excise duty and at the time of roll out of GST, exemption with respect to IGST leviable on the such imports were continued vide Notification No. 64/2017-Customs based on the recommendation of GST Council. However, no such notification was issued for continuation of exemption from Compensation Cess leviable on such imports. She stated that all pre-GST exemptions were continued at the time of roll out of GST and therefore, the intent appears to be to continue exemption from Compensation Cess on import of goods to SEZ. The Fitment Committee has therefore, recommended to provide exemption from Compensation Cess leviable on the imports in SEZ by SEZ Unit/developer for authorised operations prospectively from the date of issue of Notification and also provide retrospective exemption for the period from 1st July, 2017 till the date of such notification.

**Decision: The Council approved the recommendations of the Fitment Committee to provide exemption from Compensation Cess leviable on the imports of goods in SEZ by SEZ Unit/developer for authorized operations prospectively from the date of issue of Notification and also provide retrospective exemption for the period from 1st July, 2017 till the date of such notification.**

5.5 Joint Secretary, TRU presented the agenda item pertaining to extension of the validity of IGST exemption on imports under Notification No. 19/2019 Customs dated 06.07.2019. Vide the said Notification, exemption from BCD and IGST was provided on imports of specified defence items for defence forces and the exemption is lapsing on 30<sup>th</sup> June, 2024. She stated that the Fitment Committee has recommended extension of IGST exemption for another 5 years as these items are not indigenously manufactured and have to be necessarily imported by the armed forces for operational readiness and strategic importance.

**Decision: The Council approved the recommendations of the Fitment Committee to extend the IGST exemption for the specified defence items under notification 19/2019-Cus for another 5 years.**

5.6 Joint Secretary, TRU presented the agenda item pertaining to harmonizing GST rate at a maximum of 5% on aircraft parts/components mentioned in the five manuals of aircraft maintenance (Aircraft Maintenance Manual, Component Maintenance Manual, Illustrated Parts Catalogue, Structural Repair Manual and Standard Procedures Manual of the OEMs) irrespective of their classification in any chapter. At present aircraft parts classified under HSN 8807, aircraft engines classifiable under Chapter 8407 1000 and 8411 and aircraft tyres classifiable under Chapter 40 attract GST at 5% whereas other parts used in aircraft that are classifiable under Chapters 84, 85 etc. attract GST ranging from 18%-28%. The issue of uniform 5% GST on aircrafts parts under any chapter was placed before the Council in its 47<sup>th</sup> and 48<sup>th</sup> Meeting. However, considering the dual use nature of such parts, the Council had not recommended any change. She stated that the Ministry of Civil Aviation has stated that the country is 100% dependent on import of all such parts and has requested that parts which feature in the five manuals be considered for 5% GST rate which will translate to 5% IGST for import. The Fitment Committee has therefore, recommended to provide a uniform rate of 5% IGST for imports of parts/components mentioned in specified five manuals irrespective of their classification subject to conditions similar to Customs Notification No 50/2017-Customs dated 30.06.2017.

**Decision: The Council approved the recommendations of the Fitment Committee to provide a uniform rate of 5% IGST on import of parts/components mentioned in specified five manuals of aircraft maintenance irrespective of their classification subject to conditions similar to Customs Notification No 50/2017-Customs dated 30.06.2017.**

5.7 Joint Secretary, TRU presented the agenda item pertaining to GST exemption for Scientific Equipment required for Research Moored Array for African-Asian-Australian Monsoon Analysis and Prediction (RAMA) programme. She stated that the Ministry of Earth Sciences has requested to exempt IGST on research instruments/buoys imported under RAMA programme which is an inter-governmental technical cooperation programme between India & USA which is valid till July 2026. Earlier, imports under the RAMA programme were availing benefit of concessional IGST rate under Notification No. 47/2017-Integrated Tax (Rate) dated 14.11.2017 and Notification No. 51/96-Customs. On the basis of recommendations of the GoM on Rate Rationalization, which were accepted by the GST Council in its 47<sup>th</sup> Meeting, the IGST concession to scientific and technical instruments supplied to public funded research institutes was withdrawn and therefore, the research buoys and moorings imported under the RAMA programme now attract 18% GST, which is being borne by the National Oceanic and Atmospheric Administration, USA. The Fitment Committee has recommended to extend GST exemption to research equipment/buoys imported under the RAMA programme for a period of 3 years i.e. till July 2026 subject to the condition that such imports are certified by Ministry of Earth Sciences and that such goods are re-exported within 2 years, extendable by further period of 1 year.

**Decision: The Council approved the recommendations of the Fitment Committee to provide IGST exemption till July 2026 to research equipment/buoys imported under RAMA programme subject to condition of certification by Ministry of Earth Sciences and that such goods are re-exported within 2 years (extendable by 1 year).**

5.8 Joint Secretary, TRU presented the agenda item pertaining to ad-hoc exemption from IGST for imports of technical documentation related to AK-203 rifles. She stated that the import of rifle kits are exempted under both Customs and IGST but the the scope of the Notification 19/2019-Customs did not cover the technical documentation under Chapter 49. She stated that Ministry of Defence has requested for IGST exemption on these imports of technical documentation related to these AK-203 rifles as it is given for Basic Customs Duty. The Fitment Committee after considering request from Defence Ministry has recommended to provide ad-hoc IGST exemption for such imports of technical documentation related to AK-203 rifle kits.

**Decision: The Council approved the recommendation of the Fitment Committee to provide ad-hoc IGST exemption for such imports of Technical documentation related to AK-203 rifle kits.**

5.9 Joint Secretary, TRU presented the agenda item pertaining to reducing the applicable GST rate on carton boxes for packaging apples and other horticulture produce. She stated that prior to 1.10.2021, items falling under HSN 4819 like cartons, boxes and cases of non-corrugated paper or paper board attracted a GST rate of 18% while cartons, boxes and cases of corrugated paper or paper board attracted a concessional GST rate of 12%. She stated that the GST Council in its 45<sup>th</sup> meeting held in September, 2021 had recommended that all such items falling under HSN 4819, irrespective of whether they were corrugated or non-corrugated, shall attract a uniform GST rate of 18%. In the 49<sup>th</sup> and 50<sup>th</sup> Council Meetings, Himachal Pradesh and Jammu & Kashmir had requested to re-examine the matter and to provide concessional rate for cartons used for packing apples and other similar horticulture products. She stated that the matter was re-examined by the Fitment Committee and the Fitment Committee has recommended a uniform GST rate of 12 % on cartons, boxes and cases of corrugated paper or paper-board as well as of non-corrugated paper or paper-board falling under heading 4819 10 and 4819 20 respectively.

5.10 The Hon'ble Member from Himachal Pradesh expressed his gratitude to the Hon'ble Chairperson for suggesting re-examination of the issue relating to reduction of GST rate on cartons used for packaging of apples. He further stated that the reduction of GST rates would help a large number of farmers and that the benefit is not limited to apple farmers. He stated the uniform rate for all cartons would reduce the input cost for all the stake holders in the industry.

5.11 The Hon'ble Member from Jammu & Kashmir stated that they are grateful for the decision to reduce the rate of GST and that it will greatly help the apple industry of Jammu & Kashmir.

**Decision: The Council approved the recommendation of the Fitment Committee to provide uniform rate of 12% for carton, boxes and cases of corrugated paper or paperboard as well as of non-corrugated paper or paper board falling under HS 4819 10 & 4819 20.**

5.12 Joint Secretary, TRU presented the agenda item relating to the request to clarify whether fire water sprinklers are covered under entry 195B of Schedule-II of Notification No.1/2017-CT(R) (as amended). She stated that the matter was also considered by the CESTAT, New Delhi and the Tribunal held that Sl. No.195B of Schedule-II of the Notification 1/2017-CTR as it stands does not restrict the sprinklers to any category. She stated that the matter was examined by the Fitment Committee and to rule out future disputes, the Fitment Committee has recommended to clarify that all types of sprinklers including fire water sprinklers are

covered under Sl. No. 195B of Schedule II and thereby, attract 12% GST rate and to regularise past practice on 'as is where is' basis in view of genuine interpretational issues.

**Decision: The Council approved the recommendation of the Fitment Committee to clarify that all types of sprinklers including fire water sprinklers are covered under Sl. No. 195B of Schedule II of Notification 1/2017-Central Tax (Rate) (as amended) and thereby, attract 12% GST rate and to regularise past practice on 'as is where is' basis in view of genuine interpretational issues.**

5.13 Joint Secretary, TRU presented the agenda item relating to inclusion of parts of poultry machinery in the Notification No. 1/2017- CT (Rate) which provides a concessional rate of 12 % for poultry machine. She stated that parts of poultry keeping machinery are specifically classified under HS 8436 9100. In GST, HS CTH 8436 is mentioned under Sl. No. 199 of Schedule II to Notification no. 1/2017- CT (Rate) and thus parts of poultry-keeping machinery are also included in the entry even though these are not explicitly mentioned. She stated that, however, in the past, for goods under heading 8432 and 8433, 'parts' have been specifically included in CGST notification at a later stage, which has created ambiguity for entries wherein parts are not explicitly included. The matter was examined by the Fitment Committee and the Fitment Committee has recommended to amend the entry at Sl. No.199 of Schedule II (@ 12%) to Notification No. 1/2017- CT (Rate) to explicitly mention 'parts thereof' and regularise the past practice on 'as is where is' basis.

**Decision: The Council approved the recommendation of the Fitment Committee to amend the entry at Sl. No.199 of Schedule II to Notification No. 1/2017- CT (Rate) to explicitly mention 'parts thereof' and regularise the past practice on 'as is where is' basis for parts of poultry machinery.**

5.14 Joint Secretary, TRU presented the agenda item pertaining to pulses and cereals supplied to or by any agency engaged by Government prior to 17.07.2022. She stated that for the period from 01.07.2017 up to 17.07.2022, supplies of any goods falling under heading 0713 (pulses) or chapter 10 (cereals) attracted GST at the rate of 5%, when such goods were put up in a unit container and bore a registered brand name. She stated that the issue has arisen since agencies and Government Cooperatives such as NAFED stock these goods with their name to ensure the stock of Government is identified in warehouses and that no special price is realized by these agencies by putting its name on the bags. The issue was examined by the Fitment Committee and the Fitment Committee has recommended to regularize on '*as is where is*' basis all supplies of pulses and cereals made for the past period i.e. 01.7.2017 to 17.7.2022 when supplied to or by any agency engaged by Union/State Govt/Union Territory for procurement and sale, under any programme/scheme duly approved by the Central/State government that intends to supply such goods free of cost or at subsidized rate subject to certification and non-utilization of ITC/reversal of ITC by supplier, if availed. Regarding the applicability of GST on such supplies made after 18.7.2022, JS, TRU informed that clarification has been sought from the Department of Consumer Affairs as to whether such supplies would qualify as supply to institutional consumer.

**Decision: The Council approved the recommendation of the Fitment Committee to regularize on '*as is where is*' basis all supplies of pulses (HS 0713) and cereals (chapter 10) made for the past period i.e. 01.7.2017 to 17.7.2022 when supplied to or by any agency engaged by**

**Union/State Govt/ Union Territory for procurement and sale under any under any programme/ scheme duly approved by the Central Government or any State Government that intends to distribute such goods at free of cost or at subsidised rate to the eligible beneficiaries like economically weaker sections of the society subject to the condition that the concerned supplier shall submit a certificate from an officer not below the rank of the Deputy Secretary to the Government of India or the State Government/ Union Territory, within 180 days from the date of issuance of the Circular, and Input Tax Credit shall not be availed on such inputs, and if availed on such inputs, shall be reversed within a period of 180 days from the date of issuance of the Circular if the supplier intends or takes the benefit under the proposed regularisation.**

5.15 Joint Secretary, TRU presented the agenda item pertaining to rate of GST on solar cookers. She stated that as per HS classification heading 7321 covers all cooking appliances which are normally used in household and use solid, liquid or other source of energy including solar energy and therefore, in light of the description, solar cookers are classifiable under CTH 7321 attracting 18% GST. However, solar cookers with dual energy source i.e solar energy & electricity are classifiable under heading 8516 and attract GST rate of 12%. She stated that to promote renewable energy devices and also to avoid litigation, the Fitment Committee has recommended to provide a uniform GST rate of 12% on all kind of solar cookers and to clarify that solar cookers that work on dual energy sources (solar energy & grid electricity) are classifiable under HS 8516 and already attract GST @ 12%.

**Decision: The Council approved the recommendation of the Fitment Committee to provide a uniform GST rate of 12% on all kind of solar cookers and to clarify that solar cookers that work on dual energy sources (solar energy & grid electricity) are classifiable under HS 8516 and attract GST @ 12%.**

5.16 Joint Secretary, TRU presented the agenda item relating to reduction in GST rate of Steel/Aluminium Milk Cans used in milk dairies. She stated that from the WCO Explanatory Notes for the relevant chapters, it is seen that milk cans for use at a commercial scale/for business purpose would be covered under the heading 7310/7612 @18%, whereas, domestic milk cans would be classifiable under HSN 7323/7615@ 12%. The Fitment Committee recommended to provide a uniform rate of 12 % for all kinds of milk cans made of iron/steel or aluminium irrespective of their use by way of creating a separate entry.

**Decision: The Council approved the recommendation of the Fitment Committee to provide a uniform rate of 12% for all kinds of milk cans of iron/steel or aluminium irrespective of their use by way of creating a separate entry.**

5.17 Joint Secretary, TRU presented the agenda item pertaining to GST Compensation Cess on supply of aerated beverages and energy drinks under HS 2202 by Unit Run Canteens (URCs) to its authorised customers. She stated that the Ministry of Defence had requested to either fully exempt Cess payable by URC on outward supply of goods or to allow for the applicable cess to be collected at the Depot level for supplies made by URCs. Based on the recommendation of the GST Council in its 52<sup>nd</sup> meeting, the matter was referred to the Law Committee and the Law Committee has opined that there are no provisions as per which tax can be collected and deposited by a registered person in a State on behalf of a supply made by a supplier located in another State. In view of the observations of the Law Committee, the Fitment Committee

has recommended that Compensation Cess on supply of aerated beverages and energy drinks (HS 2202) by URCs to its authorised customers may be exempted.

**Decision: The Council approved the recommendation of the Fitment Committee to exempt Compensation Cess on supply of aerated beverages and energy drinks falling under HS 2202 by Unit Run Canteens to its authorised customers.**

5.18 Joint Secretary, TRU presented the agenda item relating to further reduction of GST rate on fertilizers in view of the recommendations made by Standing Committee on Chemicals & Fertilizers in its 43<sup>rd</sup> Report wherein they have recommended to place it before the Council. The issue to further reduce GST on fertilizers was placed before the GST Council in its 45<sup>th</sup> and 47<sup>th</sup> meetings but the GST Council, however, did not recommend any change in the rates of fertilizers or other organic farm inputs. She stated that the matter was examined by the Fitment Committee and as the matter has been discussed in the previous GST Council meetings, the Fitment Committee has recommended to refer the issue to the GoM on Rate Rationalization to take a holistic view.

**Decision: The Council approved the recommendation of the Fitment Committee to refer the issue of reduction in rate of GST on fertilizers to the GoM on Rate Rationalization.**

5.19 Joint Secretary, TRU presented the agenda item pertaining to lowering of GST rate on raw materials of fertilisers like Sulphuric Acid and Ammonia in view of the recommendations made by Standing Committee on Chemicals & Fertilizers in its 43<sup>rd</sup> Report and 52<sup>nd</sup> Report. She stated that the matter was examined by the Fitment Committee and that the Fitment Committee has recommended to refer the issue to the GoM on Rate Rationalization to take a holistic view.

**Decision: The Council approved the recommendation of the Fitment Committee to refer the issue of lowering the GST rate on fertilizer raw materials like sulphuric acid and ammonia to the GoM on Rate Rationalization.**

5.20 Joint Secretary, TRU presented the agenda item relating to reduction of GST rate on micronutrients in view of the recommendations made by Standing Committee on Chemicals & Fertilizers in its 43<sup>rd</sup> Report and 52<sup>nd</sup> Report that micronutrients are considered as essential plant nutrients. The matter was examined by the Fitment Committee. Micronutrients have multiple uses across various industries. Since the matter has been discussed in various GST Council meetings including the 25<sup>th</sup>, 31<sup>st</sup> and 37<sup>th</sup> meetings, the Fitment Committee has recommended to refer the issue to the GoM on Rate Rationalization to take a holistic view.

**Decision: The Council approved the recommendation of the Fitment Committee to refer the issue of lowering the GST rate on micronutrients to the GoM on Rate Rationalization to take a holistic view.**

5.21 Joint Secretary, TRU presented the agenda item pertaining to a request received from State of Karnataka to notify the maximum tax rate of 40% (20% under CGST and 20% under SGST Act) on tobacco products like cigarettes, bidis, smokeless tobacco products etc. She stated that the matter was examined by the Fitment Committee and the Committee has recommended to refer the issue to the GoM on Rate Rationalization to take a complete sectoral view.

5.22 The Hon'ble Member from Karnataka intervened to urge the Council to increase the tax rate on tobacco products as the global standard for tax on such products is around 75% whereas in India we are currently only at 52-53% which was way below the global standard. He further stated that the incidence of cancer has increased and that everyone is well aware of the ill effects of tobacco use and therefore, there should be higher tax on those products and GST rate on tobacco products should be increased and slowly brought on par with global standards which was 75%. He urged the Council to consider increasing the tax on tobacco products in line with global standards and further requested the Council to request the Fitment Committee to take a view on the issue as it would lead to a quicker decision and was well within their domain knowledge. He also stated that this is one avenue for increasing the revenue and that it would also be the right step in the right direction.

5.23 The Hon'ble Chairperson stated that no Member of the Council is favourably inclined towards tobacco products and directed that the issue pertaining to increasing the tax rate on tobacco products needs to be examined by the Fitment Committee.

**Decision: The Council agreed to refer the issue of rate on tax on tobacco products back to Fitment Committee for examination.**

5.24 Joint Secretary, TRU presented the agenda item relating to clarification on GST rate applicable on agricultural farm produce in packages of more than 25 kg or 25 litres. The Legal Metrology (Packaged Commodities) Rules was amended with effect from 01.01.2018 whereby the provisions applicable to packages intended for retail sale does not apply to agricultural farm produce sold in bags upto and including 50kg. The FAQ issued on 17th July, 2022 to clarify the scope of pre-packaged and labelled for the purposes of GST levy was based on the Legal Metrology (Packaged Commodities) Rules - and therefore, it provided that packages of specified food items like cereals, pulses, flour etc. would not fall in the category of pre-packaged and labelled commodity for the purposes of GST if the quantity exceeded 25kg /25litre and would, therefore, not attract GST. The Fitment Committee observed that the intention of the GST Council was always to tax agricultural farm produce less than or equal to 25 kg. In view of the above, in order to align the GST rate notification with the intention of the GST Council, the Fitment Committee recommended that suitable amendment may be made in the definition of the expression 'pre-packaged and labelled' in the concerned GST rate notifications to exclude the supply of agricultural farm produce in packages of more than 25 kg or 25 litre from the scope of pre-packaged and labelled for the purpose of taxation. Further, it was also recommended that the issue for the past period may be regularised on 'as is where is' basis.

**Decision: The Council approved the recommendation of the Fitment Committee to exclude the supply of agricultural farm produce in packages of more than 25 kg or 25 litre from the scope of pre-packaged and labelled for the purpose of taxation and to regularize the issue for the past period on 'as is where is' basis.**

5.25 Joint Secretary, TRU presented the agenda item pertaining to the direction of Hon'ble Chhattisgarh High Court wherein they have requested the Council to reconsider the exclusion of small-scale manufacturers of ice cream from the benefit of Section 10(1) of the GST Act. She stated that the GST Council in the 17<sup>th</sup> GST Council meeting had approved to exclude manufacturers of ice cream and other edible ice, whether or not containing cocoa, from the composition scheme. The issue was re-examined by the Council in the 43<sup>rd</sup> meeting as per

directions of Hon'ble Delhi High Court and no change was recommended by the Council. She stated that the matter was examined by the Fitment Committee and the Fitment Committee has recommended to maintain status quo.

**Decision: The Council approved the recommendation of the Fitment Committee for maintaining status quo and continue the exclusion of ice cream from composition levy.**

5.26 Joint Secretary, TRU presented the agenda item relating to exemption from IGST on imports of pharmaceutical products by organizations carrying serious research in scientific field and hospitals carrying out research on life saving medicines and treatment. She stated that this was a recommendation of PAC and that the concessional rate was withdrawn on recommendation made by the GoM on Rate Rationalisation as it was creating an inverted duty structure and this was accepted in the 47<sup>th</sup> GST Council meeting. The issue was examined and Fitment Committee has recommended no change as it would be detrimental to domestic manufacturers of such goods and also entail end use based exemption.

**Decision: The Council approved the recommendation of the Fitment Committee to maintain status quo.**

5.27 Joint Secretary, TRU presented the agenda item pertaining to request to increase rate of GST on orthopaedic implants falling under HS 9021 from 5% to 18% on the ground that the inverted duty structure leads to blocking of working capital. She stated that inputs were sought from Ministry of Social Justice & Empowerment with respect to the request for increase in GST rates, which has replied that increase in GST rates would increase the cost of these goods and not be in the interest of persons with disabilities (Divyangjan). Fitment Committee has recommended to maintain the status quo considering inputs from Ministry of Social Justice.

**Decision: The Council approved the recommendation of the Fitment Committee for maintaining status quo on rate of GST on orthopaedic implants.**

5.28 Joint Secretary, TRU stated that the next agenda item is for the information of the Council. She stated that in the 52<sup>nd</sup> meeting of the GST Council, a general approval was obtained from the Council to update the list of banks/entities eligible for IGST exemption on import of Gold/Silver/Platinum as and when Appendix 4B of Handbook of Procedures of Foreign Trade Policy (FTP), 2023 is amended by DGFT. She stated that in light of corrigendum dated 09.02.24 issued by DGFT, a corrigendum was also issued with respect to Notification 60/2023-Cus dated 16.10.23 so as to align it with partially modified Appendix 4B. Further, she stated that for the Financial Year 2024-25, following issuance of updated list of authorised banks by RBI, DGFT has amended Appendix 4B of Handbook of Procedure FTP, 2023 vide Public Notice No. 54/2023, dated 28.03.2024 updating the list of banks authorised for import of gold and silver and those authorised for import of only gold. Thereafter Notification No. 25/2024-Customs dated 06.05.24 was issued to amend the list in Notification No. 50/2017-Cus implementing the same. Fitment Committee recommended placing the same before the Council for information.

**Decision: The Council took note of the updated list of banks/entities eligible for IGST exemption on such imports.**

5.29 Joint Secretary, TRU presented the agenda pertaining to Services as mentioned at Annexure-IV in the Agenda Volume-II. She presented the recommendations made by the Fitment

Committee for making changes in the GST rates and for issuing clarifications in relation to the services.

5.30 Joint Secretary, TRU presented the agenda item relating to a request to clarify the GST liability on the premium settlement by lead insurer to co-insurers in co-insurance agreement. She stated that in these agreements, the entire GST at 18% is paid by the lead insurer on behalf of all the co-insurers. The issue of taxability of co-insurance premium apportioned by lead insurer to the co-insurers in co-insurance agreements was examined in the 47<sup>th</sup> meeting of the GST Council and it was recommended that though lead insurer pays the tax on the entire amount of premium, the co-insurers are liable to pay GST on the portion of premium they receive. In light of certain challenges in implementing the above recommendation of the 47<sup>th</sup> GST Council, the issue was examined by the Fitment Committee and the Fitment Committee recommended that supply of services wherein co-insurance premium is apportioned by the lead insurer to co-insurer(s) for the supply of the insurance services made jointly *by the lead insurer and co-insurer (s) to the insured* in the co-insurance agreement may be declared as no supply under Schedule III of the CGST Act, 2017 and to regularise the past cases on 'as is where is' basis by way of issuance of a Circular.

**Decision: The Council approved the recommendation of the Fitment Committee to consider supply of services wherein co-insurance premium is apportioned by the lead insurer to co-insurer(s) for the supply of the insurance services made jointly *by the lead insurer and co-insurer (s) to the insured* in the co-insurance agreement as no supply under Schedule III of the CGST Act, 2017 and to regularize the past cases on 'as is where is basis' by way of issuance of a Circular.**

5.31 Joint Secretary, TRU presented the agenda item pertaining to a request to clarify the GST taxability on re-insurance commission. She stated that reinsurance commission is an amount deducted by an insurance company from the reinsurance premium payable to a reinsurer to cover administrative costs, underwriting and business acquisition expenses. The issue was examined by the Fitment Committee and it was observed that the arrangement between the insurance companies and the reinsurer in this transaction is only sharing of expenses. In view of these deliberations, the Fitment Committee has recommended that transaction of ceding commission between insurer and reinsurer may be declared as no supply under Schedule III of CGST Act, 2017 and also to regularize the past cases on 'as is where is' basis by way of issuance of a Circular.

**Decision: The Council approved the recommendations of the Fitment Committee to consider the transaction of ceding commission between insurer and reinsurer as no supply under Schedule III of CGST Act, 2017 and to regularize the past cases on 'as is where is' basis by way of issuance of a Circular.**

5.32 Joint Secretary, TRU presented the agenda item relating to a request received from Ministry of Railways to restore GST exemptions on outward supplies made by railways and exemption on intra-railway supplies. She stated that the matter was examined by the Fitment Committee and the Fitment Committee has recommended that following specific services provided by Ministry of Railways (Indian Railways) to general public may be exempted from GST: (i) Platform tickets, (ii) Facility of retiring rooms/waiting rooms, (iii) Cloak room services and (iv) Battery-operated car services. Fitment Committee also recommended to restore exemption on the intra-railway supplies i.e the supply of services made between various zones/ divisions under

Ministry of Railways (Indian Railways) and that the intervening period i.e., from 20.10.2023 till date of notification of exemption on above services be regularized on 'as is where is' basis.

**Decision: The Council approved the recommendations of the Fitment Committee to:**

- a. Exempt from GST the following specific services provided by Ministry of Railways (Indian Railways) to general public at large: (i) Platform tickets, (ii) Facility of retiring rooms/waiting rooms, (iii) Cloak room services and (iv) Battery-operated car services.**
- b. Exempt Intra-railway supplies i.e the supply of services made between various zones/divisions under Ministry of Railways (Indian Railways).**
- c. To regularize on 'as is where is' basis the intervening period i.e., from 20.10.2023 till date of notification of exemption on above services.**

5.33 Joint Secretary, TRU presented the agenda item relating to a request received from Ministry of Railways to exempt GST on transactions between Special Purpose Vehicles (SPVs) and Ministry of Railways (MoR) retrospectively w.e.f. 01.07.2017. She informed that the issue was discussed in the Officers' meeting and there was a request from State of Maharashtra that similar proposals, if it arises in the context of states/UTs should also be considered. She stated that the same has been noted and similarly placed request received from states/UTs will be examined and considered on case to case basis.

5.34 The Hon'ble Member from Tamil Nadu stated that SPV is a separate legal entity and therefore, any transaction between the Ministry of Railways or within SPVs is taxable. He further stated that it was discussed in the 48<sup>th</sup> GST Council meeting that the transaction between two such organizations is taxable and therefore, if any exemption is given for this particular SPVs then same exemption will have to be extended to similarly placed SPVs which are already in existence in Tamil Nadu. He stated that the same needs to be considered.

5.35 The Secretary clarified that the issue was discussed in the Officers' meeting and the issue raised has been taken note of.

5.36 The representative from Maharashtra stated that case to case basis exemption may be difficult. He stated that he understood the rationale that railways are being exempted because there should not be a taxable transaction between the two state entities. He further stated that if similar SPVs are there within the State then it would be better to cover all such similar entities in a single notification for exemption rather than considering them on a case to case basis.

5.37 The Hon'ble Member from Kerala stated that in case of SPVs and Railways, more clarity is required as to the nature of services that are getting exempted and also, it needs to be ascertained whether any production such as rolling stock is happening through these SPVs. He stated that Fitment Committee needs to consider in detail these different kinds of SPVs and as many SPVs are involved in production this aspect also needs to be examined in detail.

5.38 The Secretary clarified that the SPV under consideration in the present agenda is basically

a joint venture of Railways primarily with State governments and some other authorities. The SPV is tasked with building, construction and owning the railway line and the ancillary infrastructure and then the infrastructure is made available to the railways to run the trains. He clarified that this service of use of the railway line and other ancillary infrastructure is one service that is currently being considered for exemption. He further stated that the other service that is being considered for exemption is the maintenance of railway lines which is being done by the railways for the SPVs. Therefore, he clarified that there is flow of services in both directions. He stated that railways uses this infrastructure to further provide services to its customers, both passenger and freight. He stated that other than Department of Posts, Railways is the only organisation in the Government of India that is providing commercial services to the citizens. If similar organizations exist in States, they can be considered. He further clarified that seven of these SPVs pertain to the period prior to implementation of GST and they have already paid the taxes whether it was excise duty or VAT etc. Now, they are not able to take any input tax credit for those whereas the whole value of the services that they are providing at present gets taxed. In effect, it becomes a case of double taxation. He further stated that the services provided by railways are either exempt such as non-AC passenger services, transport of agriculture produce or they are chargeable at 5% such as freight services. Therefore, if these exemptions are not provided, then these SPVs might not come up in the future. Many of these SPVs are in joint venture with State governments. He elaborated that this is the reason the Fitment Committee has recommended that these services be exempted from the payment of GST. He further stressed that it is only a B2B service. He also clarified that if there are any such entities they should be considered for same exemption on the same principle.

5.39 The Hon'ble Member from Telangana stated that he appreciates the exemption given for transactions between SPVs and railways. He stated that their request for the same exemption to be extended to the States especially where the state governments are building residential schools and integrated residential schools, with a welfare concept, for the children who are not able to afford their education. He stated that at present GST at 18% is collected on these services and requested that the same may be considered for reduction on similar lines.

5.40 The Hon'ble Member from Kerala stated that there is still no clarity as to the services that are being rendered by these SPVs and at present many SPVs are providing a large number of commercial services. He further gave the example of a proposal for creating a SPV between railways and a public sector steel company in Kerala, for making the bogies and wheels. He stated that although this SPV did not materialise there could be such similar cases and therefore, there is a need to create a level playing field. Further, he stated that many SPVs are getting created and that if those organizations are being exempted from tax then it needs to be seen as to how it will affect the economy. He reiterated that there is no clarity as to the nature of services to be exempted. However, he stated that if the intention is to exempt seven organizations which were created before the advent of GST as stated earlier then they can be specifically exempted. He reiterated that in the name of SPVs with railways, if we are extending it to all without properly mentioning about the services and details then it will affect the revenue and that it is a cause for concern.

5.41 Joint Secretary, TRU clarified that when the agenda was discussed in the 48<sup>th</sup> Council meeting, the only transaction that were clarified to be taxable were the services which the Indian Railways were providing to the SPVs for maintaining the railway lines and by the SPVs to the Railways for use of the Railway lines. She stated that the present proposal is to only

exempt the services provided by SPV to Indian Railways by way of allowing railways to use the infrastructure built and owned by SPV during the concession period against consideration and to exempt the maintenance services supplied by Indian Railways to SPV from GST.

5.42 The Hon'ble Chairperson stated that the Ministers are right in raising this question because it may include so many different other services and therefore, she requested Joint Secretary, TRU to identify in the agenda as to where these services are clearly specified.

5.43 Additional Secretary, DoR further elaborated on the incidence of tax in case of SPV. He stated that in case of an SPV that is asked to build a railway line that is for last mile connectivity to a Port etc., then the GST paid by that SPV is 18% only. SPV is paying the 18% GST on the construction that is being undertaken by them and Centre and States are getting their tax share. Similarly, if railways is plying a carriage train or a passenger train on that railway line then the railways is levying the applicable GST on the passenger ticket or the freight charges and the same is being paid by the railways. He further elaborated that there is an agreement between the railways and the SPVs for using that railway line and maintenance of same. The complexity in the transaction is that the tax has already been paid. He stated that in this case, railways is Government of India and the SPVs is functioning with the Government of India and the tax payable on the construction cost has been paid by the SPV. Therefore, he stated that this transaction that we are trying to tax as a service may not be adding to revenue but only making the business of railways cumbersome and that is the reason why railways are seeking this exemption. He further stated that this is not similar to the example raised by Telangana. If a school is being built, GST is applicable on the cost of construction by whoever builds it, it may be the PWD or any agency, just as in case of projects done by SPVs created by railways. He further stated that as the Secretary had explained, it is basically a transaction between railways and SPV which in any case if GST were to be imposed, it should be available as a tax credit which could be adjusted against the tax to be paid by the SPV or by the railways. He stated that if this exemption is provided then it makes it easier for the railways to run such SPVs. He stated that such transactions are not being taxed at state level such as a MoU was signed by state government and a corporation created to do public good functions for the government, the transactions are not being taxed.

5.44 The Secretary in response to the question raised by the Hon'ble Member from Kerala as to whether the exempted service is specifically identified in the agenda stated that it is specifically provided for in page 43 of the Agenda Volume II. He stated that it is specifically stated therein that 'Supply of services by SPV to Indian Railways by way of allowing it 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 which are proposed to be exempt. Similarly, maintenance services supplied by Indian Railways to SPV are also taxable'. He further stated that as already mentioned and discussed in the Officers' meeting, if there are similar requests or similar situation in any States it will be examined and considered on case to case basis. He stated that as already clarified by Additional Secretary DoR, if some work is given by the Government of Telangana, Maharashtra or any other State to its SPV then those cases are generally not taxable. However, he further stated that there will be incidence of tax on the supply or the work done by the SPV or by the PSU on behalf of the Government when it does construction work. He stated that in the present case also there is incidence of tax on the construction done by the SPV. Similarly, he stated that we cannot and should not exempt the State PSU or Centre when it is getting the work done. He elaborated that this situation is arising because this is in form of a service and also, because railways is acting as a business entity. Generally, State government is not acting as

a business entity and this issue does not arise as it is treated as a grant or a subsidy. Therefore, he clarified that it can be considered on case to case basis as already discussed and agreed to in the Officers' meeting and that such cases will be examined, if there are similar situations whether in Maharashtra or Tamil Nadu or Kerala or Telangana or any other State. The Secretary requested the Members of the Council to approve the agenda with this suggestion to examine similar cases on case to case basis in the future.

**Decision: The Council approved the recommendations of the Fitment Committee to exempt GST on services provided by SPV to Ministry of Railways (Indian Railways) by way of allowing Ministry of Railways (Indian Railways) to use infrastructure built and owned by SPV during the concession period against consideration and maintenance services supplied by Ministry of Railways (Indian Railways) to SPV. The Council also recommended to regularize the past cases on 'as is where is' basis.**

5.45 Joint Secretary, TRU then presented the next agenda item relating to exemption or regularization of payment of GST on reinsurance services of specified general and life insurance schemes such as Pradhan Mantri Fasal Bima Yojana (PMFBY), Rashtriya Swasthya Bima Yojna, Janshree Bima Yojna for the period from 01.07.2017 to 24.01.2018. She stated that the issue of exemption of reinsurance services of the specified insurance schemes for the period from 01.07.2017 to 24.01.2018 was discussed in the 47<sup>th</sup> GST Council meeting but no change was recommended. The issue has been re-examined and the Fitment Committee viewed that the issue is for a brief period of 7 months only before exemption was granted to reinsurance of specified insurance schemes covered by Sl. Nos. 35 & 36 of notification No. 12/2017-CT (Rate). The Fitment committee has recommended to regularize the payment of GST on reinsurance services of specified insurance schemes covered by Sl. Nos. 35 & 36 of Notification No. 12/2017-CT (Rate) for the period from 01.07.2017 to 24.01.2018 on 'as is where is' basis through issuance of a Circular.

**Decision: The Council approved the recommendation of the Fitment Committee to regularize the payment of GST on reinsurance services of specified insurance schemes covered by Sl. Nos. 35 & 36 of Notification No. 12/2017-CT (Rate) for the period from 01.07.2017 to 24.01.2018 on 'as is where is' basis through issuance of a circular.**

5.46 Joint Secretary, TRU then presented the next agenda item relating to a request to clarify that reinsurance services of the insurance schemes for which total premium is paid by the Government (Sl. No. 40 of the notification No. 12/2017 CTR) are exempt from GST for the period 01.07.2017 to 26.07.2018. She stated that in the 28<sup>th</sup> GST Council meeting held on 21.07.2018, it was decided to exempt re-insurance of insurance schemes already exempt under Sl. No. 40 of Notification No. 12/2017-CTR. The said exemption was notified w.e.f. 27.07.2018. The issue was examined by the Fitment Committee and it recommended to regularize the payment of GST on reinsurance services of the insurance schemes for which total premium is paid by the Government (Sl. No. 40 of Notification No. 12/2017-CT(R) dated 28.06.2017) for the period from 01.07.2017 to 26.07.2018 on 'as is where is' basis by way of issuance of a Circular.

**Decision: The Council approved the recommendation of the Fitment Committee to regularize the payment of GST on reinsurance services of the insurance schemes for which total premium is paid by the Government (Sl. No. 40 of Notification No. 12/2017-CT(R) dated 28.06.2017) for the period from 01.07.2017 to 26.07.2018 on 'as is where is' basis by way of issuance of a Circular.**

5.47 Joint Secretary, TRU then presented the next agenda item relating to a request to clarify whether the term ‘reinsurance’ as mentioned at Sl. No. 36A of notification No. 12/2017- CT (Rate) dated 28.06.2017 includes ‘retrocession’ services and therefore whether retrocession services of specified insurance schemes are also eligible for exemption from GST. She stated that the issue was examined by the Fitment Committee and it recommended that the issue may be clarified through a Circular that the term ‘reinsurance’ as mentioned in Sl. No. 36A of notification No. 12/2017- CT(R) dated 28.06.2017 includes ‘retrocession’.

**Decision: The Council approved the recommendation of the Fitment Committee to clarify that the term ‘reinsurance’ as mentioned in Sl. No. 36A of notification No. 12/2017- CT(R) dated 28.06.2017 includes ‘retrocession’**

5.48 Joint Secretary, TRU presented the agenda item pertaining to a request to clarify the taxability of the incentive amount that is shared by acquiring bank with other stakeholders in the digital payment ecosystem. This incentive amount is being paid by MeitY to acquiring banks to boost digital transactions in the country under the Incentive Scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions.

Based on the recommendations of the GST Council in its 48<sup>th</sup> meeting, it was clarified that incentives paid by MeitY to acquiring banks under the said scheme are in the nature of subsidy and thus not taxable. She stated that the present request is for clarification regarding incentive amount that is further shared by acquiring bank with other stakeholders in the digital payment ecosystem. The issue was examined by the Fitment Committee and Fitment Committee recommended to issue a clarification that further sharing of the incentive, where such incentive is clearly defined under Incentive Scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions and is distributed in the proportion and manner as decided by NPCI in consultation with the participating banks, is not taxable.

**Decision: The Council approved the recommendation of the Fitment Committee to clarify that further sharing of the incentive amount by the acquiring bank with other stakeholders, up to the point where the incentive is distributed in the proportion and manner as decided by NPCI in consultation with the participating banks under the notified Incentive Scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions, is in the nature of a subsidy and is thus, not taxable.**

5.49 Joint Secretary, TRU presented the agenda item relating to a request to clarify whether GST is applicable on the statutory collections made by the Real Estate Regulatory Authority (RERA) in accordance with the Real Estate (Regulation and Development) Act, 2016. This issue was deferred in the 52<sup>nd</sup> Council meeting held on 07.10.2023. The issue of whether RERA is a ‘governmental authority’ being an authority set up by an Act of Parliament was considered by the Fitment Committee and the Fitment Committee has recommended to clarify by way of a circular that RERA is a governmental authority and statutory collections made by the RERA are covered under the scope of entry at Sl. No. 4 of Notification No. 12/2017-CT(R).

**Decision: The Council approved the recommendation of the Fitment Committee to clarify by way of a circular that RERA is a governmental authority and statutory collections made by the RERA are covered under the scope of entry at Sl. No. 4 of Notification No. 12/2017-CT(R).**

5.50 Joint Secretary, TRU presented the agenda item pertaining to a request to clarify whether service by way of hostel accommodation, service apartments /hotels booked for longer period is a service of renting of residential dwelling for use as residence and exempted as per entry no. 12 of the notification No. 12/2017-CT (Rate) dated 28/06/2017 and also a request for GST exemption on hostels for poor and middle-class students run by charitable trusts. The Fitment Committee has recommended that a new entry may be inserted under Heading 9963 in the exemption notification to exempt supply of accommodation services up to Rs.15000/- per person per month provided the accommodation service is supplied for a minimum continuous period of 90 days. She stated that during the Officers' meeting, there was a suggestion received that for the past cases, if they meet the current condition, a provision may be inserted for regularizing them on 'as is where is' basis. Further, the Fitment Committee has recommended that an explanation may be inserted in Sl. No. 12 of Notification No. 12/2017-CT(R) dated 28.06.2017 which exempts services by way of renting of residential dwelling for use as residence as below:

“Explanation,- Nothing contained in this entry shall apply to:

- accommodation services for students in student residences; and accommodation services provided by Hostels, Camps, Paying Guest accommodations and the like.” The Fitment Committee also recommended that Heading 9963 may be deleted from Column No. 2 in the Sl. No. 12 in the Notification No. 12/2017- CT (R).

5.51 The Secretary clarified that the proposed exemption is Rs. 15,000/- per person per month and there was also a suggestion to raise this limit to Rs. 20,000/- per person per month and also to remove the condition of per bed. He stated that, if the Council agrees, the limit can be increased because there can be cases especially in metros like Delhi, Bangalore, Mumbai etc. where the monthly rentals are higher than at smaller places. The Secretary noted that all the Members have agreed to the suggestion of increasing the limit to Rs. 20,000/- per person per month.

5.52 The Hon'ble Member from Karnataka requested to have a relook at the issue relating to Hostels pertaining to regularizing the past period on 'as is where is' basis as the Hon'ble High Court of Karnataka has held that hostels be treated as residential facilities in certain cases. He stated that therefore, if a decision is taken to regularise past cases on 'as is where is' basis, then it needs to be analysed what would be its implication vis-à-vis the court order. He stated that this needs to be looked into comprehensively to see whether it contradicts the order of the Hon'ble Court. The Secretary requested Joint Secretary, TRU to elaborate on this issue with respect to whether the same has been considered by the Fitment Committee while making the recommendation. The Joint Secretary, TRU stated that while the department has filed an appeal against the order of the Hon'ble High Court of Karnataka, the entry exempting residential dwelling (Sl. No. 12 of the notification No. 12/2017-CT(R) dated 28.06.2017) as it stands in the Notification also includes the heading for other accommodation services like hostels and this inclusion has created confusion. She stated that the second proposal of the Fitment Committee to insert an explanation at Sl. No. 12 of the notification No. 12/2017-CT(R) dated 28.06.2017 is for clearing this confusion. The Secretary clarified that the proposal to insert an explanation is to clear the confusion.

**Decision: The Council approved the recommendations of the Fitment Committee and modified the same to the extent discussed above:**

- a. To insert a new entry under Heading 9963 in the exemption notification to exempt

**supply of accommodation services upto Rs.20,000/- per person per month provided the accommodation service is supplied for a minimum continuous period of 90 days.**

- b. To insert an explanation in Sl. No. 12 of Notification No. 12/2017-CT(R) dated 28.06.2017 which exempts services by way of renting of residential dwelling for use as residence as below:**

**“Explanation,- Nothing contained in this entry shall apply to:**

- accommodation services for students in student residences; and**
- accommodation services provided by Hostels, Camps, Paying Guest accommodations and the like.”**

- c. To delete Chapter heading 9963 from Column No. 2 in the Sl. No. 12 in the Notification No. 12/2017- CT (R).**

5.53 Joint Secretary, TRU presented the agenda item pertaining to Services as mentioned at Annexure-V in the Agenda Volume-II wherein no change has been recommended by the Committee. She stated that the agenda is relating to a request to give retrospective effect to the amendment carried out in Notification No. 17/2017-CT(R) dated 28.06.2017 vide which bus operators organized as companies were excluded from purview of Section 9(5) of CGST Act, 2017. The GST Council in its 52<sup>nd</sup> meeting recommended that bus operators organized as companies may be excluded from the purview of section 9(5) of CGST Act, 2017 as this would enable them to pay GST on their supplies using their ITC. She stated that the issue is arising out of interim Order dated 04.04.2024 of the Hon’ble Delhi High Court wherein they have directed to dispose of the representation of the petitioner. The request of the petitioner is to give retrospective effect to the amendment carried out vide Notification 16/2023- CT(R) dated 19.10.2023 as recommended by the GST Council in its 52<sup>nd</sup> meeting and also, to suitably amend the GST portal so that the ITC accumulated during the period 01.01.2022 to 19.10.2023 be transferred to the ECO or refund of the ITC accumulated during the period of 01.01.2022 to 19.10.2023 be given to the applicant/petitioner. The issue was examined by the Fitment Committee and it was recommended that the request of the petitioner may not be accepted.

**Decision: The Council approved the recommendation of the Fitment Committee to not give retrospective effect to the amendment carried out in Notification No. 17/2017-CTR.**

## **6 . Agenda Item 5: Issues recommended by Goods and Services Tax Network (GSTN)**

6.1 The Secretary introduced the agenda item relating to issues recommended by Goods and Services Tax Network (GSTN) and asked the CEO, GSTN to present the agenda.

6.2 CEO, GSTN stated that there are two agenda items relating to GSTN. He stated that the first agenda is regarding All India roll-out of the Biometric-based Aadhaar Authentication and Document Verification System to contain the issue of bogus registrations carried out through impersonation and other forms of misrepresentation. He stated that the Council has already accorded approval for roll out of the scheme at All India level in a phased manner.

6.3 CEO, GSTN stated that the second agenda is regarding waiver of Interest on delayed receipt of Advance User Charges (AUC) from a few states and CBIC and that this is a regular administrative item. He requested the Council to waive the interest for the year 2022-23, amounting to Rs. 27.61 crore and for 2023-24 amounting to Rs. 15.56 crore. He elaborated that

these waivers are necessary as they cannot be shown as outstanding entries in the books of accounts as GSTN is being regularly audited by Comptroller and Auditor General (CAG).

6.4 CEO, GSTN further stated that in the presentation made by GSTN before the Council they regularly bring out the functionalities which have been rolled out in recent past and the functionalities which are likely to be rolled out in the due course of time. He further stated that in the interest of time with the permission of the Chairperson, the presentation would be circulated to the Hon'ble Members as it is technical and more in the nature of what has been rolled out and what will be rolled out in due course. He further stated that there is no formal approval required from the Council however, he would like to flag the three important changes made for the information of the Council.

6.5 The first change is that the GST council has approved GSTR-1A. This is a very important facilitation measure because taxpayer will be able to correct GSTR-1 and then file GSTR-3B which will ensure that the mismatch between GSTR-1 and GSTR-3B is completely removed. This will reduce the notices which get issued on account of difference between GSTR-1 and GSTR-3B. The second important change/facilitation measure is "invoice management system". He stated that now the recipients of the invoice will be given a facility to accept, reject or keep an invoice pending. He clarified that this will be a facilitation measure and it will be for the taxpayer to either use it or not and it will allow him to better manage his ITC. This will reduce the difference between ITC available in GSTR-2B statement as well as in GSTR-3B thereby the gaps will get reduced and the notices issued will also get reduced. He stated that the third important point that he would like to bring to the notice of the Council is that Centre and all the States now have transitioned and have started taking services of GSTN. It allows for improved administrative efficiency in services, sharing of best practices and better guidance to GSTN as CBIC and all states are now on the back office.

6.6 The Secretary thanked CEO, GSTN and informed the Council that the three changes mentioned are by way of information and waiver of interest on delayed receipt of Advance User Charges may be approved.

**Decision: The GST Council approved the roll-out of the Biometric-based Aadhaar Authentication and Document Verification System at All India level in a phased manner and waiver of Interest on delayed receipt of Advance User Charges (AUC) and took note of the functionalities rolled out/to be rolled out by GSTN.**

#### **7. Agenda Item 6: Recommendations of the 20<sup>th</sup> meeting of the IT Grievance Redressal Committee for approval/decision of the GST Council**

7.1 The Secretary presented the recommendations of the 20<sup>th</sup> meeting of the IT Grievance Redressal Committee (ITGRC) on the data fixes carried out by GSTN as per the Standard Operating Procedure approved by the Council, as detailed in the agenda notes. The 20<sup>th</sup> meeting of the IT Grievance Redressal Committee (ITGRC) was held on 12th January, 2024 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. He stated that the Committee made recommendations regarding 38 technical issues. Of these, 3 data fixes were carried out as per directions of the Hon'ble Courts. The Secretary then sought the comments of the Hon'ble Members of the Council on the recommendations of ITGRC and requested the Council to approve the same.

**Decision: The GST Council approved the recommendations made by the ITGRC during its 20<sup>th</sup> meeting and took note of the data fixes carried out by GSTN.**

## **8. Agenda Item 7 (a) : Review of revenue position under Goods and Services Tax.**

8.1 The Joint Secretary, Department of Revenue presented the Agenda to the Council. He stated that a good growth rate was being seen on the GST front. He informed the Council that for the month of May 2024, revenue of ₹1.72 lakh crore was recorded reflecting a 10% growth compared to the same month in the previous year. In April 2024, a historic high was achieved with revenue of ₹2.1 lakh crore.

8.2 He presented to the Council the details of IGST settlement and informed that the last year saw a negative balance of ₹5,516 crore, indicating that the Centre paid more in IGST settlements to the States than the actual IGST collections and that the current year presents a similar challenge, with a negative balance of ₹10,304 crore as of the end of May 2024. He further if the negative balance continues, the same shall be recovered from the IGST ad-hoc settlements made so far to the States.

8.3 He also presented the status of Compensation Cess and informed that at the end of last year, there was a negative balance of ₹19,000 crore. After considering the collections for the current year, estimated compensation to be paid to the States, and after accounting for part repayment of back-to-back loans and interest during the year, there will still be balance of approximately ₹1,00,000 crore of the back-to-back loan to be repaid. He further informed that based on the current trend, it is expected that the back-to-back loan would be fully repaid during the later part of the FY 2025-26.

8.4 He further presented the status of the receipt and processing of AG's certificate from the States for release of compensation. It was further pointed out after submission of the agenda items for discussion, compensation cess has been received from West Bengal, Punjab, Sikkim and Tripura and the same has already been taken for payment. He urged the remaining States to expedite the finalization of AG's certificate.

8.5 The Secretary clarified the issue regarding IGST settlement, especially the negative balance observed last year. He explained that the lower IGST collections are due to the initial accumulation of IGST, which was not being utilized. With increased capital expenditure, the ITC is now being used, resulting in lower IGST collections. The Secretary emphasized the need to address this negative trend, hoping it will reverse to the surplus levels seen in the early years of GST and if the trend does not reverse, measures will need to be taken to recover the shortfall. He informed that the Centre does not retain any excess amounts and distributes the collected IGST among the States as per the agreed formula.

8.6 The Additional Secretary, DoR added that this is the first year the Centre has maintained a negative balance in the IGST settlement account due to its conversion into a continuous account. Previously, the account balance was finalized on March 31st each year, regardless of whether it was positive or negative. With the new continuous account system, States will have ongoing transparency regarding the actual balance, even beyond the financial year-end.

8.7 The Hon'ble Member from Kerala highlighted the issues related to the principle of IGST, particularly in a consumer State like Kerala where a significant portion of goods comes from outside of the State. He mentioned that it is no body's case that IGST due to the States has been retained by Centre. He informed that despite an increase in SGST and intra-state trade, IGST collections have only seen a marginal 3% increase this year, indicating discrepancies in the way IGST settlement is

made. He pointed out that many States face challenges in accurate IGST accounting, including issues with State-level transfers, input tax credits, and instances of tax evasion, as highlighted in studies conducted with Kerala. He emphasized the need to address these accounting, GSTN and software-related issues to ensure accurate IGST flows and prevent misuse of IGST benefits without underlying transactions. He underscored the importance of proper apportionment and the need to enhance the GST system, as discussed previously regarding e-commerce and place of supply regulations.

8.8 The Hon'ble Chairperson emphasized the need for better understanding between State and Central officials regarding IGST apportionments. She urged officials to meet and clarify the process, stressing that the Centre has no role in retaining IGST funds meant for States. She highlighted that IGST apportionment happens directly between States, and the Centre only keeps only its due share. She noted that before her resuming charge of Ministry, an ad-hoc distribution of IGST was done between Centre and States but later the reimbursement became difficult especially during COVID. So, the Centre decided not to collect these funds from the States. She urged the Secretary to coordinate with State officials for a joint meeting within the next 10 days to review IGST handling since July 1, 2017, and to explain the apportionment process for clarity. She emphasized the importance of informed officials to communicate accurately with their Ministers and the media, aiming to dispel misconceptions.

8.9 The Secretary assured that within the next ten days he will convene a meeting with State officers to explain the IGST process and discuss any potential improvements.

8.10 The Hon'ble Member from Karnataka agreed with the Secretary's suggestion for monitoring the IGST balance to see if it turns from negative to positive. He emphasized for a measured approach and to wait for a potential turnaround. He noted that a negative balance must be adjusted eventually but suggested that any adjustments be made in consultation with the States to allow for financial preparation. On the issue of Cess, the Hon'ble Member noted that annual revenues from Cess is around ₹1.4 lakh crores, with liabilities totalling about ₹1 lakh crore. He further expressed the possibility of redeeming all liabilities against the cess account before the end of the financial year. Hon'ble Member urged to expedite decision on the long-term nature of the cess and future course of action, if all liabilities are to be liquidated by year-end.

8.11 The Secretary clarified that the adjustment of Cess will not happen this year but next year.

8.12 The Joint Secretary, Department of Revenue reported that the total loan plus interest amounts to about ₹3.15 lakh crores. By the end of last year ₹1.11 lakh crores has been repaid, leaving approximately ₹2.04 lakh crores outstanding. After adjusting for this year's compensation payments and the estimated collections of Cess, it is expected that ₹1 lakh crores shall remain.

8.13 The Hon'ble Chairperson clarified that compensation will not be cleared this financial year.

#### **Agenda Item 7 (b) : GST Appellate Tribunal – Status Update and issues for approval**

8.14 The Secretary then requested the Joint Secretary (DoR) to update the Council about the current status of GST Appellate Tribunal (GSTAT) and the decisions of the GST Implementation Committee (GIC) in this regard.

8.15 Joint Secretary, DoR stated that the President of GSTAT has been appointed and that he has assumed office on 06th May, 2024. He further stated that the process of appointment of Judicial Members, Technical Members (Centre) and Technical Member (State) to be done by the Centre is

also in progress and expected to be completed by July/ August, 2024. He stated that the process of setting up of physical and digital infrastructure for the State Benches in the different States is ongoing and requested the States to expedite the process. He further requested the States to prioritise the process of appointment of Technical Member (State) in the state benches so as to enable DoR to make the GSTAT functional at the earliest and to ensure that the first hearing of the Tribunal happens in the present year itself and does not get delayed further.

8.16 He further informed the Council that there have been requests from the States for relaxation in the eligibility conditions of State officers for the post of Technical Member (State). He stated that most of these requests have been approved by the GIC and the same (Annexure 1 of the Agenda item) are being placed before the GST Council for approval. However, the proposals of Delhi and Chhattisgarh relating to request to reduce the requirement of the officer having completed twenty five years in the Government in Group A, or equivalent, to be eligible for Technical Member (State) and the proposals of Maharashtra, Gujarat and Mizoram relating to request to notify the rank of officer working in the State, not lower than the rank of the First Appellate Authority, who would be eligible for Technical Member (State) could not be processed through GIC and therefore, the same are as placed as formal agenda for approval by the GST Council. He further stated that there has been a request from some States for a draft notification for relaxation of the qualification and eligibility for appointment as Technical Member (State) and for the purpose of ensuring uniformity. The same is being placed before the GST Council for approval.

8.17 With respect to notification for constitution of Principal Bench and State Benches, Joint Secretary, DoR stated that Notifications in this respect were issued in September, 2023 and December, 2023. He further stated that there is a requirement to notify the location of the bench where sittings of the benches are in more than one place and accordingly, a draft Notification is placed in the agenda for approval by the GST Council. He further informed the Council that there are 4 decision points. The first is that Puducherry and Panaji which were earlier notified as full sitting of a Bench but considering that they have less than 50,000 registrants, it is now proposed to treat them as Circuit Benches and the Notification has been accordingly modified. He stated that Andhra Pradesh has requested to change the location of the bench from Vishakhapatnam to Vijayawada and has requested for additional sitting at Vishakhapatnam. He stated that these changes have been incorporated in the Notification. He further stated that a request has been received from Tamil Nadu to change the location of the second bench to Madurai instead of Coimbatore and Coimbatore would be an additional sitting. Further, for the State of Chhattisgarh the Notification issued in September, 2023 had specified Raipur and Bilaspur as location of Benches but now the State has now requested for deletion of Bilaspur. He stated that these changes be incorporated in the draft Notification placed for approval of the Council and the same may be approved.

**Decision: The Council took note of the status update with regard to GSTAT and the decisions of GIC with respect to the relaxation in qualifications and eligibility conditions for appointment of Technical Member (State) and approved the draft notifications as proposed by DoR:**

- a. To be issued by States for relaxing the eligibility conditions for Technical Member (State)
- b. Specifying the location of Benches and sittings associated with the Benches.

**9. Agenda Item 8: Performance Report of the Anti-profiteering authorities for the 2nd quarter (July to September 2023) 3rd quarter (October to December 2023) and 4th quarter (January to March, 2024) for the information of the GST Council**

9.1 The Secretary presented the Agenda No. 8 regarding Performance Report of Competition Commission of India (CCI) for the 2nd, 3rd and 4th quarter of F.Y 2023-24 along with the Performance Report of State Level Screening Committee (SLSC), Standing Committee (SC) and Directorate General of Anti- Profiteering (DGAP) for the information of the Council.

**Decision: The Council took note of the same and approved the Agenda.**

**10. Agenda Item 9: Ad-hoc Exemptions Orders issued under Section 25(2) of the Customs Act, 1962 to be placed before the GST Council for information**

10.1 The Secretary informed the Council that three Ad-hoc exemption orders had been issued since last meeting of the GST Council. The First Order No. 01 of 2024 dated 01/02/2024 pertained to exemption from Customs duty on import of technical documentation by M/s Indo-Russian Rifles Pvt. Ltd, the second Order No. 02 of 2024 dated 10/05/2024 was regarding Joint Counter Terrorism Training exercise (TARKASH- VII) between US special forces & NSG at Kolkata during April-May 2024 and the third Order No 03 of 2024 dated 31.05.2024 was regarding Waiver of Customs duty u/s 25(2) of the Customs Act, 1962 for import of 04 armoured vehicles by MEA.

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

11. The Hon'ble Chairperson stated that she would like to place for consideration and advice before the Council the issue of rate rationalization currently under consideration of the GoM on Rate Rationalization which had been reconstituted recently under a new Convener. She stated that it is an issue of concern and urgency therefore, she requested the Council to advise as to whether it will be possible to meet in a day long meeting to initiate the discussion on rate rationalization over and above the other items that can come up in the agenda. She further clarified that by initiating she meant whether the Group of Ministers could give the Council a position or status report as to the extent of work which they have taken up and whether they have reached any conclusion or would they be requiring any further time. She stated that the Members of the Council can inform as to whether a meeting can be held in end of August or early September after the budget session of Parliament to focus on the issue of rate rationalization. She stated that some more agenda items pertaining to Law and Fitment Committee recommendations still needed to be taken up in the next meeting along with the issue of rate rationalization. The Hon'ble Chairperson thanked each one of the Hon'ble Members of the Council for their participation and stated that she felt humbled to be in their august company. She stated that the GST Council has stood out as an exemplary body even during the pandemic and that she could not thank each one of the Members sufficiently as the Council had worked through trying times and has been a perfect example of co-operative federalism. She assured that she would work together with the Members of the Council to make GST an exemplary tax structure, digitally run and transparent. The Hon'ble Chairperson admired the commitment of the Council Members to prioritize revenue consideration, taxpayer friendliness and not burdening the ordinary taxpayer at all times which have been the only considerations for decision making in the Council.

11.1 The Secretary noted that the Hon'ble Members concurred with the proposal to take up the issue of rate rationalization in the next meeting of the GST Council.

11.2 The Joint Secretary, GST Council Secretariat then thanked the Hon'ble Chairperson, the Hon'ble MoS (Finance), the Hon'ble Members of the GST Council and all the officers for their active participation in the 53<sup>rd</sup> GST Council Meeting.

**Annexure-1****List of Hon'ble Ministers from States/UTs who participated in the 53rd Meeting of the GST Council held on 22<sup>nd</sup> June, 2024**

<b>Sr. No.</b>	<b>Centre/States /UTs</b>	<b>Name of Hon'ble Minister</b>	<b>Charge</b>
1	GOI	Smt. Nirmala Sitharaman	Union Finance Minister
2	GOI	Shri Pankaj Chaudhary	Minister of State for Finance
3	Andhra Pradesh	Shri. Payyavula Keshav	Minister for Finance, Planning, Commercial Taxes and Legislative affairs
4	Assam	Smt. Ajanta Neog	Finance Minister
5	Bihar	Shri. Samrat Choudhary	Deputy Chief Minister/Minister of Commercial Tax
6	Chhattisgarh	Shri. O. P. Choudhary	Minister of Finance & Commercial Tax
7	Goa	Dr. Pramod Sawant	Chief Minister/Finance Minister
8	Gujarat	Shri Kanubhai Desai	Minister for Finance
9	Haryana	Shri. J.P. Dalal	Deputy Chief Minister/Finance Minister
10	Himachal Pradesh	Shri. Harshwardhan Chauhan	Industries Minister
11	Jammu & Kashmir	Shri. R. R. Bhatnagar	Advisor to Hon'ble Lieutenant Governor
12	Karnataka	Shri. Krishna Byre Gowda	Minister for Revenue Department
13	Kerala	Shri. K. N. Balagopal	Finance Minister
14	Madhya Pradesh	Shri. Jagdish Devda	Deputy Chief Minister/Minister of Commercial Tax & Finance
15	Manipur	Dr. Sapam Ranjan Singh	Minister for Medical, Health & Family Welfare Department and Publicity & Information Department
16	Meghalaya	Shri. Conrad K. Sangma	Chief Minister

17	Mizoram	Dr. Vanlalhlana	Minister Taxation Department
18	Odisha	Shri. Kanak Vardhan Singh Deo	Deputy Chief Minister
19	Puducherry	Shri. K. Lakshmi Narayanan	Minister for Public Works
20	Punjab	Shri. Harpal Singh Cheema	Finance Minister
21	Rajasthan	Shri. Gajendra Singh Khimar	Minister of Medical Health and Services (ESI)
22	Sikkim	Shri. G.T. Dhungel	Minister for Health & Family Welfare Department and Culture Department
23	Tamil Nadu	Shri. Thangam Thennarasu	Minister for Finance and Human Resources Management
24	Telangana	Shri. Mallu Bhatti Vikramarka	Deputy Chief Minister/Minister for Finance
25	Tripura	Shri. Pranajit Singha Roy	Finance Minister
26	Uttar Pradesh	Shri. Suresh Kumar Khanna	Minister of Finance, Parliamentary Affairs
27	Uttarakhand	Shri. Premchand Aggarwal	Finance Minister
28	West Bengal	Smt. Chandrima Bhattacharya	Finance Minister

**Annexure – 2****List of Officers from Centre and the States/UTs who participated in the 53rd Meeting of the GST Council held on 22<sup>nd</sup> June, 2024**

<b>S. No.</b>	<b>CBIC/State/GSTC/GO I/GSTN/DoR/TRU/Policy Wing/Directorates</b>	<b>Name of the Officer</b>	<b>Designation/Charge</b>
1	DoR	Shri Sanjay Malhotra	Revenue Secretary
2	CBIC	Shri Sanjay Kumar Agarwal	Chairman, CBIC
3	CBIC	Shri Shashank Priya	Member (GST)
4	CBIC	Shri Rajiv Talwar	Member(Compliance Management)
5	CBIC	Shri Vivek Ranjan	Member (Tax Policy and Legal)
6	CBIC	Shri. Aditya Bhardwaj	OSD to Chairman
7	DoR	Shri Vivek Agarwal	Additional Secretary (Revenue)
8	DoR	Shri. Balasubramanian Krishnamurthy	Joint Secretary (TPRU)
9	DoR	Deepak Kapoor	OSD to Revenue Secretary
10	DoR	Shri. Mohd. Suboor Khan	Assistant Secretary
11	DoR	Shri. Yashwant Meena	Assistant Secretary
12	DoR	Ms. Priyanshu Khati	Assistant Secretary
13	Government of India	Shri. S. S. Nakul	PS to FM
14	Government of India	Shri. Anirudh Sravan Pulipaka	PS to Corporate Affairs Minister
15	Government of India	Shri. Alkesh Uttam	OSD to MoS
16	DGGST	Ms. Seema Arora	Pr. Director General
17	DGGST	Shri. T. Manjunath	Additional Director
18	DGGI	Shri. Anil Kumar Gupta	Pr. Director General
19	DG Systems	Shri Yogendra Garg	Pr. Director General
20	GSTN	Shri. Manish Kumar Sinha	CEO
21	GSTN	Shri. Dheeraj Rastogi	EVP
22	GSTN	Shri. Om Sharma	CTO
23	GSTN	Shri. Naveen Agarwal	OSD to CEO
24	GST Policy Wing	Shri. Sanjay Mangal	Principal Commissioner
25	GST Policy Wing	Shri. Gaurav Singh	Commissioner
26	GST Policy Wing	Shri. Raghavendra Pal Singh	Additional Commissioner
27	GST Policy Wing	Dr. Gurbaz Sandhu	Additional Commissioner
28	GST Policy Wing	Smt. Kangale Shrunkhala Motiram	Additional Commissioner
29	GST Policy Wing	Shri. Nitesh Gupta	Deputy Commissioner

30	GST Policy Wing	Ms. Soumya	Deputy Commissioner
31	GST Policy Wing	Ms. Saumya Gupta	Deputy Commissioner
32	TRU	Ms. Limatula Yaden	Joint Secretary
33	TRU	Dr. Puneeta Bedi	Director
34	TRU	Shri. Rakesh Dahiya	Director
35	TRU	Ms. Amreeta Titus	Deputy Secretary
36	TRU	Shri. Satvik Dev	OSD, TRU-II
37	TRU	Ms. Smita Roy	TO, TRU-II
38	TRU	Ms. Anna Sosa Thomas	TO, TRU-II
39	TRU	Shri. Rahul Kumar	TO, TRU-II
40	TRU	Shri. Dilmil Singh Soach	OSD, TRU-I
41	TRU	Shri. Piyush Kumar Ankit	TO, TRU-I
42	TRU	Shri. Vikram Wanare	US, TRU-I
43	TRU	Shri. Anany Kumar Singh	OSD, TRU-I
44	GST Council Secretariat	Shri. Pankaj Kumar Singh	Additional Secretary (GST Council Secretariat)
45	GST Council Secretariat	Ms. Ashima Bansal	Joint Secretary
46	GST Council Secretariat	Ms. B. Sumidaa Devi	Joint Secretary
47	GST Council Secretariat	Shri. Kshitendra Verma	Director
48	GST Council Secretariat	Shri. S.S.Shardool	Director
49	GST Council Secretariat	Shri. Anil Kumar	Deputy Secretary
50	GST Council Secretariat	Ms. Reshma R Kurup	Under Secretary
51	GST Council Secretariat	Shri. Sridhar Das	Under Secretary
52	GST Council Secretariat	Ms. P. R. Reshmi	Under Secretary
53	GST Council Secretariat	Shri. Vineet Kumar	Superintendent
54	GST Council Secretariat	Ms. Sonia	Superintendent
55	GST Council Secretariat	Shri. Mohan Lal	Superintendent
56	GST Council Secretariat	Ms. Ambika Rani	Superintendent
57	GST Council Secretariat	Shri. Niranjan Kishore	Superintendent
58	GST Council Secretariat	Shri. Sandeep Kumar	Superintendent
59	GST Council Secretariat	Shri. Khupmang Neihisial	Superintendent
60	GST Council Secretariat	Shri. Himanshu Bhardwaj	Superintendent
61	GST Council Secretariat	Shri. Pankaj Kumar Singh	Superintendent
62	GST Council Secretariat	Shri. Ashwani Sharma	Assistant Section Officer
63	GST Council Secretariat	Shri. Anand Singh	Inspector
64	GST Council Secretariat	Shri. Karan Arora	Assistant Section Officer
65	GST Council Secretariat	Shri. Shyam Bihari Meena	Tax Assistant
66	GST Council Secretariat	Shri. Vikas Kumar	E. A.
67	GST Council Secretariat	Ms. Neha Jainwal	E. A.
68	GST Council Secretariat	Shri. Rantej Singh	T. A.
69	GST Council Secretariat	Shri. Satbir Sah	T. A.
70	Andhra Pradesh	Shri. M. Girija Shankar	Chief Commissioner of State Tax
71	Andhra Pradesh	Shri. K. Ravi Sankar	Commissioner (ST), Policy

72	Andhra Pradesh	Shri. J.V.M. Sarma	Additional Commissioner(ST), Appellate Authority
73	Arunachal Pradesh	Ms. Y. W. Ringu	Commissioner Finance, Tax & Excise
74	Arunachal Pradesh	Shri. Lobsang Tsering	Commissioner, Tax & Excise
75	Arunachal Pradesh	Shri. Tapas Dutta	Deputy Commissioner Tax & Excise
76	Assam	Shri. Jayant Narlikar	Commissioner & Secretary, Finance
77	Assam	Shri. Pallav Gopal Jha	Principal Commissioner of State Tax
78	Assam	Md. Shakeel Saadullah	Special Commissioner of State Tax
79	Assam	Shri Bedabrata Saikia	Superintendent
80	Bihar	Dr. Pratima	Commissioner cum Secretary Commercial Taxes
81	Bihar	Shri. Krishna Kumar	Joint Secretary, Commercial Taxes
82	Bihar	Shri. Binod Kumar Jha	Additional Commissioner State Tax
83	Bihar	Shri. Murli Prasad Singh	P.S. to Hon'ble Deputy CM
84	Bihar	Shri. Ranjeet Kumar	OSD Commercial Taxes Department, Bihar
85	Chandigarh	Shri. Rupesh Kumar	Excise & Taxation Commissioner
86	Chandigarh	Shri. Harpreet Singh	Assistant Excise & Taxation Commissioner
87	Chhattisgarh	Shri. Mukesh Bansal	Secretary, Finance & Commercial Tax
88	Chhattisgarh	Shri. Pratik Jain	Additional Commissioner of State Tax
89	Delhi	Shri. A Anbarasu	Principal Commissioner (State Tax)

90	Delhi	Shri. Ajay Kumar Bisht	Special Commissioner (State Tax)
91	Delhi	Ms. Kriti Garg	Special Commissioner (State Tax)
92	Delhi	Shri. Karanjit Vadodaria	Additional Commissioner (State Tax)
93	Goa	Shri. Upendra Joshi	OSD to CM
94	Goa	Shri. S.S.Gill	Commissioner of State Tax
95	Goa	Shri. Vishant S.N.Gaunekar	Additional Commissioner of State Tax-I
96	Gujarat	Shri. J.P. Gupta	Additional Chief Secretary
97	Gujarat	Shri. Samir Vakil	Chief Commissioner of State Tax
98	Gujarat	Shri. Milind Kavatkar	Joint Commissioner, Commercial Taxes
99	Haryana	Shri. Devinder Singh Kalyan	Principal Secretary to Government Haryana, Excise and Taxation Department
100	Haryana	Shri. Harsh Singh	Additional Commissioner, TRU, Excise and taxation Department
101	Haryana	Shri Hemant Kumar	Additional Commissioner, GST, Excise and taxation Department
102	Himachal Pradesh	Dr. Yunus	Commissioner of State Tax and Excise
103	Himachal Pradesh	Shri. Rakesh Sharma	Additional Commissioner of State Tax & Excise
104	Jammu & Kashmir	Shri.Sajad Hussain Ganai	Director General, Expenditure Div-I, Finance
105	Jammu & Kashmir	Namrita Dogra	Additional Commissioner, State

			Taxes
106	Jharkhand	Smt. Vipra Bhal	Secretary, Commercial Taxes
107	Jharkhand	Pradeep Xalxo	Joint Commissioner
108	Jharkhand	Shri. Brajesh Kumar	Assistant Commissioner of Taxes
109	Karnataka	Ms. C. Shikha	Commissioner Commercial Tax
110	Karnataka	Dr. Ravi Prasad	Additional Commissioner CT
111	Kerala	Dr. A. Jayathilak	Additional Chief Secretary
112	Kerala	Shri. Patil Ajit Bhagwatrao	Commissioner of State Tax
113	Kerala	Shri. Abraham Renn S	Special Commissioner (State Tax)
114	Kerala	Smt. Sreelakshmi R	Additional Commissioner (State Tax)
115	Kerala	Shri. Sreekanth K P	State Tax Officer
116	Madhya Pradesh	Shri. Swatantra Kumar Singh	Commissioner, Commercial Tax
117	Madhya Pradesh	Shri. Manoj Kumar Choubey	Additional Commissioner, Commercial Tax
118	Madhya Pradesh	Shri. Dilip Raj Dewedi	OSD to Hon'ble Minister
119	Maharashtra	Shri O. P. Gupta	Additional Chief Secretary (Finance)
120	Maharashtra	Shri Asheesh Sharma	Commissioner of State Tax
121	Maharashtra	Shri Kiran Shinde	Joint Commissioner of State Tax
122	Maharashtra	Shri Manojkumar R. Narayanwal	Deputy Commissioner
123	Maharashtra	Shri B M Gore	Deputy Commissioner
124	Manipur	Smt. Mercina R. Panmei	Commissioner of Taxes
125	Manipur	Shri Y. Indrakumar Singh	Joint Commissioner of

			Taxes
126	Meghalaya	Shri. Ramakrishna Chitturi	Commissioner of State Tax
127	Meghalaya	Shri. V.R.Challam	Deputy Commissioner State Tax
128	Mizoram	Shri. R. Zosiamliana	Commissioner of State Tax
129	Mizoram	Shri. HK Lalhawngliana	Additional Commissioner of State Tax
130	Nagaland	Shri. Sachin Jaiswal	Commissioner of State Tax
131	Nagaland	Shri. C Lima Imsong	Additional Commissioner of State Taxes
132	Odisha	Shri. Vishal Kumar Dev	Principal Secretary, Finance
133	Odisha	Shri. Sanjay Kumar Singh	Chief Commissioner of Commercial Taxes & GST
134	Odisha	Shri. Nihar Ranjan Nayak	Additional Commissioner of Commercial Taxes & GST
135	Puducherry	Shri. Ashish Madhaorao More	Development Commissioner -cum- Secretary to Govt. (Finance)
136	Puducherry	Shri. L. Mohamed Mansoor	Commissioner of State Tax
137	Punjab	Shri. Vikas Partap	Financial Commissioner (Taxation)
138	Punjab	Shri. Varun Roojam	Commissioner of State Tax
139	Punjab	Smt. Harsimrat Kaur	Deputy Commissioner of State Tax
140	Punjab	Shri. Bharat Sharma	State Tax Officer
141	Punjab	Ms. Amritdeep Kaur	State Tax Officer

142	Rajasthan	Shri. Ravi Kumar Surpur	Chief Commissioner State Tax
143	Rajasthan	Shri. Arvind Mishra	Advisor, State Tax
144	Sikkim	Shri. Pawan Awasthy	Principal Director, Finance Department
145	Sikkim	Shri. Manoj Rai	Commissioner (Commercial Taxes)
146	Tamil Nadu	Shri. Brajendra Navnit	Principal Secretary, Commercial Taxes and Registration
147	Tamil Nadu	Shri Dr.D. Jagannathan	Commissioner of Commercial Taxes
148	Tamil Nadu	Shri. S. Subash Chandra Bose	Additional Commissioner (Policy & Public Relations)
149	Tamil Nadu	Shri. S.Karthick	Joint Commissioner (Policy & Planning)
150	Tamil Nadu	Shri. S.E. Prabhu	Deputy Commissioner (Policy & Planning)
151	Telangana	Shri Krishna Baskar	Special Secretary to Deputy Chief Minister
152	Telangana	Smt. T. K. Sridevi	Commissioner of Commercial Taxes
153	Telangana	Smt. K. Rupa Sowmya	Deputy Commissioner
154	Telangana	Shri. G. Sri. Harsha	Senior Fellow Finance Department
155	Tripura	Ms. Rakhi Biswas	Chief Commissioner of State Tax
156	Tripura	Shri. Ashin Barman	Assistant Commissioner of Taxes
157	Uttar Pradesh	Dr. Nitin Ramesh Gokarn	Principal Secretary, State Tax
158	Uttar Pradesh	Dr. Adarsh Singh	Commissioner, State Tax
159	Uttar Pradesh	Shri. Paritosh Kumar Mishra	Deputy Commissioner, State Tax HQ, Lucknow
160	Uttar Pradesh	Shri. Amit Pandey	PS to Honourable Minister

161	Uttarakhand	Shri Dilip Jawalkar	Secretary Finance
162	Uttarakhand	Shri. B.S Nagnyal	Additional Commissioner
163	Uttarakhand	Shri. Anurag Mishra	Joint Commissioner
164	West Bengal	Shri. Manoj Pant	Additional Chief Secretary, Finance
165	West Bengal	Shri Devi Prasad Karnam	Commissioner Commercial Tax
166	West Bengal	Shri Rajib Sengupta	Sr. Joint Commissioner
167	West Bengal	Shri. Shantanu Naha	WBCS (Exe), OSD to Hon'ble FM



## **Ratification of Notifications and Circulars**

## Agenda 2: Ratification of Notifications, Circulars etc.

[Vol 1- Pg. 132-151]

Act/ Rules	Notificatio ns/Circula rs Nos.	Description/Remarks
CGST Act/ CGST Rules	<b>Thirteen (13) Central Tax Notifi cations issued (No. 52/2023 to 09/2024) &amp; Ten (10) Cent ral Tax (rate) Notificati ons issued (No. 12/2023 to 01/2024)</b>	<p>Notifications to implement various decisions of GST Council taken in 52<sup>nd</sup> meeting &amp; to implement other GIC decisions. Some of the important notifications are:</p> <ul style="list-style-type: none"> <li>i. Making amendments (Fourth amendment, 2023) to the CGST Rules, 2017</li> <li>ii. Notifying special procedure for condonation of delay in filing of appeals against demand orders passed until 31st March, 2023</li> <li>iii. Amendment of Notification No. 27/2022 dated 26.12.2022 to notify biometric-based Aadhaar authentication for GST registration in the State of Andhra Pradesh</li> <li>iv. Extension of the due date for furnishing FORM GSTR-3B, GSTR-9, GSTR-9C for persons registered in certain districts of Tamil Nadu</li> <li>v. Extension of dates of specified compliances in exercise of powers under section 168A of CGST Act</li> <li>vi. Notifying special procedure to be followed by a registered person engaged in manufacturing of certain good like pan masala, tobacco, etc. and extension of timeline for implementation of such notification.</li> <li>vii. Notifying "Public Tech Platform for Frictionless Credit" as the system with which information may be shared by the common portal based on consent under sub-section (2) of Section 158A of the Central Goods and Services Tax Act, 2017.</li> <li>viii. Notifying waiver of interest for specified registered persons for specified tax periods.</li> <li>ix. Amendment of various rate notifications.</li> </ul>

## Agenda 2: Ratification of Notifications, Circulars etc.

[Vol 1- Pg. 132-151]

Act/ Rules	Notifications/ Circulars Nos.	Description/Remarks
UTGST Act/ UTGST Rules	<b>Ten (10) Union Territory Tax (rate) Notifications issued (No. 12/2023 to 01/2024)</b>	Amendment of various rate notifications
IGST Act/ IGST Rules	<b>Ten (10) Integrated Tax (rate) Notifications issued (No. 12/2023 to 01/2024)</b>	Amendment of various rate notifications

## Agenda 2: Ratification of Notifications, Circulars etc.

[Vol 1- Pg. 132-151]

Act/ Rules	Notifications/Circulars Nos.	Description/Remarks
Circulars	<b>Five (05) Circulars</b> issued (Circular No. 202/14/2023-GST dated 27.10.2023 to Circular No. 206/18/2023-GST dated 31.10.2023)	Circulars to implement various decisions of GST Council in its 52 <sup>nd</sup> meeting. <b>The issues covered in these circulars are:</b>  (i) Clarification relating to export of services pertaining to interpretation of sub-clause (iv) of the Section 2(6) of the IGST Act 2017. (ii) Clarification regarding determination of place of supply in various cases (iii) Clarification on issues pertaining to taxability of personal guarantee and corporate guarantee in GST (iv) Clarification regarding GST rate on imitation zari thread or yarn. (v) Clarifications regarding applicability of GST on certain services

## Recommendations of the Law Committee

**Summary of discussions on  
Agendas in Officers' Meeting held on  
21<sup>st</sup> June 2024**

**Issues which were agreed to by all the  
States in the Officers' meeting without  
any observations**

Agenda No	Issue/Proposal	Status during Officers Meeting
3(i)(III) [Vol 1- Pg. 154- 157]	<p><b>Law Amendments in section 13 and section 31 of the CGST Act, 2017</b></p> <ul style="list-style-type: none"> <li>Amendment in section 13(3) of CGST Act to provide for a specific provision for covering the cases where the invoice is required to be issued by the recipient of services in case of RCM supplies.</li> <li>Amendment in section 31(3)(f) of CGST Act and insertion of a new rule 47A in CGST Rules to clarify the time period within which the invoice is required to be issued by the recipient in case of RCM supplies.</li> <li>Explanation to be inserted in Section 31(3) of CGST Act so as to clearly provide that a supplier, who is registered solely for the purposes of TDS deduction under Section 51 of CGST Act, shall not be considered as a registered person for the purpose of clause (f) of section 31(3) of CGST Act.</li> </ul>	<p><a href="#">Agreed.</a></p> <p>■</p>

Agenda No	Issue/Proposal	Status during Officers Meeting
3(i)(IV) [Vol 1- Pg157- 160]  3(i)(IV) [Vol 1- Pg157- 160]	<p><b>Clarification with respect to requirement of amendment in Section 16 of IGST Act, 2017 along with corresponding provisions in Section 54 of CGST Act</b></p> <p>❖ <b>Issue 1: Restriction on refunds on goods on which export duty is payable:</b></p> <ul style="list-style-type: none"> <li>Second proviso to Section 54 (3) of CGST Act may be omitted;</li> <li>Sub-section (15) may be inserted in section 54 of CGST Act and sub-section (5) may be inserted in Section 16 of IGST Act to provide that no refund of unutilized input tax credit or integrated tax shall be available in cases where the zero rated supply of goods are subjected to export duty.</li> </ul> <p>❖ <b>Issue 2: Rationalisation of the provisions to notify class of goods or services in respect of which IGST refund route is available:</b></p> <ul style="list-style-type: none"> <li>Clause (ii) of sub-section (4) of section 16 of IGST Act may be amended to provide for notification of class of goods or services which may be supplied on zero rated basis; and</li> <li>Sub-section (4) of section 16 of IGST Act may be amended to specifically provide for claim of refund on payment of IGST in respect of zero rated supplies of notified goods or services in accordance with provisions of section 54 of the CGST Act or the rules made thereunder, subject to such conditions, safeguards and procedure as may be prescribed.</li> </ul>	<p><a href="#">Agreed.</a></p> <p>■</p>

Agenda No	Issue/Proposal	Status during Officers Meeting
<b>3(i)(V)</b> [Vol 1- Pg160-161]	<b>Agenda for amendment in section 70 of the CGST Act, to provide clarity regarding appearance by authorised representative in response to summons</b> Law Committee recommended to insert a new sub-section (1A) in section 70 of the CGST Act to provide an explicit reference to 'authorised representative' in the section itself.	<a href="#">Agreed.</a>
<b>3(i)(VI)</b> [Vol 1- Pg161-163]	<b>Clarification with respect to penalty provisions for non-compliant electronic commerce operators in terms of sub-section (1B) of section 122 of the CGST Act, 2017</b> Amendment be made in sub-section (1B) of section 122 of CGST Act retrospectively with effect from 01.10.2023 (i.e. date from which section 122(1B) of CGST Act has come into effect) so as to restrict applicability of such penal provisions to ECOs, who are required to collect tax at source under section 52 of CGST Act.	<a href="#">Agreed.</a>

Agenda No	Issue/Proposal	Status during Officers Meeting
<b>3(ii)</b> [Vol 1- Pg. 166-169]	<b>Law Amendment regarding time limit for filing appeal before GST Appellate Tribunal</b> <ul style="list-style-type: none"> <li>amendments may be made in sub-section (1) and sub-section (3) of section 112 of the CGST Act to provide for appeal to be filed in Tribunal within three months/ six months from the date of communication of the order appealed against or from the date to be notified as per recommendations of the Council, whichever is later.</li> <li>Such date to be notified based on the status of the preparedness of the functionality for Tribunal on the system and operationalization of Tribunal and its benches.</li> <li>amendment may be made in sub-section (6) of section 112 of the CGST Act so that the Tribunal may be empowered to entertain appeals from the department also for a further period of 3 months after expiry of the period of 6 months specified in section 112(3) of CGST Act.</li> </ul>	<a href="#">Agreed.</a>

Agenda No	Issue/Proposal	Status during Officers Meeting
<b>3(v)</b> [Vol 1- Pg. 191-196]	<p><b>Agenda on Amendment in section 39 of CGST Act and rule 66 of CGST Rules, 2017 for mandating NIL returns by TDS deductors and waiver of late fee for late filing of NIL FORM GSTR-7 along with changes in FORM GSTR 07 for inserting invoice/ document wise details of tax deducted at source</b></p> <ul style="list-style-type: none"> <li>▪ FORM GSTR-7 may be made mandatory to be filed each month, irrespective of whether any deductions have been made by the TDS deductors in the said month or not, by way of amendment to section 39(3) of CGST Act.</li> <li>▪ No late fee should be payable in respect of delayed filing of such nil FORM GSTR-7 returns.</li> <li>▪ The time limit to furnish FORM GSTR-7 return within 10 days of the end of such month may be brought under the Rule 66(1) of CGST Rules instead of Section 39(3) of CGST Act.</li> <li>▪ GSTN may provide functionality for single click filing of a nil return in FORM GSTR-7 on the common portal and/ or a mobile application.</li> <li>▪ Table 3 and Table 4 of FORM GSTR-7 may be amended to provide for invoice wise details</li> </ul>	<a href="#">Agreed.</a>

Agenda No	Issue/Proposal	Status during Officers Meeting
<b>3(ix)</b> [Vol 1- Pg. 223-274]	<p><b>Agenda on Insertion of new form FORM GSTR-1A for the amendment and declaring additional details to FORM GSTR-1, for enabling locking of FORM GSTR-3B based on FORM GSTR-1</b></p> <ul style="list-style-type: none"> <li>▪ Amendment in CGST Rules to insert FORM GSTR-1A to facilitate the taxpayers to correct errors made in the FORM GSTR-1, before filing of return in FORM GSTR 3B.</li> <li>▪ Amendment in rule 59, 60 and 88C of CGST Rules 2017 to implement the said FORM GSTR-1A.</li> <li>▪ Consequential amendment in rules 21, 21A, 36, 37A, 40, 48, 78, 96, 96A and 163 of the CGST Rules 2017.</li> <li>▪ Consequential amendments in FORM DRC-01B, FORM RFD-01, FORM GSTR-2A, FORM GSTR-2B, FORM GSTR-4A, FORM GSTR-6A, FORM GSTR-8 and FORM GSTR-9.</li> <li>▪ Further, changes in FORM GSTR-2B on account of:               <ul style="list-style-type: none"> <li>➤ introduction of a table to provide details (on annual basis) of invoice or debit note against which ITC is required to be reversed in terms of Rule 37A of CGST Rules;</li> <li>➤ furnishing the details of section 9(5) supplies in FORM GSTR-1 by E-commerce operators; and</li> <li>➤ amendment in advisory/ instructions in the FORM GSTR-2B to clarify that negative credit is to be netted off in respective rows in Table 4(A) of FORM GSTR-3B. instead of Table 4(B)(2) of the same.</li> </ul> </li> </ul>	<a href="#">Agreed.</a>

Agenda No	Issue/Proposal	Status during Officers Meeting
<b>3(x)</b> [Vol 1- Pg. 275-279]	<b>Issue of liability of payment of interest under Section 50 of CGST Act in case of delayed payment of tax, even though the credit is available in Electronic Cash Ledger (ECL)</b> <ul style="list-style-type: none"> <li>Inserting a proviso in sub-rule (1) of rule 88B of CGST Rules to provide that in cases of delayed filing of return, any amount which is already available in the Electronic Cash Ledger on the due date of filing of the said return, and which is subsequently debited from the said ledger along with the return, shall not be included while calculating the interest under section 50 of the CGST Act.</li> </ul>	<a href="#">Agreed.</a>
<b>3(xi)</b> [Vol 1- Pg. 280-282]	<b>Amendment in Notification No. 52/2018 –Central Tax for reduction in applicable Rate of TCS for Supplies being made through ECOs.</b> <ul style="list-style-type: none"> <li>To reduce TCS rate from present 1% (0.5% CGST + 0.5% SGST/ UTGST or 1% IGST) to 0.5% (0.25% CGST + 0.25% SGST/ UTGST or 0.5% IGST)</li> <li>For this purpose, notification to be issued for amending Notification No. 52/2018-Central tax dated 20.09.2018, Notification No. 02/2018-Integrated Tax dated 20.09.2024, and Notification No. 12/2018-Union Territory tax dated 28.09.2018.</li> </ul>	<a href="#">Agreed.</a>

Agenda No	Issue/Proposal	Status during Officers Meeting
<b>3(xii)</b> [Vol 1- Pg. 283-287]	<b>Clarifications on various issues pertaining to special procedure for the manufacturers of the specified commodities</b> <ul style="list-style-type: none"> <li>Law Committee recommended that various issues raised by trade in implementation of the said special procedure may be clarified through a Circular as below: <ul style="list-style-type: none"> <li>If the make, model number and machine number is not available for a particular machine, then any numeric number can be declared for the said machine as machine number and make will be the year of purchase of the machine.</li> <li>In cases where the electricity consumption rating of the packing machine is not available in specifications of the machine, then the manufacturer may get such electricity consumption per hour of the said machine calculated through a Chartered Engineer and get the same certified by the said Chartered Engineer.</li> <li>In case of goods having no MRP, then the sale price of the goods so manufactured may be entered in FORM GST SRM-II.</li> <li>The said special procedure is not applicable to the manufacturing units located in Special Economic Zone. The said special procedure is not applicable in respect of manual seamer/ sealer being used for packing operations.</li> <li>The said special procedure shall be applicable to all persons involved in manufacturing process including a job worker / contract manufacturer. However, if the job worker/ contract manufacturer is unregistered, then the liability to comply with the said special procedure will be of the concerned principal manufacturer.</li> </ul> </li> </ul>	<a href="#">Agreed.</a>

Agenda No	Issue/Proposal	Status during Officers Meeting
<b>3(xiii)</b> [Vol 1- Pg. 288-292]	<p><b>Clarification on the provisions of Section 10(1)(ca) of the IGST Act relating to place of supply of goods supplies to unregistered persons</b></p> <p>Law Committee recommended to clarify through a circular that:</p> <ul style="list-style-type: none"> <li>▪ In cases involving supply of goods to unregistered person, where the address of delivery of goods recorded on the invoice is different from the billing address of the said unregistered person on the invoice, the place of supply of goods in accordance with the provisions of section 10(1)(ca) of IGST Act, shall be the address of delivery of goods recorded on the invoice.</li> <li>▪ Where the billing address and delivery address are different in cases of supply of goods to an unregistered person, the supplier may record the delivery address as the address of the recipient on the invoice for the purpose of determination of place of supply of the said supply of goods.</li> </ul>	<a href="#">Agreed.</a>

Agenda No	Issue/Proposal	Status during Officers Meeting
<b>3(xvi)</b> [Vol 1- Pg. 317-322]	<p><b>Clarification regarding applicability of provisions of Section 16(4) of CGST Act in respect of invoices issued by the recipient under RCM</b></p> <p>Law Committee recommended that to clarify through a Circular that:</p> <ul style="list-style-type: none"> <li>▪ In cases of supplies received from unregistered suppliers, where tax has to be paid by the recipient under RCM and where invoice is to be issued by the recipient in accordance with section 31(3)(f) of CGST Act, the relevant financial year for calculation of time limit for availment of ITC under the provisions of section 16(4) of CGST Act will be the financial year in which the invoice has been issued by the recipient, subject to payment of tax on the said supply by the recipient and fulfilment of other conditions and restrictions of section 16 and 17 of CGST Act.</li> <li>▪ In case, the recipient issues the invoice after the time of supply of the said supply and pays tax accordingly, he will be required to pay interest on such delayed payment of tax.</li> <li>▪ Further, in cases of such delayed issuance of invoice by the recipient, he may also be liable to penal action under the provisions of Section 122 of the CGST Act.</li> </ul>	<a href="#">Agreed.</a>

Agenda No	Issue/Proposal	Status during Officers Meeting
<b>3(xv)</b> [Vol 1- Pg. 310-316]	<p><b>Valuation of supply of import of services by a related person where recipient is eligible to full input tax credit</b></p> <p>Law Committee has recommended to clarify through a Circular that:</p> <ul style="list-style-type: none"> <li>in cases where the foreign affiliate is providing certain services to the related domestic entity, for which full input tax credit is available to the said related domestic entity, the value of such supply of services declared in the invoice by the said related domestic entity may be deemed as open market value in terms of second proviso to rule 28(1) of CGST Rules.</li> <li>in cases where full input tax credit is available to the recipient, if the invoice is not issued by the related domestic entity with respect to any service provided by the foreign affiliate to it, the value of such services may be deemed to be declared as Nil, and may be deemed as open market value in terms of second proviso to rule 28(1) of CGST Rules.</li> </ul>	<a href="#">Agreed.</a>

Agenda No	Issue/Proposal	Status during Officers Meeting
<b>3(xvii)</b> [Vol 1- Pg. 323-333x]	<p><b>Clarification in case of taxability of corporate guarantee provided between related persons after insertion of Rule 28(2) of CGST Rules</b></p> <p>Law Committee has recommended that:</p> <ul style="list-style-type: none"> <li>Rule 28(2) of CGST Rules may be amended retrospectively with effect from 26.10.2023,               <ul style="list-style-type: none"> <li>to clearly provide that the deemed valuation created by the said rule, i.e., one per cent of the amount guaranteed, shall be applicable per annum.</li> <li>to exempt export of services of corporate guarantee from the said rule.</li> <li>to clarify that deemed valuation under rule 28(2) would not be applicable in cases where the recipient is eligible for full input tax credit.</li> </ul> </li> <li>A circular may be issued to clarify other issues pertaining to corporate guarantee.</li> </ul>	<a href="#">Agreed.</a>

Agenda No	Issue/Proposal	Status during Officers Meeting
<b>3(xviii)</b> [Vol 1- Pg. 334-340]	<p><b>Clarification on mechanism for providing evidence of compliance of conditions of Section 15(3)(b)(ii) of CGST Act by the suppliers</b></p> <p>Law Committee recommended that it may clarified through a Circular that:</p> <ul style="list-style-type: none"> <li>▪ Till the time a suitable functionality/ facility is made available on the common portal for such verification, the supplier may procure a certificate from the recipient of supply, issued by the Chartered Accountant (CA) or the Cost Accountant (CMA), certifying that the recipient has made the required proportionate reversal of input tax credit at his end in respect of such credit note issued by the supplier.</li> <li>▪ The said CA/CMA certificate may include details such as the details of the credit notes, the details of the relevant invoice number against which the said credit note has been issued, the amount of ITC reversal in respect of each of the said credit notes along with the details of the FORM GST DRC-03/ return / any other relevant document through which such reversal of ITC has been made by the recipient.</li> <li>▪ Such certificate issued by CA or CMA shall contain UDIN (Unique Document Identification Number).</li> <li>▪ In cases, where the amount of tax (CGST+SGST+IGST+cess) involved in the discount given by the supplier to a recipient through tax credit notes in a Financial Year is not exceeding Rs 5,00,000 (rupees five lakhs only), then instead of CA/CMA certificate, the said supplier may procure an undertaking/ certificate from the said recipient that the said input tax credit attributable to such discount has been reversed by him.</li> </ul>	<a href="#">Agreed.</a>

Agenda No	Issue/Proposal	Status during Officers Meeting
<b>3(xix)</b> [Vol 1- Pg. 341-342]	<p><b>Court matter regarding extending amnesty scheme for filing of appeals in respect of cases under Section 129 and 130 of CGST Act</b></p> <ul style="list-style-type: none"> <li>▪ The Law Committee recommended against extending the notification to orders under Sections 129 and 130.</li> <li>▪ The matter is placed before the Council for approval.</li> </ul>	<a href="#">Agreed.</a>
<b>3(xxi)</b> [Vol 1- Pg. 347-354]	<p><b>Taxability of re-imbursement of securities/shares as ESOP/ ESPP/ RSU provided by a company to its employees</b></p> <p>Law Committee recommended to clarify through a Circular that:</p> <ul style="list-style-type: none"> <li>▪ No supply of service appears to be taking place between the foreign holding company and the domestic subsidiary company where the foreign holding company issues ESOP/ ESPP/ RSU to the employees of domestic subsidiary company, and the domestic company reimburses the cost of such securities/ shares to the foreign holding company <b>on cost-to-cost basis</b>.</li> <li>▪ However, <b>in cases where an additional amount</b>, over and above the cost of securities/shares, is charged by the foreign holding company from the domestic subsidiary company, GST would be leviable on such additional amount as consideration for the supply of services of facilitating/ arranging the transaction in securities/ shares by the foreign holding company to the domestic company.</li> </ul>	<a href="#">Agreed.</a>

Agenda No	Issue/Proposal	Status during Officers Meeting
<b>3(xxii)</b> [Vol 1- Pg. 355-364]	<p><b>Clarification on treatment of balance of taxable premium after applying valuation rule for the purpose of reversal of input tax credit as exempt supply</b></p> <p>To clarify through a Circular that:</p> <ul style="list-style-type: none"> <li>▪ The portion of premium, which is not includible in taxable value of supply as per Rule 32(4) of CGST Rules, is neither pertaining to non-business purpose or nor pertaining to exempt supply,</li> <li>▪ Therefore, there is no requirement of reversal of credit as per provisions of Rule 42/43 of CGST Rules read with section 17(1)/ section 17(2) of CGST Act, in respect of the said amount not includible in taxable value.</li> </ul>	<a href="#">Agreed.</a>

Agenda No	Issue/Proposal	Status during Officers Meeting
<b>3(xxiii)</b> [Vol 1- Pg. 365-371]	<p><b>Clarification on the taxability of wreck and salvage values in motor insurance claims</b></p> <p>Law Committee recommended that it may clarified through a Circular that:</p> <ul style="list-style-type: none"> <li>▪ In cases, where due to the conditions mentioned in the contract, general insurance companies are deducting the value of salvage as compulsory deductibles from the claim amount, there the salvage remains the property of insured and insurance companies are not liable to discharge GST liability against the same.</li> <li>▪ However, in cases, where as per the contract, the insurance claim is settled on full claim amount, without deduction of value of salvage/ wreck, the salvage becomes the property of insurance company and the insurance company will be obligated to discharge GST on salvage's outward supply to the salvage buyer.</li> </ul>	<a href="#">Agreed.</a>

Agenda No	Issue/Proposal	Status during Officers Meeting
3(xxiv) [Vol 1- Pg. 372-382]	<p><b>Agenda on Clarification in respect of Extended Warranty provided by Manufacturers to the end customers in view of Circular No. 195/07/2023-GST dated 17.07.2023</b></p> <p>Law Committee recommended that it may clarified through a Circular that:</p> <ul style="list-style-type: none"> <li>Clarification regarding the liability to pay GST and liability to reverse ITC in cases involving warranty replacement of 'entire goods' in Circular No. 195/07/2023-GST also applies in cases where goods as such are replaced.</li> <li>In cases where the distributor replaces the goods or its parts to the customer under warranty by using his stock and then raises a requisition to the manufacturer for the goods or the parts, which are then provided by the manufacturer to the distributor, without separately charging any consideration, no GST is payable on such replenishment of goods or the parts and no reversal of ITC is required to be made by the manufacturer.</li> <li>If the customer enters into an agreement of extended warranty with the supplier of the goods at the time of original supply, then the consideration for such extended warranty becomes part of the value of the composite supply, the principal supply being the supply of goods, and GST would be payable accordingly. However, if the supply of extended warranty is made by a person different from the supplier of the goods, then supply of extended warranty will be treated as a separate supply from the original supply of goods and will be taxable as supply of services.</li> <li>In case where a consumer enters into an agreement of extended warranty at any time after the original supply, then the same shall be treated as a supply of services distinct from the original supply of goods and the supplier of the said extended warranty shall be liable to discharge GST liability applicable on such supply of services.</li> </ul>	<a href="#">Agreed.</a>

Agenda No	Issue/Proposal	Status during Officers Meeting
3(xxv) [Vol 1- Pg. 383-391]	<p><b>Agenda on Clarification regarding ITC entitlement on repair expenses incurred in case of reimbursement mode of claim settlement</b></p> <p>To clarify through a Circular that:</p> <ul style="list-style-type: none"> <li>ITC is available to Insurance Companies in respect of motor vehicle repair expenses incurred by them in case of reimbursement mode of claim settlement as the liability for repair is on the insurance company and the payment for such repair services is made by the insurance company for the approved cost of repair services through reimbursement to the insured.</li> </ul>	<a href="#">Agreed.</a>

Agenda No	Issue/Proposal	Status during Officers Meeting
<b>3(xxvi)</b> [Vol 1- Pg. 392-399]	<p><b>Clarification on taxability of loans granted between group companies</b></p> <p>To clarify through a Circular that:</p> <ul style="list-style-type: none"> <li>In cases where no consideration is charged by a person from a related person, for extending loan or credit, other than by the way of interest or discount, it cannot be said that any supply of service is being provided between the said related persons in form of processing/ facilitating/ administering the loan, by deeming the same as supply of services as per S. No. 2 and S. No. 4 of Schedule I of CGST Act, and therefore, there is no levy of GST on the same.</li> <li>In cases where any fee in the nature of processing fee/ administrative charges/ service fee/ loan granting charges etc. is charged, over and above the amount charged by the way of interest or discount, by such related person, the same may be considered to be the consideration for the supply of services of supply of services of processing/ facilitating/ administering of the loan, which will be liable to GST as supply of services by the lender.</li> </ul>	<a href="#">Agreed.</a>

Agenda No	Issue/Proposal	Status during Officers Meeting
<b>3(xxvii)</b> [Vol 1- Pg. 400-409]	<p><b>Clarification regarding availability of Input Tax Credit (ITC) on ducts and manholes used in the network of Optical Fiber Cables (OFCs)</b></p> <p>To clarify through a Circular that:</p> <ul style="list-style-type: none"> <li>Ducts and manholes are covered under the definition of “plant and machinery” as they are used as part of the OFC network for making outward supply of transmission of telecommunication signals from one point to another.</li> <li>Ducts and manholes used in network of OFCs have not been specifically excluded from the definition of “plant and machinery” in the Explanation to section 17 of CGST Act, as they are neither in nature of land, building or civil structures nor are in nature of telecommunication towers or pipelines laid outside the factory premises.</li> <li>Accordingly, availment of ITC is not restricted in respect of such ducts and manhole used in network of OFCs, either under clause (c) or under clause (d) of section 17(5) of CGST Act.</li> </ul>	<a href="#">Agreed.</a>

Agenda No	Issue/Proposal	Status during Officers Meeting
<b>3(xxviii)</b> [Vol 1- Pg. 410-419]	<b>Clarification on place of supply applicable for custodial services provided by banks</b> To clarify through a Circular that: <ul style="list-style-type: none"> <li>the Place of Supply of Custodial services provided by Indian Banks to FPIs is to be determined as per section 13(2) of IGST Act and not as per section 13(8)(a) of IGST Act.</li> </ul>	<a href="#">Agreed.</a>

Agenda No	Issue/Proposal	Status during Officers Meeting
<b>3(xxix)</b> [Vol 1- Pg. 420-430]	<b>Clarification on time of supply in respect of supply of services of construction of road and maintenance thereof of National Highway Projects of NHAI in Hybrid Annuity Mode (HAM) model</b> To clarify through a Circular that: <ul style="list-style-type: none"> <li>Under a HAM contract, the contract is a single contract for construction as well as operation and maintenance of the highway, and the payment terms are so staggered that the concessionaire is held accountable for the repair and maintenance of the highway as well.               <ul style="list-style-type: none"> <li>the concessionaire is bound contractually to complete not only the construction of the highway but also to operate and maintain the same.</li> <li>The said services are in nature of continuous supply of services.</li> </ul> </li> <li>The tax liability on the construction portion under the HAM contract would arise at the time of issuance of invoice, or receipt of payments, whichever is earlier, if the invoice is issued on or before the specified date or the date of completion of the event specified in the contract, as applicable.</li> <li>If invoices are not issued on or before the specified date or the date of completion of the event specified in the contract, tax liability would arise on the date of provision of the said service (i.e., due date of payment as per the contract), or the date of receipt of the payment, whichever is earlier.</li> </ul>	<a href="#">Agreed.</a>

Agenda No	Issue/Proposal	Status during Officers Meeting
<b>3(xxx)</b> [Vol 1- Pg. 431-439]	<p><b>Proposal with respect to Refund of additional Integrated Tax (IGST) paid on account of upward revision in price of the goods subsequent to export of such goods</b></p> <ul style="list-style-type: none"> <li>Insertion of sub-rule (1B) in rule 89 of CGST Rules, along with corresponding amendment in sub-rule (1) of rule 96, to provide for filing of refund of additional IGST paid on account of upward revision in price of the goods subsequent to export through FORM RFD-01 and its processing by jurisdictional GST officers;</li> <li>Insertion of clause (bb) and clause (bc) in sub-rule (2) of rule 89 of CGST Rules, and corresponding insertion of Statement 9A and Statement 9B in FORM GST RFD 01, to prescribe documents required to be accompanied with the said refund claim in order to establish that refund is due to the exporter; and</li> <li>Clarification of the procedure for such refunds and processing thereof by the proper GST officer through a circular inter alia providing for verification of such refund claims to check whether the exporter has deposited the excess refund amount in the cases where there is a downward revision in price of goods subsequent to exports.</li> </ul>	<a href="#">Agreed.</a>

Agenda No	Issue/Proposal	Status during Officers Meeting
<b>3(xxxi)</b> [Vol 1- Pg. 440-446]	<p><b>Clarification with respect to implementation of functionality for online filing of refund application by Canteen Stores Department (CSD) in GST-RFD 10A</b></p> <ul style="list-style-type: none"> <li>Insertion of rule 95B and FORM GST RFD-10A in CGST Rules, 2017 to provide for electronic filing of application of refund by CSD on taxes paid on inward supplies of goods and its processing electronically;</li> <li>Validation of the input supplies to be made on the system with FORM GSTR-2B (instead of FORM GSTR-2A) of the concerned tax period as well as of the previous tax periods;</li> <li>Circular to be issued to modify Circular No. 60/34/2018-GST dated 04.09.2018 and to clarify the proposed changes;</li> <li>The provisions of the said Circular No. 60/34/2018-GST dated 04.09.2018 to continue to apply for all refund applications filed manually before the said amendments are notified and the said functionality is made available on the portal.</li> </ul>	<a href="#">Agreed.</a>

Agenda No	Issue/Proposal	Status during Officers Meeting
3(xxxii) [Vol 1- Pg. 447-453]	<p><b>Clarification with respect to procedure for payment of IGST by SEZ unit located in Noida SEZ on DTA clearances</b></p> <ul style="list-style-type: none"> <li>IGST cannot be levied twice on the same supply of goods from SEZ units to DTA and thus, IGST is payable on such supply only once as duties of customs as per Section 30 of SEZ Act read with sub-section (7) of section 3 of CTA, 1975 and proviso to Section 5(1) of IGST Act;</li> <li>The amount of IGST deposited by NSEZ units in their Electronic Cash Ledger through FORM GST PMT-06 challan during the period August 2017 to November 2018 in respect of the DTA clearances may be treated as payment of IGST as part of Customs duty under the provisions of sub-section (7) of section 3 of Customs Tariff Act, 1975, read with Section 30 of SEZ Act 2005 and proviso to Section 5(1) of IGST Act, and may be regularized as payment of duties of customs subject to the condition that ITC is not availed twice by the recipients; As the said IGST deposited in Electronic Cash Ledger is proposed to be considered as payment of IGST, the interest on delayed payment of tax under Section 50 of CGST Act may not be applicable in respect of the said payments, irrespective of whether the amount deposited in Electronic Cash Ledger has been debited or not;</li> <li><b>In respect of the amount which has not been debited</b>, the amount lying un-utilized in Electronic Cash Ledger may be regularized and treated as IGST paid as duties of customs;</li> <li><b>In respect of amount debited through DRC-03 or the return, to ensure that no double benefit of ITC is availed by the DTA recipients</b>, the concerned SEZ units may be asked to procure a <b>Chartered Accountant (CA) or the Cost Accountant (CMA) certificate in respect of each of their DTA recipient unit</b> during the period August 2017 to November 2018, and submit it to the concerned Specified Officer of NSEZ, certifying that the concerned DTA recipient has not availed ITC twice on the same supply in respect of all the DTA supplies made by the said SEZ unit during the said period; and</li> <li><b>For the regularization of amount of IGST deposited by these NSEZ units in their electronic cash ledger, Directorate General of Export Promotion (DGEP) may work out the modalities for such regularization in coordination with GSTN &amp; DG Systems and in consultation with Office of Pr. CCA.</b></li> </ul>	<a href="#">Agreed.</a>

Agenda No	Issue/Proposal	Status during Officers Meeting
3(xxxiii) [Vol 1- Pg. 454-463]	<p><b>Time of supply in respect of supply of allotment of Spectrum to Telecom companies in cases where an option is given to the Telecom Companies for payment of license fee and Spectrum usage charges in installments in addition to an option of upfront payment</b></p> <p><b>Law Committee recommended to clarify through a Circular that:</b></p> <ul style="list-style-type: none"> <li>If the telecom operator chooses the option to make payment in installments, and the payment has to be made in installments after specified periods, as specified in the Frequency Assignment Letter of DoT (which is in the nature of contract), the same is a 'continuous supply of services' as defined under section 2(33) of the CGST Act, 2017, since the supply of services (here, spectrum usage) is agreed to be provided by the supplier (DoT) to the recipient (telecom operator) continuously for a period which is exceeding three months with periodic payment obligations.</li> <li>As per section 31(5)(a) of CGST Act, 2017, in cases of continuous supply of services, where the due date of payment is ascertainable from the contract, the invoice shall be issued on or before such due date of payment.</li> <li>Accordingly, where full upfront payment is made by the telecom operator, GST will be payable when the payment for such upfront payment is made or is due, whichever is earlier.</li> <li>Where the deferred payment is made by the telecom operator in installments, GST is payable as and when the said payments are made or are due, whichever is earlier.</li> </ul>	<a href="#">Agreed.</a>

Agenda No	Issue/Proposal	Status during Officers Meeting
<b>3(xxxiv)</b> [Vol 1- Pg. 464-466]	<b>Agenda for creation of unique identifiers for unregistered persons opting to generate e-way bill</b>  Law Committee recommended that: <ul style="list-style-type: none"> <li>fourth proviso may be inserted in sub-rule (3) of 138 of CGST Rules for enrolment/ creation of a unique user id for unregistered persons engaged in business activities who are desirous of generation of e-way bill; and</li> <li>a functionality may be created for the same on the common portal.</li> </ul>	<a href="#">Agreed.</a>

Agenda No	Issue/Proposal	Status during Officers Meeting
<b>3(xxxv)</b> [Vol 1- Pg. 467-469]	<b>Proposal for amendment in rule 96A of CGST Rules</b> <ul style="list-style-type: none"> <li>Amendment in rule 96A(1)(b) of CGST Rules to align it with rule 96B as well as the Master Directions of RBI, so that the tax due is required to be paid, only when export proceeds/ foreign remittances are not realized within the time period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), including any extension of time granted as per RBI's Master Directions.</li> </ul>	<a href="#">Agreed.</a>

Agenda No	Issue/Proposal	Status during Officers Meeting
<b>3(xxxvi)</b> [Vol 1- Pg. 470-471]	<b>Change in due date for filing of return in FORM GSTR 4 for composition taxpayers from 30<sup>th</sup> April to 30<sup>th</sup> June.</b> <ul style="list-style-type: none"> <li>The due date of filing of FORM GSTR-4 to be extended to 30<sup>th</sup> June following the end of the financial year to which it may pertain.</li> <li>The said extension be made applicable in respect of FORM GSTR-4 to be filed for the financial year 2024-25 onwards.</li> <li>Amendment of clause (ii) of sub-rule (1) of Rule 62 of CGST Rules and Instructions of the FORM GSTR-4, to implement the same.</li> </ul>	<a href="#">Agreed.</a>

Agenda No	Issue/Proposal	Status during Officers Meeting
<b>3(xxxvii)</b> [Vol 1- Pg. 472-475]	<b>Amendment in FORM GSTR-8 to capture place of supply</b> <ul style="list-style-type: none"> <li>Law Committee recommended that FORM GSTR-8 may be suitably amended to incorporate place of supply details in Table 3 and Table 4 of the said form.</li> </ul>	<a href="#">Agreed.</a>

Agenda No	Issue/Proposal	Status during Officers Meeting									
<b>3(xxxix)</b> [Vol 3- Pg. 07-16]	<p><b>Rationalization of the quantum of pre-deposit required to be paid for filing of appeals under GST.</b></p> <p>❖ Law Committee recommended to reduce the amount of pre-deposit in section 107 and section 112 of CGST Act, as below:</p> <table border="1"> <thead> <tr> <th>Forum</th><th>Present pre-deposit amount</th><th>Recommended amount of pre-deposit</th></tr> </thead> <tbody> <tr> <td>Appellate Authority</td><td>10% of the tax in dispute with a maximum amount of Rs. 25 crores CGST and Rs. 25 crores SGST</td><td>10% of the tax in dispute with a maximum amount of Rs. 20 crores CGST and Rs. 20 crores SGST</td></tr> <tr> <td>Appellate Tribunal</td><td>20% of the tax in dispute with a maximum amount of Rs. 50 crores CGST and Rs. 50 crores SGST</td><td>10% of the tax in dispute with a maximum amount of Rs. 20 crores CGST and Rs. 20 crores SGST</td></tr> </tbody> </table>	Forum	Present pre-deposit amount	Recommended amount of pre-deposit	Appellate Authority	10% of the tax in dispute with a maximum amount of Rs. 25 crores CGST and Rs. 25 crores SGST	10% of the tax in dispute with a maximum amount of Rs. 20 crores CGST and Rs. 20 crores SGST	Appellate Tribunal	20% of the tax in dispute with a maximum amount of Rs. 50 crores CGST and Rs. 50 crores SGST	10% of the tax in dispute with a maximum amount of Rs. 20 crores CGST and Rs. 20 crores SGST	<a href="#">Agreed.</a>
Forum	Present pre-deposit amount	Recommended amount of pre-deposit									
Appellate Authority	10% of the tax in dispute with a maximum amount of Rs. 25 crores CGST and Rs. 25 crores SGST	10% of the tax in dispute with a maximum amount of Rs. 20 crores CGST and Rs. 20 crores SGST									
Appellate Tribunal	20% of the tax in dispute with a maximum amount of Rs. 50 crores CGST and Rs. 50 crores SGST	10% of the tax in dispute with a maximum amount of Rs. 20 crores CGST and Rs. 20 crores SGST									

Agenda No	Issue/Proposal	Status during Officers Meeting
<b>3(xl)</b> [Vol 3- Pg. 17-18]	<p><b>Agenda on Change in Payment table of Form GSTR-3B to provide for a separate table for RCM supplies and Section 9(5) supplies</b></p> <p>The Law Committee recommended that:</p> <p>❖ Net negative liability of a tax period may be shown in Payment Table of FORM GSTR-3B i.e. Table 6 and any adjustment of liability from the Negative Liability Ledger is to be done in said Table.</p> <p>❖ “reverse charge” section in the existing payment table needs to be changed to “Reverse charge &amp; supplies made under sec 9(5)” to include the E-commerce liability under section 9(5) of the CGST Act, 2017 which shall now be mandatorily discharged in cash only.</p> <p>❖ Table 6.1 in FORM GSTR-3B may be substituted for the above.</p> <p>❖ Table 6.2 of FORM GSTR-3B may be omitted.</p>	<a href="#">Agreed.</a>

Agenda No	Issue/Proposal	Status during Officers Meeting
3(xli) [Vol 3- Pg. 19-31]	<p><b>Notifying Annual Return in FORM GSTR-9 for Financial Year 2023-24 and extending exemption from filing FORM GSTR-09 for taxpayers with turnover up to Rs. 2 crores.</b></p> <p>Law Committee recommended to clarify through a Circular that:</p> <ul style="list-style-type: none"> <li>The filing of annual return (in FORM GSTR-9/9A) for the FY 2023-24 may be exempted for taxpayers having aggregate annual turnover upto two crore rupees, as per the relaxation extended in previous FYs.</li> <li>The relaxations provided in FY 2022-23 in respect of various tables of FORM GSTR-9 and FORM GSTR-9C may be continued for FY 2023-24.</li> <li>Table 8A of FORM GSTR-9 may be amended as “ITC as per GSTR-2B (table 3 thereof)” along with corresponding entry in para 5 of the Instructions in the said FORM to provide for auto-population of the table 8A on the basis of FORM GSTR-2B rather than FORM GSTR-2A.</li> <li>Requisite changes in FORM GSTR-9 may be carried out in view of the insertion of table 14 &amp; 15 and amendment thereof in FORM GSTR-1 vide Notification No. 26/2022 – Central Tax dated 26.12.2022 for reporting supplies made through e-commerce platforms including supplies taxable under section 9(5).</li> </ul>	<a href="#">Agreed.</a>

Agenda No	Issue/Proposal	Status during Officers Meeting
3(xli) [Vol 3- Pg. 19-31]	<p><b>Notifying Annual Return in FORM GSTR-9 for Financial Year 2023-24 and extending exemption from filing FORM GSTR-09 for taxpayers with turnover up to Rs. 2 crores.</b></p> <p>Law Committee recommended to clarify through a Circular that:</p> <ul style="list-style-type: none"> <li>The filing of annual return (in FORM GSTR-9/9A) for the FY 2023-24 may be exempted for taxpayers having aggregate annual turnover upto two crore rupees, as per the relaxation extended in previous FYs.</li> <li>The relaxations provided in FY 2022-23 in respect of various tables of FORM GSTR-9 and FORM GSTR-9C may be continued for FY 2023-24.</li> <li>Table 8A of FORM GSTR-9 may be amended as “ITC as per GSTR-2B (table 3 thereof)” along with corresponding entry in para 5 of the Instructions in the said FORM to provide for auto-population of the table 8A on the basis of FORM GSTR-2B rather than FORM GSTR-2A.</li> <li>Requisite changes in FORM GSTR-9 may be carried out in view of the insertion of table 14 &amp; 15 and amendment thereof in FORM GSTR-1 vide Notification No. 26/2022 – Central Tax dated 26.12.2022 for reporting supplies made through e-commerce platforms including supplies taxable under section 9(5).</li> </ul>	<a href="#">Agreed.</a>

## Issues on which some observations were made in the Officers' meeting

Agenda No	Issue/Proposal	Status during Officers Meeting
3(i)(I) [Vol 1- Pg. 152- 153]	<p><b>Agenda on Applicability of Goods and Services Tax on Extra Neutral Alcohol (ENA) Taxation of ENA under GST</b></p> <ul style="list-style-type: none"> <li>▪ Amendment to be made in sub-section (1) of Section 9 of the CGST Act, 2017 for not levying GST on Extra Neutral Alcohol used for manufacture of alcoholic liquor for human consumption.</li> <li>▪ Similar amendments to be made in the SGST Act, the UTGST Act and the IGST Act</li> </ul>	<p style="text-align: center;"><u>Agreed.</u></p> <p>State of Tamilnadu requested <b>update on other recommendations of GST Council made in 52<sup>nd</sup> meeting</b> on this issue.</p> <p><b>The Status is as below:</b></p> <ol style="list-style-type: none"> <li>1. Department is in the process of filing an IA in Supreme Court in the matter.</li> <li>2. The GST rate on molasses has been reduced to 5% vide Notification no. 17/2023 – Central Tax (Rate) dated 19.10.2023.</li> <li>3. Vide the same notification, the GST rate on spirits for industrial use has also been notified.</li> <li>4. A Committee of Officers (CoO) convened by JS TRU, with officers from the States of Karnataka, Uttar Pradesh, West Bengal, Rajasthan, Maharashtra, Madhya Pradesh, Punjab and Andhra Pradesh, was constituted to study the taxation of Extra Neutral Alcohol (ENA) under Goods and Services Tax (GST) for the past period. Two meetings of the said committee have been held on the 3rd November, 2023 and 11th January, 2024.</li> </ol>

Agenda No	Issue/Proposal	Status during Officers Meeting
3(i)(II) [Vol 1- Pg. 153- 154]	<p><b>Agenda for Insertion of Section 11A in CGST Act for granting power not to recover duties not levied or short-levied as a result of general practice under GST</b></p> <ul style="list-style-type: none"> <li>Insertion of a new section 11A in the CGST Act to give powers to the Government to regularize by notification, on the basis of the recommendations of the GST Council, non –levy or short levy of GST where it is found that such non levy or short levy was a result of general practice in the trade or a section of trade.</li> <li>No refund of GST or Compensation Cess to be allowed on account of any notification issued in this regard.</li> <li>Similar provision to be inserted in IGST Act, SGST Act, UTGST Act and GST (Compensation to States) Act.</li> </ul>	<p><u>Agreed.</u></p> <p>State of Haryana raised the issue of requirement of definition of the term ‘<b>general practice</b>’. The same was discussed in the Officers’ meeting, and <b>a consensus arose</b> that similar provisions in Central Excise and Customs Act have stood the scrutiny of court of law and hence it may not be needed.</p> <p><b>It was also recommended that sub-section (2) of the proposed section 11A of the CGST Act, with respect to the refund provisions may be removed.</b></p>

Agenda No	Issue/Proposal	Status during Officers Meeting
3(i)(VII) [Vol 1- Pg163-165]	<p><b>Amendment in section 140(7) of CGST Act to provide for transitional credit in respect of invoices received by Input Service Distributor (ISD) before the appointed date pertaining to services provided before appointed date</b></p> <ul style="list-style-type: none"> <li>The Law Committee recommended that Section 140(7) of the CGST Act may be amended retrospectively with effect from July 1, 2017, to allow such transition of ITC in respect of invoices received by ISDs before the appointed date.</li> </ul>	<p><u>Agreed.</u></p> <p><b>It was suggested to modify the draft amendment as follows:</b></p> <p><b>Section 140 of CGST Act, 2017:</b></p> <p>...</p> <p>(7) Notwithstanding anything to the contrary contained in this Act, the input tax credit on account of any services received prior to the appointed day by an Input Service Distributor shall be eligible for distribution as credit under this Act, within such time and in such manner as may be prescribed, <b>even-if whether</b> the invoices relating to such services are received <b>before</b>, on or after the appointed day.</p>

Agenda No	Issue/Proposal	Status during Officers Meeting
3(iii)(a) & (b) [Vol 1- Pg. 170-173]	<p><b>Agenda regarding (i) the relevance of Anti-Profitteering provisions under the GST laws and the handling of Anti-Profitteering cases under Section 171 of the CGST Act; and (ii) the scope of cases that may be heard by the Principal Bench of GSTAT</b></p> <ul style="list-style-type: none"> <li>To amend Section 171 of CGST Act by inserting a proviso to sub-section (2) to provide for power to the Government to notify the date from which the Authority under section 171 of the CGST Act will not accept any request for examination for anti-profitteering</li> <li>To insert an Explanation in the said sub-section that “request for examination” in the said proviso means the written application filed by an applicant for such examination</li> <li>To issue a notification specifying 1<sup>st</sup> April 2025 as the said date under proviso to the said sub-section.</li> <li>Amendment of sub-section (2) of section 171 of the CGST Act to provide for enabling power to notify GST Appellate Tribunal as an Authority to examine anti-profitteering cases.</li> <li>Amendment of section 109 of CGST Act (amendment of sub-section (1) and insertion of sub-section 5A) to provide that Principal Bench of the Tribunal shall also adjudicate or examine such other matters as may be notified by the Government on the recommendations of the Council.</li> <li>Amendment in sub-section (5) of section 109 of CGST Act to provide for the power to notify other cases or class of cases which shall be heard only by the Principal Bench of GST Appellate Tribunal.</li> <li>To issue a Notification to notify Principal Bench of GST Appellate Tribunal to act as an Authority to handle anti-profitteering cases.</li> </ul>	<p><a href="#">Agreed.</a></p> <p>State of Kerala was of the view that there is no need to provide the said sunset clause for anti-profitteering provisions.</p>

Agenda No	Issue/Proposal	Status during Officers Meeting
3(iv) [Vol 1- Pg174-190]	<p><b>Amendments in Section 73 and Section 74 of CGST Act, 2017 and insertion of a new Section 74A in CGST Act, to provide for common time limit for issuance of demand notices and orders irrespective of whether case involves fraud, suppression, etc. or not</b></p> <ul style="list-style-type: none"> <li>To provide for a common time limit for issuance of demand notices and orders in cases involving charges of fraud or willful misstatement and not involving the charges of fraud or willful misstatement etc.</li> <li>To provide a time limit of 42-months for issuing demand notices from the due date of annual returns,</li> <li>To provide a time limit of 12-months from the date of issuance of demand notices, for issuing demand orders, along with a power to the Commissioner, or an officers senior in rank to the proper officer but not less than Joint Commissioner, as authorized by the Commissioner, to extend the said time period by a maximum of another six months, in genuine cases, for reasons to be recorded in writing.</li> <li>This may be made applicable for the demands for the period FY 2023-24 onwards.</li> <li>To implement these changes, a new Section 74A may be inserted in the CGST Act for FY 2023-24 onwards.</li> <li>For demands for period upto FY 2022-23, the existing provisions of section 73 and 74 to continue.</li> <li>Consequential amendments in other sections of the Act also to be made.</li> </ul>	<p><a href="#">Agreed.</a></p> <p>State of Bihar mentioned that there are cases where SCNs for FY 2023-24 have already been issued under existing Section 73. <b>Therefore, it is proposed that we may implement the proposed Section 74A for demands of FY 2024-25 onwards.</b> Consequential changes may be done accordingly.</p>

Agenda No	Issue/Proposal	Status during Officers Meeting
3(vi) [Vol 1- Pg. 197- 206]	<p><b>Agenda on Relaxation in condition of section 16(4) of the CGST Act</b>  <b>Issue 1: in respect to cases where returns for the period from date of cancellation to date of revocation have been filed after revocation:</b></p> <ul style="list-style-type: none"> <li>time line under section 16(4) of CGST Act may be extended till the date of filing return in cases where the returns for the period from date of cancellation of registration/effective date of cancellation of registration till the date of revocation of cancellation of registration are filed within 30 days of revocation of cancellation of registration:</li> <li>A proviso may be inserted in Section 16(4) of CGST Act retrospectively w.e.f. 01.07.2017 to provide for the same.</li> <li>A clause may be inserted in the Finance Act, to the effect that no refund shall be admissible on account of the said retrospective amendment in cases where the amount of ITC has already been paid or reversed on account of contravention of section 16(4) of the Act.</li> <li>A specific clause may be inserted in section 30(2) of the CGST Act, to provide for enabling provision to prescribe conditions and restrictions for revocation of cancellation of registration.</li> <li>A specific clause may be inserted in rule 21 of CGST Rules providing for cancellation of registration in respect of contravention of provisions of third and fourth proviso to rule 23(1) of CGST Rules i.e. if the taxpayer fails to file returns pertaining to the period from date of cancellation of registration/ effective date of cancellation of registration till the date of revocation of cancellation of registration, within 30 days of revocation of cancellation of registration.</li> </ul>	<a href="#">Agreed.</a>

Agenda No	Issue/Proposal	Status during Officers Meeting
3(vi) [Vol 1- Pg. 197-206]	<p><b>Agenda on Relaxation in condition of section 16(4) of the CGST Act( cont.)</b>  <b>Issue 2: for the initial years of implementation of GST, especially due to late filing of GSTR-3B returns:</b>  The Law Committee deliberated upon the <b>three options</b> for providing relief to such taxpayers who filed delayed returns during these initial years, by which time limit under section 16(4) had expired, but no agreement could be reached:</p> <ul style="list-style-type: none"> <li><b>Option 1:</b> The time limit to avail input tax credit under Section 16(4) of CGST Act, through any FORM GSTR 3B filed till 30.11.2021 for the financial years 2017-18, 2018-19, 2019-20 and 2020-21, may be deemed to be 30.11.2021.</li> <li><b>Option 2:</b> The time limit to avail input tax credit under Section 16(4) of the CGST Act for the financial years 2017-18, 2018-19, 2019-20 and 2020-21, in any FORM GSTR 3B return of the month upto September following the financial year to which such invoice or debit note pertains, which is filed upto 30.11.2021, may be extended upto 30.11.2021.</li> <li><b>Option 3:</b> The time limit to avail input tax credit under Section 16(4) of the CGST Act may be extended to the actual date of filing of FORM GSTR 3B or the date specified in Section 16(4) of the Act, whichever is later, in respect of returns in FORM GSTR 3B filed within the time period specified in the Late fee Amnesty schemes, as under: <ul style="list-style-type: none"> <li>GSTR 3Bs pertaining to July 2017 to January 2020, filed between 01.07.2020 to 30.09.2020, in pursuance to Notification No. 52/2020 – Central Tax dated 24.06.2020.</li> <li>GSTR 3Bs pertaining to July 2017 to March 2021, filed between 01.06.2021 to 30.11.2021, in pursuance to Notification No. 19/2021 – Central Tax dated 01.06.2021 as amended by Notification No. 33/2021 – Central Tax dated 31.08.2021.</li> </ul> </li> </ul>	<p>On this issue, it was recommended in the officers' meeting that the decision on the same may be taken by the Council.</p> <p style="text-align: center;">!</p>

Agenda No	Issue/Proposal	Status during Officers Meeting
3(vii) [Vol 1- Pg. 207- 210]	<p><b>Insertion of Section 128A in CGST Act, to provide for conditional waiver of interest or penalty or both relating to demands raised under Section 73, for FY 2017-18 to FY 2019-20</b></p> <ul style="list-style-type: none"> <li>Interest and penalties may be waived for demand notices under Section 73 of the CGST Act for the financial years 2017-18, 2018-19, and 2019-20, provided taxpayers pays the full amount of tax <b>upto a date to be notified</b> on the recommendation of the Council.</li> <li>This waiver to exclude cases involving fraud or willful misstatement etc. (i.e. section 74 demands).</li> <li>If in a case of demand issued under section 74, during appeals or court proceedings, the charges of fraud, suppression, wilful misstatement etc. are not established, and demand is required to be determined under section 73, the same to be covered under the said waiver, subject to fulfillment of other conditions.</li> <li>The waiver not to cover demands of erroneous refunds.</li> <li>No refunds to be given for the interest and penalties, which have already been paid.</li> <li>To implement this, a new Section 128A to be inserted in the CGST Act.</li> </ul>	<p><u>Agreed.</u></p> <p>State of Haryana mentioned that demands pertaining to FY 2020-21 may also be included in the said waiver. However, <b>it was agreed in officer's meeting that the existing proposal for waiver only for FY 2017-18,18-19 and 19-20 may be considered</b>, as time period for issuing SCNs for FY 2020-21 is not yet over.</p> <p>State of Andhra Pradesh raised the issue whether the payment of tax also includes payment of cess. It was discussed that from the joint reading of the proposed Section 128A of CGST Act, along with Section 20 of IGST Act and Section 11 of GST (Compensation to States) Act, <b>it appears that cess is also covered in the proposed section 128A, however, Ministry of Law and Justice will be consulted while finalizing the draft of the proposed section.</b></p>

Agenda No	Issue/Proposal	Status during Officers Meeting
3(viii) [Vol 1- Pg. 211- 222]	<p><b>Reduction of Government Litigation – fixing monetary limits for filing appeals or applications by the Department before GSTAT, High Courts and Supreme Court in terms of section (1B) of section 120 of the CGST Act, 2017</b></p> <ul style="list-style-type: none"> <li>Law Committee recommended <b>issuance of a circular</b> for providing monetary limits under section 120 of CGST Act for filing of appeals by the tax authorities, along with some exclusions.</li> <li>The <b>recommended monetary limits</b> for filing appeals in Appellate Tribunal, High Court and Supreme Court are <b>Rs 20 Lakh, Rs 1 Crore and Rs 2 crore</b> respectively.</li> <li>The <b>methodology</b> to determine as to whether the said monetary limits are applicable in a specific case to be provided in the Circular.</li> <li>The <b>exclusions</b> recommended by Law Committee inter alia include categories such as, <ul style="list-style-type: none"> <li>where any provision of Act/ Rules has been set aside/ held to be ultra vires;</li> <li>where any circular/ notification/ order/ instruction issued by the Government/ Department has been set aside;</li> <li>cases involving classification, valuation, refund, place of supply or other cases, which are recurrent in nature and/ or involving interpretation of the provisions of the Act/ Rules/Notifications/ Circulars, etc.</li> </ul> </li> </ul>	<p><u>Agreed.</u></p> <p>State of Tamilnadu informed that they have a litigation policy of their own, in which monetary limits for filing appeal before High Court and to Supreme Court are much less.</p>

Agenda No	Issue/Proposal	Status during Officers Meeting
3(xiv) [Vol 1- Pg. 293-309]	<p><b>Providing a mechanism for adjustment of payments made through FORM DRC-03, in respect of a demand against pre-deposit as well as for adjustment of liability in Electronic Liability Register</b></p> <p>Law Committee recommended:</p> <ul style="list-style-type: none"> <li>For processing such cases, where the payment to be made in respect of a demand has been paid through FORM GST DRC-03, a new form FORM GST DRC-03A may be inserted in CGST Rules, which will enable the taxpayers to adjust the amounts paid through FORM GST DRC-03, towards the amounts to be paid towards a demand.</li> <li>Some amendments to be made in FORM GST DRC-03.</li> <li>Issuance of a circular to clarify the mechanism for adjustment of payments made through FORM DRC-03, in respect of a demand against pre-deposit as well as for adjustment of liability in Electronic Liability Register.</li> <li>Amendment in Rule 142 of CGST Rules for the above, as well as to provide for auto-acknowledgement of FORM GST DRC-03 on the common portal, and for conclusion of proceedings initiated vide FORM GST DRC-01A, in cases where the reply or the payment or both submitted by the taxpayer is found satisfactory by the proper officer.</li> </ul>	<p><u>Agreed.</u></p> <p>State of Kerala mentioned that the issue of auto-acknowledgment of FORM GST DRC-03 is welcome for the future period, however, <b>they requested that Law Committee may separately examine the possibility of auto-acknowledgement of FORM DRC -03 for the past periods also.</b></p>

Agenda No	Issue/Proposal	Status during Officers Meeting
3(xx) [Vol 1- Pg. 343-346]	<p><b>Agenda for Amendment of rule 110 and 111 of CGST Rules regarding filing appeals in GST Appellate Tribunal</b></p> <p>The Law Committee recommended:</p> <ul style="list-style-type: none"> <li>substitution of exiting rule 110 and rule 111 of the CGST Rules to align the same with the system being developed for filing and processing of appeals before the Tribunal.</li> <li>Insertion of rule 113A and FORM GST APL-05/07W to provide for option to withdraw appeal filed before the Tribunal.</li> <li>consequential amendment in header of FORM GST APL-02.</li> </ul>	<p><u>Agreed.</u></p> <p>It emerged during the Officers' meeting that there may also be a need for circular/ rule, in order to specify a time limit to upload the manually filed appeals (that is filed already with the approval of the registrar) , so that the entire process can be online. <b>It was recommended that Law Committee may separately examine the matter.</b></p>

Agenda No	Issue/Proposal	Status during Officers Meeting
3(xxxviii) [Vol 1- Pg. 476-477]	<p><b>Agenda on Amendment in GST Rules and FORM GSTR-1 to reduce the current threshold of invoice value of Rs. 2.5 lakhs for inter-state B2C supplies to Rs. 1 lakh</b></p> <ul style="list-style-type: none"> <li>The said threshold value for invoice-wise reporting of inter-State B2C supplies in FORM GSTR-1 may be reduced from the present Rs. 2.5 Lakh to Rs 1 Lakh.</li> <li>Clause (a)(ii) and (b)(ii) of sub-rule (4) of rule 59 of CGST Rules and FORM GSTR-1 may be amended for the same.</li> <li>Return in FORM GSTR-5, to be furnished by a Non-resident taxable person under section 39(5) of CGST Act read with rule 63 of CGST Rules, and the relevant instructions, may also be suitably amended so as to reduce the current threshold of invoice value of Rs. 2.5 lakhs for inter-state B2C supplies to Rs. 1 lakh, in line with the changes proposed in the FORM GSTR 1.</li> </ul>	<p><u>Agreed.</u></p> <p>States of Kerala and Tamilnadu requested to reduce the said threshold to Rs. 50,000/- so that the same will be in alignment with other provisions like requirement to generate EWB.</p> <p>However, it was discussed that <b>the present proposal of reducing threshold to Rs. 1 lakh has been made after considering the increased load on the system (common portal).However, in future, depending upon the feedback of systems functioning, the request for reducing the threshold further to Rs. 50,000/- may be examined by the Law Committee, in due course.</b></p>

Agenda No	Issue/Proposal	Status during Officers Meeting
3(xlii) [Vol 3- Pg. 32-35]	<p><b>Rolling out of Biometric based Aadhar Authentication of registration on Pan-India basis.</b></p> <p>Law Committee recommended that:</p> <ul style="list-style-type: none"> <li>❖ <b>Biometric based Aadhaar Authentication of registration applicants may be rolled on All-India basis in a phase manner.</b></li> <li>❖ All the States/UTs, other than the States of Gujarat, Puducherry and Andhra Pradesh, <b>shall be required to substitute sub-rule (4A) of rule 8 of their respective SGST Rules</b> on the same lines as done by the Centre vide notification no. 04/2023 dated 31.03.2023, to implement the said biometric based Aadhar authentication for GST registration in their respective jurisdictions</li> <li>❖ <b>Sub-rule (4A) of rule 8 of CGST Rules, 2017 also needs to be suitably amended by inserting a second proviso to the said sub-rule so as to make it mandatory for those applicants, who do not opt for Aadhaar authentication, also to visit GST Seva Kendras for photo capturing and original document verification.</b></li> <li>❖ Notification no. 27/2022-Central Tax dated 26.12.2022, as amended by Notification no.31/2023 dated 31.07.2023 and Notification no. 54/2023 dated 17.11.2023, issued by the Central Government <b>under sub-rule (4B) of rule 8 of CGST Rules may be rescinded</b> so as to make the applicability of the proviso to sub-rule (4A) of rule 8 of CGST Rules in respect of all the States/ UTs.</li> </ul>	<p><u>Agreed.</u></p> <p>State of Maharashtra requested that there may be a need to make modifications in the existing functionality on the portal to provide that applications for registration are distributed between Centre and States before biometric authentication process, instead on present allocation on generation of ARN, after biometric authentication.</p> <p><b>It was recommended that roll out of biometric authenticated may be implemented presently as per existing functionality. In the meantime, GSTN may examine and make the requisite changes in the functionality for this as well as regarding any other requests.</b></p>

Issue/Proposal	Status during Officers Meeting
<p><b>Notifying sections 11 to 13 of Finance Act, 2024.</b></p> <p>❖Vide Finance Act, 2024, certain amendments have been brought in CGST Act, as per recommendations made by the Council.</p> <p>▪<b>Sections 11 and 12 of Finance Act, 2024 to</b> amend section 2(61) and section 20 of the CGST Act respectively for making <b>Input Services Distributor (ISD) procedure mandatory prospectively</b> for distribution of ITC in respect of common input services.</p> <p>▪<b>Section 13 of the Finance Act, 2024 to</b> insert a new section 122A in CGST Act, to provide for <b>penalty provision for failure to register certain machines</b> used in manufacture of goods (such as pan masala, tobacco, etc.) <b>as per special procedure notified by the Government.</b></p> <p>❖These sections of the Finance Act, 2024 <b>need to be notified to bring them into force.</b></p>	<p>The issue was discussed in the officers' meeting and <b>it was recommended that:</b></p> <p>❖<b>section 11 and 12</b> of the Finance Act, 2024 may be notified with effect from <b>1<sup>st</sup> April 2025.</b></p> <p>❖<b>section 13</b> of the Finance Act, 2024 may be notified with effect from <b>1<sup>st</sup> October, 2024.</b></p>

53<sup>rd</sup> GST Council Meeting

Agenda Item 4

Recommendations of Fitment Committee  
on  
Goods and Services

22<sup>nd</sup> June, 2024

Summary of Discussion  
in  
Officers' meeting  
on  
Recommendations of Fitment Committee

## Agenda Items

- **Total 31 issues examined**

- Goods : 21
- Services: 10

## Goods

- **Total 21 issues examined**

- Recommendations for making **changes** in GST rates/ issuing clarifications- **17**

[Vol-II :Agenda 4 (a) : Annexure-I :pages 8-30]

- Recommendations for making **no change** - **03**

[Vol-II: Agenda 4 (b):Annexure-II: pages 31-34]

- Issue for **information** of the Council– **01**

[Vol-II: Agenda 4 (c): Annexure-III :pages 35-36]

## Services

- **Total 10 issues examined**

- Recommendations for making **changes** in GST law/rates/ issuing clarifications- **9**

[Vol. II, Agenda Item 4, Annexure-IV :pages 37 to 61]

- Recommendations for making **no change** - **1**

[Vol. II, Agenda Item 4, Annexure-V :pages 62 to 64]

### Goods-**Changes Recommended:**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(a) (Annexure-I ) <a href="#">S. No. 1</a> Vol-II. Page No. 8-9	<ul style="list-style-type: none"> <li>➤ To provide exemption from Compensation Cess leviable on the imports by SEZ Unit/developer in SEZ for authorised operations prospectively from the date of issue of Notification</li> <li>➤ Validate the exemptions retrospectively from 01.07.2017.</li> </ul>	Agreed
4(a) (Annexure-I ) <a href="#">S. No. 2</a> Vol-II. Page No.9	<ul style="list-style-type: none"> <li>➤ IGST exemption is provided to specified defence items when imported for defence forces <i>vide</i> notification 19/2019- Customs which will expire on 30<sup>th</sup> June, 2024.</li> <li>➤ Extension of said IGST exemption for such imports for another 5 years.</li> </ul>	Agreed

### Goods-Changes Recommended

Agenda No.	Issue/Proposal	Status after officers' meeting
4(a) (Annexure-I ) <a href="#">S. No. 3</a> Vol-II. Page Nos. 9-12	<ul style="list-style-type: none"> <li>➤ Currently, Aircraft parts/components attract GST rate of 5%/18%/28% based on their classification in HSN. Request is to provide a uniform rate of 5% to make domestic MROs competitive.</li> <li>➤ To provide a uniform rate of 5% IGST for imports of parts/components mentioned in specified 5 manuals for MRO activities subject to conditions similar to Customs Notification</li> </ul>	Agreed
4(a) (Annexure-I ) <a href="#">S. No. 4</a> Vol-II. Page Nos. 12-13	<ul style="list-style-type: none"> <li>➤ Request is to exempt IGST on research instruments/buoys imported under RAMA programme which is inter-governmental technical cooperation programme between India &amp; USA</li> <li>➤ To provide IGST exemption till July 2026 to research equipment/buoys imported under RAMA programme subject to condition of certification by M/o Earth Science and their re-export within 2 years ( extendable to 1 year)</li> </ul>	Agreed

### Goods - Changes recommended

Agenda No.	Issue/Proposal	Status after officers' meeting
4(a) (Annexure-I) <a href="#">S. No. 5</a> Vol-II. Page No. 14	<ul style="list-style-type: none"> <li>➤ 2 consignments of AK-203 rifle kits were imported duty free (<i>vide</i> 19/2019-Cus) as part of Inter-Governmental Agreement between India &amp; Russia. However, the scope of the said notification did not cover <i>technical documentation</i> classified under chapter 49 accompanying them .</li> <li>➤ Request from M/o Defence to provide BCD and IGST exemption to these documentation already imported.</li> <li>➤ An ad-hoc BCD exemption for the said imports was issued vide Ad-hoc Exemption Order No. 01/2024 dated 01.02.2024</li> <li>➤ Recommendation is to provide adhoc IGST exemption on the said imports.</li> </ul>	Agreed

**Goods - Changes recommended**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(a) (Annexure-I ) <a href="#">S. No. 6</a> Vol-II. Page Nos. 14-17	<ul style="list-style-type: none"> <li>➤ A uniform GST rate of 18% was provided for all type of carton, boxes whether made of corrugated or non-corrugated paper w.e.f 01.10.21.</li> <li>➤ HP &amp; J&amp;K requested to re examine the matter and to provide concessional rate for cartons used for packing apples &amp; similar horticulture items in GSTC 49<sup>th</sup> and 50<sup>th</sup> meetings.</li> <li>➤ To provide uniform rate of 12% for carton, boxes and cases of corrugated paper or paperboard as well as of non-corrugated paper or paper board falling under HS 4819 10 &amp; 4819 20.</li> </ul>	Agreed

**Goods - Changes recommended**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(a) (Annexure-I) <a href="#">S. No. 7</a> Vol-II. Page No. 17	<ul style="list-style-type: none"> <li>➤ Request to clarify the scope of entry 195B Schedule-II of 1/17-CT(Rate) "<i>Sprinklers; drip irrigation system including laterals; mechanical sprayers</i>" and whether it includes Fire Water Sprinklers</li> <li>➤ To clarify that all types of sprinklers including fire water sprinklers are covered under SN 195B of Sch II and attract 12% GST rate and in view of genuine interpretational issues, to regularise past practice on 'as is basis'.</li> </ul>	Agreed
4(a) (Annexure-I) <a href="#">S. No. 8</a> Vol-II. Page Nos. 18-19	<ul style="list-style-type: none"> <li>➤ The entry at Sl No. 199 – Schedule II @ 12% for HS 8436 do not explicitly mention parts of poultry machine.</li> <li>➤ GST classification is based on Customs classification and 'Parts of Poultry keeping Machinery' are specifically classified under HSN 8436 9100 in Customs Tariff. Thus, the intention was always to tax these parts at 12%.</li> <li>➤ To amend the entry at Sl No.199 – Schedule II @ 12% to explicitly mention 'parts thereof' and regularise the past practice on 'as is basis'.</li> </ul>	Agreed

**Goods - Changes recommended**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(a) (Annexure-I) <a href="#">S. No. 9</a> Vol-II. Page Nos. 19-21	<ul style="list-style-type: none"> <li>➤ Prior to <b>17.07.2022</b>, pulses and cereals attracted 5% GST when put up in a unit container and bearing a registered brand name.</li> <li>➤ Pulses and cereals are also procured by Govt for distribution at subsidized rate to eligible beneficiaries. These stocks are marked with name of Govt Agencies (like NAFED) for ease of segregation in State/Central Warehouses. If name of such agency is a trademark, such supplies are leviable to 5% GST.</li> <li>➤ Issue for the past period i.e. 01.7.2017 to 17.7.2022 on supplies of pulses and cereals when supplied to or by any agency engaged by Union/State Govt for supply in Govt scheme to intended beneficiary at subsidized rate may be regularised on '<b>as is where is basis</b>' subject to certification and non-utilization of ITC/reversal of ITC by supplier if availed.</li> </ul>	<p>Agreed.</p> <p>Regarding the applicability of GST on such supplies made after 18.7.2022, it was informed that clarification has been sought from the Department of Consumer Affairs whether such supplies would qualify as supply to institutional consumer.</p>

**Goods - Changes recommended**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(a) (Annexure-I) <a href="#">S. No. 10</a> Vol-II. Page Nos. 21-23	<ul style="list-style-type: none"> <li>➤ Solar cooker attracts different rate at 12% or 18% depending on whether it is a single energy source or multiple energy source appliance.</li> <li>➤ To provide a uniform GST rate of 12% on all kind of solar cookers and to clarify that solar cookers with dual energy source (solar energy &amp; grid electricity) are classifiable under HS 8516 and attract GST @ 12%.</li> </ul>	Agreed
4(a) (Annexure-I) <a href="#">S. No. 11</a> Vol-II. Page Nos. 23-25	<ul style="list-style-type: none"> <li>➤ Milk cans for use at a commercial conveyance would be covered under the heading 7310/7612 (@ 18% whereas, domestic milk cans would be classifiable under HSN 7323/7615@ 12%.</li> <li>➤ To provide a uniform rate of 12 % for all kinds of milk cans irrespective of their use domestically or for commercial purpose by way of creating a separate entry.</li> </ul>	Agreed

**Goods - Changes recommended**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(a) (Annexure-I) <a href="#">S. No. 12</a> Vol-II. Page Nos. 25-26	<ul style="list-style-type: none"> <li>➤ All supplies by Unit Run Canteens (URCs) are exempt from GST, whereas no such exemption is provided for Compensation Cess. They are thus liable to take registration and pay compensation cess on supply of aerated beverages and energy drinks by URCs to authorised customers.</li> <li>➤ Law Committee has opined that law does not provide cess liability of URCs to be collected and paid by depot in place other than the point of sale.</li> <li>➤ Compensation Cess on supply of aerated beverages and energy drinks (HS 2202) by URCs to authorised customers may be exempted.</li> </ul>	Agreed
4(a) (Annexure-I) <a href="#">S. No. 13</a> Vol-II. Page No. 26	<ul style="list-style-type: none"> <li>➤ Standing Committee on Chemicals &amp; Fertilisers in its 43<sup>rd</sup> Report and 52<sup>nd</sup> Report has recommended to place issue of further reduction of GST on fertilisers before the GST Council.</li> <li>➤ The matter may be referred to the GoM on Rate Rationalization to take a holistic view.</li> </ul>	Agreed

**Goods - Changes recommended**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(a) (Annexure-I) <a href="#">S. No. 14</a> Vol-II. Page Nos. 26-27	<ul style="list-style-type: none"> <li>➤ Standing Committee on Chemicals &amp; Fertilizers in its 43<sup>rd</sup> Report and 52<sup>nd</sup> Report has recommended to lower GST rate on raw materials of fertilisers like Sulphuric Acid and Ammonia.</li> <li>➤ The matter may be referred to the GoM on Rate Rationalization to take a holistic view</li> </ul>	Agreed
4(a) (Annexure-I) <a href="#">S. No. 15</a> Vol-II. Page Nos. 27-28	<ul style="list-style-type: none"> <li>➤ Standing Committee on Chemicals &amp; Fertilizers in its 43<sup>rd</sup> Report and 52<sup>nd</sup> Report has recommended to reduce GST rate on micronutrients.</li> <li>➤ The matter may be referred to the GoM on Rate Rationalization to take a holistic view</li> </ul>	Agreed
4(a) (Annexure-I) <a href="#">S. No. 16</a> Vol-II. Page No. 28	<ul style="list-style-type: none"> <li>➤ To notify the maximum tax rate of 40% (20% under CGST and 20% under SGST Act) on tobacco products like cigarettes, bidis, smokeless tobacco products etc.</li> <li>➤ The matter may be referred to the GoM on Rate Rationalization to take a holistic view .</li> </ul>	Agreed

**Goods - Changes recommended**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(a) (Annexure-I) <a href="#">S. No. 17</a> Vol-II. Page Nos. 28-30	<ul style="list-style-type: none"> <li>➤ On recommendation of GST Council in 47<sup>th</sup> meeting, w.e.f. 18.7.2022, GST is levied on specified goods which is required to be is pre-packed and labelled under Legal Metrology Act and rules.</li> <li>➤ Legal Metrology (Packaged Commodities) Rules was amended w.e.f. 01.01.2018 whereby agricultural farm produce sold in bags upto and including 50kg are required to be pre-packed and labelled.</li> <li>➤ Based on erstwhile rule, FAQ in 2022 clarified that packages of food items-cereals, pulses, flour etc, containing quantity of more than 25 kg/25 litre are not required to be pre packed and labelled and therefore GST would apply on packages less than or equal to 25 kg/25litre.</li> <li>➤ Suitable amendment may be made to exclude supply of agricultural produce more than 25 kg/25 litre in definition of the expression 'pre-packaged and labelled' in GST rate notifications.</li> <li>➤ Issue for the past period may be regularised on 'as is where is basis'.</li> </ul>	Agreed

**Goods-No change recommended**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(b) (Annexure-II ) <a href="#">S.No. 1</a> Vol-II. Page No. 31	<ul style="list-style-type: none"> <li>➤ The Hon. Chattisgarh High Court has directed the GST Council to reconsider its decision on exclusion of ice cream manufacturers from composition levy.</li> <li>➤ In 17<sup>th</sup> meeting, GST Council recommended exclusion of manufacturers of ice cream and other edible ice, whether or not containing cocoa from composition scheme.</li> <li>➤ GST Council in 43<sup>rd</sup> meeting re-examined issue based on directions of Hon. Delhi High Court and did not recommend any change.</li> <li>➤ Recommend to maintain <i>status quo</i>.</li> </ul>	Agreed

**Goods-~~No change recommended~~**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(b) (Annexure-II ) <a href="#">S.No. 2</a> Vol-II. Page Nos. 31-33	<ul style="list-style-type: none"> <li>➤ PAC recommended for exempting IGST on imports of pharmaceutical products by organizations carrying serious research in scientific field and hospitals carrying out research on life saving medicines and treatment.</li> <li>➤ The concessional rate of 5% IGST was withdrawn on imports of scientific &amp; technical instruments by public funded research institutions based on interim report of GoM on Rate Rationalisation which was accepted in 47<sup>th</sup> GST Council meeting.</li> <li>➤ Recommend no change.</li> </ul>	Agreed

**Goods-~~No change recommended~~**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(b) (Annexure-II ) <a href="#">S.No. 3</a> Vol-II. Page Nos. 33-34	<ul style="list-style-type: none"> <li>➤ Request received from domestic manufacturer to increase rate of orthopaedic implants falling under HS 9021 from 5% to 18% on the ground that the inverted duty structure leads to blocking of working capital.</li> <li>➤ M/o Social Justice has conveyed that increase in GST rates would increase the cost of these goods and not be in the interest of persons with disabilities (Divyangjan).</li> <li>➤ Recommend no change.</li> </ul>	Agreed

### Issue for Information of the Council

Agenda No.	Issue	Remarks
4(a) (Annexure-III ) <a href="#">S. No. 1</a> Vol-II. Page Nos. 35-36	<ul style="list-style-type: none"> <li>In the 52nd GST Council, a general approval was obtained from GST Council to update the list of banks/entities eligible for IGST exemption for import of Gold/Silver/Platinum as and when Appendix 4B of Handbook of Procedures of Foreign Trade Policy (FTP), 2023 is amended by DGFT.</li> <li>Corrigendum dated 09.02.2024 was issued by DGFT to make it explicitly clear that the list of banks authorised by RBI to import- Gold / silver is for FY 2023-24 wef 01.04.2023 and valid upto 31.03.24. Accordingly, corrigendum was also issued with respect to Notification No. 60/2023-Customs dated 19.10.2023</li> <li>For the FY 2024-25, following issuance of updated list of authorised banks by RBI, DGFT amended Appendix 4B of Handbook of Procedure, Foreign Trade Policy (FTP) ,2023 vide Public Notice No. 54/2023, dated 28.03.2024. Thereafter 25/2024-Cus dated 06.05.24 was issued to carry out the changes.</li> <li>Placed for information for the Council.</li> </ul>	

### Services- Change recommended (9) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(d) (Annexure-IV) <a href="#">S. No. 1</a> Vol-II: Page Nos. 37-39	<ul style="list-style-type: none"> <li>➤ Request to clarify the GST liability on the premium settlement by lead insurer to co-insurers in the co-insurance agreement.</li> <li>➤ Supply between lead insurer and co-insurer may be declared as no supply under Schedule III of the CGST Act, 2017.</li> <li>➤ To regularize the past cases on 'as is where is' basis by way of issuance of a circular.</li> </ul>	Agreed
4(d) (Annexure-IV) <a href="#">S. No. 2</a> Vol-II: Page Nos. 39-40	<ul style="list-style-type: none"> <li>➤ Request to clarify regarding GST taxability on re-insurance/ceding commission.</li> <li>➤ Transaction of ceding/re-insurance commission between insurer and reinsurer may be declared as no supply under Schedule III of CGST Act, 2017.</li> <li>➤ To regularize the past cases on 'as is where is' basis by way of issuance of a circular.</li> </ul>	Agreed

**Services- Change recommended (9) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(d) (Annexure-IV) <a href="#">S. No. 3(a)</a> Vol-II: Page Nos. 40-45	<ul style="list-style-type: none"> <li>➤ Request to restore GST exemptions on outward supplies made by Indian Railways and exemption on intra-railway supplies (those made between different railway zones).</li> <li>➤ Following specific services provided by Indian Railways to general public at large may be exempted from GST: <ul style="list-style-type: none"> <li>▪ Platform tickets</li> <li>▪ Facility of retiring rooms/waiting rooms</li> <li>▪ Cloak room services</li> <li>▪ Battery operated car services.</li> </ul> </li> <li>➤ Intra-railway transactions may be exempted.</li> <li>➤ Intervening period i.e., from 20.10.2023 till date of notification on above services has been recommended to be regularized on 'as is where is' basis.</li> </ul>	Agreed

**Services- Change recommended (9) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(d) (Annexure-IV) <a href="#">S. No. 3(b)</a> Vol-II: Page Nos. 40-45	<ul style="list-style-type: none"> <li>➤ To exempt GST on transactions between Special Purpose Vehicles (SPVs) and Indian Railways retrospectively w.e.f 01.07.2017.</li> <li>➤ Exempt services provided by SPV to IR by way of allowing IR to use infrastructure built and owned by SPV during the concession period against consideration and maintenance services supplied by Indian Railways to SPV from GST.</li> <li>➤ Regularize the past cases on 'as is where is' basis.</li> </ul>	Agreed. Further, during the officers meet, it was also viewed that request from States/UTs for similarly placed SPVs would be examined and considered on case to case basis.
4(d) (Annexure-IV) <a href="#">S. No. 4</a> Vol-II: Page Nos. 45-47	<ul style="list-style-type: none"> <li>➤ To either regularize or exempt, the GST liability on reinsurance services of the specified insurance schemes (Sl. Nos. 35 and 36 of the notification No. 12/2017 CTR) for the period 01.07.2017 to 24.01.2018.</li> <li>➤ To regularize the payment of GST on reinsurance services of specified insurance schemes covered by S. Nos. 35 &amp; 36 of notification No. 12/2017-CT (Rate) for the period from 01.07.2017 to 24.01.2018 on 'as is where is' basis.</li> </ul>	Agreed

**Services- Change recommended (9) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(d) (Annexure-IV) <a href="#">S. No. 5</a> Vol-II: Page Nos. 47-49	<ul style="list-style-type: none"> <li>➤ Request to clarify that reinsurance services of the insurance schemes for which total premium is paid by the Government (Sl. No. 40 of the notification No. 12/2017 CTR) are exempt from GST for the period 01.07.2017 to 26.07.2018.</li> <li>➤ To regularize the payment of GST on reinsurance services of the insurance schemes under Sl. No. 40 of notification No. 12/2017-CTR dated 28.06.2017 for the period from 01.07.2017 to 26.07.2018 on 'as is where is' basis.</li> </ul>	Agreed
4(d) (Annexure-IV) <a href="#">S.No. 6</a> Vol-II: Page Nos. 49-50	<ul style="list-style-type: none"> <li>➤ Request to clarify that the term 'reinsurance' as mentioned at Sl. No. 36A of notification No. 12/2017- CT(Rate) dated 28.06.2017 includes 'retrocession' services and therefore retrocession services of specified insurance schemes are also eligible for exemption from GST.</li> <li>➤ To clarify that retrocession is a 're-insurance of re-insurance' transaction wherein the reinsurer further cedes a part of its risk to the retrocessionaire and therefore, eligible for the exemption under Sl. No. 36A of the notification No. 12/2017-CTR dated 28.06.2017.</li> </ul>	Agreed

**Services- Change recommended (9) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(d)(Annexure-IV) <a href="#">S. No. 7</a> Vol-II: Page Nos. 50-53	<ul style="list-style-type: none"> <li>➤ Request to clarify regarding incentive amount that is shared by acquiring bank with other stakeholders in the digital payment ecosystem as this also comes under the purview of the Gazette notification issued to notify the Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions .</li> <li>➤ To clarify, that further sharing of the incentive by the acquiring bank with other stakeholders, where such incentive is clearly defined under Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions and is decided in the proportion and manner by NPCI in consultation with the participating banks is not taxable.</li> </ul>	Agreed

**Services- Change recommended (9) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(d)(Annexure-IV) <a href="#">S. No. 8</a> Vol-II: Page Nos. 53-56	<ul style="list-style-type: none"> <li>➤ Request to clarify whether GST is applicable on the statutory collections made by the Real Estate Regulatory Authority (RERA) in accordance with the Real Estate (Regulation and Development) Act, 2016.</li> <li>➤ To clarify by way of a circular that RERA is covered under the scope of exemption entry number 4 of notification No. 12/2017-CT(R).</li> </ul>	Agreed

**Services- Change recommended (9) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(d)(Annexure-IV) <a href="#">S. No. 9</a> Vol-II: Page Nos. 56-61	<ul style="list-style-type: none"> <li>➤ (a) Request to clarify whether service by way of hostel accommodation, service apartments /hotels booked for longer period is a service of renting of residential dwelling for use as residence and exempted as per entry no. 12 of the notification No. 12/2017-CT (Rate) dated 28/06/2017.</li> <li>➤ (b) Request for GST exemption on hostels for poor and middle-class students run by charitable trusts.</li> <li>➤ A new entry may be inserted under Heading 9963 in the exemption notification to exempt supply of accommodation services upto Rs.15000/- per person per month provided the accommodation service is supplied for a minimum continuous period of 90 days.</li> <li>➤ An explanation may be inserted in Sl. No. 12 of notification No. 12/2017-CT(R) dated 28.06.2017 which exempts services by way of renting of residential dwelling for use as residence as below:  <p style="margin-left: 40px;">“Explanation,- Nothing contained in this entry shall apply to:  accommodation services for students in student residences; and  accommodation services provided by Hostels, Camps, Paying Guest accommodations and the like.”</p> </li> <li>➤ Chapter heading 9963 may be deleted from Column No. 2 in the Sl. No. 12 in the notification No. 12/2017- CT (R).</li> </ul>	<p>Agreed.</p> <p>Further, during the officers meet, it was viewed that past cases falling within the proposed prescribed limit may be regularised on ‘as is where is’ basis.</p>

Services-**No change recommended (1) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(e)(Annexure-V) <a href="#">S. No. 1</a> Vol-II: Page Nos. 62-64	<ul style="list-style-type: none"><li>➤ Request to give retrospective effect to amendment carried out in notification No. 17/2017-CTR vide which bus operators organized as companies were excluded from purview of section 9(5) of CGST Act, 2017.</li><li>➤ The request to give retrospective effect to the amendment in notification No. 17/2017-CTR may not be accepted.</li></ul>	Agreed

THANK YOU

## Recommendations of the Fitment Committee:

### Goods

#### Changes in GST rates/ issuing clarification

*(Vol.-II: Agenda 4(a) : Annexure-I: pages-8-30)*

#### **1. Compensation Cess on imports into SEZ: (page 8-9)**

- Prior to GST, all imports by SEZ units/developer were exempt from basic customs duty (BCD), CVD in lieu of Central Excise duty and Special Additional duty (SAD) to facilitate export competitiveness of such units as the units are expected to export the resultant goods.
- At the time of roll out of GST, exemptions with respect to IGST leviable on the such imports was provided *vide* 64/2017-Customs based on recommendation of GST Council. The present issue has arisen as no such notification was issued for exemption from Compensation Cess leviable on such imports.
- Since all pre-GST exemptions were continued at the time of roll out of GST, the intent appears to be to continue exemption from Compensation Cess on import of goods to SEZ.
- Representations have been received to exempt Compensation Cess leviable on the imports into SEZ retrospectively from 01.07.2017.

#### **Recommendations of Fitment Committee:**

Provide exemption from Compensation Cess leviable on the imports by SEZ Unit/developer for authorised operations prospectively from the date of issue of Notification and validate it retrospectively from 01.07.2017.



## **2. Extension of IGST exemption to specified defence items imported for defence forces:**

*(Vol.-II: Agenda 4(a):Annexure-I: page 9)*

- Exemption from BCD & IGST was provided on imports of specified defence items for defence forces (Airforce , Navy and Army) *vide* Notfn No.19/2019-Cus dated 06.07.2019, for a period of five years till 30<sup>th</sup> June, 2024.
- M/o Defence has sought extension for the exemptions for further 5 years as these items are not indigenously manufactured and have to be necessarily imported for operational readiness and strategic importance.

### **Recommendations of Fitment Committee:**

- Fitment Committee recommended extension of IGST exemption for another 5 years.



## **3. Aircraft parts/components mentioned in aircraft maintenance manuals for MRO operations to be undertaken in India:**

*(Vol.-II: Agenda 4(a): Annexure-I: page 9-12)*

- Currently, parts, testing equipment, tools and tool-kits for MRO activities for aircrafts attract 'Nil' BCD when imported by scheduled airlines/MRO operators registered with the DGCA.
- Aircraft parts classified under HSN 8807, aircraft tyres classifiable under Chapter 40 and other parts like aircraft engines classifiable under Chapter 8407 1000 and 8411 attract GST at 5%.
- However, other parts used in aircrafts that are classifiable under other chapters attract GST ranging from 18%-28% based on their classification in HSN.
- Thus import IGST paid on these parts becomes imputed cost for MROs which makes them uncompetitive compared to international MRO hubs like Turkey, Singapore etc.
- Committee of Secretaries (CoS) on facilitating growth of Aircraft MROs in India recommended harmonizing GST rate at a maximum of 5% on all aircraft parts/components.
- M/o Civil Aviation has stated that these parts are not manufactured in India and are 100% imported.

### 3. Contd.

*(Vol.-II: Agenda 4(a): Annexure-I: page 9-12)*

- The issue was discussed and not recommended in 47<sup>th</sup> & 48<sup>th</sup> GST Council considering dual use nature of these goods.
- However now, M/o Civil Aviation has clarified that only parts which feature in the 5 specified aircraft manuals, namely, Aircraft Maintenance Manual, Component Maintenance Manual, Illustrated parts Catalogue, Structural Repair Manual and the Standard Procedures Manual of the OEMs may be considered for 5% GST rate and conditions similar to Customs exemption may be prescribed for its utilisation.
- The key conditions mentioned in the customs exemption include :
  - Imported by units approved by DGCA for MRO
  - Importer submits documents duly certified by DGCA approved Quality Managers of Aircraft maintenance organisations

#### Recommendations of Fitment Committee:

To provide a uniform rate of 5% IGST for imports of parts/components mentioned in the 5 specified manuals subject to conditions similar to Customs Notification including a certificate from DGCA approved Quality Managers of Aircraft maintenance organisations that such parts/components are specified in the 5 manuals.



### 4. Scientific Equipment required for Research Moored Array for African-Asian-Australian Monsoon Analysis and Prediction (RAMA) programme:

*(Vol.-II: Agenda 4(a): Annexure-I: page 12-13)*

- M/o Earth Sciences (MoES), India & National Oceanic and Atmospheric Administration (NOAA), USA have entered into an MoU for technical cooperation in earth observations and earth sciences which includes RAMA programme.
- Under RAMA programme, research buoys are sent to India for storing, basic maintenance activity and are subsequently deployed in the International waters in the Indian Ocean/Bay of Bengal region for data collection. Post deployment, the buoys are re-exported to NOAA, USA for recalibration and re-import for use in next round.
- Prior to 13.07.2022, IGST @5% was paid on import of these buoys as per concessional rate for scientific & technical instruments supplied to public funded research institutes. This exemption was withdrawn based on interim report of GoM on rate rationalisation which was accepted in 47<sup>th</sup> GST Council. Now, the buoys attract 18% rate and the incidence is being borne by NOAA, USA. The request is to exempt equipment/material imported for RAMA project till July 2026.

#### Recommendations of Fitment Committee:

- IGST exemption may be provided to research equipment/buoys imported under RAMA programme till July 2026 subject to certification from MoES and provided that they are re-exported within 2 years (extendable by 1 year).



## 5. **Technical documentation related to AK-203 rifle kits :**

(Vol.-II: Agenda 4(a):Annexure-I: page 14)

- Indo-Russian Rifles Pvt Ltd. (IRRPL), a Joint Venture under the Inter-Governmental Agreement, imported two consignments of AK-203 rifle kits under notification No. 19/2019-Customs. However, the scope of the said notification did not cover *technical documentation* falling under chapter 49 of the rifle kits.
- On request of the Ministry of Defence, an ad-hoc BCD exemption under section 25(2) of the Customs Act, 1962 for the said imports was issued vide Ad-hoc Exemption Order No. 01/2024 dated 01.02.2024. Now, the matter is placed before GST Council for adhoc exemption from IGST for those consignment.

### Recommendations of Fitment Committee:

- Fitment Committee after considering request from the Ministry of Defence, recommended to provide adhoc IGST exemption on the said imports.



## 6. **Carton, Boxes for packaging apples and other horticulture produce:**

(Vol.-II: Annexure-I: page 14-17)

- A uniform GST rate of 18% was provided for all type of carton, boxes irrespective of being made up of corrugated or non-corrugated paper w.e.f. 01.10.21.
- The matter was again raised in 49<sup>th</sup> & 50<sup>th</sup> GST Council, where Hon. Members from HP and J&K requested for reducing the rate on carton boxes used for packaging of apples and horticulture products wherein the Council referred the matter to Fitment Committee for re-examination. Representatives from HP & J&K were invited in the Fitment Committee for putting forth their views. HP requested for reducing the GST rate to 5% and J&K – requested for a uniform rate of 12% on all corrugated boxes .
- Carton boxes are intermediate products and the GST paid on carton boxes is available as ITC. However, GST paid on cartons becomes cost if the final goods packed in cartons is exempt from GST (e.g., Apple in this case). Such horticulture/agriculture supply constitute only around 10% of total demand for cartons. And thus, the revenue implications is confined to this limited portion.
- End-use based exemption is not advisable as it is difficult to administer and prone to litigation and lower rate of 5% will introduce inversion.

### Recommendations of Fitment Committee:

- To prescribe a uniform rate of 12% for carton, boxes and cases of corrugated paper or paperboard as well as of non-corrugated paper or paper board falling under HS 4819 10 & 4819 20.



## 7. Fire Water Sprinklers ( HSN 8424):

(Vol.-II: Agenda4(a): Annexure-I: page 17)

- Request was received to clarify if the entry at 195B of Schedule-II (12%) of Notfn No. 1/17-CT(R) includes Fire Water Sprinklers . The entry reads as follows:

“*Sprinklers; drip irrigation system including laterals; mechanical sprayers*” includes Fire Water Sprinklers.

- This entry was inserted based on the recommendations of GST Council made in 25<sup>th</sup> meeting , wherein a lower rate of 12% for ‘micro irrigation systems, namely, sprinklers, drip irrigation system, including laterals’ was recommended. The intent appears to have been to extend the benefit of concessional rates to sprinklers being used for irrigation/agriculture.
- However, the wordings of the entry does not explicitly exclude any type of sprinklers, leading to divergent interpretation by field officers and quasi-judicial fora.

### Recommendations of Fitment Committee:

- To clarify that all types of sprinklers including fire sprinklers are covered under the above entry (195 B of Sch-II @ 12%)
- To regularize the past practice on ‘as is where is’ basis .



## 8. Parts of Poultry Machinery:

(Vol.-II: Agenda 4 (a): Annexure-I: page 18-19)

- GST classification is based on Customs classification and ‘Parts of Poultry keeping Machinery’ are specifically classified under HSN 8436 9100 in Customs Tariff.
- Description of goods for Customs heading 8436 which also includes parts has been incorporated in GST in entry at 199 (12%) of Sch-II of Notfn No. 1/17-CT(R) which reads as ‘*Other agricultural, horticultural, forestry, poultry keeping or bee-keeping machinery, including germination plant fitted with mechanical or thermal equipment; poultry incubators and brooders*’
- However, in the said entry, ‘*parts thereof*’ is not specifically mentioned. The intent was always to levy 12% on the parts of poultry machinery which falls under 8436 91 00, even though these are not specifically mentioned in GST entry.
- However, for other goods, such as under heading 8432 and 8433, ‘parts’ have been specifically included at a later stage in Sr. No. 196 & 197 of Schedule II to notification No.1/2017- CT (Rate), dated 28.06.2017, which has created ambiguity for entries wherein parts are not explicitly included.

### Recommendations of Fitment Committee:

- Notification entry may be amended to add ‘*parts thereof*’.
- To regularize past practice on ‘as is where is’ basis on account of genuine interpretational issue.



#### 9. Pulses and cereals supplied to or by any agency engaged by Govt:

(Vol.II: Agenda 4(a): Annexure-I: pages 19-21)

- Prior to 17.07.2022, pulses and cereals attracted 5% GST when put up in a unit container and bearing a registered brand name.
- Pulses and cereals are procured by Government for distribution at subsidized rate to eligible beneficiaries. These stocks are marked with name of Govt Agencies like NAFED for ease of segregation in State/Central Warehouses. The procurement is at market price and no special remunerations are realised by these agencies by putting their names on the stock/bags.
- However, if the name of the agency happens to be a trademark (such as NAFED), such supplies are leviable to 5% GST.
- Request has been received for clarification regarding applicable rate of GST on pulses and cereals procured by agency engaged by Govt during the period from 01.07.2017 to 17.07.2022.

##### Recommendations of Fitment Committee:

- In view of genuine interpretational issue, issue for the past on supplies of pulses and cereals when supplied to or by any agency engaged by Union/State Govt for supply in Govt scheme to intended beneficiary at free of cost or at subsidized rate may be regularised on '*as is where is*' basis subject to certification and non-utilization of ITC/reversal of ITC by supplier if availed.



#### 10. Solar Cooker:

(Vol.-II: Agenda 4 (a): Annexure-I: page 21-23)

- Solar Cooker operating solely on solar energy is classifiable under HSN 7321 and attracts 18% GST.
- However, it is classifiable under HSN 8516 if it has electricity as an alternate source of energy and attracts 12% GST.
- Since, there is duality of rates on solar cookers depending on whether they use a single energy source or dual energy source, Fitment Committee recommended to provide uniform concessional rate of 12%, to promote renewable energy devices and avoid litigations.
- A concessional GST rate of 12% is already provided to various renewable energy devices and parts for their manufacture, vide S. No. 201A of schedule II of notification No. 01/2017-CT (Rate).

##### Recommendations of Fitment Committee:

- To prescribe a uniform GST rate of 12% on all kind of solar cookers whether it uses a single or dual energy source.
- Issue clarification that Solar cookers that work on dual energy sources of solar energy and grid electricity are classifiable under 8516 and already attract 12%.



## 11. Steel/Aluminium Milk Cans used in milk dairies:

(Vol.II: Annexure-I: page 23-25)

- Table, kitchen or other household articles of iron & steel, aluminium and utensils falling under HSN 7323 and 7615 attract GST Rate of 12% vide Sr No. 184 and 186 respectively of Schedule II of Notification No. 01/2017-CT (Rate) .
- WCO explanatory notes indicates that articles for kitchen use include **domestic milk cans** within its ambit
- Goods falling under HSN 7310 - Tanks, casks, drums, cans, boxes and similar containers, for any material (other than compressed or liquefied gas), of iron or steel, of a capacity not exceeding 300 ltr) and 7612 (Aluminium casks, drums, cans, boxes, etc. attract GST Rate of 18% vide Sr No. 224 and 273 respectively of Schedule III of Notification No. 01/2017-CT (Rate)
- WCO explanatory notes indicates this heading *interalia* covers sheet or plate iron or steel containers of a capacity not exceeding 300 L, **commonly used for the commercial conveyance**.
- Milk cans for use at a commercial scale/for business purpose would be covered under the heading 7310/7612 (@ 18%) , whereas, domestic milk cans would be classifiable under HSN 7323/7615 (12%).

### Recommendations of Fitment Committee:

- Fitment Committee recommended to provide a uniform rate of 12 % for all kinds of milk cans irrespective of their use by creating a separate entry.



## 12. Aerated beverages & energy drinks (HS 2202) sold by Unit Run Canteens (URCs):

(Vol. II: Agenda 4(a): Annexure-I: pages 25-26)

- All supplies made by URCs are exempt from GST, whereas no such exemption is provided for Compensation Cess.
- Aerated beverages and energy drinks when sold by URCs to the authorised customers attract Compensation Cess. Thus, URCs being the point of sale, are required to be registered and pay compensation cess.
- Ministry of Defence represented that URCs have to often move with Army Units to remote locations and across states and it is not possible to register for only paying Compensation Cess. MoD requested to allow depots to discharge the compensation cess liability of URCs or to exempt URCs from compensation cess.
- Matter was referred to Law Committee in 52<sup>nd</sup> GST Council meeting to examine if applicable cess may be collected at the Depot level for such supplies by URCs. Law Committee has opined that no such mechanism is available in current legal structure under GST.

### Recommendations of Fitment Committee:

- To exempt Compensation Cess on supply of aerated beverages and energy drinks by URCs.



### 13. **Fertilisers:**

*(Vol. II: Agenda 4(a): Annexure-I: page 26)*

- All fertilisers like urea, DAP, Potassic (muriate of potash) fertilisers, and ammonium sulphate currently attract GST at the rate of 5%.
- The issue of further reduction of GST rate on fertilizers was placed before GST Council in its 45<sup>th</sup> & 47<sup>th</sup> meetings but GST Council did not recommend any further changes in the GST rates.
- The Standing Committee on Chemicals & Fertilisers in its 43<sup>rd</sup> Report of August 2023 and 52<sup>nd</sup> Report of February 2024 has recommended that the issue of further reduction of GST on fertilisers be placed before the GST Council.
- Blanket exemption or reduced rate for items such as fertilisers, chemicals and nutrients will deepen the duty inversion and lead to blocking of capital for the industry.

#### **Recommendations of Fitment Committee:**

- The matter may be referred to the GoM on Rate Rationalization to take a holistic view.



### 14. **Fertilizer Raw Materials (like Sulphuric Acid and Ammonia):**

*(Vol. II: Agenda 4(a): Annexure-I: pages 26-27)*

- Sulphur and Ammonia attract 18% GST rate considering the pre-GST rate.
- The Standing Committee on Chemicals & Fertilisers in its 43<sup>rd</sup> Report of August 2023 and 52<sup>nd</sup> Report of February 2024 has recommended to examine reduction in GST rate of the raw materials.
- These raw materials have multiple alternate uses in diverse industries such as explosives, textiles, plastics, dyes, detergents etc.
- Reduction of GST for actual use in fertilizers would entail an end use-based exemption. Such exemptions are difficult to administer and are prone to misuse.

#### **Recommendations of Fitment Committee:**

- The matter may be referred to the GoM on Rate Rationalization to take a holistic view.



**15. Micronutrients :**

*(Vol. II: Agenda 4(a): Annexure-I: pages 27-28)*

- Micronutrients are essential plant nutrients and are used in smaller quantities compared to fertilisers and attract GST rate of 12% or 18%.
- Issue of reduction in GST rate on micronutrients has been discussed before by GST Council in its 25<sup>th</sup>, 31<sup>st</sup> and 37<sup>th</sup> meetings wherein no change was recommended.
- The Standing Committee on Chemicals & Fertilisers in its 43<sup>rd</sup> Report of August 2023 and 52<sup>nd</sup> Report of February 2024 has recommended to examine reduction in GST rate of micronutrients.
- Besides their use as micronutrients, these chemicals have diverse uses. For e.g. Copper sulphate is also used as drying agent, as an additive in fertilizer and food, and in industrial applications like textile, leather, wood batteries etc.

*Recommendations of Fitment Committee:*

- The matter may be referred to the GoM on Rate Rationalization to take a holistic view.



**16. Tobacco Products like cigarettes, bidis, smokeless tobacco products etc.:**

*(Vol. II: Agenda 4(a): Annexure-I: page 28)*

- Currently tobacco products like cigarettes, bidis, smokeless tobacco products etc attract GST rate of 28%.
- Request has been received from Karnataka to notify the maximum tax rate of 20% under CGST and 20% under SGST Act on tobacco products.

*Recommendations of Fitment Committee:*

- The matter may be referred to the GoM on Rate Rationalization to take a holistic view.



## 17. Agricultural Produce, pre-packaged and labelled:

(Vol. II: Agenda 4(a): Annexure-I: pages 28-30)

- Legal Metrology Packaged Commodity Rules required pre-packaging and labelling of goods before sale.
- Erstwhile Rule 3 provided that the said requirement would not apply to commodities of quantities exceeding 25 Kg or 25litre other than cement and fertiliser.
- W.e.f. 18.7.2022, GST is levied on specified goods when they are required to be “pre-packaged and labelled” as per Legal Metrology provisions.
- Rule 3 as amended w.e.f. 01.01.2018 provides that for agricultural farm produce, the quantity has been increased to include quantity above 50 kg meaning thereby that agricultural farm produce would require to be pre packed and labelled up to and including 50Kg.
- The FAQ issued in July 2022 clarifies that for food items- pulses, cereals, flour, etc. LMA Rules prescribes that package of commodities containing quantity of more than 25 kg/25 litre do not require a declaration and accordingly, GST would apply on packages less than or equal to 25 kg/25l.

### Recommendations of Fitment Committee:

- Since the intention of GST Council was to tax agricultural farm produce on or less than 25 kg, suitable amendment may be made to exclude supply of agricultural produce more than 25 kg/25 litre in definition of the expression ‘pre-packaged and labelled’ in GST rate notifications.
- To regularize past liability on ‘as is where is’ basis.

Recommendations for making **no change**

(Vol.-II: Agenda 4(b) : Annexure-II: pages 31-34)

## 1. Ice Cream:

(page 31)

- Supply of ice cream and other edible ice, whether or not containing cocoa [HS 2105] attract GST at the rate of 18%.
- The composition levy under Section 10 of the GST Act is an alternative method of levy of tax at a prescribed concessional rate designed for eligible small taxpayers below the specified threshold of turnover. The objective of composition scheme is to bring simplicity and to reduce the compliance cost for the small taxpayers. Upon opting for this scheme, one can not issue taxable invoice under GST law and can neither collect GST on their outward supplies nor can claim Input Tax Credit on their inward supplies
- In the 17th GST Council meeting, the GST Council recommended to exclude manufacturers of ice cream and other edible ice, whether or not containing cocoa from composition scheme.
- Based on the directions of Hon’ble Delhi High Court, GST Council in its 43rd meeting re-examined the issue but did not recommend any change.
- The Hon’ble High Court of Chhattisgarh, Bilaspur in W.P.(C) No. 2139 of 2019 has directed the GST Council to reconsider its decision on exclusion of small manufacturers of ice cream from composition levy.

### Recommendations of Fitment Committee:

- The Fitment Committee recommended to maintain status quo.

## **2. Pharmaceutical products/equipment for research:**

*(Vol.-II: Agenda 4 (b): Annexure-II: page 31-33)*

- Public Accounts Committee has recommended the following:
  - exempting imports of pharmaceutical products to those organisations that are carrying out serious research in scientific field.
  - Hospitals carrying out research on life saving medicines and treatment may also be considered for extending the benefit IGST exemption.
- Prior to 13.07.2022, a concessional rate of 5% was applicable on the imports of scientific & technical instruments supplied to public funded research institutes.
- This exemption was withdrawn based on the interim report of GoM on rate rationalisation which was accepted in 47<sup>th</sup> GST Council in order to correct inversion.
- As regards the second request, end use-based exemption are difficult to administer and monitor. The policy of the Government is to move away from end use-based exemptions.

### **Recommendations of Fitment Committee:**

- Fitment Committee did not recommend any change.



## **3. Orthopaedic Implants :** *(Vol.-II: Agenda 4 (b): Annexure-II: page 33-34)*

- In the 47th GST Council, a uniform GST rate of 5% was fixed on all goods falling under heading 9021. (SN 255A – Sch. I of Notification 01/2017-CTR) in order to bring uniformity for all these goods falling under 9021 and to bring consumers needing such items.
- Request has been received from domestic manufacturer to increase GST rate of Orthopaedic Implants falling under HS 9021 from 5% to 18% stating that the inverted duty structure leads to blocking of working capital.
- Comments of M/o Social Justice was sought and they have conveyed that increase in GST rates would increase the cost of these goods and not be in the interest of persons with disabilities (Divyangjan).

### **Recommendations of Fitment Committee:**

- The Fitment Committee did not recommend any change.



## Issue for **information** of the Council

*[Vol-II: Agenda 4 (c): Annexure-III :pages 35-36]*

### 1. **Updation in list of banks/entities eligible for IGST exemption for import of Gold/Silver:**

- In the 52<sup>nd</sup> GST Council, a general approval was obtained from GST Council to update the list of eligible banks/entities eligible for IGST exemption for import of Gold/Silver/Platinum as and when Appendix 4B of Handbook of Procedures of Foreign Trade Policy (FTP), 2023 is amended by DGFT.
- A Corrigendum dated 09.02.2024 was issued by DGFT to make it explicitly clear that the list of banks authorised by RBI to import- Gold / silver is for FY 2023-24 w.e.f. 01.04.2023 and valid up to 31.03.24. This change was incorporated vide corrigendum in Notification No. 60/2023-Customs dated 19.10.2023.
- Following issuance of updated list of authorised banks by RBI for the FY 2024-25, DGFT amended Appendix 4B of Handbook of Procedure, Foreign Trade Policy (FTP) ,2023 vide Public Notice No. 54/2023, dated 28.03.2024. These changes have been incorporated in customs notification vide 25/2024-Cus dated 06.05.24.

#### **Recommendations of Fitment Committee:-**

- To place it before the Council for information.



## Recommendations of the Fitment Committee: **Services**

## Agenda 4 (Annexure-IV)

### **1. To clarify the GST liability on the premium settlement by lead insurer to co-insurers in Co-insurance Agreements. (pages 37-39)**

- On the recommendations of the 47th GST Council, it was clarified that though lead insurer pays tax on the entire amount, the co-insurer(s) being a separate legal entity and receiving a share of premium from lead insurer, are liable to pay GST on the portion of premium they receive.
- IRDAI brought to the notice certain challenges in implementing the decision of the GST Council.
- In co-insurance, lead insurer and co-insurers jointly provide the insurance service to the insured. All co-insurers are signatories to the co-insurance agreement with the insured.
- The entire premium is collected by the lead insurer which is apportioned among the lead insurer and the other co-insurers in the ratio of the risk assumed by them.
- Entire GST @ 18% is paid by the lead insurer on behalf of all co-insurer.

#### **Recommendations of Fitment Committee:**

- Supply between lead insurer and co-insurer may be declared as no supply under Schedule III of the CGST Act, 2017.
- To regularize the past cases on 'as is where is' basis by way of issuance of a circular.



## Agenda 4 (Annexure-IV)

### **2. To clarify regarding GST taxability on re-insurance commission. (pages 39-40)**

- Reinsurance is an insurance of the insurance companies. Insurance companies spread their risk by reinsuring whole or part of the risk assumed by them for which re-insurance premium is paid by insurance companies to the re-insurer.
- Primary insurers undertake marketing, administrative and underwriting efforts and incur expenses for procuring the insurance business. The reinsurers do not incur these costs.
- As a general practice, reinsurers participate in the insurers acquisition cost by paying reinsurance commission from the premium ceded to them.
- Reinsurance commission is a fee paid by a reinsurance company to a ceding company to cover such administrative costs, underwriting and business acquisition expenses.
- Reinsurance contract specifies the risk and the premium ceded by the insurer to the reinsurer and also the reinsurance commission as a percentage of the ceded insurance premium.
- While calculating operating profit, ceding commission received by insurer is not added to his earnings.
- The arrangement between the insurance companies and the reinsurer amounts to sharing of expenses.

#### **Recommendations of Fitment Committee**

- Transaction of ceding/re-insurance commission between Insurer and Reinsurer may be declared as no supply under Schedule III of CGST Act, 2017.
- To regularize the past cases on 'as is where is' basis by way of issuance of a circular.



### Agenda 4 (Annexure-IV)

#### **3. (a) To restore GST exemptions on outward supplies made by Ministry of Railways (MoR) and exemption on intra-railway supplies (those made between different railway zones). (pages 40-45)**

- On the request of Indian railways, all supplies of goods and services made by Indian Railways were brought under Forward charge mechanism after recommendation of the 52<sup>nd</sup> GST Council and consequently exemptions that were available to Indian railways were withdrawn.
- Indian Railways had brought difficulties in compliance of the decision of the 52<sup>nd</sup> GST Council given that Indian Railways provide transport services to general public carrying both passengers and vital goods at subsidized rates and recover only 57% of the cost of travel from passengers.
- They also provide services to general public such as platform tickets, facility of cloak room services etc., at very nominal charges.
- Indian railways cannot pass on the tax burden.

#### **Recommendations of Fitment Committee**

- Following specific services provided by Indian Railways to general public at large may be exempted from GST:
  - Platform tickets
  - Facility of retiring rooms/waiting rooms
  - Cloak room services
  - Battery operated car services
- Intervening period i.e., from 20.10.2023 till date of notification on above services has been recommended to be regularized on 'as is where is' basis.

### Agenda 4 (Annexure-IV)

#### **3. (a) Contd (pages 40-45)**

- Indian Railway has represented that the structure of the Indian Railways is such that Zonal railways are responsible for operating and managing transportation services among specific zone.
- Each Zone has been further divided into divisions. Many trains, especially long distance pass through states of several zones.
- Intra Railways services include services such as train operations, repair and maintenance services, supply of wagons, coaches, locomotives etc. amongst various zones and divisions of the railways.
- Indian Railways has not been charging for intra railways activity and no invoices are being issued for these transactions.
- Taxing the intra railways transactions will not only hamper the operational efficiency but there are intricate issues involved in intra railways supply such as identifying the supply from one zone/division to other; nature of supply such as mixed, composite supply; place of supply as one zone may be located in one or more states etc.
- Further, value of supply is also difficult to be ascertained as there is no actual flow of consideration and no cost allocation per supply is there.

#### **Recommendations of Fitment Committee**

- Intra-railway transactions may be exempted.
- Intervening period i.e., from 20.10.2023 till date of notification on above service has been recommended to be regularized on 'as is where is' basis.



### Agenda 4 (Annexure-IV)

**3. (b) To exempt GST on transactions between Special Purpose Vehicles (SPVs) and Ministry of Railways (MoR) retrospectively w.e.f 01.07.2017 (pages 40-45)**

- SPVs construct infrastructure for railways and allows IR to use infrastructure built and owned by SPV during the concession period against consideration. IR provides maintenance services to SPV for the said infrastructure.
- On the recommendations of the 48<sup>th</sup> GST council, it was clarified that Indian Railways and the SPV are distinct persons. Supply of services by SPV to IR and by IR to SPV are taxable.
- Ministry of Railways has represented regarding implementation challenges.
- SPVs are created for funding projects of Indian Railways and to supplement the Gross Budgetary Support of the Government to meet the infrastructure requirements of the Indian Railways specially for last mile connectivity. MOR had created financial structures (mainly Joint Ventures) to raise debt for implementing sanctioned ports/mines connectivity projects.
- SPV contracts were conceived prior to GST (Between 2000-2017). ITC is already a cost to IR as ITC of goods are blocked and many services in the nature of public good are exempt (passenger services other apart from AC, transport of agricultural produce, relief material, defense goods).

#### Recommendations of Fitment Committee

- Exempt services provided by SPV to IR by way of allowing IR to use infrastructure built and owned by SPV during the concession period against consideration and maintenance services supplied by Indian Railways to SPV from GST.
- Regularize the past cases on 'as is where is' basis.



### Agenda 4 (Annexure-IV)

**4. To either exempt / regularize the GST liability on reinsurance services of the specified insurance schemes (Sl. Nos. 35 and 36 of the notification No. 12/2017 CTR) for the period 01.07.2017 to 24.01.2018. (pages 45-47)**

- Certain specified general insurance schemes like Pradhan Mantri Fasal Bima Yojana (PMFBY) and Rashtriya Swasthya Bima Yojana are exempt from GST vide Sl. No. 35 of notification No. 12/2017-CT(R).
- Certain specified life insurance schemes like Janashree Bima Yojana and Varishtha Pension Bima Yojana are also exempt from GST vide Sl. No. 36 of notification No. 12/2017-CT(R).
- In the 25th GST Council meeting held on 18.01.2018, it was recommended to exempt re-insurance services in respect of services related to specified insurance schemes exempt covered under the above entries. This recommendation was notified vide notification No. 2/2018-CT(R) dated 25.01.2018. This applied prospectively w.e.f. 25.01.2018.
- Issue has arisen for tax liability 7 months from 01.07.2017 to 24.01.2018 before exemption was granted to reinsurance of specified exempt services covered by Sl. Nos. 35 & 36 of notification No. 12/2017-CT (Rate).

#### Recommendations of Fitment Committee

- To regularize the payment of GST on reinsurance services of specified insurance schemes covered by Sl. Nos. 35 & 36 of notification No. 12/2017-CT (Rate) for the period from 01.07.2017 to 24.01.2018 on 'as is where is' basis.



#### Agenda 4 (Annexure-IV)

**5. To clarify that reinsurance services of the insurance schemes for which total premium is paid by the Government (Sl. No. 40 of the notification No. 12/2017 CTR) are exempt from GST for the period 01.07.2017 to 26.07.2018. (pages 47-49)**

- Sl. No. 40 of Notification No. 12/2017-CT(R) exempts services provided to the Central Government, State Government, Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union territory.
- In the 28th GST Council meeting held on 21.07.2018, it was decided to exempt re-insurance of insurance schemes already exempt under Sl. No. 40 of Notification No. 12/2017-CTR. The exemption was notified vide Notification No. 14/2018-CT(R) dated 26.07.2018. This applied prospectively w.e.f. 27.07.2018.
- The issue has arisen for the tax liability for the period from 01.07.2017 to 26.07.2018 (13 months) before exemption was granted to reinsurance of such insurance services.

#### Recommendations of Fitment Committee

- To regularize the payment of GST on reinsurance services of the insurance schemes under Sl. No. 40 of notification No. 12/2017-CTR dated 28.06.2017 for the period from 01.07.2017 to 26.07.2018 on 'as is where is' basis.



#### Agenda 4 (Annexure-IV)

**6. To clarify that the term 'reinsurance' as mentioned at Sl. No. 36A of notification No. 12/2017- CT(Rate) dated 28.06.2017 includes 'retrocession' services and therefore retrocession services of specified insurance schemes are also eligible for exemption from GST. (pages 49-50)**

- Sl. No. 36A of notification No. 12/2017-CTR dated 28.06.2017 provides exemption to services by way of reinsurance of the insurance schemes specified in Sl. No. 35, 36 (w.e.f. 25.01.2018) and Sl. No. 40 (w.e.f. 27.07.2018).
- An insurance company (primary insurer) takes on a risk by insuring someone's property. To manage their own exposure to potential large losses, they might purchase reinsurance from another company (reinsurer). However, the reinsurer might also want to further spread their risk by transferring a portion of the risk they have taken on to other reinsurers. This process of reinsuring a reinsurance contract is called retrocession.
- The IRDAI (Re-insurance) Regulations, 2018 define 'Retrocession' to mean a re-insurance transaction whereby a part of assumed reinsured risk is further ceded to another Indian Insurer or an IIO (IFSC Insurance Office) or a CBR (Cross border re-insurer).

#### Recommendations of Fitment Committee

- To clarify that retrocession is a 're-insurance of re-insurance' transaction wherein the reinsurer further cedes a part of its risk to the retrocessionaire and therefore, eligible for the exemption under Sl. No. 36A of the notification No. 12/2017-CTR dated 28.06.2017.



#### Agenda 4 (Annexure-IV)

**7. To clarify regarding incentive amount that is shared by acquiring bank with other stakeholders in the digital payment ecosystem as this also comes under the purview of the Gazette notification issued to notify the Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions .(pages 50-53)**

- To boost the digital transactions, government is incentivizing the acquiring banks by way of paying percentage of value of RuPay Debit card transactions and low value BHIM UPI transactions (less than Rs. 2000).
- On the recommendations of the 48<sup>th</sup> GST Council meeting, it was clarified that incentives paid by MeitY to acquiring banks under the said scheme are in the nature of subsidy and thus not taxable.
- The instant request is for clarification regarding incentive amount that is further shared by acquiring bank with other stakeholders in the digital payment ecosystem.
- The portion of the incentive to be shared with the stakeholders is not income of the acquiring banks and has to be shared with the stakeholders on the proportions as decided by the National Payments Corporation of India (NPCI) in consultation with the acquiring banks and stakeholders.
- The acquiring bank merely acts as a single point for the government to disburse the incentive scheme.
- Issue was deferred by the 52<sup>nd</sup> Council held on 07.10.2023

#### Recommendations of Fitment Committee

- To clarify, that further sharing of the incentive, where such incentive is clearly defined under Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions and is decided in the proportion and manner by NPCI in consultation with the participating banks is not taxable.



#### Agenda 4 (Annexure-IV)

**8. To clarify whether GST is applicable on the statutory collections made by the Real Estate Regulatory Authority (RERA) in accordance with the Real Estate (Regulation and Development) Act, 2016. (pages 53-56)**

- Entry 4 of notification No. 12/2017-CT(R) exempts services by way of any activity in relation to any function entrusted to a municipality under Article 243W of the Constitution.
- The main functions of RERA are to ensure compliance of obligations cast upon the promoters under RERA Act including Town planning, monitor progress of construction of Projects till their completion and to adjudicate cases. RERA performs statutory function of regulating the real estate development and construction of the building entrusted to them which fall under Entry No.1 and 2 of the Twelfth Schedule of the Indian Constitution.
- *Entry No. 1 and 2 of the Twelfth Schedule of the Indian constitution read as:*
  - 1. *Urban Planning and Town Planning*
  - 2. *Regulation of land use and construction of buildings.*
- RERA is set up by an Act of Parliament, viz., The Real Estate (Regulation and Development) Act, 2016 (RERA Act) & performs functions entrusted to a municipality under Article 243 W of the Constitution.
- Thus RERA is a 'governmental authority' as per definition in the exemption notification No. 12/2017- CTR dated 28.06.2017.
- Issue was deferred by the 52<sup>nd</sup> Council held on 07.10.2023.

#### Recommendations of Fitment Committee

- To clarify by way of a circular that RERA is covered under the scope of entry 4 of notification No. 12/2017-CT(R).



#### Agenda 4 (Annexure-IV)

**9. (a) To clarify whether service by way of hostel accommodation, service apartments /hotels booked for longer period is a service of renting of residential dwelling for use as residence and exempted as per entry no. 12 of the notification No. 12/2017-CT (Rate) dated 28/06/2017.**

**(b) Request for GST exemption on hostels for poor and middle-class students run by charitable trusts. (pages 56-61)**

- There is no GST on hostel fee collected by educational institutions, whether private or Government, including schools, colleges, and universities, from students living in their hostels. (Sl. No. 66 of notification No. 12/2017 - CTR).
- Hostels run privately which do not belong to any educational institutions have to pay GST as applicable. They are exempt up to threshold turnover of Rs. 20 lakhs.
- Earlier, hotel accommodation having tariff of Rs. 1000 per day or less was exempt from GST. Private hostels charging Rs. 30000 or less per month were taking benefit of this exemption.
- This exemption in respect of hotel accommodation having tariff of Rs. 1000 or less per day was withdrawn w.e.f. July, 2022 on the recommendations of GoM on rate rationalization (47th GST Council meeting).
- Private hostels are now claiming exemption applicable to renting of residential dwelling for use as residence. (Sl. No. 12 of notification No. 12/2017 - CTR).
- Hon'ble Karnataka High Court order dated 03.02.2022 in the case of Taghar Vasudeva Ambrish held that residential dwelling includes hostels. An appeal has been filed and is pending before Hon'ble Supreme Court of India.
- Sl. No. 12 of notification No. 12/2017-CT(R) dated 28.06.2017 which exempts services by way of renting of residential dwelling for use as residence.

#### Agenda 4 (Annexure-IV)

**Contd (pages 56-61)**

- Heading 9963 covers accommodation, food and beverages services.
- Heading 9972 covers real estate services including renting or leading services.
- Heading 9963 has been mentioned in Sl. No. 12 of notification No. 12/2017-CT(R) dated 28.06.2017 which exempts services by way of renting of residential dwelling for use as residence .This has lead to some ambiguity.
- Issue was deferred in the 52<sup>nd</sup> GST Council.

#### Recommendations of Fitment Committee

- A new entry may be inserted under Heading 9963 in notification No. 12/2017- CT (R) to exempt supply of accommodation services up to Rs.15000/- per person per month subject to condition that the accommodation services are supplied for a minimum continuous period of 90 days.
- To insert an explanation in Sl. No. 12 of notification No. 12/2017-CT(R) dated 28.06.2017 to exclude accommodation services for students in student residences; and accommodation services provided by Hostels, Camps, Paying Guest accommodations and the like from the scope of renting of residential dwelling.
- As a consequential change, Chapter heading 9963 may be deleted from Column No. 2 in the Sl. No. 12 in the notification No. 12/2017- CT (R).



#### Agenda 4 (Annexure-V)

1. **To give retrospective effect to amendment carried out in notification No. 17/2017-CTR vide which bus operators organized as companies were excluded from purview of section 9(5) of CGST Act, 2017. (pages 62-64)**

- W.e.f. 1.01.2022, the liability to pay GST on bus transportation services supplied through Electronic Commerce Operators (ECOs) has been placed on the ECO under section 9(5) of CGST Act, 2017.
- Based on the request received from two bus operators and in order to arrive at a balance between the need of small operators for ease of doing business and the need of large organized players to avail ITC benefit, operators organized as companies were excluded from the purview of section 9(5) of CGST Act, 2017 as per recommendation of 52<sup>nd</sup> GST Council **w.e.f. 20.10.2023 with prospective effect.**
- However, one of the companies approached the Hon'ble Delhi High Court for giving retrospective effect to the amendment carried out in notification.
- The Hon'ble Delhi High Court has vide interim order dated 04.04.2024 directed to dispose of the representation of the petitioner within four weeks of the order.
- In their representation, the petitioner has requested for retrospective application of the amendment and also to suitably amend the GST portal so that the ITC accumulated during the period 01.01.2022 to 19.10.2023 be transferred to the ECO or refund of the ITC accumulated during the period of 01.01.2022 to 19.10.2023 be given to them.
- There are no provisions in CGST Act to transfer the ITC of the bus operators available with them to ECO.

#### Recommendations of Fitment Committee

- The request to give retrospective effect to the amendment in notification No. 17/2017-CTR may not be accepted.



**Agenda Item 2: Deemed ratification by the GST Council of the Notifications and Circulars issued by the Central Government and decisions of GST Implementation Committee for the information of the Council.**

In the 22<sup>nd</sup> meeting of the GST Council held at New Delhi on 6<sup>th</sup> October, 2017, it was decided that the notifications, circulars and orders, which are being issued by the Central Government with the approval of the competent authority, shall be forwarded to the GST Council Secretariat, through email, for information and deemed ratification by the GST Council. Accordingly, in the 53<sup>rd</sup> meeting held on 22<sup>nd</sup> June, 2024, the GST Council had ratified all the notifications, circulars, and orders issued up to 14.06.2024.

2. In this respect, the following notifications and circulars issued after 14.06.2024 till 17.08.2024 under the GST laws by the Central Government, as available on [www.cbic.gov.in](http://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. 12/2024-Central Tax dated 10.07.2024	Seeks to make amendments (Amendment, 2024) to the CGST Rules, 2017.
		2. Notification No. 13/2024-Central Tax dated 10.07.2024	Seeks to rescind Notification no. 27/2022-Central Tax dated 26.12.2022.
		3. Notification No. 14/2024-Central Tax dated 10.07.2024	Seeks to exempt the registered person whose aggregate turnover in FY 2023-24 is upto Rs. two crores, from filing annual return for the said financial year.
		4. Notification No. 15/2024-Central Tax dated 10.07.2024	Seeks to amend Notification No. 52/2018-Central Tax, dated 20.09.2018.
		5. Notification No. 16/2024-Central Tax dated 06.08.2024	Seeks to notify section 11 to 13 of Finance Act (No.1) 2024.
	Central Tax (Rate)	1. Notification No. 02/2024-Central Tax (Rate) dated 12.07.2024	Seeks to amend notification No. 1/2017- Central Tax (Rate).

		2. Notification No. 03/2024-Central Tax (Rate) dated 12.07.2024	Seeks to amend notification No. 2/2017- Central Tax (Rate).
		3. Notification No. 04/2024-Central Tax (Rate) dated 12.07.2024	Seeks to amend Notification No 12/2017- Central Tax (Rate) dated 28.06.2017.
Notifications under IGST Act / IGST Rules	Integrated Tax	1. Notification No. 01/2024- Integrated Tax dated 10.07.2024	Seeks to amend Notification No. 02/2018-Integrated Tax dated 20.09.2018.
	Integrated Tax (Rate)	1. Notification No. 02/2024-Integrated Tax (Rate) dated 12.07.2024	Seeks to amend notification No. 1/2017- Integrated Tax (Rate).
		2. Notification No. 03/2024-Integrated Tax (Rate) dated 12.07.2024	Seeks to amend notification No. 2/2017- Integrated Tax (Rate)
		3. Notification No. 04/2024-Integrated Tax (Rate) dated 12.07.2024	Seeks to amend Notification No 09/2017- Integrated Tax (Rate) dated 28.06.2017.
Notifications under UTGST Act / UTGST Rules	Union Territory Tax	1. Notification No. 01/2024-Union Territory Tax dated 10.07.2024	Seeks to amend Notification No. 12/2018-Union Territory Tax dated 28.09.2018.
	Union Territory Tax (Rate)	1. Notification No. 02/2024-Union Territory Tax (Rate) dated 12.07.2024	Seeks to amend notification No. 1/2017- Union Territory Tax (Rate).
		2. Notification No. 03/2024-Union Territory Tax (Rate) dated 12.07.2024	Seeks to amend notification No. 2/2017- Union Territory Tax (Rate).
		3. Notification No. 04/2024-Union Territory Tax (Rate) dated 12.07.2024	Seeks to amend Notification No 12/2017- Union territory Tax (Rate) dated 28.06.2017.

Notifications under Goods and Services Tax (Compensation to States) Act, 2017	Compensation Cess (Rate)	1. Notification No. 01/2024- Compensation Cess (Rate) dated 12.07.2024	Seeks to provide exemption from Compensation Cess on supplies under heading 2202 by URCs to authorised customers.
Circulars under CGST Act		1. Circular No. 207/01/2024-GST dated 26.06.2024	Reduction of Government Litigation – fixing monetary limits for filing appeals or applications by the Department before GSTAT, High Courts and Supreme Court.
		2. Circular No. 208/02/2024-GST dated 26.06.2024	Clarifications on various issues pertaining to special procedure for the manufacturers of the specified commodities.
		3. Circular No. 209/03/2024-GST dated 26.06.2024	Clarification on the provisions of clause (ca) of Section 10(1) of the Integrated Goods and Service Tax Act, 2017 relating to place of supply.
		4. Circular No. 210/04/2024-GST dated 26.06.2024	Clarification on valuation of supply of import of services by a related person where recipient is eligible to full input tax credit.
		5. Circular No. 211/05/2024-GST dated 26.06.2024	Clarification on time limit under Section 16(4) of CGST Act, 2017 in respect of RCM supplies received from unregistered persons.
		6. Circular No. 212/06/2024-GST dated 26.06.2024	Clarification on mechanism for providing evidence of compliance of conditions of Section 15(3)(b)(ii) of the CGST Act, 2017 by the suppliers.
		7. Circular No. 213/07/2024-GST dated 26.06.2024	Seeking clarity on taxability of reimbursement of securities/shares as SOP/ESPP/RSU provided by a company to its employees.

	8. Circular No. 214/08/2024-GST dated 26.06.2024	Clarification on the requirement of reversal of input tax credit in respect of the portion of the premium for life insurance policies which is not included in taxable value.
	9. Circular No. 215/09/2024-GST dated 26.06.2024	Clarification on taxability of wreck and salvage values in motor insurance claims.
	10. Circular No. 216/10/2024-GST dated 26.06.2024	Clarification in respect of GST liability and input tax credit (ITC) availability in cases involving Warranty/ Extended Warranty, in furtherance to Circular No. 195/07/2023-GST dated 17.07.2023.
	11. Circular No. 217/11/2024-GST dated 26.06.2024	Entitlement of ITC by the insurance companies on the expenses incurred for repair of motor vehicles in case of reimbursement mode of insurance claim settlement.
	12 Circular No. 218/12/2024-GST dated 26.06.2024	Clarification regarding taxability of the transaction of providing loan by an overseas affiliate to its Indian affiliate or by a person to a related person.
	13. Circular No. 219/13/2024-GST dated 26.06.2024	Clarification on availability of input tax credit on ducts and manholes used in network of optical fiber cables (OFCs) in terms of section 17(5) of the CGST Act, 2017.
	14. Circular No. 220/14/2024-GST dated 26.06.2024	Clarification on place of supply applicable for custodial services provided by banks to Foreign Portfolio Investors.
	15. Circular No. 221/15/2024-GST dated 26.06.2024	Time of supply on Annuity Payments under HAM Projects.

	16. Circular No. 222/16/2024-GST dated 26.06.2024	Time of supply in respect of supply of allotment of Spectrum to Telecom companies in cases where an option is given to the Telecom Companies for payment of licence fee and Spectrum usage charges in instalments in addition to an option of upfront payment.
	17. Circular No. 224/18/2024-GST dated 11.07.2024	Guidelines for recovery of outstanding dues, in cases wherein first appeal has been disposed of, till Appellate Tribunal comes into operation.
	18. Circular No. 225/19/2024-GST dated 11.07.2024	Clarification on various issues pertaining to taxability and valuation of supply of services of providing corporate guarantee between related persons.
	19. Circular No. 226/20/2024-GST dated 11.07.2024	Mechanism for refund of additional Integrated Tax (IGST) paid on account of upward revision in price of the goods subsequent to export.
	20. Circular No. 227/21/2024-GST dated 11.07.2024	Processing of refund applications filed by Canteen Stores Department (CSD).
	21. Circular No. 228/22/2024-GST dated 15.07.2024	Clarifications regarding applicability of GST on certain services -reg.
	22. Circular No. 229/23/2024-GST dated 15.07.2024	Clarification regarding GST rates & classification (goods) based on the recommendations of the GST Council in its 53rd meeting held on 22nd June, 2024, at New Delhi –reg.

3. It is mentioned that some other recommendations were also made by the GST Implementation Committee (GIC). The details of such recommendations of GIC are enclosed as Annexure “A” to this Agenda Note.

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

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## **Annexure-A**

### **Decisions of GST Implementation Committee for information of the GST Council**

The GST implementation Committee (GIC) took certain decisions after the 53rd GST Council meeting which are placed before the Council for information. The details of the decisions taken are given below:

#### **1. Decision by circulation on 28.6.2024 regarding GST data sharing request received from Ministry of Statistics and Programme Implementation**

a. In the agenda note dated 22.5.2024, it was stated that a request had been received from the Ministry of Statistics and Programme Implementation (MoSPI) for sharing of non-encrypted GST data in respect of 7 lakh business entities for the fields GSTIN, Trade/Business name, CIN and turnover. It was further stated that data was required for annual survey of services sector, which among other things will generate estimates on important parameters such as input, output, gross value added, total number of persons engaged, fixed / working capital etc. at State / activity level.

b. Accordingly, approval of the GIC was sought for sharing of the data with the Ministry of Statistics and Programme Implementation

c. **Decision:** The GIC approved the agenda relating to GST data sharing request received from the Ministry of Statistics and Programme Implementation

#### **2. Decision by circulation on 2.8.2024 regarding GST data sharing request received from Ministry of Statistics and Programme Implementation**

a. In the agenda note, it was stated that a request had been received from the Ministry of Statistics and Programme Implementation for sharing of latest GSTN registration data with fields "Constitution of Business" and "Nature of Principal Business Activity" against each GSTIN (masked).

b. Accordingly, approval of the GIC was sought for sharing of the data with the Ministry of Statistics and Programme Implementation.

c. **Decision:** The GIC approved the agenda relating to GST data sharing request received from the Ministry of Statistics and Programme Implementation.

#### **3. Decision by circulation on 8.8.2024 regarding GST data sharing request received from Ministry of Labour & Employment**

a. In the agenda note, it was requested to reconsider the decision made by GIC which was communicated vide GSTCS O.M. dated 31st May, 2024 regarding sharing of GSTIN data with Ministry of Labour & Employment, for consideration of GIC.

b. The Agenda Note notes that in the GSTCS OM dated 31st May, 2024, it was mentioned that four GIC members had expressed their disagreement with the proposal. They had observed that the data sought in respect of supplier names, GSTIN, annual turnover, and HSN codes, was contrary to the purpose of identifying digital platforms/aggregators. Additionally, the data request was also considered contrary to the principle of non-disclosure of personally identifiable information of taxpayers.

c. The Agenda Note further provided following clarifications in response to the doubts raised by the GIC members:

- i. The required permission is for sharing details of the e-Commerce operators, not the suppliers of these e-Commerce operators.
- ii. Regarding personally identifiable data, it is clarified that, according to the SoP on data sharing approved by the GST Council, any data not categorized under A, B, or C falls under category D. This category of data can be shared with specific approval from the GSTC/ GIC on a case-by-case basis.
- d. Accordingly, approval of the GIC was sought for sharing of the data with Ministry of Labour & Employment.
- e. **Decision:** The GIC did not agree with the proposal and directed that the Department of Revenue may place the agenda before the GST Council.

**4. Decision by circulation on 30.8.2024 regarding amendment carried out in Notification No. S.O 3048 (E) dated 31st July, 2024 notifying the State Benches of the GSTAT Appellate Tribunal**

- a. In the agenda note, it was stated that the GST Council in its 53rd Meeting held on 22.06.2024 approved the proposal for amendment in the notification S.O.4073(E) dated 14.09.2023 and S.O.I (E) dated 29.12.2023 for notifying the location of the State Benches of the GST Appellate Tribunal. It was further stated that before the publication of the amended notification in the Gazette, the Government of Kerala vide its letter dated 27th July 2024 requested for primary location of the bench to be set at Ernakulam and the secondary location of the associated sitting be set at Thiruvananthapuram. The proposal of Government of Kerala entailed swapping their primary location of bench from Thiruvananthapuram to Ernakulam.
- b. The agenda note further stated that the proposal of amendment sent by the State of Kerala had no other implication, and the change only impacted the State of Kerala. Further, it was required to be carried out urgently, as the proposals for setting up of infrastructure for the State Benches were in advanced stages and the area required would depend on whether the Bench or the additional sitting would be situated at the location. Accordingly, proposal of Government of Kerala for swapping their primary location of bench from Thiruvananthapuram to Ernakulam was made in the amendment notification and the same was notified vide S.O. 3048(E) dated 31st July 2024. However, it is required that the notification be carried out with the approval of the GST Council.
- c. Accordingly, post-facto approval of the GIC was sought for the amendment keeping in mind that the change impacts just one State and was purely an administrative issue without involving any legal/procedural changes.
- e. **Decision:** The GIC did not agree with the proposal and directed that the Department of Revenue may place the agenda before the GST Council for post-facto approval.

**Agenda item 3: Issues recommended by the Law Committee for the consideration of the GST Council.**

**Agenda Item 3(i): Clarification on refund of IGST paid on exports under rule 96(10) of the CGST Rules, 2017 and amendments in Rule 89 and Rule 96 of CGST Rules, 2017.**

Representations have been received from trade and industry requesting for clarification on restriction imposed vide rule 96(10) of the Central Goods & Services Tax Rules, 2017 (hereinafter referred to as the CGST Rules) in respect of availment of the refund of IGST on goods exported if benefits of certain concessional/exemption notifications have been availed on inputs/raw materials imported or procured domestically. It has further been represented that this rule is discriminatory against the exporters who themselves or whose suppliers have availed benefit of the said specified notifications, and that the said rule should be omitted from the CGST Rules.

2. Rule 96(10) of CGST Rules provides for a bar on availing the refund of Integrated Tax paid on exports of goods if benefits of certain concessional/exemption notifications have been availed on inputs/raw materials imported or procured domestically. This rule restricts exporters, who are availing benefits of specified export promotion schemes such as advance authorization (AA) license holders, export oriented units, etc. or the exporters who have received certain supplies on which the benefits have been taken under Notification No. 48/2017-Central Tax dated 18.10.2017 or Notification No. 40/2017-Central Tax dated 23.10.2017 or Notification No. 41/2017-Integrated Tax dated 23.10.2017, from claiming refund on Integrated tax paid on exports of goods. The intention of this provision apparently was to restrict the possibility of double benefit and also to ensure that Input Tax Credit (ITC) meant for domestic supplies was not used to offset IGST for exports.

3. The said **rule 96 (10)** of the CGST Rules is reproduced as under:

*“(10) The persons claiming refund of integrated tax paid on exports of goods or services should not have –*

*(a) received supplies on which the benefit of the Government of India, Ministry of Finance notification No. 48/2017-Central Tax, dated the 18th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1305 (E), dated the 18th October, 2017 except so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods Scheme or notification No. 40/2017-Central Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1320 (E), dated the 23rd October, 2017 or notification No. 41/2017-Integrated Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321 (E), dated the 23rd October, 2017 has been availed; or*

*(b) availed the benefit under notification No. 78/2017-Customs, dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1272(E), dated the 13th October, 2017 or notification No. 79/2017- Customs, dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1299 (E), dated the 13th October, 2017 except so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods Scheme.*

*Explanation. - For the purpose of this sub-rule, the benefit of the notifications mentioned therein shall not be considered to have been availed only where the registered person has paid Integrated Goods and Services Tax and Compensation Cess on inputs and has availed exemption of only Basic Customs Duty (BCD) under the said notifications.”*

4. The fundamental principle governing the provisions of refund in the case of exports is that taxes are not to be exported and accordingly, the tax suffered on the inputs used in the exported goods is refunded to the taxpayer. In the cases where the taxpayer procures certain inputs in respect of which the benefit of Notifications as provided under clauses (a) and (b) of rule 96(10) has been availed and procures certain inputs and input services against payment of appropriate tax, refund of unutilised ITC in such circumstances is available under the provisions of rule 89(4A) and 89(4B) of the CGST Rules.

5. For ease of understanding, the **chronology of amendments** made in relation to Rule 96(10) of CGST Rules, is shown below:

- (a) **Notification No. 75/2017–Central Tax dated 29.12.2017** inserted rule 96(9) in the CGST Rules **with effect from 23rd October, 2017** which restricted the person from claiming refund of IGST paid on export of goods or services if he has received supplies on which the supplier has availed benefit of duty-free/concessional procurement under notification No. 48/2017-Central Tax dated 18th October, 2017 or notification No. 40/2017-Central Tax (Rate) dated 23rd October, 2017 or notification No. 41/2017- Integrated Tax (Rate) dated 23rd October, 2017. Notification No. 75/2017 – Central Tax dated 29.12.2017 was issued after obtaining approval of the GST Implementation Committee (GIC) and was ratified by the GST Council in the 25<sup>th</sup> meeting held on 18.01.2018.
- (b) Rule 96(9) was subsequently substituted by Rule 96(9) & Rule 96(10) by **Notification No. 3/2018-CT dated 23.01.2018 w.e.f. 23.10.2017** vide which the restriction on availing refund through IGST route was extended in cases where the exporter has received supplies on which the supplier has availed benefit of Notification No. 78/2017- Customs dated 13.10.2017 and Notification No. 79/2017-Customs dated 13.10.2017 which provided for duty free imports of inputs/ Capital goods by AA, EOU and EPCG license holders. The said notification was issued with the approval of GST Council obtained in 25<sup>th</sup> meeting held on 18.01.2018
- (c) Rule 96 (10) was further amended by **Notification No. 39/2018-CT dated 04.09.2018 w.e.f. 23.10.2017** wherein the said restriction was made applicable to the cases where the exporter himself has availed benefit of duty-free procurement under Notification No. 78/2017-Customs dated 13.10.2017 and Notification No. 79/2017-Customs dated 13.10.2017 after obtaining approval of the GST Implementation Committee (GIC) and was ratified by the GST Council in the 30<sup>th</sup> meeting held on 28.09.2018.
- (d) However, during the 30<sup>th</sup> GST Council meeting, it was decided to restore the position of Rule 96(10) prior to amendment vide Notification No. 39/2018-CT dated 04.09.2018 by issuing Notification No. **53/2018-CT dated 09.10.2018 substituting Rule 96(10) w.e.f. 23.10.2017**. Further, **Notification No. 54/2018 CT dated 09.10.2018 was issued with prospective effect to amend Rule 96(10)** to inter-alia provide for restriction on availing refund under IGST route when the exporter itself has availed benefit of duty-free procurement under Notification No. 78/2017-Customs dated 13.10.2017 and Notification No. 79/2017-Customs dated 13.10.2017 and to create an exemption from the restriction placed vide rule 96(10) where the exporters have procured Capital Goods duty free under EPCG scheme under Notification No. 48/2017-CT dated 18.10.2017 or Notification No. 79/2017-Customs dated 13.10.2017. While the said issue was discussed in the 30<sup>th</sup> meeting of GST Council, it was submitted by the Commissioner, GST Policy Wing that as the field formations have followed different

practices during the past period and export refunds have been granted in many cases, it would be better not to re-open the earlier sanctioned refunds and the proposed amendment could be done only with prospective effect. Thereby, it was made clear that refund, if sanctioned prior to 09.10.2018 i.e. the date of issuance of Notification No. 54/2018-CT, would not be re-opened. This was even clarified vide Circular No. 70/44/2018 -GST dated 26.10.2018 and **Circular No. 125/44/2019-GST dated 18.11.2019**, wherein it was clarified that:

*“Any exporter who himself/herself imported any inputs/capital goods in terms of notification Nos. 78/2017-Customs and 79/2017-Customs both dated 13.10.2017, before the issuance of the notification No. 54/2018 – Central Tax dated 09.10.2018, shall be eligible to claim refund of the Integrated tax paid on exports. Further, exporters who have imported inputs in terms of notification Nos. 78/2017-Customs dated 13.10.2017, after the issuance of notification No. 54/2018 – Central Tax dated 09.10.2018, would not be eligible to claim refund of Integrated tax paid on exports. However, exporters who are receiving capital goods under the EPCG scheme, either through import in terms of notification No. 79/2017-Customs dated 13.10.2017 or through domestic procurement in terms of notification No. 48/2017-Central Tax, dated 18.10.2017, shall continue to be eligible to claim refund of Integrated tax paid on exports and would not be hit by the restrictions provided in sub-rule (10) of rule 96 of the CGST Rules.”*

- (e) Further, vide **Notification No. 16/2020-CT dated 23.03.2020**, an Explanation was inserted in rule 96(10) with effect from the 23<sup>rd</sup> October, 2017 which provided that where IGST and Compensation Cess has been paid on procurement of inputs under Notification No. 78/2017-Customs, dated the 13th October, 2017 or Notification No. 79/2017-Customs, dated the 13th October, 2017 and exemption has been availed in respect of Basic Customs Duty (BCD) only, **such procurements would not be considered to have been procured by availing the benefit of the said notifications.** The said notification was issued as per the recommendations of the GST Council in its 39<sup>th</sup> meeting held on 14.03.2020.

6. In this regard, it is mentioned that multiple amendments were made in the provisions of rule 96(10) as detailed in Para 5 above, including with retrospective effect, due to which some of the exporters who had procured certain inputs in respect of which the benefit of notifications as provided under clauses (a) and (b) of rule 96(10) had been availed, continued to export goods on payment of IGST and received refunds of IGST paid on such exports, instead of claiming refund of unutilized ITC in respect of such supplies by making exports without payment of integrated tax, as prescribed under sub-rule (4A) and (4B) of rule 89 of CGST Rules. However, now in a number of such cases, demand notices are being/ have been issued to the said exporters demanding refund of such IGST wrongly availed in contravention of rule 96(10) of CGST Rules. Representations have been received requesting not to deny IGST refunds due to procedural errors or mistakes as they were in any case entitled for refund of unutilized ITC as per rule 89(4A) or (4B) of CGST Rules and to regularize the refund so sanctioned.

7.1 The said issue was deliberated by the Law Committee (LC) in its meetings held on 08.12.2023, 31.07.2024 and 29.08.2024. The Law Committee was of the opinion that zero rated benefits should not be denied to the exporters based on a procedural mistake.

8. The Law Committee felt that the following two issues need to be deliberated:

**Issue 1: Regularization of refund of IGST in cases where the exporters had imported certain inputs without payment of integrated taxes and compensation cess by availing the benefits under Notification No. 78/2017-Customs dated 13.10.2017 or Notification No. 79/2017-Customs dated 13.10.2017 and are now ready to pay the said IGST and compensation cess amount, alongwith interest; and**

**Issue 2: Review of the provisions of rule 96 (10) & rule 89 (4A) and rule 89 (4B) of CGST Rules.**

9.1 **ISSUE 1: Regularization of refund of IGST in cases where the exporters had imported certain inputs without payment of integrated taxes and compensation cess by availing the benefits under Notification No. 78/2017-Customs dated 13.10.2017 or Notification No. 79/2017-Customs dated 13.10.2017 and are now ready to pay the said IGST and compensation cess amount, along with interest:** Vide Notification No. 16/2020-CT dated 23.03.2020, issued on the basis of recommendations of GST Council in its 39<sup>th</sup> meeting held on 14.03.2020, an Explanation was added in Rule 96 retrospectively w.e.f. 23.10.2017, which reads as follows:

***“Explanation. - For the purpose of this sub-rule, the benefit of the notifications mentioned therein shall not be considered to have been availed only where the registered person has paid Integrated Goods and Services Tax and Compensation Cess on inputs and has availed exemption of only Basic Customs Duty (BCD) under the said notifications.”***

9.2 A bare perusal of the said Explanation, which was inserted with retrospective effect, reveals that in cases where the benefits of the specified exemption notifications have not been availed in respect of IGST and compensation cess, it shall be deemed that benefit of the said notifications has not been availed for the purpose of rule 96(10) of CGST Rules. Therefore, extension of logic given in the said Explanation may lead to a view that in cases where inputs were initially imported without payment of integrated tax and compensation cess but subsequently, IGST and compensation cess on such imported inputs is paid at a later date, along with interest, then in such cases, it may be considered that the benefits of notifications mentioned in rule 96(10)(b) of CGST Rules have not been availed for the purpose of rule 96(10) and thus, refund of IGST claimed on exports made with payment of Integrated tax in such cases can be considered to be regularized in consonance with provisions of rule 96 of CGST Rules.

9.3 In view of the above, the Law Committee recommended that a clarification may be issued through a Circular that in such cases, where the inputs were initially imported without payment of integrated tax and compensation cess by availing benefits under Notification No. 78/2017-Customs dated 13.10.2017 or Notification No. 79/2017-Customs dated 13.10.2017, but subsequently, IGST and compensation cess on such imported inputs is paid at a later date, along with interest, and the Bill of Entry in respect of the import of the said inputs is got reassessed through the jurisdictional Customs authorities to this effect, then the refunds of IGST sanctioned may be considered to be regularized in light of the explanation to rule 96 (10) of CGST Rules. Draft Circular recommended by the Law Committee is enclosed with the agenda note as **Annexure A**.

**10. ISSUE 2: Need for re-examination of the provision of rule 96 (10) & rule 89 (4A) and rule 89 (4B) of CGST Rules, 2017:**

10.1 It is also worthwhile to mention that the intention of rule 96(10) of the CGST Rules apparently was to prevent certain class of exporters from claiming the refund of Integrated tax paid on

exports of goods, if the said exporters/ their suppliers had availed exemptions under certain schemes such as Advance Authorisation (AA), Export Oriented Units (EOU) etc. so as to restrict the possibility of double benefit and also to ensure that Input Tax Credit (ITC) meant for domestic supplies was not used to offset IGST for exports. However, in the case, where the exporter avails the benefit of certain notifications as specified under Rule 96(10) and procures the inputs tax-free, he will not be able to avail any Input tax Credit (ITC) on these inputs, which he can then use to offset the IGST on exports. Moreover, in case, he uses the ITC meant for domestic supplies to offset IGST on exports, the said exporter will have to subsequently pay tax by cash on domestic clearances. Further, this issue is not limited to exports covered under rule 96(10) and is applicable to all the exports wherever IGST refunds are claimed and, as any exporter who wishes to pay IGST on exports from the ITC meant for domestic supplies can do so and can claim refund presently, as the GST law presently does not provide for one to one correlation between the inward supplies and outward supplies for claiming refund.

10.2 It is also mentioned that no formula or mechanism to calculate refund under sub-rule (4A) and (4B) of rule 89 of CGST Rules has been prescribed under sub-rule (4A) and (4B) of Rule 89 of CGST Rules. Rule 89(4A) and 89(4B) provides for the mechanism for refund of unutilized ITC on other inputs / input services to the extent used in making the exports, thereby implying that there has to be a one-to-one correlation of inputs and inputs services with that of output supplies for claiming refund under this route. As these sub-rules do not prescribe any formula or standard method for calculation of refund, different practices are being followed in different tax formations for arriving at the refund amount, thereby leaving the exporters clueless about the procedure followed at various places and leading to further complications. A number of representations have been received that since there is no formula or mechanism has been provided to calculate refund under sub-rule (4A) and (4B) of rule 89 of CGST Rules, the exporters may be allowed to calculate admissible refunds based on the formula prescribed under rule 89(4) of the CGST Rules. Further, for claiming refund under these sub-rules, exporter is required to maintain separate account for the inputs and inputs services exclusively used for said exported supply which is against the principle of ease of doing business.

10.3 It is also worthwhile to mention that such schemes are broadly categorized as export promotion schemes and thus the basic premise is to promote and encourage exports. Through the provision of such benefits and concession notifications, the Government intends to facilitate exports so that more foreign exchange is received in the country. Such schemes thus help achieve the objective by reducing the blockage of working capital to exporters. However, through insertion of the provisions of rule 96(10), rule 89(4A) and rule 89(4B) in CGST Rules, it appears that an exporter who does not avail benefit of such schemes is allowed to utilize the credit and gets refund of Integrated Tax paid on export with payment of Integrated Tax without any restriction, but an exporter who claims benefits or avails the benefit provided under such export promotion schemes gets certain restrictions, which is creating an anomaly in intent behind such policies or schemes.

10.4 Further, the wording of the said sub-rule 96(10) of CGST Rules is also leading to certain ambiguities as one such interpretation which has been adopted by the field formations is that even if an exporter has received just one supply of inputs on which the said exporter or his suppliers had availed benefit of the aforementioned notifications, the exporter is restricted permanently from seeking a refund of the IGST paid for all their subsequently exported goods under rule 96(10) of CGST Rules and any refund claim sanctioned to them under rule 96(10) is liable to be demanded and recovered by the field formations.

10.5 In view of the above, the Law Committee observed that operation of rule 96(10) is leading to unnecessary complications, without any intended benefit being served. Further, enough safeguards have been placed in the law and built in the system to restrict the passing on of the fake ITC. Accordingly, once it is found that the ITC utilised for discharging of outward tax liability on exports is genuine, then there shall be no apprehensions in allowing refund of tax paid to the exporters who have received any inputs under duty free/concessional notification.

10.6 In view of the above, the Law Committee recommended that rule 96(10), rule 89(4A) & rule 89(4B) of CGST Rules, 2017 may be omitted with prospective effect as follows:

~~“(10) The persons claiming refund of integrated tax paid on exports of goods or services should not have—~~

~~(a) received supplies on which the benefit of the Government of India, Ministry of Finance, notification No. 48/2017-Central Tax, dated the 18th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1305 (E), dated the 18th October, 2017 except so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods Scheme or notification No. 40/2017-Central Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1320 (E), dated the 23rd October, 2017 or notification No. 41/2017-Integrated Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321 (E), dated the 23rd October, 2017 has been availed; or~~

~~(b) availed the benefit under notification No. 78/2017-Customs, dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1272(E), dated the 13th October, 2017 or notification No. 79/2017-Customs, dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1299 (E), dated the 13th October, 2017 except so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods Scheme.~~

~~Explanation.—For the purpose of this sub rule, the benefit of the notifications mentioned therein shall not be considered to have been availed only where the registered person has paid Integrated Goods and Services Tax and Compensation Cess on inputs and has availed exemption of only Basic Customs Duty (BCD) under the said notifications.”~~

Rule 89:

~~“(4A) In the case of supplies received on which the supplier has availed the benefit of the Government of India, Ministry of Finance, notification No. 48/2017-Central Tax dated the 18th October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1305 (E) dated the 18th October, 2017, refund of input tax credit, availed in respect of other inputs or input services used in making zero-rated supply of goods or services or both, shall be granted.~~

~~(4B) Where the person claiming refund of unutilised input tax credit on account of zero-rated supplies without payment of tax has—~~

~~(a) received supplies on which the supplier has availed the benefit of the Government of India, Ministry of Finance, notification No. 40/2017-Central Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1320 (E), dated the 23<sup>rd</sup> October, 2017 or notification No. 41/2017-Integrated Tax (Rate), dated the 23<sup>rd</sup> October, 2017, published in the Gazette of~~

~~India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321(E), dated the 23rd October, 2017; or~~  
~~(b) availed the benefit of notification No. 78/2017 Customs, dated the 13<sup>th</sup> October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1272(E), dated the 13<sup>th</sup> October, 2017 or notification No. 79/2017 Customs, dated the 13<sup>th</sup> October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1299 (E), dated the 13<sup>th</sup> October, 2017, the refund of input tax credit, availed in respect of inputs received under the said notifications for export of goods and the input tax credit availed in respect of other inputs or input services to the extent used in making such export of goods, shall be granted.”~~

10.7 The Law Committee also recommended that after the proposed deletion of Rule 89(4A) and 89(4B) of CGST Rules, 2017, refund of accumulated ITC on zero-rated supplies made without payment of IGST to the exporters, who/ whose suppliers have availed the benefit of the exemption notifications mentioned in rule 89(4A) and 89(4B), shall be governed by Rule 89(4) of CGST Rules.

10.8 Law Committee also noted that consequent to the amendments in rule 96 and rule 89 of CGST Rules, as per para 10.6 above, consequential amendments will be required to be made in other rules of CGST Rules, 2017. Law Committee, accordingly, recommended that clause (b) of sub-rule (4B) of rule 86, clause B, clause C and clause E of sub-rule (4) of rule 89 and Explanation (a) to sub-rule (5) of rule 89 of CGST Rules, which have reference to the rules 96(10), 89(4A) and 89(4B) of CGST Rules, may be amended accordingly. The consequential amendments recommended by the Law Committee are detailed in **Annexure-B**.

11. The agenda note is placed before the GST Council for deliberation and approval.

**F. No. CBIC-XX/XX/XXXX-GST**  
**Government of India**  
**Ministry of Finance (Department of Revenue)**  
**Central Board of Indirect Taxes & Customs,**  
**GST Policy Wing**  
 \*\*\*\*\*

New Delhi, dated the XX, 2024

To,  
 The Principal Chief Commissioners / Chief Commissioners / Principal Commissioners /  
 Commissioners of Central Tax and Central Tax (Audit) (All)  
 The Principal Directors General / Directors General (All)

Madam/Sir,

**Subject: Clarification regarding regularization of refund of IGST availed in contravention of rule 96(10) of CGST Rules, 2017, in cases where the exporters had imported certain inputs without payment of integrated taxes and compensation cess - regarding.**

Sub-rule (10) of rule 96 of Central Goods and Services Tax Rules, 2017 (hereinafter referred to as “CGST Rules”) provides for a bar on availment of the refund of integrated tax (IGST) paid on export of goods or services, if benefits of certain concessional/exemption notifications, as specified in the said sub-rule, have been availed on inputs/raw materials imported or procured domestically. In this regard, references have been received from the field formations and trade/ industry wherein clarification has been sought on whether refund of integrated tax paid on exports of goods by a registered person can be regularized in a case where the registered person had initially imported inputs without payment of integrated tax and compensation cess, by availing the benefits under Notification No. 78/2017-Customs dated 13.10.2017 or Notification No. 79/2017-Customs dated 13.10.2017, but subsequently, at a later date, the said person has either paid the IGST and compensation cess, along with interest, on such imported inputs or is now willing to pay such IGST and compensation cess, along with interest.

2. The issue has been examined and in order to clarify the issue and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”), hereby clarifies the following:

2.1 Vide Notification No. 16/2020-CT dated 23.03.2020, an Explanation was inserted in sub-rule (10) of rule 96 of CGST Rules retrospectively with effect from 23.10.2017, which reads as follows:

***“Explanation. - For the purpose of this sub-rule, the benefit of the notifications mentioned therein shall not be considered to have been availed only where the registered person has paid Integrated Goods and Services Tax and Compensation Cess on inputs and has availed exemption of only Basic Customs Duty (BCD) under the said notifications.”***

2.2 A bare perusal of the said Explanation, which was inserted with retrospective effect, reveals that in cases where the benefits of these exemption notifications have not been availed in respect of IGST and compensation cess, it shall be deemed that benefit of the said notifications has not been availed for the purpose of sub-rule (10) of rule 96 of CGST Rules. Therefore, extension of logic given in the said Explanation may lead to a view that in cases where inputs were initially imported without payment of integrated tax and compensation cess but subsequently, IGST and compensation cess on such imported inputs is paid at a later date, along with interest, then in such cases, it can be considered

that the benefits of notifications mentioned in clause (b) of sub-rule (10) of rule 96 of CGST Rules have not been availed for the purpose of said sub-rule. Accordingly, refund of IGST claimed on exports made with payment of Integrated tax in such cases may not be considered to be in contravention of provisions of sub-rule (10) of rule 96 of CGST Rules.

2.3. In view of the above, it is clarified that where the inputs were initially imported without payment of integrated tax and compensation cess by availing benefits under Notification No. 78/2017-Customs dated 13.10.2017 or Notification No. 79/2017-Customs dated 13.10.2017, but subsequently, IGST and compensation cess on such imported inputs are paid at a later date, along with interest, and the Bill of Entry in respect of the import of the said inputs is got reassessed through the jurisdictional Customs authorities to this effect, then the IGST, paid on exports of goods, refunded to the said exporter shall not be considered to be in contravention of provisions of sub-rule (10) of rule 96 of CGST Rules.

3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

4. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Sanjay Mangal)  
Principal Commissioner (GST)

**Consequential Amendments in CGST Rules, 2017**

1. Amendment in Clause (b) of sub-rule (4B) of rule 86:

“(4B) Where a registered person deposits the amount of erroneous refund sanctioned to him,-  
 (a) .....  
 (b) under sub-rule (3) of rule 96, ~~in contravention of sub-rule (10) of rule 96,~~ along with interest and penalty, wherever applicable, through **FORM GST DRC-03**, by debiting the electronic cash ledger, on his own or on being pointed out, an amount equivalent to the amount of erroneous refund deposited by the registered person shall be re-credited to the electronic credit ledger by the proper officer by an order made in **FORM GST PMT-03A**.”

2. Amendments in clause B, clause C and clause E of sub-rule (4) of rule 89:

“(B) "Net ITC" means input tax credit availed on inputs and input services during the relevant period ~~other than the input tax credit availed for which refund is claimed under sub-rule (4A) or (4B) or both;~~

(C) "Turnover of zero-rated supply of goods" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, whichever is less, ~~other than the turnover of supplies in respect of which refund is claimed under sub-rule (4A) or (4B) or both;~~

(E) "Adjusted Total Turnover" means the sum total of the value of-

(a) the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the turnover of services; and

(b) the turnover of zero-rated supply of services determined in terms of clause (D) above and non-zero-rated supply of services,

~~excluding—(i) the value of exempt supplies other than zero-rated supplies; and (ii) the turnover of supplies in respect of which refund is claimed under sub-rule (4A) or sub-rule (4B) or both, if any;~~ during the relevant period.”

3. Amendment in Explanation (a) to sub-rule (5) of rule 89:

“**Explanation:** - For the purposes of this sub-rule, the expressions -

(a) "Net ITC" shall mean input tax credit availed on inputs during the relevant period ~~other than the input tax credit availed for which refund is claimed under sub-rule (4A) or (4B) or both~~”

**Agenda Item 3(ii): Clarification on the place of supply of advertising services provided to foreign entities.**

References have been received from the trade and industry requesting for clarification regarding place of supply of the advertising services being provided by Indian advertising companies/agencies to foreign entities, as some of the field formations are considering the place of supply of the said services as within India, thereby denying the export benefits in respect of such supplies.

**2. Background**

2.1 The Indian advertising companies/agencies providing advertising services to foreign clients for an agreed consideration may generally undertake the following activities:

- a. The advertising company understands client's products/services and target audience through collaboration and determine campaign details like budget, duration and media choices.
- b. The advertising company conceptualises and designs the media plan based on client-provided creatives and visuals for making strategy to maximize customer reach. The advertising company presents the media campaign plan to the client, who approves the final plan before implementation.
- c. Further, the advertising company deals with media owners and vendors ensuring alignment with campaign vision, seeking estimates for the campaign from the media owners and obtaining approval for the same from the foreign client. After approving the said media plan, the foreign client issues a Purchase Order (PO) to the advertising company. Upon receiving the PO from the client, the advertising company issues a Release Order (RO) to media owners. Subsequently, the advertising company executes the approved media plan.
- d. It monitors campaign progress, verifies data accuracy and maintains updated dashboards.
- e. It procures media space from media owners and resells the same to the clients at same or additional cost.
- f. Media owner invoices advertising company for inventory cost and the advertising company makes the payment for the media space to the Media owners.
- g. The advertising company further raises an invoice on the foreign client for advertising services including media space cost and service charges/fee as agreed in the approved media plan and the payments are received from the foreign clients in foreign exchange.
- h. The advertising company claims input tax credit for tax paid to media owners and report their outward supplies as taxable output services in their GST returns.

2.2 The advertising industry has represented that as per the GST provisions, such advertising service, provided by Indian entities to overseas entities, qualifies to be export of services and is zero rated under Section 16 of the IGST Act read with Section 13(2) of the Integrated Goods and Services Tax Act, 2017 ("IGST Act"), as the recipient of such services and the Place of Supply ("PoS") are outside India. However, some of the field formations are issuing notices to some of the companies providing advertising services to foreign entities by denying export benefits on the following grounds:-

(i) The services are in the nature of intermediary services, and in terms of Section 13(8) of the IGST Act, the PoS is to be determined on the basis of the location of the supplier of the service provider, which is within the taxable territory.

(ii) The advertisement is being viewed/ aired/ broadcasted/ telecasted across India, hence, the service is being performed in India and also, the recipient of services are the viewers of advertisement located in India and therefore, the PoS of the said services is in India.

(iii) Where the advertising agency has entered into contract with overseas client and there is correspondence with the Indian counterparts (as representative) of overseas client, the services cannot be considered to be exported, as the services are performed in India, or are being provided to Indian counterpart of the overseas clients, who are actual recipient of these services.

### 3. **Relevant Legal Provisions**

3.1 Section 2(93) of the CGST Act, 2017 provides for the definition of “recipient”, which is reproduced below:

*“2(93) “recipient” of supply of goods or services or both, means-*

*(a) where a consideration is payable for the supply of goods or services or both, **the person who is liable to pay that consideration,***

*(b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available, and*

*(c) where no consideration is payable for the supply of a service, the person to whom the service is rendered, and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied.”*

3.2 Section 2(6) of the IGST Act, 2017 lays down the conditions that need to be fulfilled to qualify as export of services, which is reproduced below for reference:

*Section 2(6) “export of services” means the supply of any service when, –*

*(i) the supplier of service is located in India;*

*(ii) the recipient of service is located outside India;*

*(iii) the place of supply of service is outside India;*

*(iv) **the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India; and***

(v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8

3.3 Section 2(13) of IGST Act defines ‘intermediary’ as below:

*“Intermediary means a broker, an agent or any other person by whatever name called, **who arranges or facilitates** the supply of goods or services or both or securities between two or more persons **but does not include a person who supplies such goods or services or both or securities on his own account**”.*

3.4 Section 13 of the IGST Act, 2017 provides for the determination of the place of supply of services where location of supplier or location of recipient is outside India.

3.4.1 Sub-section (2) of section 13 of the IGST Act, 2017, also known as default rule of place of supply in section 13, provides that-

*“(2) The place of supply of services except the services specified in sub-sections (3) to (13) shall be the location of the recipient of services.”*

3.4.2 Section 13(3) of the IGST Act, 2017 provides for the place of supply in case of performance-based services which reads as follows-

*“(3) The place of supply of the following services shall be the location where the services are actually performed, namely:—*

*(a) services supplied in respect of **goods** which are required to be made physically available by the recipient of services to the supplier of services, or to a person acting on behalf of the supplier of services in order to provide the services*

*.....*

*.....*

*(b) services supplied to an individual, represented either as the recipient of services or a person acting on behalf of the recipient, which require the physical presence of the recipient or the person acting on his behalf, with the supplier for the supply of services.”*

3.4.3 Section 13(8)(b) of the IGST Act provides a legal presumption regarding the place of supply for intermediary services which reads as below:

*“13(8) The place of supply of the following services shall be the location of the supplier of services, namely:—*

*(a) .....;*

*(b) intermediary services;*

*(c) ..... ”*

## 4 Analysis

The issue has been examined and it has been observed that there are broadly three issues that need to be clarified:

- a. Whether the advertising company can be considered as an intermediary between the foreign client and the media owners in terms of section 2(13) of IGST Act, thereby resulting in determination of place of supply under section 13(8)(b) of the IGST Act, 2017?
- b. Whether the representative of foreign client in India or the target audience of the advertisement in India can be considered as recipient of the services being supplied by the advertising company under section 2(93) of CGST Act, 2017?
- c. Whether the advertising services provided by the advertising companies to foreign clients can be considered as performance-based services as per section 13(3) of the IGST Act, 2017?

### 5. **Issue 1 -Whether the advertising company can be considered as an intermediary between the foreign client and the media owners as per section 2(13) of IGST Act?**

5.1 Section 2(13) of the IGST Act defines 'intermediary' as:

- a. a broker, an agent or any other person by whatever name called,
- b. who **arranges or facilitates** the supply of goods or services or both or securities
- c. between two or more persons
- d. but **does not include** a person who supplies such goods or services or both or securities **on his own account**".

5.2 Further, the scope of intermediary services has been clarified in Circular No. 159/15/2021-GST dated 20.09.2021. In the said circular, basic prerequisites for intermediary services have been clarified as below:

- a. It requires minimum three parties. Therefore, an activity between only two parties cannot be considered as an intermediary service. An intermediary essentially "arranges or facilitates" another supply (the "main supply") between two or more other persons and, does not himself provide the main supply.
- b. There have to be two distinct supplies between the principals and between the agent (intermediary) and the principal.
- c. Intermediary service provider to have the character of an agent, broker or any other similar person.
- d. It does not include a person who supplies such goods or services or both on his own account.

5.3 Accordingly, those persons (broker, agent or any other person) who merely arrange or facilitate the main supply of goods or services or both or securities and have not involved themselves in the main supply on their own account are considered as 'intermediaries'. However, if the persons involve themselves in the main supply of goods or services or both or securities and directly participate in the transaction on their own account, such persons do not fulfill the fundamental criteria of being categorized as brokers, agents, or any other person who arranges or facilitates transactions between two or more parties, as they have directly supplied the goods or services or both or securities,

rather than merely facilitating their supply. Thus, when such persons engage themselves in main supplies i.e. they enter into the transaction on principal-to-principal basis, they cannot be considered as intermediaries in view of the above definition of the intermediary and the said circular.

5.4 In the present case, it needs to be examined whether the advertising company can be considered as an intermediary under section 2(13) of IGST Act or the said advertising company has to be considered to be involved in two different principal-to-principal transactions with both the media owner and foreign client. In this regard, it is observed that in the scenario discussed in Para 2.1 above:

- a. A foreign company or firm hires an advertising company in India for advertisement of its goods or services and enters into a **comprehensive agreement** with the advertising company/agency encompassing all the issues related to advertising services ranging from media planning, investment planning for the same, creating and designing content, strategizing for maximum customer reach, the identification of media owners, dealing with media owners, etc. for displaying/ broadcasting/ printing of advertisement including monitoring of the progress of the same. The advertising agency provides a one stop solution to the client who outsources the entire activity to the agency.
- b. The advertising agency, in this case, enters into two agreements:
  - i. With the client located outside India for providing a one stop solution starting from designing the advertisement to its display in the media as agreed to with the client. The advertising company raises invoice to its foreign client for the above advertising services and the payment of the same is received from the foreign client in foreign exchange.
  - ii. With the media company to procure media space for display of the advertisement and to monitor campaign progress based on data shared by the media company. The media company bills the advertising agency.
- c. The agreements entered into by the Advertising company/agency in the instant case are in the nature of two distinct principal to principal supplies and no agreement of supply of services exists between the media company and the foreign client.
- d. Media owner invoices advertising company for media space and the advertising company makes the payment for the said media space to the media owners. The advertising company further raises the invoice on the foreign client for the advertising services, including media space, and the payments are received by the advertising company from the foreign client in foreign exchange. The advertising company claims input tax credit for the tax paid to media owners and reports the amount charged from the foreign client, including media resale value, as taxable output services in their GST returns. As the advertising company in this case is not acting as an agent but has been contracted by the client to provide certain services, therefore, the advertising agency is to be considered as providing the services to the client on its own account.

5.5 In the above scenario, it is observed that the advertising company is involved in the main supply of advertising services, including resale of media space to the foreign client, on principal-to-principal basis as detailed above and does not appear to fulfil the criteria of “intermediary” under section 2(13) of the IGST Act and the said circular dated 20.09.2021. Thus, the advertising company

cannot be considered as “intermediary” in such a scenario and accordingly, the place of supply in the instant matter cannot be determined as per section 13(8)(b) of the IGST Act.

**6. Issue-2 Whether the representative of foreign client in India or the target audience of the advertisement in India can be considered as “recipient” of the services being supplied by the advertising company under section 2(93) of CGST Act, 2017?**

6.1 As per Section 2(93)(a) of the CGST Act, the “recipient” of the services means the person who is **liable to pay consideration** where a consideration is payable for the supply of goods or services or both.

6.2 Accordingly, recipient is the person who is liable to pay the consideration for the supply of goods or services or both, where a consideration has to be paid for such supply.

6.3 In the instant matter, as mentioned above in para 5.4, the foreign entity enters into a comprehensive agreement with the Indian advertising company wherein the foreign entity is liable to pay for the advertising services rendered by the Indian advertising company against the invoice raised by the said advertising company.

6.4 Further, in this case, even if a representative of the said foreign client based in India is interacting with the advertising company on behalf of the said foreign client, the said representative based in India cannot be considered as a recipient of the service, if the agreement is between the foreign client and the advertising company, the invoice is being issued for the said service by the advertising company to the foreign client and the payment for the said service is received by the advertising company directly from the said foreign client. Further, the target audience of the advertisements may be based in India but such target audience cannot be considered as recipient of the said advertising services, being supplied by the advertising company, as per the definition of the recipient under section 2(93) of CGST Act.

6.5 Therefore, as discussed in paras 6.3 and 6.4 above, the recipient of the advertising services provided by the advertising company in such cases is the foreign client and not the Indian representative of the foreign client based in India or the target audience of the advertisements, as per section 2(93) of the CGST Act, 2017.

**7. Issue-3 Whether the advertising services provided by the advertising companies to foreign clients can be considered as performance-based services as per section 13(3) of the IGST act, 2017?**

7.1 The place of supply of performance based services is provided in sub-section (3) of section 13 of IGST Act. The provisions of clause (a) of the said sub-section pertain to the services supplied in respect of goods which are required to be made physically available by the recipient of services to the supplier of services. However, in the instant matter, there does not appear to be any such involvement of goods which are required to be physically available with supplier of advertising services. Therefore, the said provisions of clause (a) of the said sub-section cannot be made applicable for determination of place of supply of advertising services.

7.2 Further, clause (b) of sub-section (3) of section 13 of IGST Act provides that the place of supply shall be the location where the services are **actually performed** in case, where

- a. the services are supplied to an individual,
- b. represented either as the recipient of services or a person acting on behalf of the recipient, and
- c. which requires the **physical presence of the recipient** or the person acting on his behalf, **with the supplier for the supply of services**

7.3 Thus, in case of performance-based services under section 13(3)(b) of IGST Act, it is observed that the recipient (either himself or represented by any person acting on his behalf) of such services is required to be physically present with the supplier for availing such services. Thus, to be covered under the said clause, performance of services should be dependent on the physical presence of the recipient, like in case of salon services where the recipient has to be physically present with the supplier to avail the services from him.

7.4 However, in the present scenario, the supply of advertising services does not require physical presence of the recipient (foreign client or his representative or a person acting on his behalf) with the advertising company for availing the said advertising services. Thus, the said supply of advertising services cannot be considered as being covered under section 13(3)(b) of IGST Act for being considered as the services actually performed in India in terms of the said section.

7.5 Therefore, it is observed that the place of supply of advertising services in such cases can neither be determined as per the provisions of section 13(3)(a) nor as per the provisions of section 13(3)(b) of IGST Act.

8. Further, it is observed that in the present scenario, the place of supply of the above-mentioned advertising services does not appear to be covered under any other provisions of sub-sections (3) to (13) of the Section 13 of the IGST Act, 2017. Therefore, in view of foregoing discussion, it appears that the place of supply of the said advertising service being supplied by the advertising company to the foreign clients can only be determined as per the default provision, i.e. sub-section (2) of section 13 of IGST Act, i.e. the place of location of the recipient of the services. Since the recipient of the advertising services in such scenario is the foreign client, who is located outside India, the place of supply of the said services appears to be the location of the said foreign client i.e. outside India as per Section 13(2) of IGST Act, 2017.

9. Accordingly, supply of advertising services being provided by an Indian company/agency to their foreign client can be considered as export of services subject to the fulfilment of the other conditions mentioned in section 2(6) of IGST Act.

10. However, there may be cases where the advertising company located in India merely acts as an agent of the foreign client in engaging with the media owner for providing media space to the foreign client. In such cases, the agreement/ contract for providing the media space and broadcast of the advertisement is directly between media owner and the foreign client. The media owner directly invoices the foreign client for providing the media space and broadcast of the advertisement and the foreign client remits the payment for the said services directly to the media owner. In such instances, the services of providing media space and broadcasting the advertisement are directly provided by the media owner to the foreign client. In such cases, the advertising company is merely facilitating the provision of the said services of providing media space and broadcasting the advertisement between the foreign client and the media owner and does not provide the said services on its own account. The advertising company invoices the foreign client for the facilitation services provided by it.

Consequently, in such cases, the advertising company is an "intermediary" in accordance with Section 2(13) of the CGST Act, 2017, as elucidated in Circular No. 159/2021 in respect of the said services of facilitating the foreign client and accordingly, the place of supply in respect of the said services provided by the advertising company to the foreign client is determinable as per section 13(8)(b) of IGST Act, i.e. the location of the supplier, i.e. the location of the advertising company.

11. Law Committee in its meeting held on 31.07.2024 deliberated on the same, and recommended issue of a circular on the above lines. The draft circular as recommended by the Law Committee is placed at **Annexure-A**.

12. Accordingly, the agenda is placed before the GST Council for approval.

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**F. No. CBIC-20006/xx/2024-GST**  
**Government of India**  
**Ministry of Finance**  
**Department of Revenue**  
**Central Board of Indirect Taxes and Customs**  
**GST Policy Wing**  
\*\*\*

New Delhi, dated the xxth xxx, 2024

To,  
The Principal Chief Commissioners/ Chief Commissioners/  
Principal Commissioners/ Commissioners of Central Tax (All),  
The Principal Directors General/ Directors General (All).

Madam/Sir,

**Subject: Clarification in respect of advertising services provided to foreign clients–reg.**

References have been received from the trade and industry requesting for clarification regarding advertising services being provided by Indian advertising companies/agencies to foreign entities, as some of the field formations are considering the place of supply of the said services as within India, thereby denying the export benefits to such advertising companies. In view of the difficulties being faced by the trade and industry and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”), hereby clarifies the issues in succeeding paragraphs.

**2. Issue in Brief**

A foreign company or firm hires an advertising company/agency in India for advertisement of its goods or services and may enter into a comprehensive agreement with the advertising company/agency encompassing all the issues related to advertising services ranging from media planning, investment planning for the same, creating and designing content, strategizing for maximum customer reach, the identification of media owners, dealing with media owners, procuring media space, etc. to displaying/ broadcasting/ printing of advertisement including monitoring of the progress of the same. In such a case, the advertising agency provides a one stop solution to the client who outsources the entire activity to the agency.

In this scenario, media owners raise invoice to the advertising agency for inventory costs, which are then paid by the agency. Subsequently, the advertising agency raises invoice to the foreign client for the rendered advertising services and receives the payments in foreign exchange from the foreign client. In this regard, clarification has been sought as to:

- a. Whether the advertising company can be considered as an intermediary between the foreign client and the media owners in terms of section 2(13) of IGST Act thereby resulting in determination of place of supply under section 13(8)(b) of the IGST Act, 2017?
- b. Whether the representative of foreign client in India or the target audience of the advertisement in India can be considered as recipient of the services being supplied by the advertising company under section 2(93) of CGST Act, 2017?
- c. Whether the advertising services provided by the advertising companies to foreign clients can be considered as performance-based services as per section 13(3) of the IGST act, 2017?

### **3. CLARIFICATION:**

#### **3.1 Issue 1 -Whether the advertising company can be considered as an intermediary between the foreign client and the media owners as per section 2(13) of IGST Act?**

3.1.1 As per section 2(13) of IGST Act read with Circular no. 159/15/2021-GST dated 20.09.2021, a broker, agent or any other person who arranges or facilitates the main supply of goods or services or both or securities and has not involved himself in the main supply on his own account is considered as intermediary.

3.1.2 In the instant scenario, it is observed that the foreign clients enter into a comprehensive agreement with advertising companies/agencies in India and outsource the entire activity of advertising services to the advertising companies/agencies. Further, these companies/agencies enter into an agreement with the media owners in India for implementing the said media plan and procurement of media space for airing or releasing or printing advertisement.

3.1.3 The advertising agency, in this case, enters into two agreements:

- i. With the client located outside India for providing a one stop solution starting from designing the advertisement to its display in the media as agreed to with the client. The advertising company raises invoice to its foreign client for the above advertising services and the payments of the same is received from the foreign client in foreign exchange.
- ii. With the media company to procure media space for display of the advertisement and to monitor campaign progress based on data shared by the media company. The media company bills the advertising agency and the payment for same is made by the advertising agency to the media company.

3.1.4 Thus, the agreement, in the instant case, is in the nature of two distinct principal to principal supplies and no agreement of supply of services exists between the Media company and the foreign client. The advertising company is not acting as an agent but has been contracted by the client to procure and provide certain services. The advertising agency is providing the services to the client on its own account.

3.1.5 In view of above, it is clarified that, in the present scenario, the advertising company is involved in the main supply of advertising services including resale of media space to the foreign client on principal-to-principal basis as detailed above and does not fulfil the criteria of “intermediary” under section 2(13) of the IGST Act and the said circular dated 20.09.2021. Thus, the

same cannot be considered as “intermediary” in such a scenario and accordingly, the place of supply in the instant matter cannot be linked with the location of supplier of services in terms of section 13(8)(b) of the IGST Act.

### **3.2 Issue-2 Whether the representative of foreign client in India or the target audience of the advertisement in India can be considered as “recipient” of the services being supplied by the advertising company under section 2(93) of CGST Act, 2017?**

3.2.1 As per Section 2(93)(a) of the CGST Act, the “recipient” of the services means the person who is **liable to pay consideration** where a consideration is payable for the supply of goods or services or both.

3.2.2 In the instant scenario, the foreign client is liable to pay the consideration to advertising company for the supply of advertising and not the consumers or the target audience that watches the advertisement in India. Further, in this case, even if a representative of the said foreign client based in India, including a subsidiary or related person of the said foreign client, is interacting with the advertising company on behalf of the said foreign client, the said representative based in India cannot be considered as a recipient of the service, if the agreement is between the foreign client and the advertising company, the invoice is being issued for the said service by the advertising company to the foreign client and the payment for the said service is received by the advertising company directly from the said foreign client. Further, the target audience of the advertisements may be based in India but such target audience cannot be considered as recipient of the said advertising services being supplied by the advertising company as per the definition of the recipient under section 2(93) of CGST Act.

3.2.3 Therefore, in view of above, it is clarified that the recipient of the advertising services provided by the advertising company in such cases is the foreign client and not the Indian representative of the foreign client based in India or the target audience of the advertisements, as per section 2(93) of the CGST Act, 2017.

### **3.3 Issue-3 Whether the advertising services provided by the advertising companies to foreign clients can be considered as performance-based services as per section 13(3) of the IGST act, 2017?**

3.3.1 The place of supply of performance based services is provided in sub-section (3) of section 13 of IGST Act. The provisions of clause (a) of the said sub-section pertain to the services supplied in respect of goods which are required to be made physically available by the recipient of services to the supplier of services. However, in the instant matter, there does not appear to be any such involvement of goods which are required to be physically available with supplier of advertising services. Therefore, the said provisions of clause (a) of the said sub-section cannot be made applicable for determination of place of supply of advertising services.

3.3.2 Further, clause of (b) of sub-section (3) of section 13 of IGST Act provides that the place of supply shall be the location where the services are actually performed in case, where i.e.

- a. Services are supplied to an individual,

b. Represented either as the recipient of services or a person acting on behalf of the recipient, and

c. which requires the physical presence of the recipient or the person acting on his behalf, with the supplier for the supply of services

3.2.3 In the present scenario, the supply of advertising services does not require physical presence of the recipient (foreign client or representative or a person acting on his behalf) with the advertising company for availing the said advertising services. Thus, the said supply of advertising services cannot be considered as being covered under section 13(3)(b) of the IGST Act for being considered as the services actually performed in India in terms of the said section.

3.3.3 Accordingly, it is clarified that the place of supply of advertising services in such cases can neither be determined as per the provision of section 13(3)(a) nor as per the provisions of section 13(3)(b) of IGST Act.

4. Further, it is observed that in the present scenario, the place of supply of the above-mentioned advertising services does not appear to be covered under any other provisions of sub-sections (3) to (13) of the Section 13 of the IGST Act, 2017. Therefore, in view of foregoing discussion, it appears that the place of supply of the said advertising service being supplied by the advertising company to the foreign clients can only be determined as per the default provision, i.e. sub-section (2) of section 13 of IGST Act, i.e. the place of location of the recipient of the services. Since the recipient of the advertising services in such scenario is the foreign client, who is located outside India, the place of supply of the said services appears to be the location of the said foreign client i.e. outside India as per Section 13(2) of IGST Act, 2017, and the said service can be considered to be export of services, subject to the fulfilment of conditions mentioned in section 2(6) of IGST Act.

5. However, there may be cases where the advertising company located in India merely acts as an agent of the foreign client in engaging with the media owner for providing media space to the foreign client. In such cases, the agreement/ contract for providing the media space and broadcast of the advertisement is directly between media owner and the foreign client. The media owner directly invoices the foreign client for providing the media space and broadcast of the advertisement and the foreign client remits the payment for the said services directly to the media owner. In such instances, the services of providing media space and broadcasting the advertisement are directly provided by the media owner to the foreign client. In such cases, the advertising company is merely facilitating the provision of the said services of providing media space and broadcasting the advertisement between the foreign client and the media owner and does not provide the said services on its own account. The advertising company invoices the foreign client for the facilitation services provided by it.

5.1 Consequently, in such cases, the advertising company is an "intermediary" in accordance with Section 2(13) of the CGST Act, 2017, as elucidated in Circular No. 159/2021, in respect of the said services of facilitating the foreign client and accordingly, the place of supply in respect of the said services provided by the advertising company to the foreign client is determinable as per section 13(8)(b) of IGST Act, i.e. the location of the supplier, i.e. the location of the advertising company.

6. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

7. Difficulty, if any, in the implementation of this Circular may be brought to the notice of the Board. Hindi version will follow.

(Sanjay Mangal)  
Principal Commissioner (GST)

### **Agenda Item 3(iii): Amendment in CGST Rules, 2017.**

#### **I. Consequential Amendment in Form REG-20 & REG-31 due to amendment in Rule 10A, 21 (h) and 21(i) of CGST Rules, 2017.**

Amendment in Rule 10A of CGST Rules, 2017 has been made to provide for the requirement of the details of the bank account to be furnished as part of registration process. Rule 10A has been further amended to provide that the details of bank account will be required to be furnished within 30 days of grant of registration or before filing of statement of outwards supply under section 37 of CGST Act, 2017 in FORM GSTR-1/ IFF, whichever is earlier. Further, clause (d) of rule 21 provides for cancellation of registration in cases where the provision of rule 10A are violated. Also, in terms of rule 21A(2A), the registration of a person is liable to be suspended for violation of the provision of rule 10A. In cases where the registration of the taxpayer is suspended on the system as per rule 21A(2A) for contravention of provisions of rule 10A, intimation in FORM GST REG 31 will be issued electronically by the system. However, as per third proviso to rule 21A(4), if the bank account details are furnished by the taxpayer within 30 days of issuance of FORM GST REG 31, then the suspension will be auto revoked on the system. Any failure to furnish bank account details within 30 days of issuance of FORM GST REG 31 may lead to cancellation of registration by Tax Officer.

1.1 Further, the amendment in Rule 21 of CGST Rules has been made to provide for cancellation of GST registration in cases wherein a registered person is required to file return under sub-section (1) of section 39 of CGST Act, 2017 for each month or part thereof, has not furnished returns for a continuous period of six months; or wherein a registered person, required to file return under proviso to sub-section (1) of section 39 for each quarter or part thereof, has not furnished returns for a continuous period of two tax periods.

1.2 To implement the said provisions, GSTN has suggested that certain changes need to be made in FORM GST-REG 20 & FORM GST-REG 31.

1.3 Law Committee in its meeting held on 31.07.2024 approved the changes made in FORM GST-REG 20 & FORM GST-REG 31. The amended drafts of FORM REG-20 & REG-31 recommended by the Law Committee are as given below:

**Form GST REG-20**

*[See Rule 22(4)]*

Reference No.- ZA260821000033A

Date: DD/MM/YYYY

To

<Taxpayer Name>

<Taxpayer Address>

GSTIN/ UIN: <GSTIN number>

Show Cause Notice No.: <SCN number>

Date: DD/MM/YYYY

**Order for Dropping the Proceedings for Cancellation of Registration**

This has reference to your reply filed vide ARN ----- dated in response to the show cause notice referred to above. Upon consideration of your reply and/or submissions made during hearing, the proceedings initiated for cancellation of registration stands vacated for the following reasons:

<<text>>

Or

This is in reference to Notice issued in REG-31 vide Reference Number <SCN number> dated DD/MM/YYYY for contravention of provisions of rule 10A of the Central Goods Services Tax Act, 2017.

Since you have furnished the valid details of bank account on the common portal in the system, the proceedings initiated for cancellation of registration are hereby dropped;

Or

This is in reference to Notice issued in REG-31 vide Reference Number <SCN number> dated DD/MM/YYYY, for contravention of the provisions of clause (b) or clause (c) of sub-section (2) of section 29 of the Central Goods Services Tax Act, 2017. Since you have filed all the pending returns which were due on the date of issue of the aforesaid notice, and have made ~~full~~ payment of ~~self-assessed tax along with applicable interest and late fee~~, the proceedings initiated for cancellation of registration are hereby dropped.

Suspension of the registration stands revoked with effect from DD/MM/YYYY

Signature

< Name of the Officer>

Designation

Jurisdiction Place:

Date:

**FORM GST REG – 31**

**[See rule 21A(2A)]**

Reference No.

Date: <dd><mm><yyyy>

To,

<Taxpayer Name>

<Taxpayer Address>

GSTIN/ UIN: <GSTIN number>

**Intimation for suspension and notice for cancellation of registration.**

1. In a comparison of the following, namely,

(i) returns furnished by you under section 39 of the Central Goods and Services Tax Act, 2017;

(ii) outwards supplies details furnished by you in FORM GSTR-1;

(iii) auto-generated details of your inwards supplies for the period \_\_\_\_\_ to \_\_\_\_\_;

(iv) ..... (specify)

and other available information, the following discrepancies/ anomalies have been revealed: ☐

Observation 1

☐ Observation 2

☐ Observation 3 (details to be filled based on the criteria relevant for the taxpayer).

2. These discrepancies/anomalies prima facie indicates contravention of the provisions of the Central Goods and Services Tax Act, 2017 and the rules made thereunder, such that if not explained satisfactorily, shall make your registration liable to be cancelled.

3. Considering that the above discrepancies/anomalies are grave and pose a serious threat to interest of revenue, as an immediate measure, your registration stands suspended, with effect from the date of this communication, in terms of sub-rule (2A) of rule 21 A.

4. You are requested to submit a reply to the jurisdictional tax officer within thirty days from the receipt of this notice, providing explanation to the above stated discrepancy/anomaly. Any possible misuse of your credentials on GST common portal, by any person, in any manner, may also be specifically brought to the notice of jurisdictional officer.

5. The suspension of registration shall be lifted on satisfaction of the jurisdictional officer with the reply along with documents furnished by you, and any further verification as jurisdictional officer considers necessary.

6. You may please note that your registration may be cancelled in case you fail to furnish a reply with the prescribed period or do not furnish a satisfactory reply

Name:

Designation:

NB: This is a system generated notice and does not require signature by the issuing authority

**Or**

**OR (suspension due to violation of Rule 10A of CGST Rules, 2017)**

1. It has been noticed that as per the provisions of rule 10A, requiring you to furnish the details of bank account within thirty days from the grant of registration, **you have not furnished the valid details of bank account within thirty days from the date of grant of registration.**
2. These discrepancies/anomalies prima facie indicate contravention of the provisions of the Central Goods and Services Tax Act, 2017 and the rules made thereunder, such that if not explained satisfactorily, shall make your registration liable to be cancelled.
3. Considering that the above discrepancies/anomalies are grave and pose a serious threat to interest of revenue, as an immediate measure, your registration stands suspended, with effect from the date of this communication, in terms of rule 21 A.
4. Accordingly, you are requested to furnish the valid details of bank account on the common portal or submit a reply to the jurisdictional tax officer within thirty days from the receipt of this notice, providing explanation to the above stated discrepancy/ anomaly/contravention. Any possible misuse of your credentials on GST common portal, by any person, in any manner, may also be specifically brought to the notice of jurisdictional officer.
5. The suspension of registration shall be lifted after you furnish the valid details of bank account on the common portal within stipulated time.
6. You may please note that your registration may be cancelled in case you fail to furnish the valid details of bank account on the common portal within stipulated time or fail to furnish a reply within the stipulated time.

**Or**

1. It has been noticed that as per the provisions of rule 10A, requiring you to furnish the details of bank account within thirty days from the grant of registration. **The information regarding bank account details furnished by you are not matching with the details available with bank.**
2. These discrepancies/anomalies prima facie indicate contravention of the provisions of the Central Goods and Services Tax Act, 2017 and the rules made thereunder, such that if not explained satisfactorily, shall make your registration liable to be cancelled.
3. Considering that the above discrepancies/anomalies are grave and pose a serious threat to interest of revenue, as an immediate measure, your registration stands suspended, with effect from the date of this communication, in terms of rule 21 A.

4. Accordingly, you are requested to furnish the valid details of bank account on the common portal or submit a reply to the jurisdictional tax officer within thirty days from the receipt of this notice, providing explanation to the above stated discrepancy/ anomaly/contravention. Any possible misuse of your credentials on GST common portal, by any person, in any manner, may also be specifically brought to the notice of jurisdictional officer.

5. The suspension of registration shall be lifted after you furnish the valid details of bank account on the common portal within stipulated time.

6. You may please note that your registration may be cancelled in case you fail to furnish the valid details of bank account on the common portal within stipulated time or fail to furnish a reply within the stipulated time.

OR

(suspension due to violation of Rule 21 of CGST Rules, 2017)

1. It has been noticed that as per the provisions of rule 21 (h) or 21 (i), requiring you to file return under sub-section (1) of section 39, have not furnished for a continuous period of six months or for a continuous period of two quarters.

2. These discrepancies/anomalies prima facie indicate contravention of the provisions of the Central Goods and Services Tax Act, 2017 and the rules made thereunder, such that if not explained satisfactorily, shall make your registration liable to be cancelled.

3. Considering that the above discrepancies/anomalies are grave and pose a serious threat to interest of revenue, as an immediate measure, your registration stands suspended, with effect from the date of this communication, in terms of ~~sub-rule (2A) of rule 21 A.~~

4. Accordingly, you are requested to file return under subsection (1) of section 39 on the common portal or submit a reply to the jurisdictional tax officer within thirty days from the receipt of this notice, providing explanation to the above stated discrepancy/ anomaly/contravention. Any possible misuse of your credentials on GST common portal, by any person, in any manner, may also be specifically brought to the notice of jurisdictional officer.

5. The suspension of registration shall be lifted after you file the returns under sub-section (1) of section 39 on the common portal.

6. You may please note that your registration may be cancelled in case you fail to file returns under sub-section (1) of section 39 on the common portal within stipulated date or fail to furnish a reply within the stipulated time.

NB: This is a system generated notice and does not require signature by the issuing authority.

## **II. Amendment in Form GST INS-01 in light of enactment of Bharatiya Nyaya Sanhita (BNS), 2023.**

2.1 The Bharatiya Nyaya Sanhita (BNS), 2023, which replaces the Indian Penal Code (IPC), 1860, has come into force on 1st July 2024. Consequently, references to the IPC in various GST forms, including Form GST INS-01, need to be amended to reflect the corresponding provisions in the BNS. Form GST INS-01, which authorizes inspection or search under section 67 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as 'CGST Act'), currently includes references to sections of the IPC relating to penalties for tampering with evidence, making false statements, and other similar offenses.

### **2.2 Issues Identified:**

The enactment of BNS, 2023, necessitates revisions in Form GST INS-01 to update the penal provisions. Sections 174, 175, 193, and 418 of the IPC, previously referenced in GST forms, will need to be replaced by their corresponding sections in the BNS, 2023. These sections pertain to non-compliance with summons, providing false information, fabricating false evidence, and related offenses. It is essential that the forms used under the CGST Act accurately reflect the current laws to prevent any legal infirmity and to avoid confusion in enforcement actions.

### **2.3 Proposed Amendments:**

In order to align with the new BNS, 2023, the following amendments are proposed in Form GST INS-01:

- Section 174 of IPC to be replaced by Section 208 of BNS.
- Section 175 of IPC to be replaced by Section 210 of BNS.
- Section 193 of IPC to be replaced by Section 229 of BNS.
- Section 418 of IPC to be replaced by Section 316 of BNS.

These amendments ensure the legal robustness of the form and enable continued lawful enforcement of provisions under the CGST Act.

2.4 Law Committee, in its meeting held on 31.07.2024, deliberated on the proposed amendments and recommended that the above changes in Form GST INS-01 are necessary to reflect the provisions of BNS, 2023. The changes to FORM GST INS-01, as recommended by the Law Committee, are as below:

FORM GST INS -01  
**AUTHORISATION FOR INSPECTION OR SEARCH**  
*[See rule 139 (1)]*

To

.....  
.....

(Name and Designation of officer)

Whereas information has been presented before me and I have reasons to believe that—

A. M/s. \_\_\_\_\_

has suppressed transactions relating to supply of goods and/or services has suppressed transactions relating to the stock of goods in hand, has claimed input tax credit in excess of his entitlement under the Act has claimed refund in excess of his entitlement under the Act has indulged in contravention of the provisions of this Act or rules made thereunder to evade tax under this Act;

OR

B. M/s. \_\_\_\_\_

is engaged in the business of transporting goods that have escaped payment of tax is an owner or operator of a warehouse or a godown or a place where goods that have escaped payment of tax have been stored

has kept accounts or goods in such a manner as is likely to cause evasion of tax payable under this Act.

OR

C.

goods liable to confiscation / documents relevant to the proceedings under the Act are secreted in the business/residential premises detailed herein below

<<Details of the Premises>

Therefore,—

in exercise of the powers conferred upon me under sub-section (1) of section 67 of the Act, I authorize and require you to inspect the premises belonging to the above mentioned person with such assistance as may be necessary for inspection of goods or documents and/or any other things relevant to the proceedings under the said Act and rules made thereunder.

OR

in exercise of the powers conferred upon me under sub-section (2) of section 67 of the Act, I authorize and require you to search the above premises with such assistance as may be necessary, and if any goods or documents and/or other things relevant to the proceedings under the Act are found, to seize and produce the same forthwith before me for further action under the Act and rules made thereunder.

Any attempt on the part of the person to mislead, tamper with the evidence, refusal to answer the questions relevant to inspection / search operations, making of false statement or providing false evidence is punishable with imprisonment and /or fine under the Act read with ~~section 179, 181, 191 and 418 of the Indian Penal Code.~~ section 214, 216, 227 and 318(3) of the Bharatiya Nyaya Sanhita.

Given under my hand & seal this ..... day of ..... (month) 20.... (year). Valid for ..... day(s).

Seal

Place Signature, Name and designation of the issuing authority

Name, Designation & Signature of the Inspection Officer/s

(i)

(ii)

### III Amendment in Rules and Forms due to insertion of section 74A in CGST Act, 2017

3.1 GST Council in its 53<sup>rd</sup> meeting held on 22<sup>nd</sup> June 2024, recommended insertion of Section 74A in the CGST Act, 2017. Vide section 134 of Finance Act (No.2), 2024, the said section has been inserted in CGST Act, 2017. However, the said section of Finance Act (No.2), 2024 is yet to be notified.

3.2 Subsequent to the insertion of the said section in CGST Act, 2017, consequential amendments are required to be made in CGST Rules, 2017 along with certain amendments in relevant forms.

3.3 The Law Committee in its meeting dated 31.07.2024 and 23.08.2024 deliberated on the same and recommended consequential amendments in CGST Rules, 2017 as detailed in **Annexure-A, enclosed with this agenda**. Further, the Law Committee also recommended requisite amendments to be made in GST FORMS as detailed in **Annexure-B enclosed with this agenda**.

3.4 Law Committee also recommended that in FORM GST DRC-01 on the common portal, in the dropdown option for “*Section / sub-section under which SCN is being issued*”, options regarding issuance of demand notice under sub-section (1) of Section 74A read with clause (i) of sub-section (5) of Section 74A, and also for demand notice under sub-section (1) of Section 74A read with clause (ii) of sub-section (5) of Section 74A, may be inserted by GSTN so that the data regarding the number and amount of notices issued under Section 74A invoking charges of fraud, wilful misstatement, suppression of facts etc., and those not invoking those charges is readily available. It was recommended that similar options may be added in FORM GST DRC-07 on the portal against the entry “*4. Section(s) of the Act under which demand is created*”.

4. The Agenda is placed before the GST Council for deliberation and approval please.

**Consequential Amendments in CGST Rules, 2017**

**1. Rule 36(3):**

***Rule 36. Documentary requirements and conditions for claiming input tax credit. -***

*(3) No input tax credit shall be availed by a registered person in respect of any tax that has been paid in pursuance of any order where any demand has been confirmed on account of any fraud, wilful misstatement or suppression of facts **under section 74.***

**2. Rule 88B (1):**

**Rule 88B. Manner of calculating interest on delayed payment of tax.-**

(1) In case, where the supplies made during a tax period are declared by the registered person in the return for the said period and the said return is furnished after the due date in accordance with provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 **or section 74A** in respect of the said period, the interest on tax payable in respect of such supplies shall be calculated on the portion of tax which is paid by debiting the electronic cash ledger, for the period of delay in filing the said return beyond the due date, at such rate as may be notified under sub-section (1) of section 50.

**3. Rule 88D (3):**

**Rule 88D. Manner of dealing with difference in input tax credit available in auto-generated statement containing the details of input tax credit and that availed in return. -**

(3) Where any amount specified in the intimation referred to in sub-rule (1) remains to be paid within the period specified in the said sub-rule and where no explanation or reason is furnished by the registered person in default or where the explanation or reason furnished by such person is not found to be acceptable by the proper officer, the said amount shall be liable to be demanded in accordance with the provisions of section 73 or section 74 **or section 74A**, as the case may be.

**4. Rule 96B (1):**

**Rule 96B. Recovery of refund of unutilised input tax credit or integrated tax paid on export of goods where export proceeds not realised.-**

(1) Where any refund of unutilised input tax credit on account of export of goods or of integrated tax paid on export of goods has been paid to an applicant but the sale proceeds in respect of such export goods have not been realised, in full or in part, in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), including any extension of such period, the person to whom the refund has been made shall deposit the amount so refunded, to the extent of non-realisation of sale proceeds, along with applicable interest within thirty days of the expiry of the said period or, as the case may be, the extended period, failing which the amount refunded shall be

recovered in accordance with the provisions of section 73 or 74 or 74A of the Act, as the case may be, as is applicable for recovery of erroneous refund, along with interest under section 50:

Provided that where sale proceeds, or any part thereof, in respect of such export goods are not realised by the applicant within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), but the Reserve Bank of India writes off the requirement of realisation of sale proceeds on merits, the refund paid to the applicant shall not be recovered.

## **5. Rule 121:**

### **Rule 121. Recovery of credit wrongly availed.-**

The amount credited under sub-rule (3) of rule 117 may be verified and proceedings under section 73 or, ~~as the case may be,~~ section 74 or section 74A, as the case may be, shall be initiated in respect of any credit wrongly availed, whether wholly or partly.

## **6. Rule 142:**

### **Rule 142. Notice and order for demand of amounts payable under the Act. -**

(1) The proper officer shall serve, along with the

(a) Notice issued under section 52 or section 73 or section 74 or section 74A or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130, a summary thereof electronically in **FORM GST DRC-01** ,

(b) statement under sub-section (3) of section 73 or sub-section (3) of section 74 or sub-section (3) of section 74A, a summary thereof electronically in **FORM GST DRC-02** , specifying therein the details of the amount payable.

(1A) The proper officer may, before service of notice to the person chargeable with tax, interest and penalty, under sub-section (1) of Section 73 or sub-section (1) of Section 74 or sub-section (1) of Section 74A, as the case may be, communicate the details of any tax, interest and penalty as ascertained by the said officer, in **Part A of FORM GST DRC-01A**.

(2) Where, before the service of notice or statement, the person chargeable with tax makes payment of the tax and interest in accordance with the provisions of sub-section (5) of section 73 or clause (i) of sub-section (8) of section 74A, as the case may be, or tax, interest and penalty in accordance with the provisions of subsection (5) of section 74 or clause (i) of sub-section (9) of section 74A, or where any person makes payment of tax, interest, penalty or any other amount due in accordance with the provisions of the Act whether on his own ascertainment or, as communicated by the proper officer under sub-rule (1A), he shall inform the proper officer of such payment in FORM GST DRC-03 and an acknowledgement, in FORM GST DRC-04 shall be made available to the person through the common portal electronically.

(2A) Where the person referred to in sub-rule (1A) has made partial payment of the amount communicated to him or desires to file any submissions against the proposed liability, he may make such submission in **Part B of FORM GST DRC-01A**, and thereafter the proper officer may issue an

intimation in Part-C of FORM GST DRC-01A, accepting the payment or the submissions or both, as the case may be, made by the said person.

(2B) Where an amount of tax, interest, penalty or any other amount payable by a person under section 52 or section 73 or section 74 ~~or section 74A~~ or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130, has been paid by the said person through an intimation in FORM GST DRC-03 under sub-rule (2), instead of crediting the said amount in the electronic liability register in FORM GST PMT –01 against the debit entry created for the said demand, the said person may file an application in FORM GST DRC-03A electronically on the common portal, and the amount so paid and intimated through FORM GST DRC-03 shall be credited in Electronic Liability Register in FORM GST PMT –01 against the debit entry created for the said demand, as if the said payment was made towards the said demand on the date of such intimation made through FORM GST DRC-03:

Provided that where an order in FORM GST DRC-05 has been issued in terms of sub-rule(3) concluding the proceedings, in respect of the payment of an amount in FORM GST DRC-03, an application in FORM GST DRC-03A cannot be filed by the said person in respect of the said payment.

(3) Where the person chargeable with tax makes payment of tax and interest under sub-section (8) of section 73 or ~~under clause (ii) of sub-section (8) of section 74A~~ as the case may be, ~~or tax, interest and penalty under sub-section (8) of section 74 or under clause (ii) of sub-section (9) of section 74A, as the case may be,~~ within ~~the period specified therein thirty days of the service of a notice under sub-rule (1) within thirty days of the service of a notice under sub-rule (1),~~ or where the person concerned makes payment of the amount referred to in sub-section (1) of section 129 within seven days of the notice issued under sub-section (3) of Section 129 but before the issuance of order under the said sub-section (3), he shall intimate the proper officer of such payment in **FORM GST DRC-03** and the proper officer shall issue an intimation in **FORM GST DRC-05** concluding the proceedings in respect of the said Notice.

(4) The representation referred to in sub-section (9) of section 73 or sub-section (9) of section 74 ~~or sub-section (6) of section 74A~~ or sub-section (3) of section 76 or the reply to any Notice issued under any section whose summary has been uploaded electronically in **FORM GST DRC-01** under sub-rule (1) shall be furnished in **FORM GST DRC-06** .

(5) A summary of the order issued under section 52 or section 62 or section 63 or section 64 or section 73 or section 74 ~~or section 74A~~ or section 75 or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130 shall be uploaded electronically in **FORM GST DRC-07**, specifying therein the amount of tax, interest and penalty, as the case may be, payable by the person concerned.

(6) The order referred to in sub-rule (5) shall be treated as the notice for recovery.

(7) Where a rectification of the order has been passed in accordance with the provisions of section 161 or where an order uploaded on the system has been withdrawn, a summary of the rectification order or of the withdrawal order shall be uploaded electronically by the proper officer in **FORM GST DRC-08**.

**Consequential Amendments in CGST Forms****FORM GST DRC-01A****Intimation of tax ascertained as being payable under section 73(5)/74(5) /74A (8)/ 74A (9)****[See Rule 142 (1A), 142(2A)]****Part A**

No.:

Date:

Case ID No.

To

GSTIN.....

Name.....

Address.....

***Case Proceeding Reference No.....- Intimation of liability under section 73(5)/section 74(5)/ 74A (8)/ 74A(9).***

Please refer to the above proceedings. In this regard, the amount of tax/interest/penalty payable by you under section 73(5) / 74(5) /74A (8) / 74A(9) with reference to the said case as ascertained by the undersigned in terms of the available information, as is given below:

<b>Act</b>	<b>Period</b>	<b>Tax</b>	<b>Interest</b>	<b>Penalty</b>	<b>Total</b>
<b>CGST Act</b>					
<b>SGST/UTGST Act</b>					
<b>IGST Act</b>					
<b>Cess</b>					
<b>Total</b>					

The grounds and quantification are attached / given below:

--

You are hereby advised to pay the amount of tax as ascertained above along with the amount of applicable interest in full by ....., failing which Show Cause Notice will be issued under section 73(1).

**OR**

You are hereby advised to pay the amount of tax as ascertained above along with the amount of applicable interest and penalty under section 74(5) by ....., failing which Show Cause Notice will be issued under section 74(1).

OR

You are hereby advised to pay the amount of tax as ascertained above along with the amount of applicable interest in full by ....., failing which Show Cause Notice will be issued under sub-section (1) of Section 74A read with clause (i) of sub-section (5) of Section 74A.

OR

You are hereby advised to pay the amount of tax as ascertained above along with the amount of applicable interest and penalty in full by ....., failing which Show Cause Notice will be issued under sub-section (1) of Section 74A read with clause (ii) of sub-section (5) of Section 74A.

In case you wish to file any submissions against the above ascertainment, the same may be furnished by..... in Part B of this Form

Signature.....

Name.....

Designation.....

Jurisdiction -----

Address -----

***Upload Attachment***

**Part B**

**Reply to the communication for payment before issue of Show Cause Notice**

**[See Rule 142 (2A)]**

Reference No. of Intimation:

Date:

Please refer to Intimation ID..... in respect of Case ID.....vide which the liability of tax payable as ascertained under section 73(5) / 74(5)/ **74A (8)/74A(9)** was intimated.

In this regard,

A. this is to inform that the said liability is discharged partially/ fully to the extent of Rs. .... through .....and the submissions regarding remaining liability are attached / given below:

**OR**

B. the said liability is not acceptable and the submissions in this regard are attached / given below:

--

Signature of Authorised Signatory

Name.....

Designation / Status .....

<b><i>Upload Attachment</i></b>
---------------------------------

**Part C**

[See Rule 142(2A)]

Reference No. of Intimation:

Date:

To

GSTIN.....

Name.....

Address.....

**Acceptance of submission and/or payment made in reply to intimation made in Part-A of FORM  
GST DRC-01A**

This has reference to the communication issued in **Part-A** of **FORM GST DRC-01A** vide reference no. ----- dated -----, the payment made through **FORM GST DRC-03** vide reference no. ----- dated ----- .The said payment made by you has been found satisfactory and hence accepted.

**OR**

This has reference to the reply furnished vide reference no. ----- dated ----- in response to the communication issued in **Part-A** of **Form GST DRC-01A** vide reference no. ----- dated -----, along with the payment made through **FORM GST DRC-03** vide reference no. ----- dated ----- .The said submission and the payment made by you has been found satisfactory and hence accepted.

**OR**

This has reference to the reply furnished vide reference no. ----- dated ----- in response to the communication issued in **Part-A** of **Form GST DRC-01A** vide reference no. ----- dated ----- .The said reply has been found satisfactory and hence accepted.

Signature.....

Name.....

Designation.....

Jurisdiction .....

Address .....

***Upload Attachment***

### **Agenda Item 3(iv): Clarification on availability of input tax credit in respect of Demo vehicles.**

A reference has been received requesting for issuance of clarification regarding availability of input tax credit (ITC) on Demo vehicles, as divergent views have been taken in multiple advance rulings due to varied interpretation of provisions of **sub-clause (A) of clause (a) of section 17(5) of CGST Act, 2017** on the same matter.

2. The demo vehicles are the vehicles which the authorised dealers for sale of motor vehicles are required to maintain at their sales outlet as per dealership norms and are used for providing trial run and to demonstrate features of the vehicle to potential buyers. These vehicles are purchased by the authorised dealers from the vehicle manufacturers against tax invoices and are typically reflected as capital assets in books of account of such authorized dealers. As per dealership norms, these vehicles are required to be held by authorized dealers as Demo vehicle for certain mandatory period and are thereafter, generally, sold by the dealer at a written down value and applicable tax on the same is payable at that point of time.

#### **2.1 Relevant legal provisions are reproduced below:**

##### ***Section 16. Eligibility and conditions for taking input tax credit.***

(1) Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.

....

##### ***Section 17. Apportionment of credit and blocked credits. –***

...

(5) Notwithstanding anything contained in sub-section (1) of section 16 and sub-section (1) of section 18, input tax credit shall not be available in respect of the following, namely:-

(a) motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for making the following taxable supplies, namely: -

- (A) further supply of such motor vehicles; or
- (B) transportation of passengers; or
- (C) imparting training on driving such motor vehicles;

...

2.2 The matter was deliberated by the Law Committee in its meeting held on 29.08.2024. It was observed that as per provisions of section 16(1) of CGST Act, every registered taxpayer is entitled to take input tax credit charged on any supply of goods and services made to him, where such goods or services are used in the course or furtherance of business of such person, subject to such conditions and restrictions as may be prescribed and in the manner which is specified. As Demo vehicles are used by authorized dealers to provide trial run and to demonstrate features of the vehicle to potential buyers, which promotes sale of similar type of motor vehicles, therefore, such vehicles appear to be

used in the course or furtherance of business of the authorized dealers as per section 16(1) of the CGST Act.

**2.3** As per provisions of clause (a) of section 17(5) of the CGST Act, notwithstanding anything contained in section 16(1) and section 18(1) of the CGST Act, input tax credit is not available in respect of a motor vehicle for transportation of passengers having a seating capacity of not more than 13 persons (including the driver), except when they are used for making certain taxable supplies which are specified in the said clause. Accordingly, it needs to be seen whether or not input tax credit is available on Demo vehicle, which is a motor vehicle for transportation of passengers having approved seating capacity of not more than 13 persons (including the driver), in terms of clause(a) of section 17(5) of CGST Act.

**2.4** In view of the above and considering the advance rulings on the matter, it was felt that the two issues which are required to be clarified are: -

- 1. Availability of input tax credit on Demo vehicles, which are motor vehicles for transportation of passengers having approved seating capacity of not more than 13 persons (including the driver), in terms of clause(a) of section 17(5) of CGST Act.**
- 2. Availability of input tax credit on Demo vehicles in respect of capitalization of such vehicles in books of account by the authorized dealers.**

**Issue 1: Availability of input tax credit on Demo vehicles, which are motor vehicles for transportation of passengers having approved seating capacity of not more than 13 persons (including the driver), in terms of clause(a) section 17(5) of CGST Act.**

**3.1** Clause (a) of Section 17(5) of CGST Act provides that input tax credit shall not be available in respect of motor vehicles for transportation of persons having approved seating capacity of not more than 13 persons (including the driver), **except when they are used for making following taxable supplies**, namely:

- A. **further supply of such motor vehicles;** or
- B. transportation of passengers; or
- C. imparting training on driving such motor vehicles.

**3.2** The intention of law, as it appears from the use of expression ‘**when they are used for making the following taxable supplies**’ in the clause (a) of section 17(5) of CGST Act, is to exclude certain cases (based on the nature of outward taxable supplies being made using the said motor vehicle) from the restriction on availment of input tax credit in respect of the specified motor vehicles i.e. motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver). The taxable supplies permitted for the purpose of being excluded from the blockage of input tax credit as per provisions of clause (a) of section 17(5) of CGST Act being further supply of such motor vehicles; or transportation of passengers; or imparting training on driving such motor vehicles.

**3.3** As Demo vehicles are used by authorized dealers to provide trial run and to demonstrate features of the vehicle to potential buyers, it is quite apparent that Demo vehicles cannot be said to be used by the authorized dealer for providing taxable supply of transportation of passengers or imparting training on driving such motor vehicles. Therefore, Demo vehicles are not covered in the exclusions specified in sub-clauses (B) and (C) of the clause (a) of section 17(5) of CGST Act.

Accordingly, it is to be seen whether or not the Demo vehicles in question can be said to be used for making “further supply of such motor vehicles”, as specified in the sub-clause (A) of the clause (a) of section 17(5) of CGST Act.

**3.4** Regarding the provisions of blockage of input tax credit, in respect of motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), the usage of the words **“such motor vehicles” instead of “said motor vehicle”, in sub-clause (A) of the clause (a) of section 17(5) of CGST Act**, implies that the intention of the lawmakers was not only to exclude from the blockage of input tax credit, the motor vehicle which is itself further supplied, but also to exclude from the blockage of input tax credit, the motor vehicle which is being used for the purpose of further supply of similar type of motor vehicles. As Demo vehicles are used by authorized dealers to provide trial run and to demonstrate features of the vehicle to potential buyers, it helps the potential buyers to make a decision to purchase a particular kind of motor vehicle. Therefore, the Law Committee felt that as the Demo vehicles promote sale of similar type of motor vehicles, therefore, they are used for making ‘further supply of such motor vehicles’. **Accordingly, input tax credit in respect of Demo vehicles is not blocked under clause (a) of section 17(5) of CGST Act, as it is excluded from such blockage in terms of sub-clause (A) of the said clause.**

**3.5** Here, it is pertinent to mention that there may be some cases where motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver) are used by an authorized dealer for purposes other than for making further supply of such motor vehicles, say for transportation of its staff employees/ management etc. In such cases, the same cannot be said to be used for making ‘further supply of such motor vehicles’ and therefore, input tax credit in respect of such motor vehicles would not be excluded from blockage in terms of sub-clause (A) of clause (a) of section 17(5) of CGST Act.

**3.6** Further, there may be cases where the authorized dealer merely acts as an agent or service provider to the vehicle manufacturer for providing marketing service, including providing facility of vehicle test drive to the potential customers of the vehicle on behalf of the manufacturer, and is not directly involved in purchase and sale of the vehicles. In such cases, the sale invoice for the vehicle is directly issued by the vehicle manufacturer to the customer. For providing facility of vehicle test drive to the potential customers of the vehicle, the dealer purchases Demo vehicle from the vehicle manufacturer. The dealer charges the vehicle manufacturer for the services being provided by him to the vehicle manufacturer and is required to pay GST on the same. The dealer may sell the said Demo vehicle to a customer after a specified time or kilometres as per agreement with the vehicle manufacturer on payment of applicable GST. In such a case, the Law Committee felt that the authorized dealer is merely providing marketing and/or facilitation services to the vehicle manufacturer and is not making the supply of motor vehicles on his own account. Therefore, the said Demo vehicle cannot be said to be used by the dealer for making further supply of such motor vehicle. Accordingly, in such cases, input tax credit in respect of such Demo vehicle would not be excluded from blockage in terms of sub-clause (A) of clause (a) of section 17(5) of CGST Act and therefore, input tax credit on the same would not be available to the said dealer.

**Issue 2: Availability of input tax credit on Demo vehicles in respect of capitalization of such vehicles in books of account by the authorized dealers.**

4.1 As per provisions of section 16(1) of CGST Act, every registered taxpayer is entitled to take input tax credit charged on any supply of goods and services made to him, where such goods or services are used in the course or furtherance of business of such person, subject to such conditions and restrictions as may be prescribed and in the manner which is specified.

4.2 Further, “goods” has been defined in **section 2(52) of CGST Act**, as,

*“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.*

4.3 Also, **section 2(19) of CGST Act**, defines “capital goods” as,

*“capital goods” means goods, the value of which is capitalized in the books of account of the person claiming the input tax credit and which are used or intended to be used in the course or furtherance of business.*

4.4 As mentioned in paras above, as the Demo vehicles are used by the authorized dealers to promote further sale of motor vehicles of the similar type, therefore, such vehicles appear to be used in the course or furtherance of business of the authorized dealers. Where such vehicles are capitalized in the books of accounts by the authorized dealer, the said vehicle falls into the definition of “capital goods” under section 2(19) of CGST Act. As per provision of section 16(1) of CGST Act, subject to such conditions and restrictions as may be prescribed, a recipient of goods is entitled to take input tax credit in respect of tax charged on the inward supply of any goods, which as per definition of “goods” under section 2(52) of CGST Act, includes even capital goods. Further, section 2(19) of CGST Act also recognizes that capital goods are used or intended to be used in the course or furtherance of business. **Accordingly, the Law Committee felt that availability of input tax credit on Demo vehicles is not affected by way of capitalization of such vehicles in the books of account of the authorized dealers, subject to other provisions of the Act.**

4.5 However, it was observed by the Law Committee that in case of capitalization of Demo vehicles, availability of input tax credit would be subject to provisions of section 16(3) of CGST Act, which provides that where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the Income-tax act, 1961, the input tax credit on the said tax component shall not be allowed. It was further mentioned that in case a Demo vehicle which is capitalized, is subsequently sold by the authorized dealer, the authorized dealer shall have to pay an amount or tax as per provisions of section 18(6) of the CGST Act read with rule 44(6) of the CGST Rules.

5 The Law Committee recommended that the issue may be clarified through a circular on the above lines. **The draft circular recommended by the Law Committee is enclosed with this agenda as Annexure A.**

6. The proposal in para 5 above is placed before GST Council for approval.

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**F. No. CBIC-20001/3/2024-GST**

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

\*\*\*\*\*

New Delhi, Dated the , 2024

To,

All the Principal Chief Commissioners/ Chief Commissioners/ Principal Commissioners/  
Commissioners of Central Tax

All the Principal Directors General/ Directors General

Madam/Sir,

**Subject: Clarification on availability of input tax credit in respect of Demo vehicles-reg.**

The Demo vehicles are the vehicles which the authorised dealers for sale of motor vehicles are required to maintain at their sales outlet as per dealership norms and are used for providing trial run and to demonstrate features of the vehicle to potential buyers. These vehicles are purchased by the authorised dealers from the vehicle manufacturers against tax invoices and are typically reflected as capital assets in books of account of authorized dealers. As per dealership norms, these vehicles are required to be held by authorized dealers as Demo vehicle for certain mandatory period and are, thereafter, generally sold by the dealer at a written down value and applicable tax is payable at that point of time.

2. Reference has been received to issue clarification regarding availability of input tax credit in respect of demo vehicles on the following issues:

- i. **Availability of input tax credit on Demo vehicles, which are motor vehicles for transportation of passengers having approved seating capacity of not more than 13 persons (including the driver), in terms of clause(a) of section 17(5) of Central Goods & Services Tax Act, 2017 (hereinafter referred to as the ‘CGST Act’).**
- ii. **Availability of input tax credit on Demo vehicles in respect of capitalization of such vehicles in the books of account by the authorized dealers.**

3. In order to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby clarifies the above issues as below.

**4. Availability of input tax credit on Demo vehicles, which are motor vehicles for transportation of passengers having approved seating capacity of not more than 13 persons (including the driver), in terms of clause(a) of section 17(5) of CGST Act.**

**4.1 Clause (a) of Section 17(5) of CGST Act** provides that input tax credit shall not be available in respect of motor vehicles for transportation of persons having approved seating capacity of not

more than 13 persons (including the driver), **except when they are used for making following taxable supplies**, namely:

- A. **further supply of such motor vehicles**; or
- B. transportation of passengers; or
- C. imparting training on driving such motor vehicles.

**4.2** The intention of law, as it appears from the use of expression ‘**when they are used for making the following taxable supplies**’ in the clause (a) of section 17(5) of CGST Act, is to exclude certain cases (based on the nature of outward taxable supplies being made using the said motor vehicle) from the restriction on availment of input tax credit in respect of the specified motor vehicles i.e. motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver). The taxable supplies permitted for the purpose of being excluded from the blockage of input tax credit as per provisions of clause (a) of section 17(5) of CGST Act being further supply of such motor vehicles; or transportation of passengers; or imparting training on driving such motor vehicles.

**4.3** As Demo vehicles are used by authorized dealers to provide trial run and to demonstrate features of the vehicle to potential buyers, it is quite apparent that Demo vehicles cannot be said to be used by the authorized dealer for providing taxable supply of transportation of passengers or imparting training on driving such motor vehicles. Therefore, Demo vehicles are not covered in the exclusions specified in sub-clauses (B) and (C) of the clause (a) of section 17(5) of CGST Act. Accordingly, it is to be seen whether or not the Demo vehicles in question can be said to be used for making “further supply of such motor vehicles”, as specified in the sub-clause (A) of the clause (a) of section 17(5) of CGST Act.

**4.4** Regarding the provisions of blockage of input tax credit, in respect of motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), the usage of the words “**such motor vehicles**” instead of “**said motor vehicle**”, in sub-clause (A) of the clause (a) of section 17(5) of CGST Act, implies that the intention of the lawmakers was not only to exclude from the blockage of input tax credit, the motor vehicle which is itself further supplied, but also to exclude from the blockage of input tax credit, the motor vehicle which is being used for the purpose of further supply of similar type of motor vehicles. As Demo vehicles are used by authorized dealers to provide trial run and to demonstrate features of the vehicle to potential buyers, it helps the potential buyers to make a decision to purchase a particular kind of motor vehicle. Therefore, as Demo vehicles promote sale of similar type of motor vehicles, they are used by the dealer for making ‘further supply of such motor vehicles’. **Accordingly, input tax credit in respect of Demo vehicles is not blocked under clause (a) of section 17(5) of CGST Act, as it is excluded from such blockage in terms of sub-clause (A) of the said clause.**

**4.5** There may be some cases where motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver) are used by an authorized dealer for purposes other than for making further supply of such motor vehicles, say for transportation of its staff employees/ management etc. In such cases, the same cannot be said to be used for making ‘further supply of such motor vehicles’ and therefore input tax credit in respect of such motor vehicles would not be excluded from blockage in terms of sub-clause (A) of clause (a) of section 17(5) of CGST Act.

**4.6** Further, there may be cases where the authorized dealer merely acts as an agent or service provider to the vehicle manufacturer for providing marketing service including providing facility of vehicle test drive to the potential customers of the vehicle on behalf of the manufacturer and is not directly involved in purchase and sale of the vehicles. In such cases, the sale invoice for the vehicle is directly issued by the vehicle manufacturer to the customer. For providing facility of vehicle test drive to the potential customers of the vehicle, the dealer purchases Demo vehicle from the vehicle manufacturer. The dealer may sell the said Demo vehicle to a customer after a specified time or kilometres as per agreement with the vehicle manufacturer on payment of applicable GST. In such a case, the authorized dealer is merely providing marketing and/or facilitation services to the vehicle manufacturer and is not making the supply of motor vehicles on his own account. Therefore, the said Demo vehicle cannot be said to be used by the dealer for making further supply of such motor vehicle. Accordingly, in such cases, input tax credit in respect of such Demo vehicle would not be excluded from blockage in terms of sub-clause (A) of clause (a) of section 17(5) of CGST Act and therefore, input tax credit on the same would not be available to the said dealer.

**5. Availability of input tax credit on Demo vehicles in respect of capitalization of such vehicles in the books of account by the authorized dealers.**

**5.1** As per provisions of section 16(1) of CGST Act, every registered taxpayer is entitled to take input tax credit charged on any supply of goods and services made to him, where such goods or services are used in the course or furtherance of business of such person, subject to such conditions and restrictions as may be prescribed and in the manner which is specified.

**5.2** Further, “goods” has been defined in **section 2(52) of CGST Act**, as,

*“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.*

**5.3** Also, **section 2(19) of CGST Act**, defines “capital goods” as,

*“capital goods” means goods, the value of which is capitalized in the books of account of the person claiming the input tax credit and which are used or intended to be used in the course or furtherance of business.*

**5.4** As mentioned in paras above, as the Demo vehicles are used by the authorized dealers to promote further sale of motor vehicles of the similar type and therefore, such vehicles appear to be used in the course or furtherance of business of the authorized dealers. Where such vehicles are capitalized in the books of accounts by the authorized dealer, the said vehicle falls into the definition of “capital goods” under section 2(19) of CGST Act. As per provision of section 16(1) of CGST Act, subject to such conditions and restrictions as may be prescribed, a recipient of goods is entitled to take input tax credit in respect of tax charged on the inward supply of any goods, which as per definition of “goods” under section 2(52) of CGST Act, includes even capital goods. Further, section 2(19) of CGST Act also recognizes that capital goods are used or intended to be used in the course or furtherance of business. **Accordingly, availability of input tax credit on Demo vehicles is not affected by way of capitalization of such vehicles in the books of account of the authorized dealers, subject to other provisions of the Act.**

**5.5** However, it is to be mentioned that in case of capitalization of Demo vehicles, availability of input tax credit would be subject to provisions of section 16(3) of CGST Act, which provides that

where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the Income-tax act,1961, the input tax credit on the said tax component shall not be allowed. It is further mentioned that in case Demo vehicle which is capitalized, is subsequently sold by the authorized dealer, the authorized dealer shall have to pay an amount or tax as per provisions of section 18(6) of CGST Act read with rule 44(6) of the Central Goods and Service Tax Rules, 2017.

6. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

7. Difficulty, if any, in the implementation of this Circular may be brought to the notice of the Board. Hindi version would follow.

Sanjay Mangal  
Pr. Commissioner (GST)

**Agenda Item 3(v): Implementation of provisions of sub-section (5) and sub-section (6) in section 16 of CGST Act.**

The GST Council in its 53<sup>rd</sup> meeting recommended to retrospectively amend section 16 of the Central Goods & Services Tax Act, 2017 (herein after referred to as the ‘CGST Act’) with effect from 01.07.2017:

- a) to provide that the time limit to avail input tax credit under Section 16(4) of CGST Act, **through any FORM GSTR 3B filed till 30/11/2021** for the financial years **2017-18, 2018-19, 2019-20 and 2020-21**, be deemed to be **30.11.2021** and
- b) to allow for relaxation of conditions under Section 16(4) of the Act, in cases where the returns for the period from the date of cancellation of registration/effective date of cancellation of registration till the date of revocation of cancellation of registration are filed after revocation of cancellation of registration.

Further, it was recommended that no refund of tax already paid, or input tax credit reversed would be allowed on account of these retrospective amendments.

**1.2** In order to implement the above recommendations of the Council, the following provisions have been proposed to be inserted in section (16) of CGST Act, retrospectively with effect from 01.07.2017, **vide section 118 and section 150 of the Finance (No. 2) Act, 2024. The said provisions are yet to be notified.**

*118. In section 16 of the Central Goods and Services Tax Act, with effect from the 1st day of July, 2017, after sub-section (4), the following sub-sections shall be inserted, namely:*

*“(5) Notwithstanding anything contained in sub-section (4), in respect of an invoice or debit note for supply of goods or services or both pertaining to the Financial Years 2017-18, 2018-19, 2019-20 and 2020-21, the registered person shall be entitled to take input tax credit in any return under section 39 which is filed upto the thirtieth day of November, 2021.*

*(6) Where registration of a registered person is cancelled under section 29 and subsequently the cancellation of registration is revoked by any order, either under section 30 or pursuant to any order made by the Appellate Authority or the Appellate Tribunal or court and where availment of input tax credit in respect of an invoice or debit note was not restricted under sub-section (4) on the date of order of cancellation of registration, the said person shall be entitled to take the input tax credit in respect of such invoice or debit note for supply of goods or services or both, in a return under section 39,—*

*(i) filed upto thirtieth day of November following the financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier; or*

*(ii) for the period from the date of cancellation of registration or the effective date of cancellation of registration, as the case may be, till the date of order of revocation of*

*cancellation of registration, where such return is filed within thirty days from the date of order of revocation of cancellation of registration,*

*whichever is later.”.*

**150.** *No refund shall be made of all the tax paid or the input tax credit reversed, which would not have been so paid, or not reversed, had section 118 been in force at all material times.*

**1.3** In respect of the same, several representations have been received from trade and industry requesting for clarification in respect of various issues pertaining to availment of benefit of the said amendments in section 16 of CGST Act, to the taxpayers against whom demands have been issued alleging wrong availment of input tax credit in contravention of provisions of sub-section (4) of section 16 of CGST Act, who are now entitled to avail the said input tax credit as per the retrospectively inserted provisions of sub-section (5) or sub-section (6) of section 16 of the CGST Act. It has further been requested that in respect of cases where the appeals have either not been filed against demand orders/ appellate orders or the time to file appeal against the said orders has already expired, the benefit of the inserted provisions may be made available without the need for filing appeals, or without requirement of payment of pre-deposit for filing appeals for vacating the demands already created. It has been represented that denial of benefit in cases where time for filing of appeals is already over, or demanding pre-deposit for filing appeals in such cases would defeat the purpose of said relief being provided through the said sub-sections and would not only result in locking of the funds of the taxpayers but would also result in subsequent workload of tax officers in processing the refund applications in respect of such pre-deposits paid.

**2.1** The matter was discussed by the Law committee in its meeting held on 23.08.2024. The Law Committee observed that the following type of scenarios may emerge where relief under sub-section (5) or sub-section (6) of section 16 of CGST Act may be available to the taxpayers-

- a) Where no demand notice/ statement under section 73 or section 74 of CGST Act has been issued to the taxpayer -**
  - (i) Where no intimation under rule 142(1A) of CGST Rules 2017 has been issued.**
  - (ii) Where intimation under rule 142(1A) of CGST Rules 2017 has been issued.**
- b) Where demand notice/ statement under section 73 or section 74 of CGST Act has been issued but no order under the said sections has been issued to the taxpayer.**
- c) Where the order under section 73 or section 74 has already been issued to the taxpayer and-**
  - (i) Where appeal has not been filed by the taxpayer against the said demand order, irrespective of whether the time limit for filing the appeal is over or not.**
  - (ii) Where appeal has been filed by the taxpayer or the tax authorities with the Appellate Authority and:**
    - a) order under section 107 has not been issued by the Appellate Authority; or**

- b) **order under section 107 has been issued by the Appellate Authority.**
- (iii) **Where Revisionary Authority has initiated proceedings under section 108 of the CGST Act and:**
  - a) **order under section 108 of CGST Act has not been issued by the Revisionary Authority; or**
  - b) **order under section 108 of CGST Act has been issued by the Revisionary Authority.**

**2.2** Further, based on the action warranted by the taxpayer or tax authorities, the Law committee deliberated on the above scenarios by broadly classifying them into different categories, as below-

**A. Where no demand notice/statement has been issued under section 73 or section 74 of the CGST Act:**

In cases, where any investigation/proceedings in respect of wrong availment of input tax credit alleging contravention of provisions of sub-section (4) of section 16 of the CGST Act has been initiated, but no demand notice/statement under section 73 or section 74 of the said Act has been issued till the date on which sub-section (5) and sub-section (6) of section 16 of the CGST Act are notified, and taxpayers are now entitled to avail the said input tax credit under the provisions of sub-section (5) or sub-section (6) of section 16 of the CGST Act, the proper office shall take cognizance of the sub-section (5) or sub-section (6) of section 16 of CGST Act, inserted retrospectively with effect from 01.07.2017 and take further appropriate action. This also includes the cases where an intimation in FORM DRC-01A under rule 142(1A) of the CGST Rules is issued for denial of input tax credit on account of contravention of sub-section (4) of section 16 of the said Act, but no demand notice/statement under section 73 or section 74 of the said Act has been issued.

**B. Where demand notice/ statement under section 73 or section 74 of CGST Act has been issued but no order under section 73 or section 74 of CGST Act has been issued by the Adjudicating Authority:**

In such cases, the Adjudicating Authority shall take cognizance of sub-section (5) or sub-section (6) of section 16 of the CGST Act, inserted retrospectively w.e.f. 01.07.2017, and pass appropriate order under section 73 or section 74 of the CGST Act.

**C. Where order under section 73 or section 74 of the CGST Act has been issued and appeal has been filed under section 107 of the CGST Act with the Appellate Authority but no order under section 107 of the CGST Act has been issued by the Appellate Authority:**

In such cases, the Appellate Authority shall take cognizance of sub-section (5) or sub-section (6) of section 16 of the CGST Act, inserted retrospectively w.e.f. 01.07.2017, and pass appropriate order under section 107 of the CGST Act.

**D. Where order under section 73 or section 74 of the CGST Act has been issued and Revisional Authority has initiated proceedings under section 108 of the CGST Act, but no order under section 108 of the CGST Act has been issued by the Revisional Authority:**

In such cases, the Revisional Authority shall take cognizance of sub-section (5) or sub-section (6) of section 16 of the CGST Act, inserted retrospectively w.e.f. 01.07.2017, and pass appropriate order under section 108 of the CGST Act.

**E. Where order under section 73 or section 74 of the CGST Act has been issued but no appeal against the said order has been filed with the Appellate Authority, or where the order under section 107 or section 108 of the CGST Act has been issued by the Appellate Authority or the Revisional Authority but no appeal against the said order has been filed with the Appellate Tribunal:**

In such cases, the taxpayer normally has an option to file appeal with the Appellate Authority or the Appellate Tribunal, as the case may be, under section 107 or section 112 of the CGST Act, respectively, within the time limit specified in the said provisions. However, filing of such appeals will require payment of mandatory pre-deposit, as specified in the said sections. The Law committee felt that requiring such deposit of pre-deposit amount in respect of a demand denying input tax credit for alleged contravention of provisions of sub-section (4) of section 16 of CGST Act, when such input tax credit may otherwise now be eligible in terms of sub-section (5) or sub-section (6) of section 16 of the CGST Act, inserted retrospectively w.e.f. 01.07.2017, appears to be unfair and unnecessary burden on the taxpayer. It was also discussed that there may be several cases where the time of filing of appeal with the Appellate Authority against an order under section 73 or section 74 of CGST Act may already have expired, as the said taxpayers, especially small taxpayers, either may not be aware of the said orders or were not in a position to pay the requisite pre-deposit amount for filing such appeals. The Law committee felt that denial of benefit in cases where time for filing of appeals is already over, or demanding pre-deposit for filing appeals in such cases, would defeat the purpose of said relief being provided, on the recommendation of GST Council, through the said sub-sections.

Accordingly, in order to provide remedy in such cases, the Law committee recommended that a special procedure for rectification of orders may be notified under section 148 of the CGST Act, to be followed by the class of taxable persons, against whom orders under section 73 or section 74 or section 107 or section 108 of the CGST Act have been issued confirming demand for wrong availment of input tax credit on account of contravention of provisions of sub-section (4) of section 16 of the CGST Act, but where such input tax credit is now available as per the provisions of sub-section (5) or sub-section (6) of section 16 of the CGST Act, and where appeal against the said order has not been filed till the date of issuance of the said notification under section 148 of the CGST Act.

**3. In light of above, the Law Committee recommended that:**

**a.** As provisions of sub-section (5) and sub-section (6) of section 16 of the CGST Act are to come into force retrospectively with effect from 1st July, 2017, section 118 and 150 of the Finance (No. 2) Act, 2024, may be notified by the Central Government at the earliest with the recommendations of the Council. Whenever the States will notify the concerned provisions in their respective SGST Acts, the same will also come into effect from 1st July, 2017. This will help in early implementation of the intended relief being provided to the taxpayers through the insertion of said provisions.

**b.** Once the sub-section (5) and sub-section (6) of section 16 of the CGST Act are notified, a special procedure for rectification of orders may be notified by the Centre under

section 148 of the CGST Act, to be followed by the class of taxable persons, against whom any order under section 73 or section 74 or section 107 or section 108 of the CGST Act has been issued confirming demand for wrong availment of input tax credit on account of contravention of provisions of sub-section (4) of section 16 of the CGST Act, but where such input tax credit is now available as per the provisions of sub-section (5) or sub-section (6) of section 16 of the CGST Act, and where appeal against the said order has not been filed till the date of issuance of the said notification under section 148 of the CGST Act. The said special procedure may provide for filing of such application for rectification of order within a period of six month from the date of issuance of the said notification and the proper officer may be required to take a decision on the said application for rectification and issue the order within a period of three months from the date of filing of application for rectification, as far as possible. **The draft Notification recommended by the Law Committee is enclosed as Annexure X to this Agenda.** Whenever the states will notify the said provisions of sub-section (5) and sub-section (6) of section 16 in their respective SGST Acts, they will also notify the said special procedure under section 148 of their respective SGST Acts with effect from the date on which the Centre had issued the said notification.

c. A circular clarifying the action to be taken by the tax authorities and/ or by the taxpayers on the lines of para 2.2 above, may be issued after issuance of the notification under section 148 of the CGST Act mentioned in Sr. No. (b) above. **Draft Circular recommended by the Law Committee is enclosed as Annexure Y to this Agenda.**

d. An MIS may be made available by GSTN for tax authorities *inter alia* including the number of cases where rectification application filed, number of cases where application is disposed of and number of cases where the application is pending for more than three months, enabling them to monitor the progress of the action taken by the tax officers in respect of the applications for rectification filed under the above special procedure.

4. Accordingly, the recommendations of the Law committee in para 3 above, are placed before the GST Council for deliberation and approval.

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[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3,  
SUB-SECTION (ii)]

GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)  
CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS

NOTIFICATION No. — CENTRAL TAX

New Delhi, dated the , 2024

S.O....(E).— In exercise of the powers conferred under 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 the following special procedure for rectification of order, to be followed by the class of taxable persons (hereinafter referred to as the said person), against whom any order under section 73 or section 74 or section 107 or section 108 of the said Act has been issued confirming demand for wrong availment of input tax credit on account of contravention of provisions of sub-section (4) of section 16 of the said Act, but where such input tax credit is now available as per the provisions of sub-section (5) or sub-section (6) of section 16 of the said Act, and where appeal against the said order has not been filed till the date of issuance of this notification.

2. The said person shall file an application for rectification of the said order issued under section 73 or section 74 or section 107 or section 108 of the said Act, as the case may be, confirming demand for wrong availment of input tax credit, on account of contravention of provisions of sub-section (4) of section 16 of the said Act, but where such input tax credit is now available as per the provisions of sub-section (5) or sub-section (6) of section 16 of the said Act, and where appeal against the said order has not been filed till the date of issuance of this notification, electronically on the common portal, before the authority who has issued such order, within a period of six months from the date of issuance of this notification.

3. The said person shall upload along with the said application, the information in the proforma in **Annexure A** of this notification.

4. The authority carrying out such rectification shall take a decision on the said application and issue the order within a period of three months from the date of the said application, as far as possible.

5. In case where any rectification is required to be made in the order referred to in para 1, the said authority shall also upload a summary of the rectified order electronically in FORM GST DRC-08, in cases where rectification of an order issued under section 73 or section 74 of the said Act is being made, and in FORM GST APL-04, in cases where rectification of an order issued under section 107 or section 108 of the said Act is being made. The rectification is required to be made only in respect of demand of such input tax credit which has been alleged to be wrongly availed in contravention of provisions of sub-section (4) of section 16 of the said Act, but where such input tax credit is now available as per the provisions of sub-section (5) or sub-section (6) of section 16 of the said Act.

6. Where the rectification adversely affects the said person, the principles of natural justice shall be followed by the authority carrying out such rectification.

[F. No. CBIC-20001/10/2023-GST]

(Raghavendra Pal Singh)  
Director

## Annexure A

Proforma to be uploaded by the taxable person along with the application for rectification of order under **Notification No. XX/2024-GST dated XX, XX, 2024**

### 1. Basic Details:

- a. GSTIN:
- b. Legal Name:
- c. Trade Name, if any:
- d. Order in respect of which rectification application has been filed:
  - 1) Order Reference Number:
  - 2) Order Date:

### 2. Details of demand confirmed in the said order:

(Amount in Rs.)

Sr. No.	Financial Year	IGST	CGST	SGST	CESS	Total Tax including Cess	Interest	Penalty
	2	3	4	5	6	7	8	9
	2017-18							
	2018-19							
	2019-20							
	2020-21							
	2021-22							
	2022-23							
	<b>Total</b>							

### 3. Out of the amount mentioned in the Table in Sr. No. 2 above:

- a. the details of the demand confirmed in the said order, of the input tax credit wrongly availed on account of contravention of sub-section (4) of section 16, which is now eligible as per sub-section (5) of section 16:

(Amount in Rs.)

Sr. No.	Financial Year	IGST	CGST	SGST	CESS	Total Tax including Cess	Interest	Penalty

1	2	3	4	5	6	7	8	9
	2017-18							
	2018-19							
	2019-20							
	2020-21							
	<b>Total</b>							

and/or

- b. the details of the demand confirmed in the said order of the input tax credit wrongly availed on account of contravention of sub-section (4) of section 16, other than that mentioned in (a) above, which is now eligible as per sub-section (6) of section 16:

(Amount in Rs.)

Sr. No.	Financial Year	IGST	CGS T	SGST	CES S	Total Tax including Cess	Interest	Penalty
1	2	3	4	5	6	7	8	9
	2017-18							
	2018-19							
	2019-20							
	2020-21							
	2021-22							
	2022-23							
	<b>Total</b>							

4

**Declaration:**

1. I undertake that, no appeal under section 107 is pending against the order against which this rectification application is filed.
2. I declare that all information provided by me is accurate and truthful. I understand that any incorrect declaration or suppression of facts will render this application void and may lead to recovery proceedings for the outstanding dues along with applicable interest and penalties.

5

**Verification:**

I \_\_\_\_\_ (name of the authorized signatory), hereby declare that the information provided above is true and correct to the best of my knowledge and belief. I understand that any incorrect declaration or suppression of facts will render my application void.

Signature of authorized signatory

Name/Designation

Email address

Mobile No.

**Circular No. /10/2024-GST**

**F. No. CBIC-20001/3/2024-GST**

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

New Delhi, Dated the , 2024

To,

All the Principal Chief Commissioners/ Chief Commissioners/ Principal Commissioners/  
Commissioners of Central Tax  
All the Principal Directors General/ Directors General

Madam/Sir,

**Subject: Clarifying the issues regarding implementation of provisions of sub-section (5) and sub-section (6) in section 16 of CGST Act -reg.**

Reference is invited to sub-section (5) and sub-section (6) of section 16 of the Central Goods & Services Tax Act, 2017 (herein after referred to as the “CGST Act”) inserted in section 16 of the CGST Act , with effect from the 1st day of July, 2017, vide section 118 of the Finance (No. 2) Act, 2024, whereby the time limit to avail input tax credit under provisions of sub-section (4) of section 16 of CGST Act has been retrospectively extended in certain specified cases.

**1.2** Sub-section (4), sub-section (5) and sub-section (6) of section 16 of the CGST Act are reproduced below for ready reference:

*(4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the thirtieth day of November following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier.*

*Provided that the registered person shall be entitled to take input tax credit after the due date of furnishing of the return under section 39 for the month of September, 2018 till the due date of furnishing of the return under the said section for the month of March, 2019 in respect of any invoice or invoice relating to such debit note for supply of goods or services or both made during the financial year 2017-18, the details of which have been uploaded by the supplier under sub section (1) of section 37 till the due date for furnishing the details under sub-section (1) of said section for the month of March, 2019.*

*(5) Notwithstanding anything contained in sub-section (4), in respect of an invoice or debit note for supply of goods or services or both pertaining to the Financial Years 2017 18, 2018-19, 2019-20 and 2020-21, the registered person shall be entitled to take input tax credit in any return under section 39 which is filed upto the thirtieth day of November, 2021.*

*(6) Where registration of a registered person is cancelled under section 29 and subsequently the cancellation of registration is revoked by any order, either under section 30 or pursuant to any order made by the Appellate Authority or the Appellate Tribunal or court and where availment of input tax credit in respect of an invoice or debit note was not restricted under sub-section (4) on the date of order of cancellation of registration, the said person shall be entitled to take the input tax credit in respect of such invoice or debit note for supply of goods or services or both, in a return under section 39,—*

*(i) filed upto thirtieth day of November following the financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier; or*

*(ii) for the period from the date of cancellation of registration or the effective date of cancellation of registration, as the case may be, till the date of order of revocation of cancellation of registration, where such return is filed within thirty days from the date of order of revocation of cancellation of registration,*

*whichever is later.*

**1.3** Further, it has been provided in section 150 of the Finance (No. 2) Act, 2024 (reproduced below), that no refund of any tax paid or the input tax credit reversed shall be granted on account of the said retrospective insertion of sub-section (5) and sub-section (6) of section 16 of the CGST Act.

*150. No refund shall be made of all the tax paid or the input tax credit reversed, which would not have been so paid, or not reversed, had section 118 been in force at all material times.*

**1.4** Besides, vide **Notification No. XX/2024-GST dated XX, XX, 2024**, a special procedure for rectification of orders has been notified under section 148 of the CGST Act, to be followed by the class of taxable persons, against whom orders under section 73 or section 74 or section 107 or section 108 of the CGST Act have been issued confirming demand for wrong availment of input tax credit on account of contravention of provisions of sub-section (4) of section 16 of the CGST Act, but where such input tax credit is now available as per the provisions of sub-section (5) or sub-section (6) of section 16 of the CGST Act, and where appeal against the said order has not been filed till the date of issuance of this notification.

**1.5** Representations have been received from trade and industry requesting for clarification in respect of various issues pertaining to availment of benefit of the said amendments in section 16 of CGST Act to the taxpayers against whom demands have been issued alleging wrong availment of input tax credit in contravention of provisions of sub-section (4) of section 16 of CGST Act, who are now entitled to avail the said input tax credit as per the retrospectively inserted provisions of sub-section (5) or sub-section (6) of section 16 of the CGST Act.

**2.** In order to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby clarifies the issues as below.

3. The following action may be taken by the tax authorities and/ or the taxpayers in various scenarios for availment of benefit on account of retrospectively inserted provisions of sub-section (5) or sub-section (6) of section 16 of the CGST Act:

**3.1 Where no demand notice/statement has been issued under section 73 or section 74 of the CGST Act:**

In cases, where any investigation/proceedings in respect of wrong availment of input tax credit alleging contravention of provisions of sub-section (4) of section 16 of the CGST Act has been initiated, but no demand notice/statement under section 73 or section 74 of the said Act has been issued, and taxpayers are now entitled to avail the said input tax credit under the provisions of sub-section (5) or sub-section (6) of section 16 of the CGST Act, the proper office shall take cognizance of the sub-section (5) or sub-section (6) of section 16 of CGST Act, inserted retrospectively with effect from 01.07.2017 and take further appropriate action. This also includes the cases where an intimation in FORM DRC-01A has been issued under rule 142(1A) of the CGST Rules for denial of input tax credit on account of contravention of sub-section (4) of section 16 of the said Act, but no demand notice/statement under section 73 or section 74 of the said Act has been issued.

**3.2 Where demand notice/ statement under section 73 or section 74 of CGST Act has been issued but no order under section 73 or section 74 of CGST Act has been issued by the Adjudicating Authority:**

In such cases, the Adjudicating Authority shall take cognizance of sub-section (5) or sub-section (6) of section 16 of the CGST Act, inserted retrospectively with effect from 01.07.2017, and pass appropriate order under section 73 or section 74 of the CGST Act.

**3.3 Where order under section 73 or section 74 of the CGST Act has been issued and appeal has been filed under section 107 of the CGST Act with the Appellate Authority but no order under section 107 of the CGST Act has been issued by the Appellate Authority:**

In such cases, the Appellate Authority shall take cognizance of sub-section (5) or sub-section (6) of section 16 of the CGST Act, inserted retrospectively with effect from 01.07.2017, and pass appropriate order under section 107 of the CGST Act.

**3.4 Where order under section 73 or section 74 of the CGST Act has been issued and Revisional Authority has initiated proceedings under section 108 of the CGST Act, but no order under section 108 of the CGST Act has been issued by the Revisional Authority:**

In such cases, the Revisional Authority shall take cognizance of sub-section (5) or sub-section (6) of section 16 of the CGST Act, inserted retrospectively with effect from 01.07.2017, and pass appropriate order under section 108 of the CGST Act.

**3.5 Where order under section 73 or section 74 of the CGST Act has been issued but no appeal against the said order has been filed with the Appellate Authority, or where the order under section 107 or section 108 of the CGST Act has been issued by the Appellate Authority or the Revisional Authority but no appeal against the said order has been filed with the Appellate Tribunal:**

In such cases, where any order under section 73 or section 74 or section 107 or section 108 of the CGST Act has been issued confirming demand for wrong availment of input tax credit on account of contravention of provisions of sub-section (4) of section 16 of the CGST Act, but where such input tax credit is now available as per the provisions of sub-section (5) or sub-section (6) of

section 16 of the CGST Act, and where appeal against the said order has not been filed, the concerned taxpayer may apply for rectification of such order under the special procedure under section 148 of the CGST Act notified vide Notification No. XX/2024-GST dated XX, XX, 2024 , within a period of six months from the date of issuance of the said notification.

**3.5.1** The taxpayers can file an application for rectification electronically, after login to [www.gst.gov.in](http://www.gst.gov.in) , using their credentials, by navigating as below in various cases:

a. In case where an application for rectification of an order issued under section 73 or section 74 of the CGST Act is to be filed:

- i. Click **Dashboard > Services > User Services > My Applications**.
- ii. Select "Application for rectification of order" in the **Application Type** field. Then, click the **NEW APPLICATION** button.

b. In case where an application for rectification of an order issued under section 107 of the CGST Act is to be filed:

- i. Click **Dashboard > Services > User Services > View Additional Notices/Orders**
- ii. Additional Notices and Orders page is displayed. Click the **View** hyperlink to go to the Case Details screen of the issued Notice/Order.
- iii. **Case Details** page is displayed. The **APPLICATIONS** tab is selected by default. Select the **ORDERS** tab and click the "Initiate Rectification" link.

c. In case where an application for rectification of an order issued under section 108 of the CGST Act is to be filed:

- i. Click **Dashboard > Services > User Services > View Additional Notices/Orders**
- ii. **Additional Notices and Orders** page is displayed. Click the **View** hyperlink to go to the Case Details screen of the issued Notice/Order.
- iii. **Case Details** page is displayed. The **NOTICES** tab is selected by default. To submit Rectification Request against the Revision Order issued to you by the Revisional Authority, select the **ORDERS** tab and click the "Initiate Rectification" link.

**3.5.2** While filing such application for rectification of order, the taxpayer shall upload along with the application for rectification of order, the information in the proforma in **Annexure A** of the said notification, containing inter-alia the details of the demand confirmed in the said order of the input tax credit wrongly availed on account of contravention of sub-section (4) of section 16 of the CGST Act, which is now eligible as per sub-section (5) and/or sub-section (6) of section 16 of the CGST Act.

**3.5.3** Such application for rectification shall be dealt by the proper officer who had passed the order for which the said rectification application has been filed. The said officer shall take a decision on the said application for rectification and issue the order within a period of three months from the date of such application, as far as possible. Besides, in case where any rectification is being

made by the proper officer in the order for which the rectification application has been filed, he shall also upload a summary of the rectified order electronically in FORM DRC-08 in cases where rectification of an order issued under section 73 or section 74 of the CGST Act is being made, and in FORM GST APL-04, in cases where rectification of an order issued under section 107 or section 108 of the said Act is being made. While taking a decision on such application for rectification filed under the said special procedure, the proper officer shall also consider other grounds, if any, for denial of input tax credit, other than contravention of sub-section (4) of section 16 of the CGST Act, invoked in the concerned notice issued under section 73 or section 74, as applicable, in respect of the said amount of input tax credit.

**3.5.4** Where the rectification adversely affects the said person, the principles of natural justice shall be followed by the said proper officer.

**3.5.5** Further, it is to be noted that in cases where any rectification has been made by the proper officer in the order for which the rectification application has been filed, an appeal against such rectified order can be filed under the provisions of section 107 or section 112 of the CGST Act, as the case may be, within the time limit specified therein.

4. It is pertinent to note that in terms of section 150 of the Finance (No. 2) Act, 2024, no refund of tax already paid or input tax credit already reversed would be available, where such tax has been paid or input tax credit has been reversed on account of contravention of provisions of sub-section (4) of section 16 of the CGST Act, and where such input tax credit is now available as per the provisions of sub-section (5) or sub-section (6) of section 16 of the CGST Act.
5. It is to be noted that the rectification application of an order issued under section 73 or section 74 or section 107 or section 108 of the CGST Act, can be filed under the special procedure notified vide **Notification No. XX/2024-GST dated XX, XX, 2024**, within a period of six months from the date of issuance of the said notification, only in cases where the issue or one of the issues on which the demand has been confirmed in the said order, pertains to wrong availment of input tax credit on account of contravention of provisions of sub-section (4) of section 16 of the CGST Act, and where such input tax credit is now available as per the provisions of sub-section (5) or sub-section (6) of section 16 of the CGST Act. In cases where no such issue is involved and a taxpayer requires to file an application of rectification of an order, such rectification application can be filed by the taxpayers only under the provisions of section 161 of the CGST Act, within the time limit specified therein. In case a taxpayer has filed an application for rectification of an order under the special procedure notified vide **Notification No. XX/2024-GST dated XX, XX, 2024**, but where it is found that the issues in the said order do not involve any issue of wrong availment of input tax credit on account of contravention of provisions of sub-section (4) of section 16 of the CGST Act, and where such input tax credit is now available as per the provisions of sub-section (5) or sub-section (6) of section 16 of the CGST Act, such an application would be summarily rejected by the proper officer with a remark that, *“The rectification application is rejected as it is found that the same is not covered under the **Notification No. XX/2024-GST dated XX, XX, 2024**, as no such issue is involved in the said order pertaining to wrong availment of input tax credit on account of contravention of provisions of sub-section (4) of section 16 of the CGST Act, and where such input tax credit is now available as per the provisions of sub-section (5) or sub-section (6) of section 16 of the CGST Act”*.

6. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.
7. Difficulty, if any, in the implementation of this Circular may be brought to the notice of the Board. Hindi version would follow.

Sanjay Mangal  
Pr. Commissioner (GST)

**Agenda Item 3(vi): Clarification on place of supply of data hosting services provided by service providers located in India to cloud computing service providers located outside India.**

Representations have been received from the trade and industry seeking clarification on the place of supply of data hosting services provided by service providers located in India to clients (cloud computing service providers) located outside India.

**2. Background**

2.1 The cloud computing ecosystem generally comprises of three major stakeholders:

- i. Data hosting service providers
- ii. Cloud computing service providers
- iii. Subscribers or end users of cloud computing service

2.2 Data hosting service provider provides data hosting services on stable and accessible web platform through computing and networking equipment for the purpose of collecting, storing, processing, distributing, or allowing access to large amounts of data. **Cloud computing service providers** provide cloud-based applications and software services to various clients/end users for data storage, analytics, artificial intelligence, machine learning, processing, database analysis and deployment services for increasing organization efficiency and lowering IT and operating costs. The end users access these services seamlessly over the internet through technology hosted on data centers operated by data hosting service providers. The end users may include individuals using cloud gaming, small businesses hosting websites, and large enterprises performing complex analytics.

2.3 The transactions between these stakeholders include the following scenarios:

2.3.1 Cloud computing companies **engage** data hosting service providers in various countries to avail data hosting services so as to provide supply of cloud computing services globally. Many large cloud computing companies have their dedicated data centres across the globe depending upon the customer base. However, smaller cloud computing companies, who cannot afford to build and operate data centre, may engage some data hosting service providers in various countries depending upon the customer base.

2.3.2 Data hosting service providers may either own premises for data centre or operate data centre on leased premises; procure hardware, uninterrupted power supplies, backup generators, ventilation and cooling equipment, network connectivity, fire suppression systems, security, human resource, etc.; handle operations like server monitoring, IT management; and equipment maintenance including repairs and replacements of the same for providing data hosting services to their clients. Data hosting service providers charge their clients for their services factoring in all the expenses made by them while providing the data hosting services. The charges may vary from fixed rates to usage-based charges to mixed charges, depending on the specific services and agreements in place between them which is the consideration paid by the clients to the data hosting service providers for data hosting services. Where the said service is being provided by data hosting service provider to the cloud computing service providers located outside India, the same is being considered by data hosting service providers as export of the services and refund on the same is being claimed by them.

2.3.3 Overseas cloud computing service providers provide cloud-based applications using the IT infrastructure in data centres to provide the cloud computing services to the end users. In cases, where

cloud computing services are being provided by overseas cloud computing service providers directly to unregistered end-users/customers/subscribers based in India, the same is subject to GST at the hand of the overseas cloud computing service providers after getting registered as OIDAR service provider in India. However, where the overseas cloud computing service providers are providing cloud computing services to a registered person in India, such registered person in India is required to pay GST on the same as import of services on reverse charge basis. Besides in some cases, the cloud computing service providers may engage resellers in various countries, including in India, to supply their cloud computing services to end users/consumers across the globe. Such resellers in India, who receive cloud computing services from overseas cloud computing service providers for further supply, are required to pay GST on such import of services on reverse charge basis.

3. It has been represented by the trade that some field formations are of the view that the place of supply of data hosting service provided by the service providers located in India to cloud computing service providers located outside India is the location of data hosting service provider in India and therefore, the benefit of export of services is not available on such supply of data hosting services. The following reasons are being cited by the said field formations:

**(a) Data hosting services are “intermediary services”**

Some of the field formations are taking the view that the data hosting service is ‘intermediary service’ and the place of supply of the same is to be determined in terms of Section 13(8)(b) of Integrated Goods and Services Tax Act, 2017 (“IGST Act”) i.e. location of data hosting service provider situated in India, on the following grounds:

- i. Data hosting service provider in India are agents/ brokers who facilitate supply of goods or service between cloud computing service providers and their customer (end subscribers).
- ii. Data hosting services are being provided on behalf of cloud computing services provider to other entities.
- iii. Profit/markup on the expenses, including that on hardware infrastructure, made by data hosting service providers, which are being included by them in their charges from the overseas cloud computing service providers, are to be treated as commission income.

**(b) Services are provided in relation to goods “made available” by recipient of service**

Some other field formations are of the view that in cases where data hosting service provider procures some hardware infrastructure to cater to the requirements of the overseas cloud computing service providers and includes these expenses in their service charges which are paid by the overseas cloud computing service providers as consideration, such hardware will be considered as owned by the overseas cloud computing service providers and being made physically available by the overseas cloud computing service providers to the data hosting service provider in order to provide services. Accordingly, it is being claimed that since the data hosting services are actually performed on the hardware which are physically made available by the overseas cloud computing service providers to the data hosting service provider, the place of supply, in this case, is to be determined as per Section 13(3)(a) of IGST Act and therefore, will be the location of data hosting service provider in India.

**(c) Services are provided in relation to “immovable property”**

Some field formations are taking the view that the said services are covered under Section 13(4) of the IGST Act as service is being provided in relation to an immovable property and therefore, the place of supply of the said services is the location of the immovable property i.e. the location of Data Centre of the data hosting service provider situated in India.

#### **4. Relevant legal provisions:**

4.1 Section 2(6) of the IGST Act lays down the conditions that need to be fulfilled to qualify as export of services, which is reproduced below for reference:

*“export of services” means the supply of any service when, –*

*(i) the supplier of service is located in India;*

*(ii) the recipient of service is located outside India;*

*(iii) the place of supply of service is outside India;*

*(iv) **the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India;***  
*and*

*(v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8”*

4.2 Section 2(13) of IGST Act defines ‘intermediary’ as below:

*“Intermediary means a broker, an agent or any other person by whatever name called, **who arranges or facilitates** the supply of goods or services or both or securities between two or more persons **but does not include a person who supplies such goods or services or both or securities on his own account**”.*

4.3 Section 13 of the IGST Act provides for the determination of the Place of supply of services where location of supplier or location of recipient is outside India.

4.4 According to Section 13(2) of the IGST Act,

*“the place of supply of services except the services specified in sub-sections (3) to (13) shall be the location of the recipient of services.”*

Proviso to the said sub-section reads as under:

*“Provided that where the location of the recipient of services is not available in the ordinary course of business, the place of supply shall be the location of the supplier of services.”*

4.5 Section 13(3) of IGST Act provides that the place of supply will be location where the services are actually performed. The section reads as under:

*“(3) The place of supply of the following services shall be the location where the services are actually performed, namely:-*

*(a) services supplied in respect of goods which are required to be made physically available by the recipient of services to the supplier of services, or to a person acting on behalf of the supplier of services in order to provide the services:*

***Provided** that when such services are provided from a remote location by way of electronic means, the place of supply shall be the location where goods are situated at the time of supply of services:*

*Provided further that nothing contained in this clause shall apply in the case of services supplied in respect of goods which are temporarily imported into India for repairs or for any other treatment or process and are exported after such repairs or treatment or process without being put to any use in India, other than that which is required for such repairs or treatment or process;*

4.7 Section 13(4) of IGST Act provides for place of supply where services supplied are directly in relation to immovable property. The same reads as under:

“13. (1) ....

(2) ....

(3) ....

(4) *The place of supply of services supplied directly **in relation to an immovable property**, including services supplied in this regard by experts and estate agents, supply of accommodation by a hotel, inn, guest house, club or campsite, by whatever name called, grant of rights to use immovable property, services for carrying out or co-ordination of construction work, including that of architects or interior decorators, shall be the place where the immovable property is located or intended to be located.”*

4.8 Section 13(8)(b) of the IGST Act provides a legal presumption regarding the place of supply for intermediary services which reads as below:

“13(8) The place of supply of the following services shall be the location of the supplier of services, namely:—

(a) .....;

(b) intermediary services;

(c) ..... ”

## 5. **Examination of the issue**

The issue has been examined in light of the relevant legal provisions and it has been observed that there are three issues that need to be clarified:

- i. Whether data hosting service provider qualifies as ‘Intermediary’ between the cloud computing service provider and their end customers/users/subscribers as per Section 2(13) of the IGST Act and whether the services provided by data hosting service provider to cloud computing service providers are covered as intermediary services and the place of supply of the same is to be determined as per section 13(8)(b) of IGST Act.
- ii. Whether the Data Hosting services are provided in relation to goods “made available” by recipient of services to service provider for supply of such services and the place of supply of the same is to be determined as per section 13(3)(a) of the IGST Act.
- iii. Whether the Data Hosting services are provided directly in relation to “immovable property” and the place of supply of the same is to be determined as per section 13(4) of the IGST Act.

5.1 **Issue (i) - Whether data hosting service provider qualifies as ‘Intermediary’ between the cloud computing service provider and their end customers/users/subscribers as per Section 2(13) of the IGST Act and whether the services provided by data hosting service provider to cloud computing service providers are covered as intermediary services and the place of supply of the same is to be determined as per section 13(8)(b) of IGST Act.**

5.1.1 Section 2(13) of the IGST Act defines ‘intermediary’ as a broker, an agent or any other person by whatever name called who **arranges or facilitates** the supply of goods or services or both or securities between two or more persons but **does not include** a person who supplies such goods or services or both or securities **on his own account”**.

5.1.2 Further, the scope of intermediary services has been clarified in Circular No. 159/15/2021-GST dated 20.09.2021. In the said circular, basic prerequisites for intermediary services have been clarified as below:

- i. It requires minimum three parties. Therefore, an activity between only two parties cannot be considered as an intermediary service. **An intermediary essentially “arranges or facilitates” another supply (the “main supply”) between two or more other persons and, does not himself provide the main supply.**
- ii. There have to be two distinct supplies between the principals and between the agent (intermediary) and the principal.
- iii. Intermediary service provider to have the character of an agent, broker or any other similar person.
- iv. It does not include a person who supplies such goods or services or both on his own account.

5.1.3 As mentioned above in paras 2.3.1 and 2.3.2, the overseas cloud computing service providers enter into contract with data hosting service providers in India to use their data centres for hosting cloud computing services. Data hosting service provider is an independent entity who either owns premises for data centre or operates data centre on leased premises, procures infrastructure and human resource, handles operations like infrastructure monitoring, IT management and equipment maintenance, etc. to provide the said **supply of data hosting services** to the overseas cloud computing service providers. The data hosting service provider handles all aspects of data centre like rent, software and hardware infrastructure, power, net connectivity, security, human resource, etc. Importantly, the data hosting service providers do not deal with end users/consumers of cloud computing services and may not even know about the end users.

5.1.4 Thus, from the above, it is observed that in the instant scenario, data hosting service provider provides data hosting services to overseas cloud computing service provider on a web platform through computing and networking equipment for the purpose of collecting, storing, processing, distributing, or allowing access to large amounts of data. The cloud computing service provider provides cloud-based applications and software services to various end users/customers/subscribers for data storage, analytics, artificial intelligence, machine learning, processing, database analysis and deployment services, etc. The end users/customers/subscribers access this cloud computing services seamlessly over the internet through technology hosted on data centers. There appears no contact between data hosting service provider and the end users/ consumers/ subscribers of the cloud computing service provider. Thus, it is observed that the data hosting service provider provides data hosting services to the cloud computing service providers on principal-to-principal basis on his own account and is not acting as a broker or agent for facilitating supply of service between cloud computing service providers and their end users/consumers.

5.1.5 Accordingly, in such a scenario, data hosting service provider cannot be considered as intermediary under section 2(13) of the IGST Act and hence, the place of supply of the data hosting services cannot be determined as per section 13(8)(b) of IGST Act.

**5.2 Issue (ii) Whether the Data Hosting services are provided in relation to goods “made available” by recipient of services to service provider for supply of such services and the place of supply of the same is to be determined as per section 13(3)(a) of the IGST Act, 2017.**

5.2.1 Section 13(3)(a) of the IGST Act provides that in cases where the services are supplied in respect of goods which are made physically available by the recipient of services to service provider, the place of supply will be location of service provider.

5.2.2 It is being claimed by some field formations that data hosting service providers procure hardware or equipment for data centre and expenses of the same are included in their service charges which are paid by the cloud computing service providers and therefore, such hardware is to be considered as owned by the said cloud computing service providers. Further, it is also being claimed that the same is to be considered as made physically available to the data hosting service providers so that they can provide the data hosting services and hence, the said services shall be considered to be supplied in respect of goods which are made physically available by the recipient of services to service provider, and therefore, the place of supply of the same needs to be determined under section 13(3)(a) of the IGST Act.

5.2.3 In the instant scenario, it is observed that for providing seamless data hosting services to the overseas cloud computing service providers, the data hosting service provider, as an independent entity, is providing services through the premises, hardware and personnel at the data centre which not only comprises of hardware but also other essential infrastructure (without which the hardware infrastructure cannot be utilized) like ventilation and cooling system, uninterrupted power supply, software, network connectivity, security protocols, etc. which are owned by the data hosting service providers and are independently, handled, operated, monitored and maintained by them. These data hosting service providers are charging their clients (cloud computing service providers), the charges for the services being provided by them to these clients as consideration depending on the specific terms and conditions as per agreements between them. From the above, it is observed that throughout the provision of the said services, the data hosting service provider owns premises for data center or operates data center on leased premises, independently handles, monitors and maintains the premises, hardware and software infrastructure, personnel and in such scenario, the overseas cloud computing service providers cannot be considered to own the said infrastructure and make the same physically available to the data hosting service provider for supply of the said services

5.2.4 In view of above, in the instant scenario, data hosting services provided by data hosting service provider to the said cloud computing service providers cannot be considered in relation to the goods “made available” by the said cloud computing service providers to the data hosting service provider in India and hence, the place of supply of the same cannot be determined under section 13(3)(a) of the IGST Act.

5.2.5 There may be some cases where some of the hardware required for data hosting service is provided by the recipient of the service, i.e., the cloud computing service provider to the data hosting service provider. Even in these cases, data hosting service provider handles all aspects of data centre, like arranging for the premises, making available software and other hardware infrastructure, power, net connectivity, security, human resource, maintenance etc., for providing data hosting services to the cloud computing service provider. Accordingly, in such cases, though the data hosting services is being provided by the data hosting service provider *inter-alia* using the hardware made available by the cloud computing service provider, it cannot be said that data hosting service are being provided in

relation to the said goods made available by the cloud computing service provider to them. Accordingly, even in these cases, place of supply cannot be determined under section 13(3)(a) of the IGST Act.

### **5.3 Issue (iii) Whether the Data Hosting services are provided directly in relation to “immovable property” and the place of supply of the same is to be determined as per section 13(4) of the IGST Act.**

5.3.1 Section 13(4) of the IGST Act provides for the place of supply where services supplied are **directly in relation to immovable property**. Some field formations are of the view that the data hosting services are provided through the data center which is located at an immovable property and accordingly, this service of making available the infrastructure located in an immovable property for providing data hosting services needs to be considered as the services provided directly in relation to immovable property and accordingly, the place of supply of the same needs to be determined as per section 13(4) of the IGST Act i.e. the location of immovable property in India.

5.3.2 In the present scenario, as detailed in para 2.3.2 above, the data hosting service providers either use owned or leased premises for keeping IT infrastructure and other hardware required for providing data hosting services. They also procure hardware, uninterrupted power supplies, backup generators, ventilation and cooling equipment, network connectivity, fire suppression systems, security, human resource, etc.; handle operations like server monitoring, IT management; and equipment maintenance including repairs and replacements of the same for providing data hosting services to their clients.

5.3.3 Thus, it is observed that data hosting services are not passive supply of a service directly in respect of immovable property but are regarding supply of a comprehensive service related to data hosting which involves the supply of various services by the data hosting service provider like operating data centre; ensuring uninterrupted power supplies, backup generators, network connectivity, backup facility, firewall services, and monitoring and surveillance service for ensuring continuous operations of the servers and related hardware, etc. which are essential for cloud computing service provider to provide cloud computing services to end users/customer/subscribers.

5.3.4 In view of the above, the data hosting services cannot be considered as services provided directly in relation to immovable property or physical premises and hence, the place of supply of such services cannot be determined under section 13(4) of IGST Act.

6 Accordingly, it is also observed that in the cases mentioned above, the place of supply for the data hosting services provided by the data hosting service provider in India to overseas cloud computing service providers does not fit into any specific provisions outlined in sections 13(3) to 13(13) of the IGST Act. Therefore, according to the default provision under section 13(2) of the IGST Act, the place of supply is determined to be the location of the recipient of the services. Where the cloud computing service providers receiving the data hosting services are located outside India, the place of supply is considered to be outside India according to section 13(2) of the IGST Act.

7. Accordingly, supply of data hosting services being provided by data hosting service provider located in India to an overseas cloud computing entity can be considered as export of services, subject to the fulfilment of the other conditions mentioned in section 2(6) of IGST Act.

8. Law Committee in its meeting held on 29.08.2024 deliberated on the issue and recommended issuance of a circular on the above lines. The draft circular as recommended by the Law Committee is enclosed as **Annexure-A with this agenda.**

9. Accordingly, the agenda is placed before the GST Council for approval.

Circular No. XXX/XX/-GST

**F.No. CBIC-xxxx/xx/2024-GST**  
**Government of India Ministry of Finance**  
**Department of Revenue**  
**Central Board of Indirect Taxes and Customs**  
**GST Policy Wing**

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New Delhi, dated the XXth XXX, 2024

To,  
The Principal Chief Commissioners/ Chief Commissioners/  
Principal Commissioners/ Commissioners of Central Tax (All),  
The Principal Directors General/ Directors General (All).

Madam/Sir,

**Subject: Clarification on place of supply of Data Hosting services provided by service providers located in India to cloud computing service providers located outside India-reg.**

Representations have been received from the trade and industry seeking clarification on the Place of Supply in case of Data Hosting services provided by service providers located in India to cloud computing service providers located outside India.

**2. Issue**

2.1 It has been represented that some field formations are of the view that the place of supply of data hosting services provided by the service providers located in India to cloud computing service providers located outside India is the location of data hosting service provider in India and therefore, the benefit of export of services is not available on such supply of data hosting services.

2.2 Thus, clarification has been sought in respect of the following issues-

(i) Whether data hosting service provider qualifies as 'Intermediary' between the cloud computing service provider and their end customers/users/subscribers as per Section 2(13) of the Integrated Goods and Services Tax Act, 2017 (herein after referred to as the "IGST Act") and whether the services provided by data hosting service provider to cloud computing service providers its clients are covered as intermediary services and the place of supply of the same is to be determined as per section 13(8)(b) of IGST Act.

(ii) Whether the Data Hosting services are provided in relation to goods "made available" by recipient of services to service provider for supply of such services and the place of supply of the same is to be determined as per section 13(3)(a) of the IGST Act.

(iii) Whether the Data Hosting services are provided directly in relation to "immovable property" and the place of supply of the same is to be determined as per section 13(4) of the IGST Act.

**3. Clarification**

**3.1 Whether data hosting service provider qualifies as ‘Intermediary’ between the cloud computing service provider and their end customers/users/subscribers as per Section 2(13) of the IGST Act and whether the services provided by data hosting service provider to cloud computing service providers are covered as intermediary services and the place of supply of the same is to be determined as per section 13(8)(b) of IGST Act.**

3.1.1 As per section 2(13) of the IGST Act, read with Circular no. 159/15/2021-GST dated 20.09.2021, a broker, agent or any other person who arranges or facilitates the main supply of goods or services or both or securities and has not involved himself in the main supply on his own account is considered as ‘intermediary’. Persons who supply goods or services, or both on their own account are not covered in the definition of “intermediary”.

3.1.2 The cloud computing service providers generally enter into contract with data hosting service providers to use their data centres for hosting cloud computing services. Data hosting service provider either owns premises for data centre or operates data centre on leased premises, procures infrastructure and human resource, handles operations like infrastructure monitoring, IT management and equipment maintenance, etc. to provide the said **supply of data hosting services** to the cloud computing service providers. The data hosting service provider generally handles all aspects of data centre like rent, software and hardware infrastructure, power, net connectivity, security, human resource, etc. Importantly, the data hosting service providers do not deal with end users/consumers of cloud computing services and may not even know about the end users.

3.1.3 It is observed that data hosting service provider provides data hosting services to the cloud computing service provider on a web platform through computing and networking equipment for the purpose of collecting, storing, processing, distributing, or allowing access to large amounts of data. The cloud computing service provider provides cloud-based applications and software services to various end users/customers/subscribers for data storage, analytics, artificial intelligence, machine learning, processing, database analysis and deployment services, etc.. The end users/customers/subscribers access cloud computing services seamlessly over the internet through technology hosted on data centers. There appears to be no contact between data hosting service provider and the end users/ consumers/ subscribers of the overseas cloud computing service provider. Thus, it is observed that the data hosting service provider provides data hosting services to the cloud computing service provider on principal-to-principal basis on his own account and is not acting as a broker or agent for facilitating supply of service between cloud computing service providers and their end users/consumers.

3.1.4 Accordingly, it is clarified that in such a scenario, the services provided by data hosting service provider to its overseas cloud computing service providers cannot be considered as intermediary services and hence, the place of supply of the same cannot be determined as per section 13(8)(b) of IGST Act.

**3.2 ii) Whether the Data Hosting services are provided in relation to goods “made available” by recipient of services to service provider for supply of such services and the place of supply of the same is to be determined as per section 13(3)(a) of the IGST Act, 2017.**

3.2.1 Section 13(3)(a) of the IGST Act provides that in cases where the services are supplied in respect of goods which are made physically available by the recipient of services to service provider, the place of supply will be location of service provider.

3.2.2 In the instant scenario, it is observed that the data hosting service provider, as an independent entity, is providing seamless data hosting services to the overseas cloud computing service providers, through the premises, hardware and personnel at the data centre which not only comprises of hardware but also other essential infrastructure (without which the hardware infrastructure cannot be utilized) like ventilation and cooling system, uninterrupted power supply, software, network connectivity, security protocols, etc. which are owned by the data hosting service providers and are independently handled, operated, monitored and maintained by them. These data hosting service providers are charging their clients (cloud computing service providers), the charges for the services being provided by them to these clients as consideration depending on the specific terms and conditions as per agreements between them. From the above, it is observed that throughout the provision of the said services, the data hosting service provider owns premises for data center or operates data center on leased premises, independently handles, monitors and maintains the premises, hardware and software infrastructure, personnel and in such scenario, the overseas cloud computing service providers cannot be considered to own the said infrastructure and make the same physically available to the data hosting service provider for supply of the said services

3.2.3 In view of above, it is clarified that data hosting services provided by data hosting service provider to the said cloud computing service providers cannot be considered in relation to the goods “made available” by the said cloud computing service providers to the data hosting service provider in India and hence, the place of supply of the same cannot be determined under section 13(3)(a) of the IGST Act.

3.2.4 There may be some cases where some of the hardware required for data hosting service is provided by the recipient of the service, i.e., the cloud computing service provider to the data hosting service provider. Even in these cases, data hosting service provider handles all aspects of data centre, like arranging for the premises, making available software and other hardware infrastructure, power, net connectivity, security, human resource, maintenance etc., for providing data hosting services to the cloud computing service provider. Accordingly, in such cases, though the data hosting services is being provided by the data hosting service provider *inter-alia* using the hardware made available by the cloud computing service provider, it cannot be said that data hosting service are being provided in relation to the said goods made available by the cloud computing service provider to them. Accordingly, even in these cases, place of supply cannot be determined under section 13(3)(a) of the IGST Act..

**3.3 Whether the Data Hosting services are provided directly in relation to “immovable property” and the place of supply of the same is to be determined as per section 13(4) of the IGST Act.**

3.3.1 Section 13(4) of the IGST Act provides for the place of supply where services supplied are directly in relation to immovable property.

3.3.2 In the present scenario, it is observed that the data hosting service providers either use owned or leased premises for keeping IT infrastructure and other hardware required for providing data

hosting services. They also procure hardware, uninterrupted power supplies, backup generators, ventilation and cooling equipment, network connectivity, fire suppression systems, security, human resource, etc.; handle operations like server monitoring, IT management; and equipment maintenance including repairs and replacements of the same for providing data hosting services to their clients.

3.3.3 Thus, it is observed that data hosting services are not passive supply of a service directly in respect of immovable property but are regarding supply of a comprehensive service related to data hosting which involves the supply of various services by the data hosting service provider like operating data centre; ensuring uninterrupted power supplies, backup generators, network connectivity, backup facility, firewall services, and monitoring and surveillance service for ensuring continuous operations of the servers and related hardware, etc. which are essential for cloud computing service provider to provide cloud computing services to end users/customer/subscribers.

3.3.4 Accordingly, it is clarified in such a scenario, that the data hosting services cannot be considered as services provided directly in relation to immovable property or physical premises and hence, the place of supply of such services cannot be determined under section 13(4) of IGST Act.

4. Further, the place of supply for the data hosting services provided by data hosting service provider located in India to overseas cloud computing service providers does not appear to fit into any specific provisions outlined in sections 13(3) to 13(13) of the IGST Act. Therefore, the place of supply in such cases needs to be determined according to the default provision under section 13(2) of the IGST Act, i.e. the location of the recipient of the services. Where the cloud computing service provider receiving the data hosting services are located outside India, the place of supply will be considered to be outside India according to section 13(2) of the IGST Act.

5. Accordingly, supply of data hosting services being provided by a data hosting service provider located in India to an overseas cloud computing entity can be considered as export of services, subject to the fulfilment of the other conditions mentioned in section 2(6) of IGST Act.

6. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

7. Difficulty, if any, in the implementation of this Circular may be brought to the notice of the Board. Hindi version will follow.

(Sanjay Mangal)  
Principal Commissioner (GST)

**Agenda Item 4: Issues recommendations by the Fitment Committee for the consideration of the GST Council:**

This agenda item 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. Accordingly, Fitment Agenda for the 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**
- (b) Issues where no change has been proposed by the Fitment Committee in relation to goods - **Annexure- II**
- (c) Recommendations made by the Fitment Committee for making changes in GST rates or for issuing clarifications in relation to services - **Annexure- IV**
- (d) Issues where no change has been proposed by the Fitment Committee in relation to services - **Annexure-V**
- (e) Issue which has been proposed by the Fitment Committee for deferring in relation to services **Annexure-VI**
- (f) Agenda note on review of 51<sup>st</sup> GST Council's recommendation to amend GST laws to provide clarity on the taxation of supplies in casinos, horse racing and online gaming.

(a). Recommendations made by the Fitment Committee for making changes in GST rates or for issuing clarifications in relation to goods

Annexure-I

S. No.	Description of Goods /HSN	Present Rate	Requested Rate	Comments
1.	Roof mounted air conditioners for Railways [8415]	28%	Request for clarification on HSN classification for these goods to clear whether these goods fall under-  heading 8415 with 28% GST rate  <i>or</i>  8607 with 18% under GST applicable,  due to contrary AAR rulings.	<ul style="list-style-type: none"> <li>Goods falling under heading 8415 attract a GST rate of 28% vide S. No. 119 of Schedule IV of notification No. 01/2017-CT (Rate) dated 28.06.2017, which reads as:  <i>“Air-conditioning machines, comprising a motor driven fan and elements for changing the temperature and humidity, including those machines in which the humidity cannot be separately regulated.”</i></li> <li>Further, the goods falling under heading 8607 attract a GST rate of 18% vide S. No. 398G of Schedule III of notification No. 01/2017-CT (Rate) dated 28.06.2017, which reads as:  <i>“Parts of railway or tramway locomotives or rolling stock; such as Bogies, bissel-bogies, axles and wheels, and parts thereof”</i></li> <li>An excerpt from Note 2 of Chapter 86 is reproduced below:  <i>The expressions “parts” and “parts and accessories” do not apply to the following articles, whether or not they are identifiable as for the goods of this Section:</i>  .....  <i>(e) machines and apparatus of headings 8401 to 8479, or parts thereof, other than the radiators for the articles of this Section, articles of heading 8481 or 8482 or, provided they constitute integral parts of engines and motors, articles of heading 8483;</i></li> <li>It is clear that machines and apparatus of heading 8415, which include Air conditioning machines are excluded from the ambit of parts under chapter 86 based on the chapter note above.</li> <li>Further, an excerpt from Note 3 of Chapter 86 reads as below:  <i>References in Chapters 86 to 88 to “parts” or “accessories” do not apply to parts or accessories which are not suitable for use solely or principally with the articles of those Chapters. A part or</i></li> </ul>

S. No.	Description of Goods /HSN	Present Rate	Requested Rate	Comments
				<p><i>accessory which answers to a description in two or more of the headings of those Chapters is to be classified under that heading which corresponds to the principal use of that part of accessory.</i></p> <ul style="list-style-type: none"> <li>• However, from a conjoint reading of Note 2 and Note 3, it is clear that goods of heading 8401 to 8479 (including 8415 – Air Conditioning Machines) are excluded from the ambit of ‘parts’ covered under Chapter 86.</li> <li>• In addition, reference has also been made to the Supreme Court judgement in the Westinghouse Saxby case, where the Supreme Court has stated that ‘relays’ used in railway signalling equipment to be classified under 8608, the description of heading 8608 reads as follows: <p><i>Railway or tramway track fixtures and Fittings; mechanical (including electromechanical) signalling, safety or traffic Control equipment for railway, tramways, Roads, inland waterways, parking facilities, Port installation or air-fields; parts of the foregoing</i></p> </li> <li>• It is key to note that CBIC, after obtaining the opinion of the learned Additional Solicitor General, vide Instruction No. 01/2022-Customs dated 05.01.2022, has directed the field formations to conduct assessment based on HS explanatory note, the relevant section and chapter notes.</li> <li>• Further, vide Instruction No. 25/2022-Customs dated 03.10.2022, CBIC has reiterated Instruction No. 01/2022-Customs and stated the decision of Supreme Court in Westinghouse Saxby case would apply onto the goods in the facts and circumstances of the case.</li> <li>• In view of the above, Roof Mounted Package Unit (RMPU) Air Conditioning Machines for Railways would be classified under 8415 attracting a GST rate of 28%, and a clarification in this regard may be issued.</li> <li>• Fitment Committee after considering Note 2(e) to Section XVII of Customs Tariff Act, 1975 and General Explanatory Notes pertaining to HSN 8607 observed that there is no ambiguity in the classification. However, in order to make it explicitly clear recommended to issue a clarification that Roof Mounted Package Unit (RMPU) Air Conditioning Machines for Railways would be classified under HSN 8415 attracting a GST rate of 28 %.</li> </ul>

S. No.	Description of Goods /HSN	Present Rate	Requested Rate	Comments
2.	Car seat assembly [CTH 9401]	18%	Clarification is sought on the HSN code of Car seat assembly as to whether car seats are classifiable under CTH 9401 or 8708. The issue has arisen since some taxpayers are classifying under CTH 9401, which attracts 18% GST and some are classifying under CTH 8708, which attracts GST at 28%.	<ul style="list-style-type: none"> <li>• CTH 9401 covers ‘<i>Seats, whether or not convertible into beds, and parts thereof</i>’ (94012000 specifically covers seats of a kind used for motor vehicle). The explanatory note to this heading has also mentioned that seats for vehicles are covered under the ambit of CTH 9401</li> <li>• Further, the HSN-2022 Explanatory notes to Chapter 94 has a list of exclusions that are <b>not</b> to be classified under the said Chapter. This list of exclusions does not mention seats meant for vehicles. Thus, it is seen that car seat assemblies would fall under CTH 9401.</li> <li>• CTH 8708 covers ‘<i>Parts and accessories of motor vehicles of headings 8701 to 8705</i>’. Explanatory notes related to CTH 8708 have listed the parts and accessories that are to be covered under the said chapter. This list does not have mention of car seats.</li> <li>• In view of the above, car seat assemblies fall under CTH 9401 and consequently attract GST @ 18%.</li> <li>• With regards to seats for two wheelers. It is pertinent to note that the explanatory note to chapter 9401 has specifically excluded items under CTH 8714. And the explanatory note for chapter 8714 has a list of inclusions, which has mention of Saddles (seats). Thus, for two wheelers, the seats would be classifiable under CTH 8714 attracting GST rate of 28%.</li> <li>• To summarize, the seat assembly for 4 wheelers would fall under CTH 9401 and seats for 2-wheelers would fall under CTH 8714.</li> <li>• Fitment Committee observed that there is no ambiguity in the GST rate on car seats which are classifiable under 9401 attracting 18% and recommended to clarify the same. It is also recommended to prospectively prescribe a uniform rate of 28% for car seats of motor cars as it is leviable for seats of motorcycles by amending the notification for the sake of parity.</li> </ul>
3.	Extruded snack pellets (HS 1905)	18%	12% and clarification that extruded snack pellets in ready-to-eat form will attract 12% GST under HSN 210690 of entry	<ul style="list-style-type: none"> <li>• On the basis of the recommendation of the GST Council in its 48th meeting vide Circular No. 189/01/2023-GST, dated 13.01.2023, it has been clarified that the snack pellets (such as ‘fryums’), which are manufactured through the process of extrusion, are appropriately classifiable under tariff item 19059030 and thereby attract GST at the rate of 18% vide S. No. 16 of Schedule-III of notification No. 1/2017-Central</li> </ul>

S. No.	Description of Goods /HSN	Present Rate	Requested Rate	Comments
			46 of Schedule II of Notification 1/2017-Central Tax(Rate)	<p>Tax (Rate), dated the 28th June, 2017.</p> <ul style="list-style-type: none"> <li>• Thereafter, on the basis of the recommendation of the GST Council in the 50th meeting held w.e.f. 27th July, 2023, 5% rate has been prescribed on supply of un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion, falling under CTH 1905, vide S. No. 99B of Schedule-I of notification No. 1/2017-Central Tax (Rate), dated the 28th June, 2017.</li> <li>• In addition, vide Circular No. 200/12/2023-GST, dated 01.08.2023, the issue for past period up to 27th July, 2023, has been regularized on “as is” basis in view of the prevailing genuine doubts in case of un-fried or uncooked snack pellets.</li> <li>• Namkeens, bhujia, mixture, chabena and similar edible preparations in ready-for-consumption form are classifiable under HS 2106 90, and attract GST at the rate of 12% (when sold as pre-packaged and labelled) vide S. No. 46 of Schedule-II of notification No. 1/2017-Central Tax (Rate), dated the 28th June, 2017, and 5% (when sold as other than pre-packaged and labelled) vide S. No. 101A of Schedule-I of notification No. 1/2017-Central Tax (Rate), dated the 28th June, 2017.</li> <li>• The general rate on “Extruded or expanded products, savoury or salted” under tariff item 1905 90 30 is 18% vide S. No. 16 of Schedule-III of notification No. 1/2017-Central Tax (Rate), dated the 28th June, 2017, except un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion, falling under CTH 1905 which attracts 5%.</li> <li>• The issue is whether supply of extruded snack pellets in ready- to-eat form, is covered under the entry covering namkeens.</li> <li>• There are reportedly disputes on the issue in light of the fact that there is no definition of namkeens and the dispute is arising due to differential rate of 12% and 18%.</li> <li>• To obviate disputes, Fitment Committee recommended to keep the GST rate of extruded or expanded products, savoury or salted (other than un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion), falling under HS 1905 90 30 to 12% at par with namkeens, bhujia, mixture, chabena (pre-packaged and labelled) and similar edible preparations in ready for consumption form, classifiable under HS 2106 90.</li> <li>• It also recommended to clarify that for the past period 18% rate is applicable, as was clarified by the GST Council in the 48th meeting, and that the 12% rate is</li> </ul>

S. No.	Description of Goods /HSN	Present Rate	Requested Rate	Comments
				applicable only prospectively.
4.	Metal Scrap	18%	<p>(i) 5% (with ITC), or 2% (without ITC); or 5% or 18% (under RCM)</p> <p>(ii) Exempt when sold by dealers and RCM in last leg when sold to manufacturer,</p> <p>or</p> <p>5%, or 1% without ITC, for traders only</p> <p>(iii) Wholesaler to manufacturer option of 18 % FCM or 5% RCM</p>	<ul style="list-style-type: none"> <li>Currently, GST rate on scrap is 18% on forward charge basis as per provisions of section 9 (1) of CGST Act, 2017.</li> <li>Requests to reduce GST rate from 18 % has not been accepted by GST Council in its 47th meeting. During the Meeting, Hon'ble Member from Karnataka suggested to do a detailed study on scrap. The representative from Punjab requested to defer the issue and to take it up only after due consultation. Accordingly, the Fitment Committee was asked to look into the issue of RCM and it was also recommended that State of Punjab could be invited for deliberations.</li> <li>State of Karnataka and Punjab consulted industries. After industry consultation and study, State of Karnataka observed, <i>inter alia</i> that the proposal of levy of GST on reverse charge mechanism may not be feasible as the same breaks the chain of input tax credit and also leads to cascading of taxes and also breakage of audit trail. However, to prevent the evasion of tax and to create a conducive business atmosphere, some procedural measures were recommended by State of Karnataka.</li> <li>Punjab has suggested to tax iron and scrap on RCM and exempt supply of scrap in the hands of traders. It was opined by Punjab that under RCM, the manufacturer will have the liability to pay tax and this is administratively efficient to boost tax collection. Further, e-way bill should be mandatory for all transactions in scrap irrespective of value.</li> <li>After detailed deliberations, Fitment Committee recommended to: <ul style="list-style-type: none"> <li>➤ introduce TDS @ 2% on supply of metal scrap by registered person to registered person. (B to B)</li> <li>➤ introduce RCM on supply of metal scrap by unregistered person to registered person provided that: <ul style="list-style-type: none"> <li>○ the supplier shall take registration as and</li> </ul> </li> </ul> </li> </ul>

S. No.	Description of Goods /HSN	Present Rate	Requested Rate	Comments
				<p>when it crosses threshold limit and accordingly, exclusion to be created in Notification 5/2017-Central tax dated 19.06.2017, and</p> <ul style="list-style-type: none"> <li>○ recipient who is liable to pay under RCM shall pay tax even if supplier is under threshold limit.</li> </ul>
5	<b>Cancer drugs</b> namely- Trastuzumab Deruxtecan; Osimertinib; Durvalumab	12%	5%	<ul style="list-style-type: none"> <li>• Specified drugs attract reduced GST rate of 5% vide SI no. 180 of Schedule-I of notification No. 1/2017-Central Tax (Rate).</li> <li>• Ministry of Health and Family Welfare (MoHFW) had recommended reduction of BCD and GST on the said medicines.</li> <li>• In Union Budget 2024-25, considering the high cost of these medicines, the customs duty was fully exempted on these drugs.</li> <li>• Considering the high cost of treatment in cancer, the Fitment Committee, recommended to reduce the GST rate from 12% to 5% on all the three cancer drugs.</li> </ul>

(b). Issues where no change has been proposed by the Fitment Committee in relation to goods

Annexure II

S. No.	Description of Goods /HSN	Present Rate	Requested Rate	Comments
1.	Paper Sack	18%	Clarification on the rate for the period 1.07.2017 to 30.09.2021	<ul style="list-style-type: none"> <li>Paper sacks are specifically classifiable under HSN 4819 30 /4819 40.</li> <li>Prior to 1st October, 2021 there were two specific entries in GST Tariff for CTH 4819: <ul style="list-style-type: none"> <li>(i) Sr. No. 122 of Schedule - II of notification No. 1/2017-Central Tax (Rate) provides for <b>12%</b> GST rate for CTH 4819. However, this entry is restricted to "<i>Cartons, boxes and cases of <b>corrugated</b> paper or paper board</i>".</li> <li>(ii) Sr. No. 153A of Schedule - III of notification No. 1/2017-Central Tax (Rate) provides for <b>18%</b> GST rate for HS Code 4819 20, which covers "<i>Cartons, boxes and cases of <b>non-corrugated</b> paper or paper board</i>".</li> </ul> </li> <li>As paper sacks are not covered under any specific entry in GST, these are covered under residual entry i.e., Sr. No. 453 of Schedule - III of notification No. 1/2017-Central Tax (Rate) and accordingly attract <b>18%</b> GST.</li> <li>The matter was taken to GST Council in 45th meeting and it was recommended to provide uniform rate of 18% GST on all carton boxes made up of corrugated or non-corrugated boxes under heading 4819 in order to resolve the ambiguity. Paper sack already attracted 18%. Thus, after implementing this recommendation all goods under 4819 attracted 18%. Thereafter the GST rate on carton boxes and cases of corrugated or non-corrugated paper/paperboard (falling under 4819 10 and 4819 20) was reduced to 12% as recommended by GST Council in its 53<sup>rd</sup> meeting.</li> <li>Paper sack ( 4819 30 00 and 4819 40 00) always attracted GST rate of 18%.</li> <li>Fitment Committee recommended to maintain status quo as there was no ambiguity with respect to paper sack which always attracts 18%.</li> </ul>
2.	Agro shade nets (6005 90 00)	5%	12%	<ul style="list-style-type: none"> <li>Agro shade nets are shade nets that help in controlling the temperature to help the off-season ripening of fruits and vegetables. It also acts as a windshield to prevent damage to young plants.</li> <li>The BIS recognizes agro shade nets as technical textiles (agro textiles).</li> </ul>

S. No.	Description of Goods /HSN	Present Rate	Requested Rate	Comments
				<ul style="list-style-type: none"> <li>The main raw material of Agro shade nets is HDPE (high density polyethylene) granules which attract 18% GST leading to inverted duty structure. Currently manmade filaments attract 18% GST, manmade yarn attracts 12% GST and manmade fabrics attract 5% GST.</li> <li>In the 45<sup>th</sup> GST Council meeting, the matter of inverted rate structure on textiles was taken up wherein the Council recommended correction of the inverted duty structure. In the 46<sup>th</sup> GST Council meeting, the matter was deferred and it was recommended that GoM on Rate Rationalisation take up the matter.</li> <li>In view of the above, Fitment Committee recommended to maintain status quo.</li> </ul>
3.	Compressed Bio Gas (CBG)	5%	Clarification sought on the applicable rate of GST	<ul style="list-style-type: none"> <li>The issue of GST rate on compressed biogas had been deferred in the 37th GST Council meeting held on 20th September 2019 for further examination.</li> <li>Biogas attracts GST @ 5% under Sl. No. 157 of Schedule I to notification no. 01/2017-Central Tax (Rate)</li> <li>Bio-gas is compressed for its injection into the pipeline network. Though there is no separate entry for CBG and the GST rate on Compressed Biogas is 5% at par with bio gas.</li> <li>Fitment Committee deliberated this issue and recommended that no clarification is required to be issued as it appears that this is a non-issue now.</li> </ul>
4.	Feedstock like reformat, DHDT feed, SRGO, VGO	18%	Nil/5%	<ul style="list-style-type: none"> <li>The main refinery products namely, petrol, diesel and ATF are outside purview of GST, while GST is levied on other refinery products including intermediate streams.</li> <li>The matter was discussed in 47th GST Council meeting, where it was felt that the revenue implication as far as OMCs are concerned is not significant. Distortion, if any, will be resolved when petroleum products would be brought under GST.</li> <li>Fitment Committee recommended to maintain status quo.</li> </ul>
5.	Cathode Coating [8507 90 90] and Separators [8507 90 10] of Li-Ion battery	28	18	<ul style="list-style-type: none"> <li>Goods falling under heading 8507 attract GST rate of 28% vide S. No. 139 of Schedule IV of notification No. 01/2017-CT (Rate) dated 28.06.2017.</li> <li>Description of goods under Sl.No. 139 is as follows:  <i>“Electric accumulators, including separators therefor, whether or not rectangular (including square) other</i> </li> </ul>

S. No.	Description of Goods /HSN	Present Rate	Requested Rate	Comments
				<p><i>than Lithium-ion battery and other Lithium-ion accumulators including Lithium-ion power banks”.</i></p> <ul style="list-style-type: none"> <li>On inception of GST all goods falling under heading 8507, including Lithium-ion batteries were prescribed a GST rate of 28%.</li> <li>However, as per recommendation of the 28<sup>th</sup> GST Council, since July, 2018 <i>Lithium-ion batteries [8507 60 00]</i> have been prescribed a GST rate of 18% <i>vide</i> S. No.376A of Schedule III of notification No. 01/2017-CT (Rate) dated 28.06.2017.</li> <li>Further, as per recommendation of the 31<sup>st</sup> GST Council, since December, 2018, <i>Lithium-ion accumulators including Lithium-ion power banks [8507]</i> have also been prescribed a GST rate of 18% <i>vide</i> S. No. 376AA of notification No. 01/2017-CT (Rate) dated 28.06.2017.</li> <li>MeitY has forwarded a representation from a domestic manufacturer of Li-ion batteries requesting for a reduction in GST on key parts of Li-ion batteries from 28% to 18% stating that the 28% GST rate on these goods cause inversion.</li> <li>The parts are Cathode Coating [8507 90 90] and Separators [8507 90 10] of Li-Ion battery, which as per MeitY contribute to 71.41% and 6.15% of BoM (bill of materials) of Li-Ion batteries.</li> <li>Cathode of Lithium-ion battery is generally lithium cobalt oxide (LiCoO<sub>2</sub>), lithium manganese oxide (LiMn<sub>2</sub>O<sub>4</sub>), lithium iron phosphate (LiFePO<sub>4</sub> or LFP), and lithium nickel manganese cobalt oxide (LiNiMnCoO<sub>2</sub> or NMC).</li> <li>Separators are generally polymers which are porous membranes that separate anode and cathode of battery. Li-ion batteries use Polyolefin as separator, while lead-acid batteries use polyethylene as separator.</li> <li>These goods fall under the heading 8507, and therefore automatically attract a GST rate of 28% <i>vide</i> S. No. 139</li> </ul>

S. No.	Description of Goods /HSN	Present Rate	Requested Rate	Comments
				<p>of Schedule IV of notification No. 01/2017-CT (Rate) dated 28.06.2017.</p> <ul style="list-style-type: none"> <li>As per MeitY, the other parts like electrolyte, tape, anode coating, glue, packing foil, aluminium tab lead and nickel tab lead, that form about 22.44% of the BoM of Li-ion battery, attract GST rate at 18%.</li> <li>MeitY has requested for reduction in GST rate on these goods to 18% stating that the 28% GST rate is creating an inverted duty structure.</li> <li>Cathodes and Separators are present in all batteries including lead-acid, nickel-cadmium, nickel-metal hydride etc.</li> <li>Providing a concessional GST rate of 18% to only these goods while all other goods attract 28% amounts to providing an end-use based concession, which create distortions and are prone to misclassifications leading to disputes.</li> <li>Fitment Committee recommended to maintain status quo.</li> </ul>
6.	<p>The following items for use in manufacture of EV:</p> <p>(i)Li-ion cell [8507 60 00] for use in Li-ion battery pack of EV</p> <p>(ii)Battery pack for EV [8507 60 00]</p> <p>(iii)Electric Motor of E-drive Assembly [8501 10 19, 8501 32 10,</p>	<p>S. No.s (i to xi): 18%</p> <p>S. No xii: 28%</p>	5%	<ul style="list-style-type: none"> <li>EVs have been kept at a concessional rate of 5% in order to promote its faster adoption. The refund on account of inverted duty structure is available to the OEMs.</li> <li>If parts are reduced to 5%, then it will introduce inversion in the supply chain of such EV parts.</li> <li>Reduced import IGST, may also lead to spurt in imports from other countries, which already have a huge manufacturing capacity for such goods.</li> <li>Regarding capital goods, the concession is being sought for the end use of manufacturing EVs. Such end use-based concessions are difficult to monitor and enforce. Further, the benefits of depreciation under the Income Tax Act are already available for capital goods.</li> <li>The issue of GST rate reduction on parts used exclusively for EVs has already been deliberated by the GST Council in the 47th Meeting held on 28.06.2022. No rate change has been recommended.</li> <li>Fitment Committee recommended to maintain status</li> </ul>

S. No.	Description of Goods /HSN	Present Rate	Requested Rate	Comments
	8501 33 10] (iv)High-voltage wiring harness [8544 30 00] (v)Traction motor [8501 53 30] (vi)Battery Management System [8507 90 90] (vii)Motor Control Unit [9032 89 90] (viii)DC to DC Converter [8504 40 90] (ix)Power Distribution Unit [8503 71 00] (x)Chiller Unit [8415 90 00] (xi)eVCU Vehicle Control Unit [9032 89 90] (xii)Reduction Gear Box [8708 40 00]			quo.
7.	Braided elastic tapes (HS 5604)	12%	5%	<ul style="list-style-type: none"> <li>Braided Elastic is made with strands of latex rubber and textile fibres. It falls under HS 5604 under the entry “<i>rubber thread and cord, textile covered; textile yarn, and strip and the like of heading 5404 or 5405, impregnated coated, covered or sheathed with rubber or plastics.</i>”</li> <li>As per HS Explanatory Notes, HS 5604 can also cover</li> </ul>

S. No.	Description of Goods /HSN	Present Rate	Requested Rate	Comments
				<p>yarn that has been surface-treated to improve its adhesion to the rubber in which it is subsequently incorporated during the manufacture of articles such as tyres, machinery belts or belting, and tubes. This HS can also cover imitation catguts consisting of textile yarn with a heavy dressing of plastics which are used in the manufacture of sports rackets, fishing lines, belts etc.</p> <ul style="list-style-type: none"> <li>• Braided elastic attracts GST @12%. The average pre-GST rate was around 13%.</li> <li>• The request is to tax braided elastic at 5% at par with woven elastic and knitted elastic.</li> <li>• Fitment Committee recommended to maintain status quo to avoid any further inversion in tax structure.</li> </ul>

(c). Recommendations made by the Fitment Committee for making changes in GST rates or for issuing clarifications in relation to services.

Annexure IV

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
1.	To clarify that GST at the rate of 5% will be applicable on the helicopter services for pilgrims.	<ul style="list-style-type: none"> <li>Helicopter operators offering helicopter services at Kedarnath temple have been charging GST @ 5% since 2017 to Pilgrims considering these services as similar to economy class offered by scheduled airlines.</li> <li>In 2023, GST department served notices to all operators demanding GST @18% on helicopter services.</li> <li>Helicopter services at Vaishno Devi and Amarnath Yatra are also charging GST @ 5%.</li> <li>GST Council has made exception for Haj Yatra and 5% GST is levied on special flights for Haj pilgrims.</li> <li>Ministry of Civil Aviation in addition to above has recommended to levy uniform rate of 5% GST on purchases, sale of seat tickets and all services</li> </ul>	<ul style="list-style-type: none"> <li>Currently there are three GST rates on passenger transport services by air as below: <ul style="list-style-type: none"> <li>Economy class attracts 5% GST;</li> <li>Other than economy class attracts 12% GST and</li> <li>Other class than above two classes attract 18% GST (Residual entry)</li> </ul> </li> <li>W.e.f 01.01.2019, vide entry at Sl. No. 8(iva) of notification No. 11/2017-CTR , GST @ 5% on passenger transport service by non-scheduled air transport service or charter service engaged by specified organizations in respect of religious pilgrimage facilitated by the Government of India, under bilateral agreements was made applicable.</li> <li>In helicopters usually there is no distinction between economy and non-economy seats. In most of the cases, helicopters do not provide even basic facilities like those provided in economy class. Further, there is no additional facility provided in helicopters on additional fare.</li> <li>The services by way of transport of passengers on seat share basis and that by way of chartering the entire helicopter to a person cannot be equated. The latter is usually consumed by the affluent and not by the common man.</li> <li><b>After deliberations, Fitment Committee</b></li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		rendered by helicopters including rentals paid for hangarage.	<p><b>recommended to clarify by way of circular as below:</b></p> <ul style="list-style-type: none"> <li>○ <b>GST @ 5% will be applicable on the transport of passengers by helicopters on seat share basis.</b></li> <li>○ <b>Charter of helicopter will continue to attract 18% GST.</b></li> </ul>
2.	To clarify whether incidental/ ancillary services such as loading/ unloading, packing, unpacking, transshipment, temporary warehousing etc., provided in relation to transportation of goods by road is to be treated as part of GTA service, being composite supply, or these services are to be treated as separate independent supplies.	<ul style="list-style-type: none"> <li>• The above issue dates back to 2008 when TRU vide letter dated 29.02.2008 clarified that packing with transportation will be classifiable under cargo handling service only and not as a GTA.</li> <li>• Revenue Authorities initiated proceedings against GTAs demanding service tax on standard rate applicable on cargo handling services instead of concessional rate applicable on GTA service.</li> <li>• In a joint statement dated 04.07.2008 issued by Government and the transport association, it was clarified that any service provided by GTA in relation to transportation of goods are to be treated as GTA service.</li> </ul>	<ul style="list-style-type: none"> <li>• GTA has been defined to mean “<i>any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called</i>”.</li> <li>• Q. No. 6 of the FAQ issued by CBIC, in question, states that “<i>the GTA provides service to a person in relation to transportation of goods by road in a goods carriage, which is a composite service. The composite service may include various intermediary and ancillary services, such as, loading/unloading, packing/unpacking, transshipment and temporary warehousing, which are provided in the course of transport of goods by road. These services are not provided as independent services but as ancillary to the principal service, namely, transportation of goods by road. The invoice issued by the GTA for providing the said service includes the value of intermediary and ancillary services.</i></li></ul> <p><i>In view of this, if any intermediary and ancillary service is provided in relation to transportation of goods by road, and charges, if any, for such services are included in the invoice issued by the GTA, such service would form part of the GTA service and would not be</i></p>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<ul style="list-style-type: none"> <li>• Circular No. 104/7/2008-ST dated 06.08.2008 was also issued clarifying that when GTA provides a service in relation to transportation of goods by road and also issues consignment note, it is a composite supply. The composite service may include various intermediate and ancillary services provided in relation to the principal service of the road transport of goods and these services are not provided as independent activities but are the means for successful provision of the principal service, namely, the transportation of goods by road.</li> <li>• It was further clarified that this composite service, even if it consists of more than one service, should be treated as a single service based on the main or principal service and accordingly classified.</li> <li>• W.e.f from 1<sup>st</sup> July, 2012 service tax shifted to negative list regime and</li> </ul>	<p><i>treated as a separate supply. In fact, any service provided along with the GTA service that is part of the composite service of GTA shall be taxed along with GTA service and not as separate supplies.</i></p> <p><b><i>If such incidental services are provided as separate services and charged separately, whether in the same invoice or separate invoices, they shall be treated as separate supplies”.</i></b></p> <ul style="list-style-type: none"> <li>• The last para of the FAQ is being interpreted by enforcement agencies to mean that if a GTA shows packing charges, loading, unloading charges etc., separately in the invoice, the GTA becomes liable to pay GST at the rate of 18% on these services by treating them as cargo handling services.</li> <li>• The essential characteristic feature of the service/transaction needs to be considered, while determining the nature of service.</li> <li>• If ancillary/intermediate service is provided by GST in relation to transport of goods, the method of invoicing will not alter the composite nature of the service and classification in such cases are based on essential characteristic of the supply.</li> <li>• Thus, if any ancillary/intermediate service is provided in relation to transportation of goods, and the charges, if any, for such services are included in the invoice issued by the GTA, either shown separately or combined and they are not supplied by any other person, such</li> </ul>

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		<p>revenue authorities started classifying transportation services by GTAs along with incidental services as “Cargo Handling Services”.</p> <ul style="list-style-type: none"> <li>• Circular No. 186/5/2015-ST dated 05.10.2015 was issued reiterating the position taken by Department in the 2008 circular. It was inter-alia clarified that <i>service provided by a Goods Transport Agency (GTA) is a composite service which may include various ancillary services such as loading/unloading, packing/unpacking, transshipment, temporary storage etc., which are provided in the course of transportation of goods by road.</i></li> <li>• The issue of classification of shifting/transportation of household articles between GTA and Cargo Handling Service in service tax period have been settled by various judgement of tribunal and also upheld by the Apex</li> </ul>	<p>service would form part of GTA service as composite supplies.</p> <ul style="list-style-type: none"> <li>• <b>After deliberations, Fitment Committee recommended to clarify the issue by way of a circular as below:</b> <ul style="list-style-type: none"> <li>○ <b>When ancillary/intermediate services are provided by GTA in the course of transportation of goods by road and also issues consignment note, the service will constitute a composite supply and all such ancillary/intermediate services like loading/unloading, packing/unpacking, transshipment, temporary warehousing etc. will be treated as part of the composite supply.</b></li> <li>○ <b>The method of invoicing used by GTAs will not generally alter the nature of the composite supply of service. However, if such services are not provided in the course of transportation of goods and invoiced separately, then these services will not be treated as composite supply of transport of goods.</b></li> </ul> </li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>Court.</p> <ul style="list-style-type: none"> <li>With introduction of GST w.e.f 1<sup>st</sup> July, 2017, GTAs are again facing action from revenue authorities who allege that GST @ 18% is applicable on incidental, ancillary and intermediary services in cases where GTA has shown cost of such services separately on its invoices irrespective of the fact that consignment note issued by GTA mentions gross freight amount (inclusive of cost of ancillary charges) as the charges for GTA service.</li> <li>The basis for the above interpretation of revenue authorities is Q No. 6 of FAQ on Transport and Logistics published by CBIC wherein inter-alia, it has been stated that “...if such incidental services are provided as separate services and charged separately, whether in the same invoice or separate invoices, they shall be treated as separate supplies”.</li> </ul>	

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
3.	To clarify if Ro-Ro service (Truck on Train) is used for the transportation of milk, no GST is leviable on the empty tankers returning after delivery of milk.	<ul style="list-style-type: none"> <li>Gujarat is supplying milk to the entire country. For easy transportation of this milk supply, Gujarat Cooperative Milk Marketing Federation Ltd (GCMMF) and Dedicated Freight Corridor Corporation of India Limited (DFCCIL) signed an MOU for Truck on Train (Ro-Ro Service) in May-2023.</li> <li>G.C.M.M.F. and other milk unions associated with it get the benefit of this facility, which is available between Palanpur and New-Rewari stations. Milk is shipped by Banaskantha Milk Producers Association using Ro-Ro service.</li> <li>Actually, as per MOU, this agreement is for carrying and bringing back milk tankers. Consequently, it may be treated as a composite supply which is exempt from tax as per GST Notification No-12/2017-Central Tax (Rate) dated 28-06-2017. Also as per circular no. 177/09/2022-TRU dated 03-8-2022, it is clarified that in case of movement of empty containers from</li> </ul>	<ul style="list-style-type: none"> <li>As per Sl. No.20 of the notification No.12/2017-Central Tax (Rate) dated 28/06/2017 transport of milk by rail is exempt from GST. Indian Railways is charging 5% GST on empty milk tankers returning after delivery of the milk.</li> <li>In the case of transportation of empty containers returning from Nepal and Bhutan after delivery of transit cargo to India, it was clarified vide Circular No. 177/09/2022-TRU dated 03.08.2022 that exemption under Sl. No. 9B of notification No. 12/2017-Central Tax (Rate) covers services associated with transit cargo both to and from Nepal and Bhutan.</li> <li>Sl. No. 9B exempts supply of services associated with transit cargo to Nepal and Bhutan (landlocked country).</li> <li>Services associated with transit cargo to Nepal and Bhutan were exempted in accordance with International treaties.</li> <li>With respect to transit or transshipment of cargo to Nepal, specific regulations namely Transshipment of Cargo to Nepal under Electronic Cargo Tracking System Regulations, 2019 have been notified. As per these regulations, the authorized carrier has to execute a general bond for an amount as directed by the proper officer.</li> <li>The authorized carrier also has to procure Electronic Cargo Tracking System (ECTS) from a bi-laterally appointed managed service provider. In order to discharge the bond, the proper officer of customs has to extract trip</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>Nepal and Bhutan, it is a service associated with the transit cargo sent from India and no tax will be levied on it.</p> <ul style="list-style-type: none"> <li>• As per GST law transport of milk is exempt from tax. But Railways levy 5% GST on milk tankers retuning empty. As a result, the cost of transporting milk increases.</li> <li>• Ministry of Railways has informed DFCCIL that: <ul style="list-style-type: none"> <li>○ The business arrangement under reference does not qualify as composite supply, hence the benefit of exemption of transportation of milk cannot be extended to transportation of empty trucks from New Rewari station to New Palanpur and accordingly GST rate of 5% shall be charged on such transportation of empty trucks.</li> </ul> </li> <li>• GCMMF has requested to clarify that if Ro-Ro service is used for the transportation of milk,</li> </ul>	<p>reports from the ECTS web application as proof of completion of transshipment.</p> <ul style="list-style-type: none"> <li>• The reconciliation of transshipment of consignments is carried out on the basis of trip report, by the proper officer at the Ports, as the case may be, and then only the general bond submitted by the authorized carrier is re-credited or discharged.</li> <li>• The regulations governing transit/transshipment have to be followed in addition to the ensuring that an electronic track and trace facility is in place. This facility uses container numbers to locate the cargo. Thus, it is verifiable that the empty container returning from Nepal or Bhutan is the same container which was used to deliver goods to Nepal or Bhutan.</li> <li>• This sort of verification is not possible in case of empty tankers returning after delivering milk. It may not be plausible to equate the two situations.</li> <li>• The said transport of empty tankers is taxable under entry no. 9(i) of notification No. 11/2017-CTR dated 28.06.2017 and attracts 5% GST.</li> <li>• <b>After deliberations, Fitment Committee recommended as below:</b> <ul style="list-style-type: none"> <li>○ <b>To clarify the issue by way of a letter to the concerned authority that the transport of empty tankers returning after delivery of milk is taxable and not exempted.</b></li> <li>○ <b>No exemption on the said transport</b></li> </ul> </li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		then no GST is leviable on the empty tankers returning after delivery of milk, so that the cost of milk transportation is reduced.	<b>of empty tankers returning after delivery of milk was recommended.</b>
4.	<p>To exempt electric vehicle (EV) charging services at public charging stations</p> <p><b>OR</b></p> <p>To clarify that the activity of charging EVs in a charging station essentially involves supply of electricity and therefore should be chargeable at the same rate applicable to supply of electricity.</p>	<ul style="list-style-type: none"> <li>The activity relating to charging of batteries of an EV at public charging station has two aspects (i) access to electricity and (ii) ancillary service charges for public charging station.</li> <li>Supply of electrical energy is exempt as per Sl. No. 104 of notification No. 2/2017-CTR dated 28.06.2017. Further, services of transmission and distribution of electricity is also exempt under Sl. No. 25 of notification No. 12/2017-CTR dated 28.06.2017.</li> <li>Therefore, supply of electricity for charging EV batteries should be exempt from GST. However, Karnataka Authority for Advance Ruling (AAR) has recently held that the activity of charging batteries at public</li> </ul>	<ul style="list-style-type: none"> <li>The request to reduce the rate of GST on EV charging and battery swapping service to 5% from the current rate of 18% and to exclude the cost of electricity from taxable value while charging GST on EV charging service was placed before the 47<sup>th</sup> GST Council held in June 2022. However, the Council did not accede to the request.</li> <li>Ministry of Power vide Circular No. 23/08/2018-R&amp;R dated 13.04.2018 has clarified that the charging of battery essentially involves utilization of electrical energy for its conversion to chemical energy, which gets stored in the battery. Thus, the charging of battery of an electric vehicle by a charging station involves a service requiring consumption of electricity by the charging station and earning revenue for this purpose from the owner of the vehicle.</li> <li>It has further been clarified vide above said circular that the activity does not in any way include sale of electricity to any person as the electricity is consumed within premises owned by the charging station, which may be connected to the distribution system or otherwise for receiving electricity. The activity does not involve further distribution or transmission of electricity, the charging station</li> </ul>

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		<p>charging stations is essentially a supply of service and the entire consideration is liable to GST as supply of service at the rate of 18%.</p> <ul style="list-style-type: none"> <li>Karnataka AAR was indifferent to the fact that the intention of an EV user visiting the service station is to seek access to electricity available for charging EV battery.</li> <li>While the supply of electricity is undisputedly exempt from GST, if at all, the ancillary services could be subject to GST. However, on account of ruling by Karnataka AAR, 18% GST is being applied to entire consideration being charged for facilities being provided at charging stations.</li> </ul>	<p>does not perform any of the activities namely transmission, distribution or trading of electricity, which require license.</p> <ul style="list-style-type: none"> <li><b>After deliberations, Fitment Committee recommended as below:</b> <ul style="list-style-type: none"> <li>To clarify that charging of electric vehicle does not include sale of electricity to any person nor does this activity involve further distribution or transmission of electricity.</li> <li>No exemption from GST on electric vehicle charging at public charging stations was recommended.</li> </ul> </li> </ul>
5.	To issue corrigendum to the Circular No. 34/8/2018- GST dated 01.03.2018 in respect of taxation of ancillary services of transmission and	<p>In the 37<sup>th</sup> GST Council agenda, two view points which were discussed have been mentioned as below:</p> <p><b>Viewpoint 1:</b></p> <ul style="list-style-type: none"> <li>Rental of electric meters does not involve any</li> </ul>	<ul style="list-style-type: none"> <li>Agenda was deferred in the 37<sup>th</sup> GST Council meeting held in September 2019.</li> <li>Vide Sl. No. 25 of notification No. 12/2017-CTR dated 28.06.2017, transmission or distribution of electricity by an electricity transmission or distribution utility attracts nil GST rate.</li> <li>Vide Sl. No. 4 of Circular No. 34/8/2018-GST</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
	<p>distribution of electricity such as:</p> <p>(i) application fees for providing electricity connection,</p> <p>(ii) rental charges against electricity meter,</p> <p>(iii) testing fees for meters/transformers /capacitors,</p> <p>(iv) labour charges from customers for shifting of meters/service lines &amp;</p> <p>(v) charges for duplicate bills</p> <p>may be considered.</p>	<p>transfer of property in goods but only a right to use given to the customer by the distribution company. Thus, such rental is also a service as per Sl. No. 5(f) of Schedule II of the CGST/SGST Acts, 2017.</p> <ul style="list-style-type: none"> <li>Notification No. 32/2010 - ST dated 22.06.2010 exempted “the taxable service provided to any person, by a distribution licensee, a distribution franchisee, or any other person by whatever name called, authorized to distribute power under the Electricity Act 2003(36 of 2003), for distribution of electricity, from the whole of service tax leviable thereon under section 66 of the said Finance Act.”</li> <li>Notification No. 11/2010-ST dated 27.02.2010 exempted “the taxable service provided to any person, by any other person for transmission of electricity, from the whole of service tax leviable thereon under section 66 of</li> </ul>	<p>dated 1<sup>st</sup> March 2018, it has been clarified that following services are taxable under GST w.e.f. 01.07.2017:</p> <p><i>“The other services such as, - (i) Application fee for releasing connection of electricity; (ii) Rental Charges against metering equipment; (iii) Testing fee for meters/ transformers, capacitors etc.; (iv) Labour charges from customers for shifting of meters or shifting of service lines; (v) charges for duplicate bill; provided by DISCOMS to consumer are taxable.”</i></p> <ul style="list-style-type: none"> <li>The above said Sl. No 4 of Circular No. 34/8/2018-GST dated 1st March 2018 has been struck down by the Hon’ble High Court of Gujarat in Torrent Power Ltd Vs UOI (5343 of 2018) case.</li> <li>The department has gone in appeal against the said order and the matter is pending before Hon’ble Supreme Court (SLP(C) No. 019431/2019).</li> <li>In Service Tax regime, prior to introduction of negative list regime for service tax, no service tax was collected and paid in respect of transmission and distribution of electricity.</li> <li>Notification No. 11/2010 – Service Tax dated 27.02.2010 exempted service tax on service provided to any person, by any other person for transmission of electricity.</li> <li>Notification No. 32/2010 – Service Tax dated 22.06.2010 exempted service tax on service provided to any person by a distribution licensee, a distribution franchisee, or any other</li> </ul>

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		<p>the said Finance Act.”</p> <ul style="list-style-type: none"> <li>It may also be stated in this context that a similar view was taken by the same TRU in a Service Tax Circular No. 131/13/2010-ST dt.07.12.2010.</li> </ul> <p><b>Viewpoint: 2</b></p> <ul style="list-style-type: none"> <li>These services are all intrinsic parts &amp; parcel of the electricity distribution service itself and cannot be treated in isolation of such distribution service.</li> <li>So, as per the definitions above, such services as stated in Paras 1 &amp; 2 above, form a part of a composite supply as per S. 2(30) where the predominant supply is electricity distribution service.</li> <li>Electricity distribution service being exempted from GST, as discussed in Para 10, the tax on such composite supply will also thus be exempted, based on the principle of GST levy on composite supplies based on principal supply.</li> </ul>	<p>person by whatever name called, authorised to distribute power under the Electricity Act, 2003 for distribution of electricity.</p> <ul style="list-style-type: none"> <li>Vide circular No. 131/13/2010- ST dated 07.12.2010 it was clarified that service of installing electric meter on hire to the consumers of electricity by an electricity transmission (TRANSCO) / distribution companies (DISCOM) has direct and close nexus with transmission and distribution of electricity and the same is covered by the exemption for transmission and distribution of electricity extended under the Notification No. 11/2010 – Service Tax dated 27.02.2010 and notification No. 32/2010 – Service Tax dated 22.06.2010.</li> <li>In the negative list regime vide section 66D(k) of Finance Act, 1994 transmission or distribution of electricity by an electricity transmission or distribution utility were placed under negative list and hence were not taxable in the service tax regime.</li> <li>Further, the notification No. 11/2010-Service Tax dated 27.02.2010 and notification No. 32/2010 Service Tax dated 22.06.2010 were rescinded.</li> <li>However, the circular No. 131/13/2010-ST dated 07.12.2010, which was issued in respect of these two notifications was not withdrawn.</li> <li>Hon’ble High Court of Gujarat in the Torrent Power case held that in the positive list regime, Circular No. 131/13/2010-ST dated 07.12.2010 exempted activities such as hiring of meters</li> </ul>

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		<ul style="list-style-type: none"> <li>The same principles have been upheld by the Hon'ble High Court of Gujarat in the order dated 19.12.2018 in the case of Torrent Power Ltd. versus Union of India [Special Civil Application No. 5343 of 2018].</li> </ul>	<p>having a direct and close nexus with the transmission and distribution of electricity.</p> <ul style="list-style-type: none"> <li>Further, in the negative list regime, the Court held that the services in question would fall within the ambit of bundled services and would be treated in the same manner as the service which gives the bundle its essential character, namely, transmission and distribution of electricity and, would therefore, be exempt from payment of service tax. The Court held that the <i>tax liability thereof has to be determined by treating such composite same as a supply of the principal supply of transmission and distribution of electricity</i> and thereby struck down para 4(1) of Circular No. 34/8/2018 GST dated 01.03.2018.</li> <li>Supply of services such as application fee for releasing connection of electricity, rental charges against metering equipment, testing fee for meters/ transformers, capacitors etc., labour charges from customers for shifting of meters or shifting of service lines, charges for duplicate bill etc. are incidental, ancillary or integral to the supply of transmission and distribution of electricity by transmission and distribution utilities.</li> <li>All above such services, when provided by DISCOM or transmission and distribution utility to customers along with transmission or distribution of electricity, are naturally bundled and supplied in conjunction with principal supply of service, i.e., transmission and distribution of electricity, and will thus constitute composite supply in such cases.</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
			<ul style="list-style-type: none"> <li>After deliberations, Fitment Committee recommended as below: <ul style="list-style-type: none"> <li>To partially modify the Circular No. 34/8/2018 GST dated 01.03.2018 to the extent clarifying that supply of services such as application fees for providing electricity connection, rental charges against electricity meter, testing fees for meters/transformers/capacitors, labour charges from customers for shifting of meters/service lines, charges for duplicate bills etc. which are incidental, ancillary or integral to the supply of transmission and distribution of electricity by transmission and distribution utilities to their consumers, when provided as a composite supply are exempt.</li> <li>The Fitment Committee further recommended that the UOI's SLP in the Hon'ble Supreme Court may be withdrawn simultaneously with the issuance of the above clarification after Council's recommendation.</li> </ul> </li> </ul>
6.	To clarify that no GST is payable on the affiliation fee collected by universities from affiliated colleges.	<ul style="list-style-type: none"> <li>SCNs demanding GST on affiliation fee which was collected from the affiliated colleges have been issued to the universities.</li> <li>If GST is levied on affiliation fee, the</li> </ul>	<ul style="list-style-type: none"> <li>As per para 2(y) of notification No. 12/2017-CT(R) dated 28.06.2017, educational institution means, <i>inter-alia</i>, an institution providing services by way of education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force.</li> <li>Thus, universities are 'educational institutions'</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		Universities shall have to pass it on to the colleges and the colleges in turn will collect the fee from students.	<p>as per the said definition of an educational institution.</p> <ul style="list-style-type: none"> <li>As per the definition of affiliation under UGC (Affiliation of Colleges by Universities) Regulations, 2009, affiliation in relation to a college means recognition of such college by, association of such college with, and admission of such college to the privileges of the university to which the college is affiliated.</li> <li>The activity of affiliation is to monitor whether the institution possesses the required infrastructure in terms of space, technical prowess, financial liquidity, faculty strength, etc. and is thereby eligible for the privileges to conduct the course/programme of study for the degree/title extended by the University to the students enrolled in such institutions.</li> <li>As per the current scheme of exemptions provided in the notification No. 12/2017- CTR, the following categories of services are exempt: <ul style="list-style-type: none"> <li>(i) Services provided by educational institutions to its students, faculty and staff (<b>Entry 66(a) of the notification</b>)</li> <li>(ii) Services provided by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee (<b>Entry 66(aa) of the notification</b>)</li> <li>(iii) Services provided to an educational institution by way of, - <ul style="list-style-type: none"> <li>i. ....</li> <li>ii. ....</li> <li>iii. ....</li> </ul> </li> </ul> </li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
			<p>iv. services relating to admission to, or conduct of examination by, such institution (<b>Entry 66(b) of the notification</b>)</p> <ul style="list-style-type: none"> <li>• The affiliation services provided by the universities enable the colleges under it to conduct the course/ programme and do not relate to admission of students to such course/programme in the said colleges or conduct of examinations for admission in the said colleges.</li> <li>• Thus, the affiliation services provided by universities to their constituent colleges are not covered within the ambit of exemptions provided for educational institutions in the notification No. 12/2017-CT(R) dated 28.06.2017.</li> <li>• A similar request regarding the GST exemption on the amounts collected by universities by way of the sale of application forms, issue of migration certificates, affiliation works and by way of other educational activities was deliberated in the 47<sup>th</sup> GST Council meeting held in June 2022.</li> <li>• The Council recommended that in respect of services supplied by universities/boards or other educational organizations by way of granting affiliations to educational institutions, a clarification has already been issued vide circular No. 151/07/2021-GST dated 17.06.2021(Para 4(iii)).</li> <li>• The said para is reproduced for reference:</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
			<p><i>“(iii) GST at the rate of 18% applies to other services provided by such boards, namely of providing accreditation to an institution or to a professional (accreditation fee or registration fee such as fee for FMGE screening test) so as to authorise them to provide their respective services.”</i></p> <ul style="list-style-type: none"> <li>• <b>After deliberations, Fitment Committee recommended to clarify by way of circular that the affiliation services provided by universities to their constituent colleges are not covered within the ambit of exemptions provided to educational institutions in the notification No. 12/2017-CT(R) dated 28.06.2017 and GST at the rate of 18% is applicable on the affiliation services provided by the universities.</b></li> </ul>
7.	To clarify that GST is not applicable on the affiliation fees charged by CBSE. If this relief, cannot be given, it may be clarified that GST will only be applicable prospectively.	<ul style="list-style-type: none"> <li>• CBSE is an autonomous body under the Ministry of Education formed with the prime objective of regulating and maintaining the standard of Secondary Education in India by way of conducting examination at Secondary Stage of Education.</li> <li>• The affiliation provided by the CBSE to the schools is purely in relation to the examinations conducted by them and therefore, is not a separate service of</li> </ul>	<ul style="list-style-type: none"> <li>• The activity of affiliation carried out by CBSE is to ensure and monitor whether the schools possess the required infrastructure in terms of land, physical infrastructure, technical prowess, financial liquidity, faculty strength, etc., and are thereby eligible for the privileges to operate under the aegis of CBSE.</li> <li>• All schools which intend to be affiliated with CBSE, including Government Schools like Kendriya/ Sarvodaya Vidyalaya, are required to pay the affiliation fee as specified in the CBSE's schedule.</li> <li>• The affiliation norms laid down by CBSE, that have to be fulfilled by the schools in order to get affiliated, include an extremely diverse and comprehensive set of parameters, including, but</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>affiliation but a part of unified service of conduct of examinations.</p> <ul style="list-style-type: none"> <li>Hence the exemption available to the services provided to educational institutions in relation to the conduct of examination is inclusive of services by way of granting of affiliation. Therefore, affiliation fee is covered under entry at Sl. No. 66(b)(iv).</li> <li>Affiliation granted by CBSE, is a sort of certification that the school is ensuring minimum standard as per expected norms set by CBSE, is quality driven and strives for excellence in all aspects of its activities, which enables the school to become a member and allows students to appear in the examination.</li> <li>Affiliation is granted to the educational institutions to enable their students to appear for the examinations conducted by CBSE.</li> </ul>	<p>not restricted to, the establishment of the school, its website, statutory compliances, land, physical infrastructure, books, quality of education etc. The schools are expected to meet certain minimum standards with respect to these parameters to become affiliated with CBSE.</p> <ul style="list-style-type: none"> <li>Therefore, it is evident that the affiliation services provided by CBSE to various schools are essentially in the nature of maintenance of certain quality standards by the school which enable it to operate under the aegis of CBSE and enable its students to appear for senior and senior-secondary examinations conducted by CBSE.</li> <li>CBSE, along with other educational boards, has been deemed to be an educational institution for the limited purpose of providing services by way of conduct of examinations to the students. The service by way of granting affiliation to schools is not a service by way of conduct of examination.</li> <li>CBSE has also claimed eligibility for exemption under Sl. Nos. 4 and 5 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017.</li> <li>Sl. Nos. 4 and 5 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 exempts services by governmental authority by way of any activity in relation to any function entrusted to a municipality under article 243 W of the Constitution or to a panchayat under article 243G of the Constitution.</li> <li>Governmental authority as defined in para 2(zf)</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<ul style="list-style-type: none"> <li>In view of the above facts the accreditation provided by Central and State Boards like NBE cannot be equated with the affiliation provided by CBSE to the schools for education up to Senior Secondary Level.</li> <li>CBSE has not charged any GST from the schools. Further CBSE is also not maintaining any MIS in this regard so as to identify the fees that would be taxable under IGST or CGST/SGST and input credit that will be allowed.</li> <li>CBSE has also argued that in performing the affiliation service, it is also discharging the functions related to education enumerated in the 11<sup>th</sup> and 12<sup>th</sup> Schedules of the Constitution of India and therefore, meets the criteria of a 'Governmental Authority' thereby making it eligible for the exemptions under Sl. Nos. 4 and 5 of Notification No. 12/2017-</li> </ul>	<p>of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 means an authority or a board or any other body,-</p> <ul style="list-style-type: none"> <li>a) set up by an Act of Parliament or a State Legislature; or</li> <li>b) established by any Government, with 90 per cent or more participation by way of equity or control, <b>to carry out any function</b> entrusted to a Municipality under article 243 W of the Constitution or to a Panchayat under article 243G of the Constitution.</li> </ul> <ul style="list-style-type: none"> <li>The functions entrusted to a Municipality under article 243W are listed in the Twelfth Schedule of the Constitution of India. The entry at Sl. No. 13 of the said schedule reads: <i>'Promotion of cultural, educational and aesthetic aspects'.</i></li> <li>The functions entrusted to a Panchayat under article 243G are listed in the Eleventh Schedule of the Constitution of India. The entry at Sl. No. 17 of the said schedule reads: <i>'Education, including primary and secondary schools'.</i></li> <li>The primary objective of CBSE, admittedly, is to conduct examinations and to grant diplomas/certificates to persons, who, after pursuing course of study in an institution affiliated to CBSE, have passed the examination conducted by CBSE. However, mere conduct of examination and grant of diploma/certificates cannot amount to education and per force, cannot tender on CBSE the status of a body performing the function of 'education' or 'promotion of educational</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>CT(R) dated 28.06.2017.</p> <ul style="list-style-type: none"> <li>• SCN dated 29.09.2023 demanding duty of Rs. 261.82 crores along with associated interest and penalties has been issued to CBSE.</li> </ul>	<p>aspects’.</p> <ul style="list-style-type: none"> <li>• In the instant case, CBSE is clearly not imparting any education, training or instruction to any students. That is done by the affiliated schools. Rather, it is conducting examinations at the senior and senior secondary levels and affiliating schools from which students can appear in such examinations. Therefore, it cannot be said to have been set up or established to perform the function of ‘education’ or ‘promotion of educational aspects’.</li> <li>• Therefore, CBSE is not a ‘Governmental Authority’ and is not eligible for the exemption granted vide Sl. Nos. 4 and 5 of Notification No. 12/2017-CT(Rate) dated 28.06.2017.</li> <li>• The issue of granting exemption to the affiliation service provided by CBSE was placed before the 50<sup>th</sup> GST Council meeting held on 11.07.2023 and the Council rejected the same.</li> <li>• <b>After deliberations, Fitment Committee recommended as below:</b> <ul style="list-style-type: none"> <li>○ <b>To regularise the collection of GST on affiliation fee charged by State/Central educational boards to schools on ‘as is where is’ basis for the period from 01.07.2017 to 17.06.2021 i.e., the date of issuance of Circular no. 151/07/2021 clarifying that accreditation services of boards are taxable at the rate of 18%.</b></li> <li>○ <b>Exemption may be given to affiliation services provided by State/Central</b></li> </ul> </li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
			<b>educational boards to government schools prospectively.</b>
8.	To clarify that Flying Training Organizations (FTOs) approved by DGCA are educational institutions under GST and consequently GST is not applicable on the courses conducted by them.	<ul style="list-style-type: none"> <li>Flying Training Institute/Organizations approved by DGCA conduct flying training to pilots.</li> <li>DGCA fully controls such training institutes by prescribing syllabus, number of seats per session, conduct of examination. It issues a Course Completion Certificate and On Job Training certificate to candidates. Course completion certificate is approved by DGCA.</li> <li>Thus, Flying Training Institute/Organizations should be considered as an educational institution and the educational courses and certificates issued by it for obtaining commercial pilot license should be considered as education recognized under law.</li> <li>Circular No. 117/36/2019-GST dated 11.10.2019 clarified that Maritime</li> </ul>	<ul style="list-style-type: none"> <li>Services supplied by educational institutions to students are exempt from GST vide entry 66 of the notification No. 12/2017-CT(Rate) dated 28th June, 2017. “Educational Institution” means an institution providing services by way of: <ul style="list-style-type: none"> <li>Pre-school education and education up to higher secondary school or equivalent,</li> <li>Education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force,</li> <li>Education as a part of an approved vocational education course.</li> </ul> </li> <li>Based on the recommendation of GST Council in the 37th Meeting held on 20th September, 2019, it has been clarified vide Circular No. 117/36/2019-GST dated 11.10.2019 that the maritime training institutes are educational institutions and the courses conducted by them are exempt from levy of GST.</li> <li>Flying training institutes have also requested for a similar clarification in respect of flying training imparted by them.</li> <li>In its recommendations before the 48<sup>th</sup> Council Meeting, the Fitment Committee had observed that the education imparted by maritime training institutes and flying training institutes is vocational in nature. The vocational education should therefore, meet the criteria of ‘approved vocational course’ prescribed in sub-para (iii) of the definition of ‘Educational</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>Institutes are educational institutions under GST Law and the courses conducted by them are exempt from levy of GST.</p>	<p>Institution' mentioned above to be eligible for exemption under Sl. No 66 of the Notification No. 12/2017-CT(Rate), dated 28th June, 2017 and not clause (ii) of the said definition which covers "Education as a part of a curriculum for obtaining a qualification recognized by law".</p> <ul style="list-style-type: none"> <li>• In view of the above, question arose whether courses conducted by maritime training institutes and flying training institutes should meet the criteria of 'approved vocational education course' prescribed in sub-para(iii) of the definition of 'educational institution' to be eligible for exemption under Sl. No 66 of the notification No. 12/2017-CT(Rate), dated 28th June, 2017 and whether Circular No. 117/36/2019-GST dated 11.10.2019 needs to be revisited. Accordingly, it was recommended that the issue may be referred to GoM on rate rationalisation for taking a comprehensive view on definition of educational institutions.</li> <li>• The issue has since been re-examined in light of notification dated 5th December, 2018 issued by the Ministry of Skill Development and Education (No. SD-17/113/2017-E&amp;PW) as under:</li> </ul> <p><b><i>1.(xxiv) "Vocational Education and Training" means all skill development programs, both long-term and short-term, apprenticeship training and recognition of prior learning, certified by the Council but not covered by the All India Council for Technical Education</i></b></p>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
			<p><i>Act, 1987 (52 of 1987), the University Grants Commission Act, 1956 (3 of 1956), or by any other law for time being in force.</i></p> <ul style="list-style-type: none"> <li>• From the above definition, it appears that if a particular skill development program is covered by an existing law, the same cannot amount to “vocational education and training” as defined under the above Notification.</li> <li>• Flying Training Organizations (FTOs) and the training programs imparted by them are covered under the Aircraft Act, 1934, the Aircraft Rules, 1937 and the Civil Aviation Requirements issued under the said Rules.</li> <li>• From the examination of the legal provisions applicable to the field of flying training, it is seen that: <ul style="list-style-type: none"> <li>i. <b>Section 5 of the Aircraft Act, 1934</b> gives power to the Central Government to make rules regulating the manufacture, possession, use, operation, sale, import or export of any aircraft or class of aircraft and for securing the safety of aircraft operations. The said Section further provides that such rules may provide for, <i>inter-alia</i>, the licensing of persons employed in the operation, manufacture, repair or maintenance of aircraft and the licensing of persons engaged in air traffic control;</li> <li>ii. In exercise of the above power, the Central Government has made the <b>Aircraft Rules, 1937</b>, which, <i>inter-alia</i>, provide for the</li> </ul> </li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
			<p>following:</p> <p><b>3.(1H)-</b> “approved training” means a training the curriculum of which has been approved by the Director- General.</p> <p><b>38. Licensing Authority-</b> The authority by which various categories of pilot’s licenses may be granted and renewed shall be the Central Government.</p> <p><b>41. Proof of competency-</b> Applicants for licences and ratings shall produce proof of having acquired the flying experience and having passed satisfactorily the test and examinations specified in Schedule II in respect of the licence or rating concerned.</p> <p><b>41B. Approved Training Organization-</b> An FTO is required to obtain the approval of DGCA before it can enroll students to acquire flying experience and the level of competency required for obtaining a licence or rating specified in rule 38 and Schedule II of these rules.</p> <p><b>Schedule II</b> requires that the flying experience required for issue of private pilot and commercial pilot licenses shall be acquired at the Flying Training Organization (FTO) approved/ recognized by the Director-General. Further, clause (e) of the said schedule requires that the flying training shall be completed in accordance with the syllabus prescribed by the Director-General.</p> <p>iii. The <b>Civil Aviation Requirements (CAR)</b> are issued under provisions of Schedule II</p>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
			<p>as mentioned above. <b>Section 7, Series D, Part I of the CAR</b> provides for approval, renewal and Inspection/ Surveillance/ Audit of flying training organizations. The CAR contains detailed provisions covering the eligibility, requirements and approval of FTOs.</p> <p><b>Para 6.2.4</b> of the CAR states that upon satisfactory compliance of all requirements, DGCA may grant an approval which shall be valid for a period not exceeding five years from the date of issue.</p> <p><b>Paras 8 and 9</b> of the CAR provide that the applicant shall prepare a training and procedures manual for approval by DGCA, and the said manual shall include the programme for single and/ or multi engine aircraft to be used for training.</p> <p><b>Para 14.3</b> of the CAR provides that an FTO shall issue a completion certificate to each student who completes its approved course of training. It also provides the information which the said certificate must necessarily contain.</p> <p><b>Para 16</b> of the CAR provides for extensive oversight of DGCA over the FTOs including provisions for inspection/surveillance/audit and concomitant enforcement/penal provisions.</p> <ul style="list-style-type: none"> <li>• Therefore, the trainings conducted by FTOs approved by DGCA are skill development programs covered by law, namely the Aircraft Act, 1934, the Aircraft Rules, 1937 and the Civil Aviation Requirements (CARs).</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
			<p>Accordingly, these trainings conducted by approved FTOs go out of the definition of ‘vocational education and training’ as provided under notification dated 5th December 2018 issued by the Ministry of Skill Development and Education (No. SD-17/113/2017-E&amp;PW).</p> <ul style="list-style-type: none"> <li>Thus, trainings conducted by FTOs, meet the criteria of being ‘<i>education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force</i>’ prescribed in sub-para(ii) of the definition of ‘educational institution’.</li> <li><b>After deliberations, Fitment Committee recommended to clarify by way of a circular that approved flying training courses conducted by DGCA approved Flying Training Organizations are exempt from GST.</b></li> </ul>
9.	To replace National Council for Vocational Training (NCVT) with National Council for Vocational Education and Training (NCVET) in the notification No. 12/2017-CT(R) dated 28.06.2017 and include the services provided by the recognized Awarding Bodies,	<ul style="list-style-type: none"> <li>The Ministry of Skill Development and Entrepreneurship, Government of India vide notification No. SD-17/113/2017-E&amp;PW dated 5th December 2018 (hereinafter the ‘<i>MSDE Notification</i>’) has approved establishment of the National Council for Vocational Education and Training (NCVET) as an overarching regulator in the skilling ecosystem subsuming the erstwhile</li> </ul>	<ul style="list-style-type: none"> <li>National Council for Vocational Education and Training (NCVET) constituted vide notification of Ministry of Skill Development and Entrepreneurship (MSDE) dated 05.12.2018 has subsumed the existing National Council for Vocational Training (NCVT) and the National Skill Development Agency (NSDA).</li> <li>The newly constituted body, is a single, centralized regulatory body, and has now been entrusted with the development, qualitative improvement and regulation of vocational education and training, for granting recognition to and monitoring the functioning of awarding bodies, assessment agencies, skill information providers, and training bodies.</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
	Assessment Agencies, Training Bodies and Skill Related Information Providers approved by NCVET in the exempted list.	<p>National Skill Development Agency (NSDA) and the National Council of Vocational Training (NCVT).</p> <ul style="list-style-type: none"> <li>• NCVET has been established to consolidate the fragmented regulatory structure skill ecosystem of the Vocational Education and Training (VET)/ skilling and infuse quality in the skill ecosystem.</li> <li>• The NCVET has been entrusted with the development, qualitative improvement and regulation of vocational education and training, for granting recognition to and monitoring the functioning of awarding bodies, assessment agencies, skill information providers, and training bodies, and to perform other incidental functions. The main functions of NCVET mandated as per the MSDE Notification are: <ul style="list-style-type: none"> <li>a) Recognition, ensuring discipline, de - recognizing and</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• With the establishment of NCVET, the regulatory functions, especially w.r.t. approval/ recognition of various Awarding Bodies (ABs) and Assessment Agencies (AAs) which were earlier approved/ recognized by multiple entities like NCVT, Directorate General of Training (DGT) and National Skill Development Council (NSDC) etc. have been consolidated.</li> <li>• Now, recognition to various such Awarding Bodies (like Sector Skill Councils (SSC), Central Ministries, State Departments, DGT, Universities and autonomous government organizations, etc.) and Assessment Agencies is being granted by NCVET.</li> <li>• The functions of awarding bodies, assessment agencies, and training bodies, as laid down in the MSDE Notification, are briefly explained in the following paragraphs:</li> </ul> <p><b><u>Awarding Body</u></b></p> <ul style="list-style-type: none"> <li>• An “<b>awarding body</b>” means a person which awards or which proposes to award certification for a skill or a qualification.</li> <li>• A “<b>recognized awarding body</b>” means a person which enters into an agreement granting recognition with the NCVET and which is permitted to award certification for a qualification or a skill by accrediting training bodies and for regulating their conduct.</li> </ul> <p><b><u>Assessment Agency</u></b></p>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>regulation of Awarding Bodies (ABs), Assessment Agencies (AAs) and Skill related Information Providers (SIPs);</p> <p>b) Anchoring the National Skills Qualification Framework (NSQF), maintaining the National Qualification Register (NQR);</p> <p>c) Approval of the NSQF aligned Qualifications and National Occupational Standards (NOSs) developed by Awarding Bodies including the Sector Skill Councils (SSCs);</p> <p>d) Monitoring, evaluation, and supervision of recognized entities; and</p> <p>e) Establishing guidelines for indirect regulation of vocational training institutes through Awarding Bodies.</p>	<ul style="list-style-type: none"> <li>• <b>“assessment agency”</b> means a person which tests or conducts examinations to assess whether a trainee has met the requirements necessary to be certified as qualified with respect to a skill or qualification.</li> <li>• <b>“recognized assessment agency”</b> means a person who is a party to an agreement granting recognition with the NCVET and which is permitted to test or conduct examinations to assess whether a trainee has met the requirements to be certified as qualified by a recognized awarding body.</li> </ul> <p><b><u>Training body</u></b></p> <ul style="list-style-type: none"> <li>• <b>“training body”</b> means a person who is accredited with a recognized awarding body for providing training with respect to qualifications and skills.</li> <li>• A <b>“qualification”</b> or <b>“skill”</b> means a qualification or skill in respect of which the National Council for Vocational Education and Training has approved a qualification package. In view of the above architecture, the exemption granted vide Sl. No. 69 of Notification No. 12/2017-CT(R) dated 28.06.2017 needs to be revised. Entry 71 and the definition of approved vocation education in para 2(h) of the said Notification also need to be amended in order to replace references to NCVT with NCVET.</li> <li>• <b>After deliberations, Fitment Committee</b></li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<ul style="list-style-type: none"> <li>In view of the above, the relevant entries of notification No. 12/2017-CTR need to be recast to ensure that vocational education and training/skilling related services being offered by NCVET are exempt.</li> <li>Further, it has been requested that Awarding Bodies, Assessment Agencies, and Skill Related Information Partners recognized by NCVET may also be covered under these GST exemptions clauses. It has further been requested that any Vocational Education, Training and skilling training provider, training centre, or training institute affiliated to the NCVET recognized Awarding Bodies may also be exempted. It has also been requested that any other services provided by NCVET in pursuance of its mandate in the skilling domain be exempted.</li> </ul>	<p><b>recommended as below:</b></p> <ul style="list-style-type: none"> <li>To continue the exemption to NSDC in its present form;</li> <li>The other proposals of MSDE in relation to exempting activities of Skill Related Information Providers (SRIPs) may not be accepted since no such exemption exists currently.</li> <li>Amendments required in Sl. Nos. 69, 71 and para 2(h) of Notification No. 12/2017-CT(R) dated 28.06.2017 may be made in order to align the said entries with the revised vocational education and training framework set up under the NCVET.</li> </ul>
10.	To clarify that for the period prior to	<ul style="list-style-type: none"> <li>Feature films distribution is undertaken based on</li> </ul>	<ul style="list-style-type: none"> <li>There are two entries pertaining to distribution share received from theatres namely, motion</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
	01.10.2021, the tax rate applicable is 12% where the film distributor or sub-distributor acts on a principal basis to acquire and distribute films.	<p>arrangement entered into between producers of such feature films and distributors and also by way of an agreement entered into between producers/ distributors and with the exhibition centres. Hence, in the flow of services, there are two separate agreements.</p> <ul style="list-style-type: none"> <li>• In some agreements, the distributor acquires the exclusive theatrical rights of distribution, exhibition and exploitation of the feature film on a commission basis for the designated territories for a fixed period from the date of release of the feature film.</li> <li>• Further, the distributor in turn enters into an agreement with the exhibition centers for granting the exhibition rights of feature films. As per this agreement entered into between the distributor and the exhibitor, the distributor grants the exhibition rights to the exhibitor.</li> </ul>	<p>picture distribution services under heading 9996 and services by way of licensing of rights to broadcast or show films under heading 9973.</p> <ul style="list-style-type: none"> <li>• Prior to 1st October 2021, “<i>Motion Picture, videotape and television programme distribution services</i>” under Heading 9996 attracted GST rate of 18% and “<i>temporary or permanent transfer or permitting the use or enjoyment of intellectual property right in respect of goods other than IT technology software</i>” under Heading 9973 which covered services by way of licensing of rights to broadcast or show films attracted 12%.</li> <li>• Explanatory Notes to SAC 999614 and 997332 are reproduced below:  <b>SAC 999614 - Motion Picture, videotape and television programme distribution services include:</b> <ul style="list-style-type: none"> <li>(i) distribution of audiovisual works, including granting permission to exhibit, broadcast and rent audiovisual works that are implicitly or explicitly protected by a copyright owned or controlled by licensor, usually intended for theatres, television, home video market etc., such as live action or animated films, videos, digital media etc.</li> <li>(ii) management services for motion picture rights.</li> </ul> </li> </ul> <p>Note: <i>This product is transacted between the distributor and the exhibitor, television network, television station, video rental store</i></p>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<ul style="list-style-type: none"> <li>The department has taken a view that only the transaction entered into by the producers can only be covered under SAC code 9973 eligible for 12% GST rate and therefore, the transaction between distributors and exhibitors wherein the distributors grant the theatrical rights to the exhibition centers attract GST rate @ 18% under SAC 9996.</li> </ul>	<p><i>etc. This service code does not include licensing services (by the copyright holder) for the right to reproduce, distribute or incorporate audiovisual originals, cf. 997332.</i></p> <p><b>SAC 997332- Licensing services for right to broadcast and show original films, sound recordings, radio and tv programmes etc. includes:</b></p> <p>Licensing services for the right to reproduce, distribute or incorporate entertainment, musical such as broadcasting and showing of original films, sound recordings, radio and tv programmes, prerecorded tapes and videos.</p> <ul style="list-style-type: none"> <li>The GST rates on these services were discussed in the 45th GST Council meeting held on 17.09.2021 wherein, the Council recommended to rationalize the GST rate and keep uniform rate of 18% on both entries. It was also mentioned that there is an overlap between explanatory notes to services codes 999614 and 997332.</li> <li>It was noted that while “granting permission to exhibit, broadcast and rent audiovisual works protected by copyrights” is covered by Service code 999614 and “licensing services for the right to broadcast and show original films” is covered by service code 997332, there is no difference between “granting permission” and “licensing”.</li> <li><b>After deliberations, Fitment Committee recommended to regularize the GST liability for the past period prior to 01.10.2021 on ‘as is where is’ basis, where the film distributor</b></li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
			<b>or sub-distributor acts on a principal basis to acquire and distribute films.</b>
11.	To clarify taxability on Preferential Location Charges (PLC) collected along with consideration for sale/ transfer of constructed/ under-constructed residential/commercial properties.	<ul style="list-style-type: none"> <li>• Haryana Appellate Authority has held vide order dated 28.09.2020 that preferential location is an exclusive service independent of construction services.</li> <li>• A writ petition has been filed against the said order. The petitioner has contended as below: <ul style="list-style-type: none"> <li>(i) sale of land and building is altogether excluded as per Schedule III under Section 7 of the CGST/SGST Act; therefore, PLC is also outside the ambit of the GST.</li> <li>(ii) even where the case falls in Para 5 (b) of the Schedule II i.e., supply of construction services before issuance of completion certificate, then also preference location charges can only be charged to GST as a part of the construction service and not otherwise.</li> <li>(iii) further, even in case where the activity</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Allowing choice of location of apartment is integral part of supply of construction services and therefore, location charge is nothing but part of consideration charged for supply of construction services before issuance of completion certificate. Being charged along with supply of construction services for the apartment, the same attracts GST at same rate as of construction services before issuance of completion certificate.</li> <li>• Further, in case of sale of land or building after the issuance of completion certificate, which is neither a supply of goods nor a supply of services, supply of PLC is also not taxable under GST.</li> <li>• For the purpose of determining the threshold of Rs.45 lakhs in case of “affordable residential apartment” charges such as preferential location charges, development charges, parking charges, common facility charges etc are included in the gross amount. For the reference, clause xvi, sub-clause (a)(ii)(C) of paragraph 4 of notification No. 11/2017-CT(R) dated 28.06.2017, may be referred which reads as below: <p><i>“C. Any other amount charged by the promoter from the buyer of the apartment including <b>preferential location charges</b>, development charges, parking charges, common facility charges etc.”</i></p> </li> <li>• Further , with respect to supply of PLC along with the grant of long term lease, based on the</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>falls within the ambit of Clause (b) of Para 5 of Schedule II, the taxable activity is the “construction” of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier; and not the sale of building. Therefore, only that part of the total consideration must be subjected to tax which is related to the construction done in pursuant to the agreement to sell before issuance of CC/OC.</p> <p>(iv) PLC are a part and parcel of the transaction of sale of land and building, and do not constitute any independent service by</p>	<p>recommendation of 47<sup>th</sup> GST Council meeting held in June 2022, it was clarified vide Circular No. 177/09/2022-TRU dated 03.08.2022 that the location charges or preferential location charges (PLC) paid upfront in addition to the lease premium for long term lease of land constitute part of the lease premium or of upfront amount charged for long term lease of land and are eligible for the same tax treatment.</p> <ul style="list-style-type: none"> <li>• <b>After deliberations, Fitment Committee recommended to clarify that location charges or Preferential Location Charges (PLC) paid along with the consideration for the construction services of residential complex before issuance of completion certificate forms part of composite supply where supply of construction services is the main service and PLC is naturally bundled with it and are eligible for same tax treatment as the main supply ie construction service.</b></li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>the developer to the buyer. Preferential location is a composite supply wherein the principal supply is the construction service.</p> <ul style="list-style-type: none"> <li>• However, Haryana AAAR, in the instant case has observed as under:               <ul style="list-style-type: none"> <li>(i) Despite the preferential location coming into existence as a consequence of the construction activity undertaken by the developer, the amount charged for preferential location is a consideration paid by the prospective buyer for provisioning of an exclusive service viz. of providing a location which is more preferential to a buyer of a house or commercial property even after issuance of a completion certificate.</li> <li>(ii) Premiumness of location attracts a commensurate consideration which the</li> </ul> </li> </ul>	

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>buyer pays for an identified advantage, viz view/ direction/ sunlight/airiness/vicinity/ serenity/parking facility etc. or a combination of these. This makes the provided service an exclusive service capable of providing even by a dealer in immovable property. The same therefore need not be component of construction service.</p> <p>(iii) The most appropriate entry wherein the instant service is classifiable is 997222 i.e <i>Building sales on a fee or commission basis or on contract basis</i></p> <ul style="list-style-type: none"> <li>Hon'ble AAAR, West Bengal has also held that <i>Preferential Location Service is attributable to the choice of purchaser in respect of floor rise and directional advantage. Hence, it is evident that Preferential Location Service cannot be naturally bundled with construction service in the ordinary</i></li> </ul>	

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<i>course of business. The abatement, which is allowed on the value of construction service, as the plot of land on which construction is done is not liable to GST and cannot be deemed to be applicable in respect of Preferential Location Service, which is altogether a separate service having no association with the land.</i>	
12.	To ascertain value of land for deciding value of construction services in case of sale of commercial / residential apartments.	<ul style="list-style-type: none"> <li>As per paragraph 2 of the notification No. 11/2017-Central Tax (Rate) dated 28th June, 2017, in case of supply of “construction service”, involving transfer of land or undivided share of land, the value of such supply shall be equivalent to the total amount charged for such supply less the value of transfer of land or undivided share of land, and the value of such transfer of land or undivided share of land, shall be deemed to be one third of the total amount charged for such supply.</li> <li>However, Hon’ble High Court of Gujarat in the</li> </ul>	<ul style="list-style-type: none"> <li>Issue was deferred by the 52nd GST Council held on 07.10.2023.</li> <li>Hon’ble High Court of Gujarat in the case of Munjaal Manishbhai Bhatt Vs. UOI in SCA No. 1350 of 2021 dated 06.05.2022 has not only directed to deduct value of land on actual basis where it is ascertainable, but has also ordered to refund the excess amount of tax paid on this count in the past. The said order of the Hon’ble High Court has been contested before the Hon’ble Supreme Court.</li> <li>The Court in the said case has also held that valuation has been done through a notification entry while the same should have been done under rules prescribed under Section 15 of the Act.</li> <li>Relevant paras 122 – 124 of Hon’ble Gujarat High Court in the Munjaal Manishbhai Bhatt Vs. UOI in SCANo. 1350 of 20 21 dated 06.05.2022 is reproduced as under:</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>case of Munjaal Manishbhai Bhatt Vs. UOI in SCANo. 1350 of 2021 dated 06.05.2022, has declared mandatory deduction of 1/3rd of total consideration towards value of land as ultra-vires. The said para (Para 122) is shown below:</p> <p><i>“in the result, the impugned Paragraph 2 of the Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017 and identical notification under the Gujarat Goods and Services Tax Act, 2017, which provide for a mandatory fixed rate of deduction of 1/3rd of total consideration towards the value of land is ultra- vires the provisions as well as the scheme of the GST Acts. Application of such mandatory uniform rate of deduction is discriminatory, arbitrary and violative of Article 14 of the Constitution of India.”</i></p> <ul style="list-style-type: none"> <li>• Further, in the said judgment Hon. Gujarat</li> </ul>	<p><i>“122. in the result, the impugned Paragraph 2 of the Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017 and identical notification under the Gujarat Goods and Services Tax Act, 2017, which provide for a mandatory fixed rate of deduction of 1/3rd of total consideration towards the value of land is ultra- vires the provisions as well as the scheme of the GST Acts. Application of such mandatory uniform rate of deduction is discriminatory, arbitrary and violative of Article 14 of the Constitution of India.</i></p> <p><i>123 While we so conclude, the question is whether the impugned paragraph 2 needs to be struck down or the same can be saved by reading it down. In our considered view, while maintaining the mandatory deduction of 1/3rd for value of land is not sustainable in cases where the value of land is clearly ascertainable or where the value of construction service can be derived with the aid of valuation rules, such deduction can be permitted at the option of a taxable person particularly in cases where the value of land or undivided share of land is not ascertainable.</i></p> <p><i>124 The impugned paragraph 2 of Notification No. 11/2017- Central Tax (Rate) dated 28th June 2017 and the parallel State tax C/SCA/1350/2021CAV JUDGMENT DATED: 06/05/2022 Notification is read down to the effect that the deeming fiction of 1/3rd will not</i></p>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>High Court proclaimed that deduction of 1/3rd of the value of land will be permitted at the option of taxpayer. Relevant para 123 and 124 are given below;</p> <p><i>“123 While we so conclude, the question is whether the impugned paragraph 2 needs to be struck down or the same can be saved by reading it down. In our considered view, while maintaining the mandatory deduction of 1/3rd for value of land is not sustainable in cases where the value of land is clearly ascertainable or where the value of construction service can be derived with the aid of valuation rules, such deduction can be permitted at the option of a taxable person particularly in cases where the value of land or undivided share of land is not ascertainable.</i></p> <p><i>124 The impugned paragraph 2 of Notification No. 11/2017- Central Tax (Rate) dated 28th June</i></p>	<p><i>be mandatory in nature. It will only be available at the option of the taxable person in cases where the actual value of land or undivided share in land is not ascertainable.”</i></p> <ul style="list-style-type: none"> <li>• Section 15(5) of CGST Act, 2017 empowers the Government to notify the value of such supplies, based on the recommendations of the Council, which will be determined in the manner as prescribed.</li> <li>• <b>After deliberations, Fitment Committee recommended that valuation may be done on the basis of notified circle rates or registered sales deed/ or on actual basis wherever available. Where the circle rate or value of land is not available, then value of land may be deemed. Law Committee may deliberate for making necessary amendment in Rule 32 of CGST Rules, 2017.</b></li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p><i>2017 and the parallel State tax C/SCA/1350/2021CAV JUDGMENT DATED: 06/05/2022 Notification is read down to the effect that the deeming fiction of 1/3rd will not be mandatory in nature. It will only be available at the option of the taxable person in cases where the actual value of land or undivided share in land is not ascertainable."</i></p> <ul style="list-style-type: none"> <li>• In one of the search operations, it is found that promoter, involved in construction of commercial apartments, has claimed 60% deduction towards the value of land. Taxpayer has taken resort of the above judgment of Hon Gujarat High Court and paid GST on 40% of the total amount charged for such supply.</li> </ul>	
13.	To levy GST on renting of commercial property by unregistered person to registered person on Reverse Charge Mechanism (RCM)	<ul style="list-style-type: none"> <li>• GST @18% is applicable on the renting income. However, vide notification No. 12/2017- Central Tax (Rate) dated 28th June 2017, services by way of renting of residential dwelling for use as a</li> </ul>	<ul style="list-style-type: none"> <li>• Issue was deferred by the 52<sup>nd</sup> Council meeting held on 07.10.2023.</li> <li>• Currently, vide entry no. 12 of the notification No. 12/2017-CTR dated 28.06.2017, renting of residential dwelling for use as residence is exempt from GST except when it is rented to a registered person, in which case it is taxed under RCM.</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
	basis.	<p>residence are exempted from GST.</p> <ul style="list-style-type: none"> <li>As per notification No. 05/2022- Central Tax (Rate) dated 13th July 2022 service by way of renting of residential dwelling to a registered person is subject to GST on reverse charge and tax is to be paid by the registered person who is taking the said dwelling on rent.</li> <li>This implies that even if the rent of the said property is less than Rs. 20 lakhs (threshold for registration) it would be subject to GST. Further, GST is applicable @ 18% under forward charge on renting of commercial property.</li> <li>In case of renting of commercial property, only registered person is subject to payment of tax. However, where the person providing service of renting of commercial property is unregistered (on account of threshold for registration) no GST is</li> </ul>	<ul style="list-style-type: none"> <li>Services by way of renting of immovable property (other than renting of residential dwelling to a registered person for use as residence) is taxable on forward charge basis (except renting of immovable property by Government and Local Authority to a registered person).</li> <li>Non-imposition of tax on reverse charge basis on rental services in relation to commercial property from unregistered to registered person appears to be creating differential tax regime for residential property vis-à-vis commercial property.</li> <li><b>After deliberations, to plug the revenue leakage, Fitment Committee recommended that renting of commercial property by unregistered person to registered person may be brought under RCM.</b></li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>applicable.</p> <ul style="list-style-type: none"> <li>• Taxpayers are adopting nefarious means to avoid payment of tax by remaining below the threshold limit, as illustrated below:</li> </ul> <p><b>Illustration 1:</b> Mr. X, Y and Z are part owners of the property and rent it to Mr. A, who is a registered person and rental income is Rs. 24 lakhs. The rent is divided between them and received in individual accounts, thereby keeping the turnover below threshold. In case, this service is brought under reverse charge, the registered tenant i.e., Mr. A in this case will be liable to discharge GST without applicability of threshold limit.</p> <p><b>Illustration 2:</b> Mr X has a commercial property which is rented to a registered person and the rental income of same is more than Rs. 20 lakhs but in order to avoid GST</p>	

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>rental income of less than Rs. 20 lakhs is shown in records and since GST is applicable on forward charge being below threshold, the said transaction will go out of the ambit of GST.</p> <ul style="list-style-type: none"> <li>• In light of the above, it is proposed that renting or leasing of commercial property by unregistered person to registered person may be subject to tax on reverse charge basis in order to plug the leakage of revenue.</li> <li>• This would not only plug the loopholes as detailed earlier but also would bring parity in the taxation of service of renting of commercial or residential property to registered person.</li> <li>• Since the availment of Input Tax Credit on immovable property or construction is already barred by the provisions of sub-section (5) of section 17 of the GST Act, there is not expected to be much of</li> </ul>	

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		ITC blocking for such taxpayers as beyond the extant regime.	
14.	To clarify the taxability on sale of partnership interest in case of farm-in farm out contracts in oil and gas exploration sector.	<ul style="list-style-type: none"> <li>For regulation of petroleum operations and grant of licenses &amp; leases for exploration, development &amp; production of petroleum in India, the Government of India has executed Production Sharing Contracts (PSCs), with Exploration &amp; Production (E&amp;P) companies.</li> <li>Since the investment involved is huge, a number of E&amp;P Companies come together &amp; enter into a single PSC with the Government of India, wherein each of these companies has agreed Participating Interest (PI) defined under the Model PSC, as under   <i>“Participating Interest” means, in respect of each Party constituting the Contractor, the undivided share expressed as a percentage of such Party’s participation in the</i> </li> </ul>	<ul style="list-style-type: none"> <li>A <b>farm-in</b> is an agreement between two operators, one of which owns the interest in a piece of land where oil or gas has been discovered. The owner of the interest makes the agreement in order to offset the costs associated with drilling, developing, or otherwise removing the resources from the land. The company that acquires the rights to do the actual drilling benefits from access to a proven source of oil or natural gas without having to discover it themselves.</li> <li>A <b>farm out</b> is a type of agreement where a party that has a working interest to a gas and oil lease will grant that interest to another party. The other party will then be contractually obligated to meet specific conditions, such as setting up a drill in a specific location, drilling to an agreed upon depth, etc. The owner of the interest in this lease can assign either all their interest to the other party, or only a portion of it.</li> <li>The bids for licenses and leases of oil fields can be made by a single company or by a consortium of companies. The single company or the consortium of companies which gets the oil exploration lease and enters into Production Sharing Contract with the Government is called a contractor in the Production Sharing Contract.</li> <li>The Model Production Sharing Contract available on the website of MoPNG provides in</li> </ul>

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		<p><i>rights and obligations under the Production Sharing Contract.”</i></p> <ul style="list-style-type: none"> <li>Over a period of time, the E&amp;P Companies buy (Farm-in) and sell (Farm-out) their PIs in the PSC, for consideration.</li> <li>Farm-in expenditure is incurred when a company in this line of business, acquires PI from another E&amp;P company and becomes part of the PSC entered with the Government of India. Such Farm-in expenditure is accounted for, as per Circular No. 20/2019 dated 19-08-2019 of the Central Board of Direct Taxes (<b>Annexure-A1</b>), as ‘intangible asset’ (business or commercial right akin to a licence), eligible for claim of depreciation.</li> <li>Thus, PI being undivided share in the rights acquired under the PSC, is accounted for as intangible assets and under the Farm-in &amp; Farm-out agreement, the E&amp;P company supplies</li> </ul>	<p>Article 28.1 that any party comprising the contractor may assign or transfer a part or all of its participating interest with the written consent of the Government.</p> <ul style="list-style-type: none"> <li>Article 28.5 of the Production Sharing Contract states that upon assignment or transfer of its interest in the contract, the assigner or transferor shall be released and discharged from its obligations under the contract to the extent such obligations are assigned by the assignee or transferee.</li> <li>Article 28.7 of the Production Sharing Contract provides that the minimum participating interest that can be assigned is 10% of the total participating interest of all the constituents of the contractor.</li> <li>Article 29.7 of the Production Sharing Contract indicates that where a party assigns all or a part of its participating interest to a third party, an addendum is added to the original contract giving effect to the participating interest which is executed by all the parties and on execution of such addendum by all the parties, the Government shall release the guarantee given by the assignor required under the contract.</li> <li>Assignment of any right or interest by any person to another against consideration is taxable unless it has been exempted or such assignment amounts to,- <ul style="list-style-type: none"> <li>Supply of Actionable Claims or</li> <li>Transfer of Going Concern (TOGC).</li> </ul> </li> <li>Supply of Actionable Claim has been declared as neither a supply of goods nor a supply of</li> </ul>

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		<p>such PIs (i.e. the undivided share in the licenses/rights obtained from the Government, for exploration, development &amp; production of petroleum) under the PSC, to another E&amp;P company, for consideration. Further, intangible assets can be both intellectual property products (patents, copyrights &amp; trademarks which are statutory forms of intellectual property) as well as non-intellectual property products (i.e., trade secrets, contracts etc.).</p> <ul style="list-style-type: none"> <li>• Since PI is intangible asset and also not an actionable claim, it is, therefore, not covered under the ambit of goods as defined under the CGST Act, 2017. Thus, it appears to be under the ambit of 'service' and in terms of Explanatory note on the Scheme of Classification of Services, supply of PIs under the Farm-in &amp; Farm-out agreements, appears to be covered under supply of</li> </ul>	<p>services while transfer of going concern on the other hand has been exempted.</p> <ul style="list-style-type: none"> <li>• To decide whether assignment of participating interest is a constituent of the Production Sharing Contract to another constituent or to a person outside the contract, it has to be determined whether the assignment of participating interest in the Production Sharing Contract amounts to supply of Actionable Claims or supply of services by way of Transfer of Going Concern.</li> <li>• Actionable Claims have been defined in Transfer of Property Act, 1882 as under: <p><i>“actionable claim” means a claim to any debt, other than a debt secured by mortgage of immoveable property or by hypothecation or pledge of moveable property, or to any beneficial interest in moveable property not in the possession, either actual or constructive, of the claimant, which the Civil Courts recognise as affording grounds for relief, whether such debt or beneficial interest be existent, accruing, conditional or contingent.”</i></p> </li> <li>• Court decisions relating to Actionable Claims have held that transfer of beneficial interest in a contract can be transferred as an Actionable Claim. However, transfer of obligations under a contract cannot be assigned as an Actionable Claim.</li> <li>• Therefore, if a person transfers only the beneficial interest in a contract without transferring any of his obligations under the contract or if he transfers the beneficial interest</li> </ul>

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		<p>service under SAC 997337 (Group 99733), as under:</p> <p><u>99733: Licensing services for the right to use intellectual property and similar products</u></p> <p><i>This group includes permitting, granting or otherwise authorising the use of intellectual property products and similar products.</i></p> <p><i>Note: This covers rights to exploit these products, such as licensing to third parties; reproducing and publishing software, books etc.; using patented designs in production processes to produce new goods and so on. Limited end user licenses, which are sold as part of a product (e.g., packaged software, books) are not included here.</i></p> <p><u>997337 Licensing services for the right to use minerals including its exploration and evaluation</u></p> <p><i>This service code includes licensing services for the</i></p>	<p>in the contract after fulfilling all his obligations under the contract such assignment of beneficial interest in the contract would be regarded as transfer of an Actionable Claim.</p> <ul style="list-style-type: none"> <li>• However, the interest of a partner in an on-going partnership firm cannot be transferred as Actionable Claim because the interest of a partner in an ongoing partnership firm has both rights and obligations attached to it.</li> <li>• Para 28.8 of the Production Sharing Contract indicates an instance where a party comprising the contractor may assign its participating interest without assigning its obligations under the contract for the purposes of obtaining finance from the potential lenders.</li> <li>• If the assignment of participating interest is of such a nature where only the beneficial interest of a party is transferred without transfer of any obligations, it may amount to transfer of Actionable Claim and will be outside GST. Thus the contract or the agreement for such assignment has to be closely examined in each case to arrive at a decision whether the assignment of participating interest can be considered as transfer of Actionable Claim.</li> <li>• In order to ascertain whether sale of partnership interest falls within the scope of Transfer of Going Concern (TOGC), it is pertinent to look at the scope of TOGC.</li> <li>• TOGC is exempt under GST although the term TOGC has not been defined under GST Law. However, the definition of ‘slump sale’ under Income Tax Act broadly covers the concept of</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p><i>right to use, minerals exploration and evaluation information, such as mineral exploration for petroleum, natural gas and non-petroleum deposits.</i></p> <ul style="list-style-type: none"> <li>• Further, Sl. No. 17 of the Notification No. 11/2017-CT (Rate) dated 28-06-2017 notifies the rate of CGST on supply of services covered under SAC 9973. Since supply of PIs is transfer or permitting the use or enjoyment of non-intellectual property rights, it appears to be covered under the residuary entry at Sl. No. 17 (viii) of the Notification No. 11/2017-CT (Rate) dated 28-06-2017 which presently attracts GST rate of 18%.</li> <li>• Thus, it is felt that supply of PIs by way of Farm-in &amp; Farm-out agreements, is taxable under the CGST Act, 2017.</li> </ul>	<p>TOGC.</p> <ul style="list-style-type: none"> <li>• As per Section 2 (42 C) of Income Tax Act, 1961, <i>‘slump sale’ means the transfer of one or more undertakings as a result of the sale for a lump sum consideration without values being assigned to the individual assets and liabilities in such sales.</i></li> <li>• Income Tax does not treat sale of partnership interest as slump sale and sale of partnership interest is taxed as capital gains and is not treated as TOGC.</li> <li>• If sale of partnership interest is not TOGC, the same is liable to GST. ITC of the same is available in most cases and would not be an issue.</li> <li>• Thus, sale of partnership interest in case of farm-in farm out contracts in oil and gas exploration sector is taxable.</li> <li>• <b>After deliberations, Fitment Committee recommended to clarify that farm-in and farm-out of participating interest is taxable.</b></li> </ul>
15.	To clarify whether exemption under entry 34 of notification No. 12/2017-CTR dated	<ul style="list-style-type: none"> <li>• In 2017, government exempted transactions below Rs 2000 from the levy of service tax and GST. This was to ensure</li> </ul>	<ul style="list-style-type: none"> <li>• Entry 34 of notification No. 12/2017-CTR dated 28.06.2017 reads as below:  <i>“Services by an acquiring bank, to any person in relation to settlement of an amount upto two</i></li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
	28.06.2017 is available to payment aggregators for transactions transacted through credit card, debit card, charge card or other payment cards over digital networks upto Rs. 2000/-.	<p>that the merchants are not burdened with the additional cost of GST on smaller value transactions done through credit card, debit card or other payment card services.</p> <ul style="list-style-type: none"> <li>Entry 34 of notification No. 12/2017-CTR dated 28.06.2017 reads as below: <i>“Services by an acquiring bank, to any person in relation to settlement of an amount upto two thousand rupees in a single transaction transacted through credit card, debit card, charge card or other payment card service. Explanation. — For the purposes of this entry, “acquiring bank” means any banking company, financial institution including non-banking financial company or any other person, who makes the payment to any person who accepts such card”.</i></li> <li>Acquiring bank has been defined broadly to cover all/ any entity that is involved in digital payment transaction and settles the payment to the</li> </ul>	<p><i>thousand rupees in a single transaction transacted through credit card, debit card, charge card or other payment card service.</i></p> <p><i>Explanation. — For the purposes of this entry, “acquiring bank” means any banking company, financial institution including non-banking financial company or any other person, who makes the payment to any person who accepts such card”.</i></p> <ul style="list-style-type: none"> <li>Payment Aggregators (PAs) are intermediaries playing an important function in facilitating payments in the online space.</li> <li>PAs are entities that facilitate e-commerce sites and merchants to accept various payment instruments from the customers for completion of their payment obligations without the need for merchants to create a separate payment integration system of their own.</li> <li>PAs facilitate merchants to connect with acquirers. In the process, they receive payments from customers, pool and transfer them on to the merchants after a time period.</li> <li>However, the definition of acquiring banks has to be read in line with the other categories mentioned in the definition such as banking company, financial institution including NBFC etc. and PAs being intermediaries do not fit the mandate.</li> <li><b>After deliberations, Fitment Committee recommended to clarify that the services provided by payment aggregators in relation to the transaction transacted</b></li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>end merchant who accepted card transactions.</p> <ul style="list-style-type: none"> <li>Payment Aggregators (PA) who are now directly regulated under extant RBI guidelines play a critical role as they are involved in handling of funds and interface with the merchants directly to ensure that the card payments accepted by the merchants are duly settled to such merchants.</li> <li>PAs onboard merchants across geographical locations, operating models, size, etc. on the digital payment ecosystem. PAs do the settlement of funds to merchants even with less revenue margins that such settlement process entails.</li> </ul>	<p><b>through credit card, debit card, charge card or other payment cards over digital networks upto Rs. 2000/- are not eligible for exemption under entry at Sl. No. 34 of the notification No.12/2017-CTR dated 28.06.2017 and is taxable.</b></p>
16.	To clarify whether concession amount paid to NHAI by concessionaire for grant of rights under Toll Operate and Transfer model (TOT) is liable to GST or not, as toll is exempted under	<ul style="list-style-type: none"> <li>National Highway Authority of India (NHAI) has been authorized for monetization of assets by introducing the Toll Operate and Transfer (TOT) model for partnership with private sector for toll collection, operation and maintenance</li> </ul>	<ul style="list-style-type: none"> <li>Under CGST Act, 2017, supply of any goods and services or both, attracts GST unless that supply is specifically exempted from GST.</li> <li>It is immaterial whether consideration in lieu of that supply is appropriated in Consolidated Fund of India or not or the said amount is considered as income or not. No such exemption has been granted in CGST Act based on the fact that the consideration for any supply</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
	Notification- 12/2017 - Central Tax (Rate) dated 28.06,2017.	<p>for a period of 15-30 years against an upfront lump sump concession fee quoted.</p> <ul style="list-style-type: none"> <li>As per NHAI submission, all the proceeds of TOT are remitted to Consolidated Fund of India, upon realization on the same day and are not considered as Income in the Books of NHAI.</li> <li>Toll (user fee) is reimbursement for the costs that are incurred in the construction, maintenance and operation of roads and bridges. Further, toll is a consideration charged to vehicles for providing/allowing access to a road or bridge.</li> <li>The concession amount is the lump sum upfront payment of toll revenue which is in nature of a Capital Receipt used to fund for creation of new assets. Therefore, it is not liable to GST, as toll is exempted under Notification- 12/2017 - Central Tax (Rate) dated 28.06,2017.</li> </ul>	<p>of service is appropriated in Consolidated Fund of India.</p> <ul style="list-style-type: none"> <li>The consideration paid for the services provided by other Government departments are also appropriated to the consolidated fund of India and they are also taxed under GST and no exemption is given to them based on the remittance of the consideration to the Consolidated Fund of India.</li> <li>Under TOT model, the National Highway Authority of India engages a concessioner for operation, maintenance and management of already developed/ constructed highway projects. The concessioner is entitled to demand and collect toll from vehicles and users of the highway.</li> <li>As per the Model concession agreement under TOT arrangement, grant of concession entitles the concessioner: <ul style="list-style-type: none"> <li><i>(a) Right of Way, access and license to the Site for the purpose of and to the extent conferred by the provisions of this Agreement;</i></li> <li><i>(b) manage, operate and maintain the Project Highway and regulate the use thereof by third parties in accordance with terms hereof;</i></li> <li><i>(c) demand, collect and appropriate Fee from vehicles and Users liable for payment of Fee for using the Project Highway or any part thereof and refuse entry of any vehicle if the Fee due is not paid;</i></li> <li><i>(d) perform and fulfill all of the Concessionaire's obligations under and in accordance with this Agreement;</i></li> </ul> </li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<ul style="list-style-type: none"> <li>• Demand amounting to Rs. 677 Cr for the period from July, 2017 to March, 2022 has been issued.</li> </ul>	<p><i>(e) bear and pay all costs, expenses and charges in connection with or incidental to the performance of the obligations of the Concessionaire under this Agreement; and</i></p> <p><i>(f) neither assign, transfer or sublet or create any lien or Encumbrance on this Agreement, or the Concession hereby granted or on the whole or any part of the Project Highway nor transfer, lease or part possession thereof, save and except as expressly permitted by this Agreement.</i></p> <ul style="list-style-type: none"> <li>• The upfront amount paid by the concessionaire is the consideration paid by him for receiving exclusive right of way, access and license to the site including right to demand, collect and appropriate fee from vehicles and users along with the maintenance of the highways etc by NHAI and regulation of third parties from the appointed day till expiry of agreement.</li> <li>• As per NHAI, Toll (user fee) is reimbursement for the costs that are incurred in the construction, maintenance and operation of roads and bridges. Further, toll is a consideration charged to vehicles for providing/allowing access to a road or bridge.</li> <li>• While entry at Sl. No.23 of the notification No. 12/2017-CTR dated 28.06.2017 exempts the service by way of access to a road or a bridge on payment of toll charges from GST, thereby, it exempts the toll collected from the individual users for access of the roads and bridges by the concessionaire.</li> <li>• Along with right to access, the concessionaire also maintains and manages the already</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
			<p>developed/ constructed highway projects and such services are taxable unless exempted. The upfront amount paid by concessionaire to NHAI is also inclusive of this cost.</p> <ul style="list-style-type: none"> <li>• <b>After deliberations, Fitment Committee recommended to clarify that the concession amount paid to NHAI by concessionaire is taxable and not covered under entry at Sl. No. 23 of notification No. 12/2017-CTR.</b></li> </ul>
17.	Research grants or donations received from Government or private agencies may be kept outside the purview of GST taxation	<ul style="list-style-type: none"> <li>• DGGI has issued show cause notices to certain research organizations demanding GST on research grants received from government and private sources.</li> <li>• However, the research grants may be treated as subsidy as the nature of research using the grant is only towards delivering public good and does not lead to commercialization or business. Only research or consultancy leading to contracted output of goods or services should be levied to GST and many universities are paying GST for such activities</li> <li>• Research grants given for open-ended generic research are not</li> </ul>	<ul style="list-style-type: none"> <li>• DGGI has issued a series of Show Cause Notices in respect of non-payment of GST by institutions / universities on grants received by them from government / non-government bodies for conduct of research.</li> <li>• DGGI has taken a view that research conducted by an institute / university is a supply of service by the institute / university. In the instant cases, the payment in the form of grant was made to the institute / university so that institute / university may undertake research on a particular project. Therefore, the payment received by the institute / university in the form of grants appears to qualify as consideration. Also, the research conducted by the institute / university appears to be covered under the definition of business.</li> <li>• In the 22<sup>nd</sup> meeting of the GST Council, it was recommended that grants given by Central Government, State Government or a local authority to a Government entity may be exempted under GST. The context in which this recommendation was made was a proposal from the State of Gujarat to exempt the</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>'consideration' as the grant money received is a voluntary payment without any identifiable underlying supply of goods or services solely for the benefit of the grantor. It must also be borne in mind that out of the grants received, substantive portions go for the purchase of capital assets or operational expenses for which GST is paid at prevailing rates.</p> <ul style="list-style-type: none"> <li>Research grant is a voluntary donation following a competitive process of selection based on proposals submitted. The proposals clearly highlight the objective of delivering larger public good which otherwise the government or its agencies have to do directly. Not only is this a subsidy in that regard but also the grant given is renewed only after submission of utilisation certificate periodically. While the genuine pursuit of research is not in question, it is safe</li> </ul>	<p><u>provision of budgetary grants to entities set up by the Government to implement various schemes and to carry out functions on its behalf.</u> Accordingly, vide Notification No. No.32/2017- Central Tax (Rate) dated 13.10.2017, entry 9C was inserted in the exemption notification 12/2017-CT(Rate) with effect from 13.10.2017.</p> <ul style="list-style-type: none"> <li>As per Sl.No.9C of the Notification No.12/2017 – Central Tax (Rate) dated 28.06.2017 <i>supply of service by a Government Entity to Central Government, State Government, Union territory, local authority or any person specified by Central Government, State Government, Union territory or local authority against consideration received from Central Government, State Government, Union territory or local authority, in the form of grants, is exempted from GST.</i></li> <li>It is DGGI's case that the supply of R&amp;D services by the research institute / university to CSIR, ICMR, SERB and such other Government entities or Private entities against consideration received in the form of grants from such entities do not qualify for exemption under the aforesaid entry.</li> <li>This is because the existing entry at Sl. No. 9C of Notification No. 12/2017-CT(R) exempts services being provided only by Government entities and further restricts the scope of the exemption to cases where the service is provided to the Government, or any person specified by it, against grants received from the Government.</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>to assume that research is not business.</p> <ul style="list-style-type: none"> <li>If the Government intends to create intelligible differentia to ensure only deserving research institutions are exempted, GST may be exempted for universities and institutions notified u/s 35(i)(ii) of the Income Tax Act as they are recognised as research institutions.</li> </ul>	<ul style="list-style-type: none"> <li>It is felt that a specific exemption may be created to include public funded research activities being carried out by Government entities and certain private entities which are notified under Section 35(1)(ii) or (iii) of the Income Tax Act, 1961 as organizations to which contributions made for scientific research are allowed as a deduction.</li> <li><b>After deliberations, the Fitment Committee recommended to grant exemption to the following service under heading 9981:</b> <ul style="list-style-type: none"> <li><i>Supply of research and development services by-</i> <ul style="list-style-type: none"> <li><i>(a) a Government Entity; or</i></li> <li><i>(b) a research association, university, college or other institution, notified under clauses (ii) or (iii) of sub-section (1) of section 35 of the Income Tax Act, 1961</i></li> </ul> </li> </ul> </li> </ul> <p><i>to Central Government, State Government, Union territory, local authority or Government Entity against consideration received from them in the form of grants.</i></p> <ul style="list-style-type: none"> <li>An explanation may be inserted in the Notification entry explaining that a research association, university, college or other institution shall be eligible for the exemption only if it is duly notified under section 35 of the Income Tax Act, 1961 at the time of supply of the research service; and</li> <li>Past cases may be regularized on <i>'as is where</i></li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
			<i>is' basis.</i>
18.	<p>(a) To issue a suitable clarification with regard to non-applicability of GST under reverse charge on the India branch office for expenses incurred by Foreign Airlines Head Office.</p> <p>(b) Any other relief mechanism or amendment effective from 01.07.2012 that meets the request.</p>	<ul style="list-style-type: none"> <li>• Taxation of Head Office (HO) activities attributable to India operations (on a presumptive or deemed basis) would amount to taxation of aircraft lease, fuel, maintenance, aircraft stores and crew in the course of their international operations.</li> <li>• These operations have immunity from taxation (such as customs and other charges on their import into another jurisdiction) under international and bilateral air services agreements, including under income tax treaties.</li> <li>• Contract of carriage with passengers globally, lies with the Head Office even though ticket sales may occur through various sales channels.</li> <li>• All risks and responsibilities for fulfilling the journey lie with the Head Office. Consequently, the Head Office contracts for all the key expenses such as</li> </ul>	<ul style="list-style-type: none"> <li>• As per investigations, running an airline includes inter alia the expenditures such as lease rent of aircraft, maintenance charges for aircraft which includes maintenance contract, procurement of space etc., cost of crew and pilots and other expenditures (including fuel).</li> <li>• In case of Foreign Airlines operating flights from India, majority of the aforesaid expenses is incurred by the HO of foreign airlines located outside India. The HO of the foreign airlines do not charge any consideration against these expenses from the branch offices located in India.</li> <li>• However, in terms of Schedule I Entry 4 of the CGST Act, 2017, any import of services, even if undertaken without consideration, by an establishment of one person located in India from an establishment of the same person located outside India, would be considered as a supply without consideration.</li> <li>• The valuation of such supply of service without consideration shall be done as per provisions of Section 15 of the CGST Act, 2017 read with Rule 28 of the CGST Rules, 2017.</li> <li>• Therefore, it appears that the branch offices of the foreign airlines were liable to pay tax on the aforesaid expenditure under reverse charge mechanism @18% even if no consideration was charged by the HO.</li> <li>• Possession of the aircraft always vests with the HO located outside India which is deemed to be a distinct person than the Indian Branch Office</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>aircraft, fuel, maintenance, crew, etc. (even though the India Branch could contract for some local services relevant to its limited in-country activities and scope of work).</p> <ul style="list-style-type: none"> <li>• It would therefore be a fallacy to presume, as is being alleged in the ongoing proceedings, that the India Branch is somehow responsible for contracting and delivering air transport services to the passengers, and thus requires the Head Office to provide support to the India Branch for the fulfilment of these services.</li> <li>• Furthermore, the Branch is not even the beneficiary of the contracts signed by the Head Office as the Head Office runs the entire operation from outside India with no role for the Branch in commercial decisions</li> <li>• Merely because the India Branch is responsible for payment of GST on the</li> </ul>	<p>in terms of Section 8 of the IGST Act. The cost of the aforesaid expenditure ranges between 18% - 28% of the sales value depending on the supply chain pattern of the different airlines.</p> <ul style="list-style-type: none"> <li>• As per entry 4 of Schedule I of CGST Act, <i>“import of service by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business”</i> is to be treated as a supply even if made without consideration.</li> <li>• Further, as per explanation to sub-section 2 of section 8 of IGST Act, where a person has an establishment in India and any other establishment outside India then such establishments shall be treated as establishments of distinct persons.</li> <li>• Section 7(1)(c) of CGST Act, 2017 states that <i>“the expression supply includes the activities specified in Schedule I, made or agreed to be made without a consideration”</i>.</li> <li>• Section 2 (11) of IGST Act, 2017 defines ‘import of services’ as the <i>“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.”</i></li> <li>• Thus, in terms of existing legal provisions, the services by branch office from head office is taxable.</li> <li>• However, in the representation it has been highlighted that all expenses are being borne by the head office on account of aircraft lease, fuel, maintenance, aircraft stores and crew in</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>entire outbound journey under the GST law, it does not automatically imply that the India Branch is contractually or factually responsible for entire air transport operations in India.</p> <ul style="list-style-type: none"> <li>Section 7 of CGST Act, 2017 defines the term ‘supply’, which includes within its ambit ‘activities as specified in Schedule I of CGST Act, 2017 even if made without consideration’ (deeming provision). The provision only permits taxation of supplies in certain cases where ‘consideration’ is absent; and does not allow a presumption of ‘supply’ itself.</li> <li>In the present case, the Head Office is not, whether under the foregoing regulations or under its contract for carriage or other expenses, or in fact as per activities undertaken, supporting the India Branch in carrying on India operations. Hence, even under GST</li> </ul>	<p>course of their international operations.</p> <ul style="list-style-type: none"> <li>The branch offices of the foreign airlines are paying taxes as per the following: <ul style="list-style-type: none"> <li>✓ Transport of passengers by air is chargeable to 5% GST in case of economy class, 12% in case of other than economy class and charter @18% vide entries at Sr. Nos. 8(ii), (v) and (vii) of the notification No. 11/2017-CTR dated 28.06.2017.</li> <li>✓ Further, transport of goods by air is chargeable to 18% GST except the services by way of transportation of goods by aircraft from place outside India to customs clearance in India (Sr. No. 9(vii) of the notification No. 11/2017- CTR dated 28.06.2017 and Sr. No. 19 of the notification No. 12/2017 CTR dated 28.06.2017 respectively).</li> </ul> </li> <li>Ministry of Civil Aviation (MoCA) was consulted and they have shared the draft entry in the exemption notification along with conditions to be imposed with the exemption which is annexed as <b>Annexure-I</b>.</li> <li>Section 2(42) of the Companies Act, 2014 defines foreign company as “<i>any company or body corporate incorporated outside India which— (a) has a place of business in India whether by itself or through an agent, physically or through electronic mode; and (b) conducts any business activity in India in any other manner.</i>”</li> <li>Section 381 (1) of Companies Act, 2013 states</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>law, there is no presumption of supply being permissible in such a case.</p> <ul style="list-style-type: none"> <li>• Further, if the Foreign Airline would have operated through a General Sales Agent (3rd party) in India, in place of having a Branch office, this issue would not be debated. GST regulations cannot result in a significantly adverse outcome for the Branch as compared to a 3rd party, operations remaining the same.</li> <li>• Investigations have been started against various branch offices of the foreign airlines that they are required to pay the tax under Reverse Charge Mechanism as recipient of services from head offices located outside India.</li> </ul>	<p>as follows:</p> <p><i>“Every foreign company shall, in every calendar year,— (a) make out a balance sheet and profit and loss account in such form, containing such particulars and including or having annexed or attached thereto such documents as may be prescribed; and (b) deliver a copy of those documents to the Registrar:</i></p> <p><i>Provided that the Central Government may, by notification, direct that, in the case of any foreign company or class of foreign companies, the requirements of clause (a) shall not apply, or shall apply subject to such exceptions and modifications as may be specified in that notification”</i></p> <ul style="list-style-type: none"> <li>• In line with the suggestions given by the MoCA, exemption can be considered on the import of services by an establishment of a foreign airlines company from a related person or any of its establishment outside India in relation to furtherance of business provided that the GST at applicable rates has been paid by the establishment of the foreign airline company in India on transport of goods and passengers as may be applicable.</li> <li>• <b>After deliberations, Fitment Committee recommended to exempt import of services by an establishment of a foreign airlines company from a related person or any of its establishment outside India, when made without consideration and to regularise the past period on as is where is basis. Proposed formulation is attached at Annexure-II.</b></li> </ul>

## Annexure I

Chapter, Heading	Description of services	Rate (%)	Condition
Chapter 99	Supply of services, covered under Entry no. 4 of Schedule I of the Act, by a related party or its establishment, outside India, to its establishment in India, being an establishment of a foreign company which is an airlines company covered under the notification issued under sub-section (1) of section 381 of the Companies Act, 2013 (18 of 2013)	Nil	<p>Provided that the establishment of the foreign company in India is that of a designated air carrier/airline company which has been designated by the foreign government under the applicable bilateral air services agreement with India.</p> <p>Provided further that, on a reciprocal basis, designated Indian carriers are not subject to levy of taxes for the same services appearing under the entry, by the Government of the country designating the foreign air carrier/airline company.</p>

## Annexure II

Chapter, Heading	Description of services	Rate (%)	Condition
Chapter 99	Import of services by an establishment of a foreign company, which is an airlines company, from a related person or from any of its other establishments outside India.	Nil	<p>Provided that GST at applicable rates is paid by the establishment of the foreign airline company in India on transport of goods and passengers as may be applicable.</p> <p>Provided further that the establishment</p>

	<p><i>Explanation: Foreign company shall have the same meaning as assigned to it in sub-section (42) of section 2 of Companies Act, 2013 (18 of 2013).</i></p>		<p>of the foreign company in India is that of a designated air carrier/airline company which has been designated by the foreign government under the applicable bilateral air services agreement with India.</p> <p>Provided further that, on a reciprocal basis, designated Indian carriers are not subject to levy of taxes for the same services appearing under the entry, by the Government of the country designating the foreign air carrier/airline company.</p>
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**(d). Issues where no change has been proposed by the Fitment Committee in relation to services**

**Annexure-V**

<b>Sl. No.</b>	<b>Proposal</b>	<b>Details of Request</b>	<b>Discussions in Fitment Committee and its recommendations</b>
1.	Horticulture services supporting the environmental causes, should be fully exempted from GST instead of 25% due to their potential role in improving air quality.	<ul style="list-style-type: none"> <li>• AQI in Delhi went upto 900 in the month of November, 2023. Exemptions or incentives for services that contribute positively to environmental and public health goals such as horticulture and urban forestry should be provided.</li> <li>• Horticulture and urban forestry is related to each other and they both contribute oxygen which is very important for human life.</li> <li>• Maintenance of community assets, urban forestry, protection of the environment and promotion of ecological aspects are functions entrusted to Panchayats and Municipalities under Article 243G and 243W read with Sl. No. 29 of 11<sup>th</sup> schedule and Sl. No. 8 of 12<sup>th</sup> schedule of the Constitution.</li> </ul>	<ul style="list-style-type: none"> <li>• Sl. No. 3 and 3A of notification No. 12/2017-CT(R) dated 28.06.2017 exempts pure services and composite supply of goods and services in which value of goods does not constitute more than 25%, respectively that are provided to the Central Government, State Government or Union Territory or local authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.</li> <li>• The request to clarify the applicability of GST on the horticulture contracts of public works department was placed before the 52<sup>nd</sup> GST Council meeting held in October, 2023.</li> <li>• Based on the recommendations of the 52<sup>nd</sup> GST Council, it was clarified by Circular No. 206/18/2023-GST dated 31.10.2023 that supply of pure services and composite supplies by way of</li> </ul>

Sl. No.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations
			<p>horticulture/horticulture works (where the value of goods constitutes not more than 25 per cent of the total value of supply) made to CPWD are eligible for exemption from GST under Sl. No. 3 and 3A of notification No. 12/2017-CTR dated 28.06.2017.</p> <ul style="list-style-type: none"> <li>• The current request is to fully exempt composite supplies to CPWD by way of horticulture/horticulture works even where the value of goods constitutes more than 25 per cent of the total value of supply.</li> <li>• The instant request would entail deepening of the existing exemption.</li> <li>• <b>Fitment Committee has recommended that the request may not be accepted.</b></li> </ul>
2	To reconsider 5% GST applicable on all bus bookings through e-commerce platforms.	<ul style="list-style-type: none"> <li>• Entry at Sl. Nos. 15(b) and 15(c) of notification No. 12/2017-CT(R) dated 28.06.2017 exempt passenger transportation services by non-air conditioned contract carriage and stage carriage (i.e., buses) from GST.</li> <li>• However, w.e.f 01.01.2022, 5% GST is applicable on all bus</li> </ul>	<ul style="list-style-type: none"> <li>• Passenger transportation services supplied by non-AC contract/ stage carriage are exempt from GST.</li> <li>• Based on the recommendations of the 45<sup>th</sup> GST Council meeting held on 17.09.2021, w.e.f. 01.01.2022, e-commerce operators were made liable to pay GST on passenger transportation services supplied through them using any motor</li> </ul>

Sl. No.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations
		<p>bookings through e-commerce platforms.</p> <ul style="list-style-type: none"> <li>• Thus, 5% GST is applicable only on online booking done through e-commerce platforms and not applicable if the same booking is made physically in cash at bus counter or if booking is made directly from the bus operators' website.</li> <li>• This is creating a disadvantage for bus operators providing services through e-commerce platforms.</li> <li>• To remove distortion in bookings done through offline vs online channels and to ensure a level playing field to small service providers who use e-commerce platforms for getting market visibility, the application of 5% GST on online bus bookings may be reconsidered.</li> </ul>	<p>vehicle including buses and further the exemption on passenger transportation services by non AC contract/stage carriages (which includes buses) supplied through ECOs was also withdrawn w.e.f 01.01.2022.</p> <ul style="list-style-type: none"> <li>• Supply of any service through electronic commerce platforms is a distinct category of supply as compared to the service being supplied by individual service providers.</li> <li>• There appears to be no justification to reconsider the 5% GST applicable on all bus bookings through e-commerce platforms.</li> <li>• <b>Fitment Committee has recommended that the request may not be accepted.</b></li> </ul>
3.	To include "any body corporate" or "corporation" established under any State Act or Central Act or a "Government company" for purpose of exclusion under	<ul style="list-style-type: none"> <li>• Pursuant to 52<sup>nd</sup> GST Council meeting held on 07.10.2023, bus operators organized as companies have been removed from</li> </ul>	<ul style="list-style-type: none"> <li>• Based on the recommendations of the 52<sup>nd</sup> GST Council, notification No.17/2017-CTR dated 28.06.2017 has been amended to exclude bus</li> </ul>

Sl. No.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations
	Section 9(5) of CGST Act, 2017.	<p>the purview of Section 9(5) of CGST Act, 2017 so as to enable them to pay GST on their supplies using their ITC.</p> <ul style="list-style-type: none"> <li>• However, the term ‘company’ has not been defined under CGST Act. It is not very clear whether bus transport services provided by State Transport Corporation through ECOs will be covered by this exclusion.</li> <li>• The definition of company may include “any body corporate” or “corporation” established under any State Act or Central Act or a “Government company” as defined in clause (45) of section 2 of Companies Act, 2013 for purpose of exclusion under Section 9(5) of CGST Act, 2017.</li> </ul>	<p>operators organized as companies from the purview of section 9(5) of CGST Act, 2017 in order to enable them to utilize ITC for discharging outward liability on passenger transport services provided by them through ECOs.</p> <ul style="list-style-type: none"> <li>• The request will lead to expansion of scope of exclusion under section 9(5) to any body corporate.</li> <li>• <b>Fitment Committee has recommended that the request may not be accepted.</b></li> </ul>

Sl. No.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations
4.	<p>(i) To clarify that the delivery services provided by the delivery partners through Electronic Commerce Operator (ECO) are not taxable due to providers being below the threshold of Rs. 20 lakhs.</p> <p style="text-align: center;"><b>OR</b></p> <p>(ii) Bring delivery services made in respect of those supplies made through ECOs under section 9(5) of CGST Act, 2017 with prospective effect and these delivery services may be taxed at 5%.</p>	<ul style="list-style-type: none"> <li>Restaurant services provided through ECO were brought under section 9(5) of CGST Act and 5(5) of IGST Act w.e.f January 01, 2022. However, such ECOs also enable provision of delivery services by registered as well as unregistered service providers.</li> <li>Where the delivery service providers are registered, in terms of section 52 of the CGST Act, ECOs comply with TCS at 1%. However, notification No. 65/2017 -CT exempts unregistered service providers from TCS where the aggregate turnover does not exceed INR 20 lakhs.</li> <li>In some cases, in spite of independent delivery contracts with the customers, tax authorities are taking a view that it is not the delivery service providers (who though are rendering services in their own capacity), but the ECOs who are deemed to be rendering delivery</li> </ul>	<ul style="list-style-type: none"> <li>The issue of bringing restaurant service and delivery service under section 9(5) of CGST Act, 2017 was taken to the 45th GST Council meeting held on 17.09.2021.</li> <li>Restaurant service was notified under section 9(5) consequent to the recommendations of the 45th GST Council.</li> <li>While the onus for pick-up and delivery is placed on the Platform Delivery Partner (PDP) from merchant to the end customer, the payment is not done on a one to one basis to the PDPs by ECOs. The payout to PDP is based on a pay-out scheme which is designed by the ECO and it takes into consideration the number of deliveries undertaken and distance covered by PDP.</li> <li>Further the PDP has option to deny/cancel the order but for such acts, PDP becomes liable for penalty and all the penal provisions are drafted and controlled exclusively by the ECO.</li> <li>It has also been seen that the ECOs offer certain membership services which gives their customers certain benefits for</li> </ul>

Sl. No.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations
		<p>services and alleging non-payment of GST at the rate of 18% on the delivery service fee charged from end customers.</p> <ul style="list-style-type: none"> <li>Restaurant services are subjected to 5% GST and approach of taxing delivery charges itself is incorrect, seeking 18% of restaurant services (i.e., food) is against the policy decision on rate of GST on food. This is counterproductive to the ECOs who enable small delivery service providers to be onboarded and earn their livelihoods. This interpretation is revenue driven and does not follow the contracting framework.</li> <li>In the GST minutes of 45<sup>th</sup> GST Council meeting, this issue was discussed and an option to enable 9(5) for delivery services was deliberated. Relevant extract of the minutes is as under: <p style="margin-left: 40px;"><i>“22. It may also be noted that currently aggregators are not paying any GST on</i></p> </li> </ul>	<p>instance waiver of the delivery fees. These free delivery services are offered by the ECOs and not PDPs.</p> <ul style="list-style-type: none"> <li>Also, the end customers do not have the choice of selecting the delivery partners.</li> <li>Therefore, ECOs are themselves delivery service providers and liable to pay GST at the rate of 18 per cent on the same. PDPs, under no circumstance, could have been held to be the suppliers of the delivery service.</li> </ul> <p><b>Fitment Committee recommended that both the requests do not merit consideration and may not be accepted.</b></p>

Sl. No.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations
		<p><i>delivery services stating that their delivery partners (mostly unregistered) are giving directly to their customers. The assumption is that since most of the electric partners will individually be less than Rs. 20 lacs therefore, there is no need of registration for them. It may be noted that the end customer does not have a choice of choosing the delivery partner, further, there is no invoice raised by the independent delivery partner to the end customer. The invoice, payment, refund and the entire lifecycle of the transaction is managed by E-Cos such as Swiggy and Zomato. Therefore, it is recommended that the E-Cos may also be made aggregators for such delivery</i></p>	

Sl. No.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations
		<p><i>services.”</i></p> <ul style="list-style-type: none"> <li>• However, no decision on same was taken in the council.</li> </ul>	
5.	To issue circular clarifying that prior to 01.10.2021, GST @5% paid on job work activities qua alcoholic beverages be treated as fully GST paid and no recovery of differential tax, over and above 5%, should arise.	<ul style="list-style-type: none"> <li>• The issue of taxability of subject services was addressed in the 45<sup>th</sup> GST Council meeting. The GST rate on services by way of job work in relation to manufacture of alcoholic liquor for human consumption was explicitly introduced vide</li> </ul>	<ul style="list-style-type: none"> <li>• Based on the recommendations of the 45<sup>th</sup> GST Council meeting dated 17<sup>th</sup> September 2021, a new entry at Sl. No. 26 (ica) was inserted in the notification No.11/2017-CT(R) dated 28.06.2017 vide which services by way of job work in relation to manufacture of alcoholic liquor for human consumption were</li> </ul>

Sl. No.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations
		<p>notification No. 06/2021-CT(R) with effect from 01.10.2021.</p> <ul style="list-style-type: none"> <li>• Prior to 01.10.2021, more than one-third of the industry members were under the belief that alcoholic beverages are ‘food’ and accordingly job services qua the said alcoholic beverages are exigible to GST @5%.</li> <li>• Considering that the GST is consumption based tax, any attempt to levy 18% GST on subject services for period prior to 01.10.2021 will have serious financial ramifications on industry members.</li> </ul>	<p>taxed at 18% GST.</p> <ul style="list-style-type: none"> <li>• Further, vide Circular No. 164/20/2021-GST dated 06.10.2021, it was clarified that <i>the expression “food and food products” in the said entry excludes alcoholic beverages for human consumption. As such, in common parlance also alcoholic liquor is not considered as food. Accordingly, services by way of job work in relation to manufacture of alcoholic liquor for human consumption are not eligible for the GST rate of 5% prescribed under the said entry. GST Council recommended that such job work would attract GST at the rate of 18%.</i></li> <li>• Thus, with effect from 01.10.2021, an explicit entry 26(ica) in notification No. 11/2017-CT(R) dated 28.06.2017 prescribing 18% GST has been created for services by way of job work in relation to manufacture of alcoholic liquor for human consumption.</li> <li>• Entry at Sl. No. 26(i)(f) of notification No. 11/2017-CT(R) dated 28.06.2017 prescribing GST of 5% on job work services in relation to all food and food</li> </ul>

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			<p>products falling under Chapters 1 to 22 in the First Schedule to the Customs Tariff Act, 1975 was introduced vide notification No. 31/2017-CT(R) dated 13.10.2017. There appeared to be no confusion over the scope of entry for this period (01.07.2017 to 12.10.2017). During this period, job work services supplied by contract manufacturers to brand owners for manufacture of alcoholic liquor for human consumption attracted GST at the rate of 18%.</p> <p>• <b>Fitment Committee has recommended that the request may not be accepted as there is no ambiguity in the provisions of the law related to the taxability of job work activities qua alcoholic beverages.</b></p>
6.	Request for exemption from 18% GST on Health Insurance premium for Persons with Mental Illness (PMI) which is a scheduled Disability under the Rights of Persons with Disabilities Act 2016 (RPWD Act).	<ul style="list-style-type: none"> <li>• MI or Mental Illness is a scheduled disability under RPWD Act 2016. Hence, person with MI is a Divyangjan vide RPWD Act 2016.</li> <li>• The Mental Health Care Act 2017 has come into force w.e.f. 29.05.18. Sec21(4) of the Act mandates insurance companies to provide</li> </ul>	<ul style="list-style-type: none"> <li>• At present, GST on health insurance services is levied at standard rate, i.e., 18 per cent. However, certain insurance schemes catering to poor sections of the society and differently abled, such as Rashtriya Swasthya Bima Yojana (RSBY), Universal Health Insurance Scheme, Jan Arogya Bima Policy and Niramaya Health Insurance Scheme are exempt from GST</li> </ul>

Sl. No.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations
		<p>medical insurance for persons with MI (PMI) at par with person suffering from physical illnesses.</p> <ul style="list-style-type: none"> <li>• The current GST on health insurance/Medicaid policy for PMIs is 18%. Premium along with 18% GST is not affordable by many even in the middle class.</li> <li>• Mental illness is not curable but only manageable with regular medication; therapy etc. Occasional hospitalisation, psychotherapy and rehab facilities incur additional expenses for the family of the PMI not to speak of savings for future care.</li> <li>• For nearly 80% of PMI, the illness is ongoing along with disability deficits resulting in low or nil employability in regular jobs. In fact, MI being an illness of the youth, drop outs at High School, PU and College levels are very high.</li> <li>• In other words, lack of qualifications, skills etc. renders them unfit for</li> </ul>	<p>(Sl. No. 35 of notification No. 12/2017-CTR dated 28.06.2017).</p> <ul style="list-style-type: none"> <li>• The objective of 'Niramaya' Health Insurance Scheme is to provide affordable Health Insurance to persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities and is fully exempt from GST.</li> <li>• The specific request to exempt GST on insurance for persons with Mental illness was deferred in the 37<sup>th</sup> meeting of GST Council.</li> <li>• The specific issue of reduction of GST on health insurance from 18% to 5% was discussed in the 37<sup>th</sup> GST Council and 47<sup>th</sup> GST Council meetings held on 20.09.2019 and in June 2022 respectively and on both the occasions it was not recommended by the GST council.</li> <li>• <b>Fitment Committee has recommended that the request may not be accepted.</b></li> </ul>

Sl. No.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations
		<p>regular employment. Even in the few cases where they are employed, consistency in holding a job depends on the illness profile and degree of disability of the PMI.</p> <ul style="list-style-type: none"> <li>• In many families, one earning member drops out of job to take care of the PMI. This becomes an added feature of the reality of Mental illness (MI) especially among middle class and tax payers' families. Economic burden in addition to emotional challenges takes a heavy toll on the Divyangjan and his/her family.</li> <li>• Based on multiple factors mentioned above, although the right to insurance parity is granted by the Mental Health Act Care 2017, it has become unaffordable to pay premium + GST 18%.</li> </ul>	
7.	<p>Law Committee has referred the following four matters to Fitment Committee:</p> <p>(a) To prescribe End-use certification system / form for</p>	<ul style="list-style-type: none"> <li>• Vide entry at Sl. No.3 and 3A of the notification number 12/2017-CT (Rate), "pure services" and composite supply of services provided to the Government or Local</li> </ul>	<ul style="list-style-type: none"> <li>• Currently, pure services and composite supply of services provided to Government or Local Authority by way of any activity in relation to any function entrusted to a Panchayat under Article 243G of the Constitution</li> </ul>

Sl. No.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations
	notification No. 12/2017-CT (Rate) [entry no. 3], which exempts pure services provided to Government, Local Authority in relation to Municipality functions.	<p>Authority by way of any activity in relation to any function entrusted to a Panchayat under Article 243G of the Constitution or to a Municipality under Article 243W of the Constitution are exempt from levy of GST.</p> <ul style="list-style-type: none"> <li>• Law Committee has recommended that the expression “in relation to” has a wide meaning and therefore the exemption appears to cover all services such as advertisement in the print media for floating a tender for laying water pipeline, contract for counting the number of trees, survey of number of people living below the poverty line, services by consulting engineers, project management consultants for mono-rails, metro rails, roads etc.</li> <li>• As the suppliers of services to the Panchayat or Municipality are not in a position to know whether the services supplied are really in relation to a</li> </ul>	<p>or to a Municipality under Article 243W of the Constitution are exempt from levy of GST vide entry at Sl. No.3 and 3A of the notification number 12/2017-CT (Rate).</p> <ul style="list-style-type: none"> <li>• The above referred issues were originally placed before the 43<sup>rd</sup> GST Council meeting and deferred. In the 45<sup>th</sup> Meeting, these issues were tagged with another proposal regarding clarification of the scope of the words “<i>in relation to</i>”.</li> <li>• The issue was thereafter discussed in 47<sup>th</sup> and 50<sup>th</sup> meeting wherein a proposal to prune the list of exemptions under S.No 3 and 3 A were discussed. In the 52<sup>nd</sup> GST Council meeting held on 07.10.2023, the Council has recommended to retain the entries at Sl. No 3 &amp; 3A of 12/2017-CT(R) dated 28.06.2017 as it exists with no change.</li> <li>• <b>Fitment Committee recommended that no further clarifications are required on this issue and hence the requests may not be accepted.</b></li> </ul>

Sl. No.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations
		<p>function entrusted to a Panchayat or Municipality, some sort of end-use certification system / form be devised which will be issued by the Panchayat / Municipality inter-alia declaring that the services supplied to them are in relation to a function entrusted under the Constitution as referred to above.</p>	
	<p>(b) Request to clarify that the service of hiring manpower for providing services of Health, Public Garden, Promotion of education etc. are the functions entrusted to Municipality under Article 243W of the Constitution</p>	<ul style="list-style-type: none"> <li>• Pure services and composite supply of services and goods provided to the Government or Local Authority by way of any activity in relation to any function entrusted to a Panchayat under Article 243G of the Constitution or to a Municipality under Article 243W of the Constitution are exempt from levy of GST.</li> <li>• ‘Cantonment Board’ is a local municipal authority, defined under Section 10(2) of the Cantonment Act, 2006. They hire various manpower for providing various services</li> </ul>	

Sl. No.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations
		<p>in relation to functions entrusted to Municipality under Article 243W of the Constitution such as they hire contractual Doctors, lab attendants, pharmacists, staff nurses etc. for providing health services; mali, chowkidars for providing public gardens; contractual teachers, safaiwala etc. for promoting education; electrician, helpers etc. for providing street lighting.</p> <ul style="list-style-type: none"> <li>All these functions are delegated to municipality and the services of manpower is received to fulfill these functions by the Cantonment.</li> </ul>	
	<p>(c) To clarify that the service of “Enumeration &amp; Supervision” provided by the implementing agency, i.e. CSC-SPV, to MoSPI is exempt from GST under exemption entry 3 of notification No. 12/2017-CT(R) dated 28.06.2017.</p>	<ul style="list-style-type: none"> <li>The Ministry of Statistics and Programme Implementation (MoSPI) has engaged the CSC e-Governance Services India Ltd, a Special Purpose Vehicle (hereinafter referred as CSC-SPV) of the Ministry of Electronics and Information Technology, as implementing agency for the conduct of 7th</li> </ul>	

Sl. No.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations
		<p>Economic Census (EC).</p> <ul style="list-style-type: none"> <li>• Economic Census is a periodic exercise undertaken to measure the spread and penetration of the economic activities across the country through door to door survey in prescribed questionnaire form.</li> <li>• The activities to be carried out by the implementing agency along with approved cost for each of the components are as under: <ul style="list-style-type: none"> <li>• Enumeration &amp; Supervision (through door to door visit throughout country).</li> <li>• Training and assessment of the Enumerators &amp; Supervisors engaged in field work of EC.</li> <li>• Deployment of manpower to assist MoSPI and State/UT Governments in 7th EC activities.</li> <li>• Helpdesk and Call-centre support.</li> <li>• Awareness and</li> </ul> </li> </ul>	

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		<p>sensitization.</p> <ul style="list-style-type: none"> <li>• Project Management Charges (@ 8% of project cost).</li> <li>• With respect to tax liability admissible on the aforementioned components, the implementing agency has informed that the collection of data and supervision component is not liable to draw tax under GST as per notification No.12/2017-Central Tax (Rate) New Delhi dated 28th June, 2017 (Sl. No. 3).</li> </ul>	
	<p>(d) To clarify that the services of spatial planning study, provided by the institutes to Ministry of Panchayati Raj is exempt from GST under exemption entry at Sl. No. 3 of notification No. 12/2017-CT(R) dated 28.06.2017.</p>	<ul style="list-style-type: none"> <li>• The Ministry of Panchayati Raj, in collaboration with 16 architectures as well as engineering institutes has taken up the initiative for Gram Panchayat Spatial Development Planning on pilot basis.</li> <li>• The proposed study seeks to set out a framework as to how a particular area in the panchayat can be developed taking into account available resources. It seeks to promote decentralized</li> </ul>	

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		<p>planning with strengthening of local identity to create a framework for future policy decisions.</p> <ul style="list-style-type: none"> <li>As the ongoing spatial planning study seeks to enable panchayats to function as institutions of self-government in accordance with Article 243G of the Constitution.</li> </ul>	
8.	To clarify about liability of GST on Man Power Supply Services received by Panchayats, Municipalities and Local Bodies.	<ul style="list-style-type: none"> <li>Notification No. 12/2017 Central Tax-Rate dated: 28-06-2017 exempts certain services from the levy of central tax and similar notifications are issued by the state.</li> <li>In this regard, any pure service related to those functions entrusted to a panchayat under Article 243 G of Constitution and those entrusted to Municipality under Article 243-W of Constitution are exempted.</li> <li>Many of Panchayats, Municipalities and Local Bodies are Obtaining Manpower like Computer Operators and office</li> </ul>	

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		<p>Personnel who are not directly related to service are received by these bodies.</p> <ul style="list-style-type: none"> <li>Such services has held not to be directly related to the functions entrusted to Panchayat under Article 243 G of Constitution and those entrusted to Municipality under Article 243-W of Constitution and hence tax was collected from such local bodies and Government Departments by the Contractors.</li> <li>In view of the above a clarification may be issued on the scope of the words “in relation to” in the interest of uniformity across the country.</li> </ul>	
9.	A Writ Petition Nos. (C) 2036/2019 [CMA No. 9509/2019 and 14982/2019] before Hon’ble Delhi High Court has been filed by an Association of Private Security Industry wherein they have inter-alia contested the exclusion of body corporates from making payment under Reverse Charge Mechanism (RCM) in	<ul style="list-style-type: none"> <li>Grounds on which the instant writ petition has been filed are as below: <ul style="list-style-type: none"> <li>The notification lacks intelligible differentia or does not have reasonable nexus with the object sought to be achieved with respect to the category of the supply of security services and therefore, by excluding</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>The issue of levying GST on security services under reverse charge mechanism was placed before the 31<sup>st</sup> GST Council meeting held on 22.12.2018.</li> <li>Based on the recommendations of 31<sup>st</sup> GST council, entry at Sl. No. 14 was inserted in the notification No. 13/2017-CT(R) wherein security services (provided by way of supply of</li> </ul>

Sl. No.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations
	respect of security services. (Entry at Sl. No. 14 of the notification No. 13/2017-CT (R).	<p>body corporates from its ambit, violates Article 14 of the Constitution.</p> <ul style="list-style-type: none"> <li>○ Impugned notification is arbitrary, artificial and evasive as the CGST Act itself does not classify ‘person’ and ‘body corporate’ separately.</li> <li>○ Impugned notification is inherently flawed and in conflict with the definition of person as defined in the CGST Act, 2017.</li> <li>○ Impugned notification is discriminatory as it confers particular privilege of applicability of the RCM upon a class of persons arbitrarily selected from a large number of persons and that those who seek the benefit of the notification are not substantially different in any justifiable manner.</li> <li>○ It is against the executive policy outlined in the 31<sup>st</sup> GST Council, whereby it was decided that entire security services provided to</li> </ul>	<p>security personnel) provided by any person other than a body corporate were brought under RCM when provided to a registered person except government departments registered for TDS and entities registered under composition scheme services.</p> <ul style="list-style-type: none"> <li>• The above said recommendations were made as nearly 60 per cent of the security service providers operated in un-organized manner, thereby making it more evasion prone and difficult to monitor compliance.</li> <li>• The Association of Private Security Industry had represented after the decision taken in the 31<sup>st</sup> GST Council meeting to bring the entire security services sector including body corporate under RCM and the matter was taken to the 32<sup>nd</sup> Meeting of the GST Council on 10<sup>th</sup> January 2019.</li> <li>• The request of the association to include security services provided by the body corporates under RCM in the said entry was not accepted by the 32<sup>nd</sup> GST Council.</li> <li>• Body corporates are a different</li> </ul>

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		<p>registered persons except certain government departments would be put under RCM.</p> <ul style="list-style-type: none"> <li>○ Companies providing security services are generally MSMEs or start ups which require cash flow to sustain themselves. GST @ 18% is required to be paid every 20<sup>th</sup> of the month and therefore, it is affecting their cash flow leading to closure of business.</li> <li>○ The grievance is that while allowing for payment of GST based on reverse-charge mechanism, body corporates have been excluded. This amendment has not taken into account the circumstances of smaller body corporates, which are closely held entities.</li> </ul> <ul style="list-style-type: none"> <li>• However, department has argued that it is a policy decision and that it is for the GST Council to decide, after taking into account various facets, as to who</li> </ul>	<p>class of supplier and are not same as the small businesses such as proprietorship concern etc. Thus, the benefit of RCM under the said entry was not extended to them.</p> <ul style="list-style-type: none"> <li>• <b>Fitment Committee has recommended that the request may not be accepted.</b></li> </ul>

Sl. No.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations
		<p>has to be excluded from the regime of reverse-charge mechanism.</p> <ul style="list-style-type: none"> <li>Hon'ble Delhi High Court directed to treat writ petition as a representation and take appropriate action as deemed fit.</li> </ul>	
10.	To exempt GST on the services provided by Goethe Institutes/Max Mueller Bhavans, funded by the German Federal Foreign Office, in India for the period from 01.07.2017 to 31.03.2023.	<ul style="list-style-type: none"> <li>Goethe Institutes/Max Mueller Bhawan have been registered under GST at Delhi, Mumbai, Chennai, Bangalore, Kolkata and Pune. From 1<sup>st</sup> April, 2023, the Goethe Institutes have started collecting and paying GST.</li> <li>Prior to 1<sup>st</sup> April, 2023, the Institutes did not collect GST from their students nor did they remit the same to Government as they were under the belief that their activities are exempt from GST.</li> <li>They have requested that no proceedings may be initiated against them for past period i.e., upto 31<sup>st</sup> March, 2023 and GST on services provided by them may be exempted for the</li> </ul>	<ul style="list-style-type: none"> <li>Entry at Sl. No. 66 of notification No. 12/2017-CTR exempts services provided by an educational institution to its students, faculty and staff.</li> <li>Educational institution has been defined as an institution providing services by way of, - <ul style="list-style-type: none"> <li>Pre-school education and education up to higher secondary school or equivalent;</li> <li>Education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force;</li> <li>Education as a part of an approved vocational educational course.</li> </ul> </li> <li>The services provided by Goethe Institutes are thus not eligible for exemption under entry at Sl. No. 66 of notification No. 12/2017-CTR dated 28.06.2017.</li> </ul>

Sl. No.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations
		<p>period from 01.07.2017 to 31.03.2023.</p> <ul style="list-style-type: none"> <li>The six institutes across India provide linguistic and cultural training to young Indians preparing for their stay in Germany.</li> <li>The Goethe Institutes have already started paying GST on their services after 1st April, 2023.</li> <li>They have requested for exemption from GST on services provided by them during the period 01.07.2017 to 31.03.2023.</li> </ul>	<ul style="list-style-type: none"> <li>As Goethe Institutes cannot be categorized as educational institutions under provisions of GST, the services provided by them attract GST at 18%.</li> <li>Goethe Institutes have already started paying GST on their services after 1st April, 2023.</li> <li><b>Fitment Committee recommended that the request may not be accepted.</b></li> </ul>
11.	Request to exclude the Legislative Area Development Fund from the ambit of GST.	<ul style="list-style-type: none"> <li>Currently under the Legislative Area Development Fund Scheme, rate of GST is generally charged by the executing agency at the rate of 18%.</li> <li>Thus, an amount of approximately Rs. 1.00 crore goes towards GST liability and an average amount of Rs. 4.00 crore is left for each member for the development work of the area.</li> <li>By excluding GST under the Legislative Area</li> </ul>	<ul style="list-style-type: none"> <li>Members of Legislative Assembly Local Area Development (MLA-LAD) Scheme is the States' version of a Central Government scheme - Members of Parliament Local Area Development Scheme (MPLAD).</li> <li>The objective of this scheme is to create local need based infrastructure, to create assets of public utility and to remove regional imbalances in development.</li> <li>MLAs do not receive any money under this scheme. The government transfers it directly</li> </ul>

Sl. No.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations
		<p>Development Fund Scheme, development work worth approximately Rs 1.00 crore can be done by the Hon'ble Legislative Assembly/ Legislative Council member in his/her constituency area, so that the common people of his/her area can get the benefit of additional development work.</p>	<p>to the respective local authorities.</p> <ul style="list-style-type: none"> <li>• The legislators can only recommend works in their constituencies based on a set of guidelines. Amounts per MLA varies across the states.</li> <li>• The guidelines for use of MLA-LAD funds differ across states. For example, Delhi MLAs can recommend the operation of fogging machines (to contain dengue mosquitoes), installation of CCTV cameras etc.</li> <li>• After the legislators give the list of developmental works, they are executed by the district authorities as per the government's financial, technical and administrative rules.</li> <li>• MLALAD funds have its own set of guidelines but the projects funded by them are usually restricted to “durable infrastructure work”, from repairing roads to building community centres.</li> <li>• A similar request regarding GST exemption for works carried out under MPLAD funds was placed before the 47<sup>th</sup> GST Council in its meeting held on 28<sup>th</sup>-29<sup>th</sup> June, 2022. However, the council did not accede to the request.</li> <li>• Exemptions provided under entries at Sl. No.3/3A of</li> </ul>

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			<p>notification 12/2017-CT(R) dated 28.06.2017 cover wide range of supplies which may be received by local authorities.</p> <ul style="list-style-type: none"> <li>• Further, end use-based exemptions are not advisable. They are difficult to monitor and prone to misuse. Exemption will block ITC of suppliers and increase cost.</li> <li>• <b>Fitment Committee has recommended that the request may not be accepted.</b></li> </ul>
12.	On helicopters uniform rate of 5% GST should be charged on purchases charter, sale of seat tickets and all services rendered by helicopters including rental paid for hangarage.		<ul style="list-style-type: none"> <li>• The request was examined in the 47th GST Council meeting held in June, 2022. The Council did not accede to the request.</li> <li>• Services by way of transport of passengers on seat share basis and that by way of chartering the entire helicopter to a person cannot be equated. The latter is usually consumed by the affluent and not by the common man.</li> <li>• In Service Tax regime too, chartering of helicopter attracted service tax at the standard rate of 15%.</li> <li>• Currently, GST rate on rental paid for hangarage is 18%.</li> <li>• Service of renting of hangarage may be used either by helicopter operators or MROs. In case the</li> </ul>

Sl. No.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations
			<p>service is used by helicopter operators providing goods or passenger transport services or charter services, the ITC of GST paid on hangarage rentals is available to the helicopter operators for discharge of output tax liability and does not become a cost for them.</p> <ul style="list-style-type: none"> <li>• In case the hangarage rental services are being used by MROs, which attracts GST at the rate of 5%, the MROs are entitled to take ITC of services used by them for supplying the MRO services. GST paid on input goods and services by MRO is available to them as ITC and does not become a cost for them.</li> <li>• <b>Fitment Committee has recommended that the request may not be accepted.</b></li> </ul>
13.	Rationalize GST on cargo services from 18% to 5% to bring it in line with other services.		<ul style="list-style-type: none"> <li>• Request to reduce GST rate on air cargo services from 18% to 12% was examined in the 47th GST Council meeting held in June, 2022 and the Council did not accede to the request.</li> <li>• Transport of Goods by Air attracts GST at the rate of 18% with full ITC. Prescribing a lower rate with restricted ITC</li> </ul>

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			<p>will lead to distortion in tax structure and blocking the ITC chain resulting in increased cost of operations for airlines.</p> <ul style="list-style-type: none"> <li>• The business recipients of goods transportation services are entitled to ITC and therefore it is a pass-through tax.</li> <li>• <b>Fitment Committee has recommended that the request may not be accepted.</b></li> </ul>
14.	To clarify whether ITC of other business verticals can be used to discharge GST on outward liability in respect of restaurant service given the restriction of input tax credit as specified in notification No. 11/2017-CT (Rate) dated 28.06.2017, as amended, against entry at Sl. No. 7 & in 8, 9, 10, 23, 25, 31A.	<ul style="list-style-type: none"> <li>• During the period from 01.07.2017 to 14.11.2017, 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, where such supply of service was for cash, deferred payment or other valuable consideration provided by a restaurant attracted tax @ 12%/18% with ITC.</li> <li>• GST Council in its 23rd Meeting dated 10.11.2017 held that <i>“All stand-alone restaurants irrespective of being air conditioned or otherwise, shall attract tax at the rate of 5% without input tax credit. Food parcels (or</i></li> </ul>	<ul style="list-style-type: none"> <li>• The agenda item has been withdrawn by the sponsoring state.</li> <li>• No change recommended.</li> <li>• <b>Fitment Committee recommended to withdraw the agenda.</b></li> </ul>

Sl. No.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations
		<p><i>takeaways) from restaurants shall also attract tax at the rate of 5% without input tax credit.”</i></p> <ul style="list-style-type: none"> <li>• Accordingly, it appears that, while approving the rate of tax of <b>“5% without input tax credit”</b> for restaurants, the intent of the Council was to disallow payment of output tax liability with any ITC whatsoever, whether in respect of inward supplies used in supplying the restaurant services or other business verticals under the same GSTIN.</li> <li>• Accordingly, changes were made w.e.f. 15.11.2017 vide notification No. 46/2017-CT (Rate) dated 14.11.2017. ‘Restaurant Service’ was later defined w.e.f. 01.10.2019 vide notification No. 20/2019-CT (Rate) dated 30.09.2019. An Explanation was also inserted in the notification specifying that the said rate of 5% is a mandatory rate.</li> <li>• Instances have been brought to notice in this regard where the output liabilities in respect of restaurant service</li> </ul>	

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		<p>are being discharged by utilizing ITC availed in respect of other business verticals under the same GSTN. Restriction on availing of ITC as imposed by the aforesaid notifications is applicable only in respect of inward supplies used in supplying the restaurant services. Utilization of input tax credit in respect of inward supplies used in other business verticals having same GSTIN has not been restricted for discharging outward liability for restaurant service.</p> <ul style="list-style-type: none"> <li>• In Circular No. 167 / 23 /2021 – GST dated 17.12.2021 issued by the CBIC in the context of services supplied by restaurants through e-commerce operators, clarifies that, <i>on restaurant service, ECO shall pay the entire GST liability in cash (No ITC could be utilised for payment of GST on restaurant service supplied through ECO).</i>”</li> </ul>	
15.	Request to exempt GST on services related to water		<ul style="list-style-type: none"> <li>• The issue was deferred in the 37<sup>th</sup> GST Council held on</li> </ul>

Sl. No.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations
	harvest scheme.		<p>20.09.2019.</p> <ul style="list-style-type: none"> <li>• The sponsoring state has informed that no such agenda has been forwarded by them.</li> <li>• <b>Fitment Committee recommended to withdraw the agenda.</b></li> </ul>

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(e). Issues deferred by the Fitment Committee for further examination in relation to services

Annexure-VI

Sl. No.	Proposal	Detail of request	Discussions in Fitment Committee and its recommendations
1.	To issue clarification regarding tax liabilities being demanded from casinos and online gaming industry for the past period (i.e., for the period from 2017-2023) and to regularise the GST paid on as is where is basis for the period 01.07.2017 to 30.09.2023.	<ul style="list-style-type: none"> <li>The industry has represented that majority of the tax liabilities imposed on the industry are based on difference in interpretation of law by the industry and by the government authorities.</li> <li>Group of Ministers on casinos, race courses and online gaming was established to look into the matter of taxation of online games and casinos and had a clear mandate in the terms of reference to inter alia <i>“... examine the issue of valuation of services provide by casinos, race courses and online gaming portals and taxability of certain transactions in a casino, with reference to the current legal provisions and order of courts on related matters”</i>.</li> <li>The GoM submitted its report in the 47<sup>th</sup> GST Council which deliberated in detail on the issue of redeployment in casinos and concluded the following: <i>“taxing each round, once tax is collected at entry on the purchase of chips, is neither feasible nor desirable. This will make the casinos unviable. It was also felt that the right to play with the winnings of the previous games was inherent in the rights acquired by the players against the price paid for the chips/tokens purchased from the casinos”</i>.</li> <li>Thereafter, 51<sup>st</sup> GST Council took a decision that <i>“the valuation of supply of online gaming and actionable claims in casinos may</i></li> </ul>	<ul style="list-style-type: none"> <li>50th GST Council meeting held in July, 2023 had recommended to clarify that actionable claims supplied in Casinos, Race Courses and Online Gaming are also under the purview of GST and are to be taxed at the rate of 28% on full face value irrespective of whether the activities are games of skill or chance.</li> <li>It was also recommended that the law may be amended to provide clarity on the matter.</li> <li>51st GST Council meeting held in August, 2023 recommended certain amendments in the CGST Act 2017 and IGST Act 2017, including amendment in Schedule III of CGST Act, 2017, to provide clarity on the taxation of supplies in casinos, horse racing and online gaming.</li> <li>Further, regarding tax liability of the past cases, the issue was discussed in the 52nd GST Council meeting held on 07.10.2023. It was conveyed during the meeting that the amendments proposed are prospective and to come into force with effect from 01.10.2023. The notices issued by DGGI were for the past period under the law as it existed prior to the amendments and that it is not a retrospective application of the Council’s decisions in the 50th and 51st meetings held on 11.07.2023 and 02.08.2023 respectively.</li> <li>The matter was discussed in the Fitment Committee and it was recommended to obtain data for examination of the issue.</li> <li><b>Fitment Committee recommended to defer the issue.</b></li> </ul>

Sl. No.	Proposal	Detail of request	Discussions in Fitment Committee and its recommendations
		<p><i>be done based on the amount paid or payable to or deposited with the supplier, by or on behalf of the player (excluding the amount entered into games/bets out of winnings of previous games/bets) and not on the total value of each bet placed. The Council recommended that CGSST Rules, 2017 may be amended to insert specific provisions for valuation of supply of online gaming and supply of actionable claims in casino accordingly.”</i></p> <ul style="list-style-type: none"> <li>• Media reports show that total tax liabilities of Rs 1.5 lakh crores have been cast on the online gaming and casino industry majorly on the grounds that the business amounted to gambling, betting and therefore, were supposed to pay GST on the entire face value of every bet from the past period prior to the amendments.</li> <li>• Various operators have approached the courts and there are ongoing litigations on the subject across various courts in the country.</li> <li>• The tax liabilities on the casino industry are more than 10 times their annual revenues. It raises a serious concern regarding               <ul style="list-style-type: none"> <li>(a) On the ability of the government to recover the tax liability</li> <li>(b) The ability of the industry to pay the tax liability.</li> </ul> </li> <li>• Goan economy is dependent on the casino industry to promote tourism and this retrospective taxation will irrevocably damage the Goan economy. Further, all the states will be impacted due to loss of</li> </ul>	

Sl. No.	Proposal	Detail of request	Discussions in Fitment Committee and its recommendations
		<p>potential revenue expected from legitimate online gaming industry, i.e., the permissible online real money games.</p> <ul style="list-style-type: none"> <li>It has been requested that the GST Council may provide a solution to resolve the issue by creating a framework for issuing clarification for past period as deemed appropriate, prior to these amendments.</li> </ul>	
2.	To clarify the nature and taxability of various supplies in relation to the crypto eco-system.		<ul style="list-style-type: none"> <li>Issue was deferred by the 52nd GST Council held on 07.10.2023.</li> <li>TRU is to undertake study and submit a paper after obtaining expert opinion from IIT. Accordingly, IIT is being consulted.</li> <li><b>Fitment Committee recommended to defer the issue.</b></li> </ul>
3.	To clarify whether GST is applicable on charges/ fees like FSI paid by builders to local authorities under Reverse Charge Mechanism (RCM).	<ul style="list-style-type: none"> <li>In construction industry, all builders &amp; developers pay various charges to local/ municipal authorities in the form of FSI premium, road permission charges, scrutiny fees, liasoning fees, staircase premium, water charges, sewerage charges etc.</li> <li>Some of the taxpayers have contended that the said services are exempt under notification No. 12/2017-CT(R) dated 28.06.2017.</li> <li>Floor Space Index (FSI) is defined as the maximum permitted floor area that a developer can build or construct on any given plot or piece of land area. In other words, it is a measure of the intensity of land utilization in a given area.</li> <li>As per the information received, Rajkot Municipal Corporation has granted FSI of Rs. 543.24 Cr since inception of the GST Act. In a small city like Rajkot, local municipal corporation has</li> </ul>	<ul style="list-style-type: none"> <li>Issue was deferred by the 52nd GST Council held on 07.10.2023.</li> <li>Municipalities collect various charges such as FSI premium, road permission charges, scrutiny fees, liasoning fees, staircase premium, lift NOC charges, fire NOC charges, sewerage charges, charges for change of land use etc for different services supplied to builders/developers.</li> <li>To understand the issue, data is being collected and the same is awaited.</li> <li><b>Fitment Committee recommended to defer the issue.</b></li> </ul>

Sl. No.	Proposal	Detail of request	Discussions in Fitment Committee and its recommendations
		<p>collected a handsome amount towards grant of FSI within span of just six years. In the big metro city like Ahmedabad, Surat and Baroda, handsome amount is being collected towards grant of FSI.</p> <ul style="list-style-type: none"> <li>• Promoters have viewed that transactions may be considered as neither a supply of goods nor a supply of service due to following reasons: <ul style="list-style-type: none"> <li>o As per the notification No. 14/2017-Central Tax (Rate), activities or transactions undertaken by any local authority by way of any activity in relation to a function entrusted to a Municipality under article 243W of the Constitution shall be treated neither as a supply of goods nor a supply of service.</li> <li>o As per Article 243W, certain responsibilities are conferred upon them including those listed in the XIIth Schedule. Sl. No. 1 &amp; 2 of Schedule XII of the Constitution of India deal with "Urban planning including town planning" and "Planning of land-use and construction of buildings" respectively. These functions are entrusted to Municipality under Article 243W of the Constitution.</li> <li>o As per the representation, sale or grant of FSI against collection of fees is also part of the said two functions only. Therefore, GST is not payable on supply of FSI by municipal corporation to the registered person.</li> </ul> </li> <li>• However, tax authorities have viewed that supply of FSI against collection of fees is not integral part of "town planning". Transaction of</li> </ul>	

Sl. No.	Proposal	Detail of request	Discussions in Fitment Committee and its recommendations
		<p>supply of FSI by the RMC to the taxpayer is merely a commercial activity. Performance or non-performance of "town planning work" has no nexus with activity per se the supply of FSI, which is entirely independent to each other. Supply of FSI to the business entity serves the only purpose of generating revenue for local authority.</p> <ul style="list-style-type: none"> <li>• In the notification No. 14/2017 ST (Rate), the phrase "Services by way of any activity in relation to a function entrusted to a Municipality under article 243W of the Constitution" does not mean "Commercial activities under consideration". Thus, the said activity in form of the supply of FSI against charging fees by RMC being an independent taxable supply of services, would not be qualified for and could not be treated as "No Supply of Services".</li> <li>• Further, as per entry-16 (iii) in notification No. 11/2017 state tax (rate) read with entry-5 in notification No. 13/2017 state tax (rate), tax under RCM is payable by the taxpayer as recipient of services.</li> </ul>	
4.	To clarify that as long as transport of goods is undertaken entirely by road and the person transporting the goods issues consignment note, the service would be treated as Goods Transport Agency (GTA) service instead of courier services.	<ul style="list-style-type: none"> <li>• Tech enabled companies operating in intra-city goods transport segment provide goods transportation service to customers from one location to another via 2, 3 and 4 wheeler vehicles.</li> <li>• Two wheelers are used for movement of consignments weighing upto 20kgs and light commercial vehicles (3 and 4 wheelers) are used for movement of goods from 20kgs to 2500kgs.</li> </ul>	<ul style="list-style-type: none"> <li>• Goods Transport Service by GTA attracts GST at the rate of 5% without ITC or 12% with ITC under forward charge. Courier service attracts GST at the rate of 18% with ITC.</li> <li>• <b>Fitment Committee recommended to defer the issue for more comprehensive examination.</b></li> </ul>

Sl. No.	Proposal	Detail of request	Discussions in Fitment Committee and its recommendations
		<ul style="list-style-type: none"> <li>• The companies issue consignment note and bill of supply to an unregistered person and invoice to a registered customer in respect of each trip in compliance with provisions of the CGST Act, 2017 for the goods transportation services rendered as GTA.</li> <li>• These companies are also registered as common carrier under the Carriage by Road Act.</li> <li>• The companies do not give any assurance/guarantee to customers for time bound delivery of goods but assumes liability to ensure safe delivery of goods to consignee.</li> <li>• In service tax period, it had been clarified that so long as the entire transportation of goods is by road and the person transporting the goods issues a consignment note, the service would be classified as GTA service. [Circular no. 104/04/2008-ST dated 06.08.2008 and Circular No. 186/5/2015-ST dated 05.10.2015 refers].</li> <li>• Similar clarification has been requested in GST period.</li> </ul>	
5.	To examine the inclusion of services under the notification No. 17/2017-CTR dated 28.06.2017 under which four services have been notified on which GST is paid by Electronic Commerce Operator under section 9(5) of CGST Act, 2017.		<ul style="list-style-type: none"> <li>• Fitment Committee recommended that both Law Committee and Fitment Committee to jointly examine the issue.</li> <li>• <b>Fitment Committee recommended to defer the issue.</b></li> </ul>
6.	To clarify whether all the services provided by an educational institution to its students, faculty and	<ul style="list-style-type: none"> <li>• The educational institutions are providing services to the students of the educational institutions which fall into the following three categories-</li> </ul>	<ul style="list-style-type: none"> <li>• Fitment Committee examined the issue and recommended that the issue requires further detailed examination.</li> <li>• <b>Fitment Committee recommended to defer the issue.</b></li> </ul>

Sl. No.	Proposal	Detail of request	Discussions in Fitment Committee and its recommendations
	staff, irrespective of the SAC, are exempt from levy of GST.	<p>a) Tuition services where the consideration is collected as Tuition fees and is directly linked to the educational services</p> <p>b) Services which are directly linked to the admission of the students without which the students are ineligible to take educational services like Development fees (collected for management seats), Sports fees, Examination fees etc.</p> <p>c) Services which are provided by the educational institutions which are optional for the students.</p> <ul style="list-style-type: none"> <li>• The first category of services are exempt as per notification no. 12/2017 and there is no confusion in it.</li> <li>• The issue is whether the services falling under the second and the third category of services are exempt or not.</li> <li>• The notification no.12, in its opening para does not make any reference to the column no. 2 which relates to the Service Accounting Code but only to the description of services in column no.3. Further, the explanation clause in the said notification clearly says that the SAC is only indicative. This principle is clearly referred to in circular 177/09/2022-TRU dated 3<sup>rd</sup> August 2022 wherein in the para 4.3, it is clearly stated-</li> </ul> <p><i>“it can be seen that all services supplied by an ‘educational institution’ to its students are</i></p>	

Sl. No.	Proposal	Detail of request	Discussions in Fitment Committee and its recommendations
		<p><i>exempt from GST”</i></p> <p>and goes on to say...</p> <p><i>“The exemption is wide enough to cover the amount or fee charged for admission or entrance, or amount charged for application fee for entrance, or the fee charged from prospective students for issuance of eligibility certificate to them in the process of their entrance/admission to the educational institution. Services supplied by an educational institution by way of issuance of migration certificate to the leaving or ex-students are also covered by the exemption.”</i></p> <ul style="list-style-type: none"> <li>• The circular no. 85/04/2019-GST also clearly states that supply of food and beverages by an educational institution to its students are also exempt prior to the amendment of entry serial no. 66.</li> <li>• Hence, the trade has been representing that all services provided by educational institutions to its students are exempt from tax irrespective of SAC to which the services belong.</li> </ul>	
7.	Harmonisation of GST Rate Schedule on Services and the Classification of Services adopted for GST		<ul style="list-style-type: none"> <li>• <b>The issue was deferred in the 52nd meeting of the GST Council held on 07<sup>th</sup> Oct 2023.</b></li> <li>• In GST, a Scheme of Classification of services has been adopted. This classification of services is a modified version of UN CPC (UN Central Product Classification of Goods and Services). While UN CPC has a 5-digit classification,</li> </ul>

Sl. No.	Proposal	Detail of request	Discussions in Fitment Committee and its recommendations
			<p>the classification adopted for GST is a 4-digit classification with digits 99 pre-fixed to indicate that these are services.</p> <ul style="list-style-type: none"> <li>• As per Notification No. 12/2017-Central Tax dated 28.06.2017, as amended by Notification No. 78/2020-Central Tax dated 15.10.2020, taxpayers having turnover up to Rs. 5 Crore in the previous financial year are required to declare classification of services at a 4-digit level and those having turnover above Rs. 5 Crore at a 6-digit level.</li> <li>• However, currently the GST rate schedule for services does not mention the classification of services at the 6-digit level.</li> <li>• The GST rate schedule follows classification of services only up to 4-digit level. Further sub-categorization of services in the GST rate schedule is at complete divergence with the Classification of Services adapted for GST.</li> <li>• In the GST rate schedule, sub-categorization of services beyond the 4-digit level has been carried out only for those services, on which a rate lower or higher than the standard rate of 18% was to be prescribed. This sub-categorization in the rate schedule has been done on the basis of the description of such services, without mentioning the 6 digit-level classification, and such sub-categories have been numbered as (i), (ii), (iii) and so on under each 4-digit heading. Therefore, in effect, the GST rate schedule operates at a 2 digit-level of classification (the first two digits, namely '99' (only denoting that it is</li> </ul>

Sl. No.	Proposal	Detail of request	Discussions in Fitment Committee and its recommendations
			<p>a service) rendering impossible any meaningful analysis of revenue foregone, ITC availment etc.</p> <ul style="list-style-type: none"> <li>• The taxpayers are required to declare in the invoice/GST returns not the Sl. No. of GST Rate Schedule under which they have paid GST but the 6-digit classification of services in the Scheme of Classification annexed to the Rate Schedule. As a result, data of services for which a concessional rate of 5% or 12% or a higher rate of 28% has been notified is not captured.</li> <li>• A revised rate schedule of services which is a synthesis of the current rate schedule with the classification of services was prepared with a view to promote ease of doing business and to ensure better collection of data.</li> <li>• It was recommended by the Fitment Committee that the draft revised rate schedule may be circulated to all States with a request to give their views. Inputs/feedback from states/UTs of Kerala, Haryana, Tripura, Punjab, Tamil Nadu and New Delhi have been received and suitably incorporated.</li> <li>• It was further recommended by the Fitment Committee that the draft revised rate may be placed in the public domain for stakeholder consultation. Accordingly, the draft revised rate schedule was placed on the CBIC website and a copy was also circulated to all CGST field formations inviting their comments.</li> <li>• The feedback received was presented before the Fitment Committee on 04.04.2024 and the changes found suitable were</li> </ul>

Sl. No.	Proposal	Detail of request	Discussions in Fitment Committee and its recommendations
			<p>incorporated.</p> <ul style="list-style-type: none"> <li>It is proposed that the revised rate schedule may be placed in the public domain and shared with prominent industry/tax associations/professional bodies and implemented after incorporating any changes required therein in view of the feedback received and after a drop-down mechanism for selecting 6-digit classification of services is made available on the GSTN portal.</li> <li><b>Fitment Committee recommended to defer the issue.</b></li> </ul>
8.	To notify Delhi Development Authority (DDA) as a Local Authority and to remove the reference of DDA from the answer to question #5 of the “FAQs on GST in Government Services Sector”	<ul style="list-style-type: none"> <li>As per section 2(1)(d) of National Capital Territory of Delhi Laws (Special Provisions) Act, 2011, DDA is “a local authority” established under the Delhi Development Act 1957.</li> <li>As per Hon’ble Supreme Court judgement dated 17.02.1981 in Union of India &amp; Ors. Vs. R.C.Jain &amp; Ors. (1981 AIR951), DDA has been recognised as a Local Authority.</li> <li>In arriving at this conclusion, the Hon’ble Supreme Court has relied upon section 3(31) of General Clauses Act 1897 which defines a local authority and “local authority” shall mean a municipal committee, district board, body of port commissioners or other authority legally entitled to or entrusted by the Government with the control or management of a municipal or local fund.</li> <li>Section 2(69)(c) of CGST Act 2017 defines “local authority” as a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the</li> </ul>	<ul style="list-style-type: none"> <li>Issue was deferred in the 52nd GST Council meeting held on 07.10.2023.</li> <li>As per entry at Sl. No. 5 of notification No. 13/2017-CTR, services provided by local authority to a business entity are taxable under Reverse Charge Mechanism (RCM).</li> <li>Entry at Sl. No. 6 of notification No. 12/2017-CTR exempts services provided by local authority to individuals.</li> <li>DDA was inquired to inform whether DDA is legally entitled to or entrusted by the Government with the control or management of Municipal or Local Fund.</li> <li>For any authority to be treated as “Local Authority” they must fulfill the requirement of the definition of Local Authority as per Section 2 (69) of the CGST/SGST/UTGST Act. Local authority under CGST Act, 2017 has been defined as  <i>“2(69) —local authority means—  (a) a —Panchayat as defined in clause (d) of article 243 of the Constitution; (b) a —Municipality as defined in clause (e) of article 243P of the Constitution; (c) a Municipal</i> </li> </ul>

Sl. No.	Proposal	Detail of request	Discussions in Fitment Committee and its recommendations
		<p>Central Government or any State Government with the control or management of a municipal or local fund.</p> <ul style="list-style-type: none"> <li>Thus, section 2(69)(c) of CGST Act 2017 and section 3(31) of the General Clauses Act, 1897 appears to be identical.</li> </ul> <p>Answer to question#5 of the “FAQs on GST in Government Services Sector” issued by CBIC has listed DDA as not a local authority.</p>	<p><i>Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund; (d) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006; (e) a Regional Council or a District Council constituted under the Sixth Schedule to the Constitution; (f) a Development Board constituted under article 371[and article 371J] of the Constitution; or (g) a Regional Council constituted under article 371A of the Constitution;”</i></p> <ul style="list-style-type: none"> <li>Fitment Committee recommended that Local fund may be defined. Maharashtra and West Bengal were requested to send draft formulation on the same. However, reply is still awaited from Maharashtra.</li> <li><b>Fitment Committee recommended to defer the issue.</b></li> </ul>

### Agenda Note

**(f). Review of 51st GST Council meeting's recommendation to amend GST laws to provide clarity on the taxation of supplies in casinos, horse racing and online gaming**

The GST Council in its 50<sup>th</sup> and 51<sup>st</sup> meetings held on 11.07.2023 and 02.08.2023, respectively, has recommended the following in respect of taxation of supplies in casinos, horse racing and online gaming:

- (i) Actionable claims supplied by way of or in casinos, horse racing and online gaming will continue to be taxed at the uniform rate of 28%.
- (ii) Valuation of supply of actionable claims involved in online money gaming and actionable claims in casinos may be done based on the amount paid or payable to or deposited with the supplier (initial deposit), by or on behalf of the player (excluding the amount entered into games/ bets out of winnings of previous games/ bets) and not on the total value of each bet placed.

2. The changes recommended in the 51<sup>st</sup> Council meeting have been brought into effect from 01<sup>st</sup> October, 2023. During the discussion in the 51<sup>st</sup> GST Council meeting, the Hon'ble Union Minister of Corporate Affairs & Finance and Chairperson GST Council stated that a review would be conducted after six months of implementation of the aforesaid amendments and the statistics would be reviewed.

3. Accordingly, the status of the amendments and the statistics are being placed before the GST Council.

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## **Agenda Item 5: Recommendations of the 21<sup>st</sup> meeting of the IT Grievance Redressal**

### **Committee for approval/decision of the GST Council:**

The 21<sup>st</sup> meeting of the IT Grievance Redressal Committee (ITGRC) was held on 01<sup>st</sup> August, 2024 at 11.00 AM in online mode 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 21<sup>st</sup> ITGRC meeting covered the following issues:

1. Technical Issues requiring data fixes through back-end utilities
2. Any other agenda with the permission of the chair

### **2. Recommendations of ITGRC on Data Fix issues:**

As per the SOP approved in the 45th GST Council meeting for technical issues requiring data fix of the processed incorrect data through backend utilities, GSTN presented 32 issues which required data fixes for the consideration of ITGRC during its 21<sup>st</sup> meeting.

**2.1** ITGRC took note of the data fixes carried out by GSTN in 27 issues impacting 635 cases which were technical issues with no financial implication where correct data was known (Category-1 of the approved SOP).

**2.1.1** In the cases mentioned above in Category-1 (*Technical issues having no financial implications where correct data is known*), ITGRC recommended that:

- (i) In cases where the taxpayers trying to login first time but getting error while generating the OTP due to double quotes in the name, GSTN should take note of the limitation imposed by the current technology and examine whether special characters can be allowed in the system.
- (ii) In the cases wherein Taxpayers facing issue while filing GSTR3B getting error "You have submitted TRAN-1 but have not filed it", GSTN would obtain report from jurisdictional tax officers as to whether taxpayers have availed credit.
- (iii) In the case related to the grievance raised by M/s OPaL (ONGC Petro additions Limited), a SEZ unit located in Gujarat regarding the negative value (deficit) in the export ledger is not allowing further eligible invoices to get transmitted to ICEGATE, GSTN would submit the report of Jurisdictional officer in the next meeting.
- (iv) In the case of M/s Corrttech (GSTIN 24AAACI8838F1ZK) wherein the taxpayer misreported DTA-SEZ supplies (not meant for authorized operation) as zero-rated supplies for the period of December 2018, March 2019 and May 2019 in GSTR 1, GSTN would obtain report from the jurisdictional tax officer.
- (v) In the case of M/s Escon Gensets Pvt Ltd. (29AAACE3903H1ZU), wherein the taxpayer had erroneously entered the order and the rectification order with the same amount of Rs.23,56,554/- in the system and thus, the amount posted in taxpayer's electronic credit ledger got zero, GSTN would reset the rectified order from backend.

**2.2** For the 3 technical issues pertaining to Category-2 (*Technical issues where there were financial implications and the correct data was known*), ITGRC took note of the data fixes carried out by GSTN in all 765 cases involving an amount of Rs. 1289.60/-.

**2.3** ITGRC also took note of the data fixes carried out by GSTN in case of 2 Court Directions impacting 3 cases.

**2.4** 23 data fixes done between April – June 2024, were also brought during the meeting. There were 13 Technical issues with no financial implication where data was known, involving 62195 cases. ITGRC took notice of the data fix done in 9 issues. 4 issues were deferred for the next meeting. 10 Technical issues affecting locally with financial implications were deferred for the next meeting.

**2.5** In addition to this, 01 issue involving 15960 cases which was an update on a previous ITGRC issue was also tabled before the Committee.

The recommendations of ITGRC as per attached Minutes of the 21<sup>st</sup> meeting of ITGRC are placed for information of the GST Council as Annexure-A (attached).

The GST Council may approve the recommendations of the ITGRC and the data fixes carried out by GSTN as mentioned in Para 2 above.

**Minutes of the 21<sup>st</sup> Meeting of the IT Grievance Redressal Committee (ITGRC) held on 01.08.2024.**

The 21<sup>st</sup> meeting of the IT Grievance Redressal Committee (ITGRC) was held in an online mode over WebEx platform on 1st August 2024 at 11:00 am. The list of officers who attended the meeting is attached as **Annexure-1**. The agenda and annexure to agenda circulated for the meeting is at **Annexure-2**.

2. Shri Shashank Priya, Chairperson, ITGRC welcomed all the members of ITGRC and invited EVP, GSTN to proceed with the agenda.

3. Shri Dheeraj Rastogi, Executive Vice President (EVP), GSTN stated that the agenda for the meeting consisted of issues where data fixes have been carried out by GSTN as per the SOP developed and approved in the 45<sup>th</sup> meeting of the GST Council. There were 27 technical issues with no financial implications where correct data was known with certainty, 03 technical issues affecting locally with financial implications where data is known with certainty and 02 agendas on implementation of court directions. He further added that 23 data fixes done between April – June 2024 are also brought before the committee. In addition to this, 01 issue which is an update on a previous ITGRC issue is also tabled before the Committee.

4. EVP, GSTN then proceeded with the presentation (**Annexure-3**). First the technical issues having no financial implications were taken up.

**5(a) Technical issues having no financial implications where correct data known:****5(a).1**

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
1.	Taxpayers are unable to select the Composition opt out date from the Previous Financial Year though their turnover has exceeded in the previous FY.	24 (includes 1 case of data fix done between April'24-June'24)	Registration	<p>Circular No. 77/51/2018-GST dt 31.12.2018 provided that date of withdrawal from composition scheme may not be prior to the commencement of FY in which such intimation/application for withdrawal is being filed.</p> <p>Few tickets pertaining to such composition taxpayer who had crossed the annual aggregate turnover in 4<sup>th</sup> quarter of pervious FY 2022-23 but taxpayer got to know this fact when he was trying to file CMP-08 for the period of Jan-March quarter of FY 2022-23 in April'23 i.e in the subsequent FY 2023-24.</p>	Data fix done for such taxpayer to enable them for filing their returns for past period

				<p>As a result, Taxpayers wanted to opt out of composition scheme from the last quarter of FY 2022-23 but the maximum passed date was provided as opt out date within current FY on portal. Therefore, these taxpayers miss the opportunity for opting out in FY 2022-23. Though, they were not qualified to continue the composition from the last quarter 2022-23, they are not able to apply for withdrawal vide Rule-6 (2).</p> <p>Due to this implementation of the directions in the circular on the portal, the following issues are being faced by TPs:</p> <p>From the opt out date, they are filing returns as a normal TP but they are not able to file the returns for the 4<sup>th</sup> quarter of 2022-23 or the past returns before opting out.</p> <p>It has subsequent impact of interest and late fee.</p>	
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### **Discussion:**

EVP, GSTN explained that in these cases the taxpayer had crossed the annual aggregate turnover for composition scheme in 4th quarter of FY 2022-23 but taxpayer got to know this fact while trying to file CMP-08 for the period of Jan-March quarter of FY 2022-23 in April'23 i.e. in the subsequent FY 2023-24. However, Circular No. CBIC-20/16/04/2018-GST dt 31.12.2018 provided that date of withdrawal from composition scheme may not be prior to the commencement of FY in which such intimation/application for withdrawal is being filed. Therefore, the system was not allowing the taxpayer to file CMP-08 for the last quarter of FY 2022-23 and GSTN has done a data fix to enable them to file returns for the past period.

Upon enquiry by JS, GSTCS; EVP, GSTN informed that in all these cases taxpayers have tried to opt out within 7 days of crossing the threshold limit.

**Decision:** ITGRC took note of the data fix done by the GSTN.

**5(a).2**

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
2.	<b>Taxpayer M/s SHRI RAM PRINT "N" PACK (GSTIN-02ABFFS4545L1Z2) is trying to login first time but getting error while generating the OTP.</b>	1	Registration	The taxpayer M/s SHRI RAM PRINT "N" PACK (GSTIN-02ABFFS4545L1Z2) has double quotes in his Income tax database and the same name was reflected in his Legal Name. Due to presence of double quotes in the Legal name, OTP was not getting generated for this taxpayer. Since Name is not matched with Income tax name, taxpayer was advised to fix the name in income tax end. The same have to be addressed in GSTN database through Data fix to enable generation of OTP for the user.	Data fix done on 20.12.2023 and issue resolved. Double quotes have been deleted.

**Discussion:**

EVP, GSTN explained that in this case the taxpayer had double quotes in the name provided in PAN and therefore, OTP was not getting sent to the taxpayer as special characters are not being allowed in the legal name in GST system. Therefore, the taxpayer was advised to update the name without double quotes in his PAN card. He stated that the same needed to be addressed in GSTN database through Data fix to enable generation of OTP for the user.

Pr. DG Systems stated that the legal name has double quote and therefore, the concern is whether it remains the same legal entity.

Pr. CC, Delhi Zone, CBIC stated that there would be legal implications to having double quotes in the legal name as the same could be considered a brand name and therefore special characters may not be allowed in the name. Chairperson, ITGRC replied that there is no restriction in GST law to using special characters in the legal name.

Chairperson, ITGRC enquired as to whether the double quote has been removed from the CBDT records and whether there will be difficulty in getting data for this tax payer from CBDT in future on account of removal of double quote. He stated that the name across various compliance/regulatory bodies including GSTN should remain the same and therefore, the taxpayer may be advised to remove the double quote from the legal name. He further stated that in the long run GSTN should take note of the limitation imposed by the current technology and examine whether such special characters can be allowed in the system.

GSTN stated that they will follow up this case through the jurisdictional tax officer for ensuring that the legal name is same across the various regulatory framework.

**Decision:** ITGRC took note of the data fix done by the GSTN.

#### 5(a).3

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
3.	Request from Embassy of The Bolivarian Republic of Venezuela (UIN 0717VEN00140U NM) and Embassy of Iceland (UIN 0717ISL00057UN V) to update their contact details and email ID	2	Registration	Request from Embassy of The Bolivarian Republic of Venezuela (UIN 0717VEN00140UNM) to update mobile number to 9205236616 and Embassy of Iceland (UIN 0717ISL00057UNV) to update their contact details to 9311090160 and email ID to newdelhi@utn.is	Data fix done and issue resolved. Permanent fix will get automatically resolved after CBIC migration.

#### Discussion:

EVP, GSTN explained that these registrations were taken through CBIC and there was no option/API to update the contact details and email id. Therefore, the same has been done through back end.

**Decision:** ITGRC took note of the data fix done by the GSTN.

#### 5(a).4

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
4.	End date of Registration (GSTN: 01AAPPD3636 C3Z9) in GST Master was 17.05.2019 as selected by the taxpayer,	1	Registration	The taxpayer has applied for self-cancellation and the Registration End date was captured as 17th May 2019 in GST_MSTR table. However, the actual cancellation date was 11th June 2019. Due to this, the taxpayer was unable to file	Data fix done and issue resolved

	<p>whereas the cancellation date per Tax Officer Order was 11.06.2019. Due to this, taxpayer was unable to file return for June 2019 for GSTR1 and GSTR3B and the GSTR9, also return tile were disabled. This was an old case, and the GST master data needs to be updated to 11.06.2019.</p>			<p>return for June 2019 period. There was a gap in the self-cancellation process. As per the old implementation, if there was a difference between cancellation date selected by the taxpayer at the time of filing and cancellation date selected by the authority at the time of disposal then master table used to consider REG_END_DT as cancellation date selected by the taxpayer at the time of filing in GST_MSTR table. Based on new business requirement it was decided to change the flow in self-cancellation form and consider cancellation date and REG_END_DT as the date selected by the officer at the time of disposal.</p>	
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#### **Discussion:**

EVP, GSTN explained that the taxpayer was unable to file returns for the month of June, 2019 on account of difference in the registration end date selected by the taxpayer at the time of filing for cancellation of GST registration and cancellation date selected by the authority at the time of disposal. He stated that the system has been now tweaked to take the date which the tax officer has selected at the time of disposal to be the date of cancellation. Data fix has been done by GSTN and issue has been resolved.

**Decision:** ITGRC took note of the data fix done by the GSTN.

#### **5(a).5**

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
5.	Foreign National is unable to perform	1	Registration	Rule 10B of the CGST Rules requires mandatory Aadhaar Authentication of MD or WTD for processing of refund of IGST	Data fix done and issue resolved

	<b>Aadhaar Authentication. Air India Limited, Maharashtra (27AACCN6194P1ZP)</b>			paid on export of goods. Accordingly, AIL is unable to do Aadhaar Authentication as: - AIL does not have any WTD and - AIL has a MD, who is not a citizen of India, as exempted from Aadhaar Authentication and GST portal does not provide any functionality to do Aadhaar Authentication of foreign national	
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**Discussion:**

EVP, GSTN explained that the taxpayer was unable to do Aadhaar authentication for processing of refund of IGST paid on export of goods on account of MD being a foreign national. He submitted that the issue was also placed before the Law Committee and that the same has been approved by LC. Data fix has been done by GSTN and issue has been resolved.

**Decision:** ITGRC took note of the data fix done by the GSTN.

**5(a).6**

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
6.	<b>Correction in cash ledger balance due to credit/debit happened simultaneously.</b>	7+28 (Data fix done between April'24-June'24)	Cash Ledger	<p>Some tickets were received from taxpayers at GST Helpdesk for correction in Cash Ledger balance. It was observed that balance was not updated due to credit/ debit happening simultaneously. On further analysis, 29 cases (28 active and 1 cancelled) were identified from Nov 2023 to Mar 2024 where in credit entry was not updated in Cash Ledger balance.</p> <p>Reason:</p> <p>The issue had occurred due to debit/ credit entry in the cash ledger happening at the same time, which lead to incorrect cash balance in the</p>	Data fix was done on 15 Dec 2023 via ICRNo.23 856. Permanent fix is in process through CR 21982.

				<p>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 causing a mismatch.</p> <p>It is a corner scenario wherein due to a technical glitch in the back end, two transactions happen at the same time leading to incorrect cash balance in the cash ledger.</p>	
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### **Discussion:**

EVP, GSTN explained that in these cases payment is not updated in the database on account of which the ledger balance was not getting updated. He stated that the data fix was done and that the permanent fix is in the process. Chairperson ITGRC enquired whether there were 2 transactions as the agenda item states that the glitch arose because of 2 transactions happening simultaneously, if not, the description of the issue may be amended to reflect the correct position.

Chairperson, ITGRC also enquired as to whether there are third party audit for such data fixes. EVP, GSTN stated there is a 3<sup>rd</sup> party audit in place but for data fixes done there is no such third party audit. Chairperson, ITGRC stated that it is desirable to have a 3<sup>rd</sup> party audit for all such data fixes.

EVP, GSTN stated that the scope of the audit would be enhanced accordingly.

**Decision:** ITGRC took note of the data fix done by the GSTN.

### **5(a).7**

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
7.	Taxpayer (Riso India Ltd) has already filed their respective GSTR-3B returns but they have reported a mismatch in their saved	1	Returns	<p>Taxpayer has done offset but filing status not updated with 'FRZ' in the Return Filing Status table and taxpayer has done the NIL filings. Taxpayer has done offset on 19th April 2023 and has done nil filing on 11th May 2023. GSTIN: 33AADCR4540C1ZW Return period: Mar, 2023</p> <p>Reason Taxpayer has done offset, and</p>	Data fix was done on 30 Jan 2024. RQMNo.22721 is raised for permanent fix and is in development.

	and offset data.			<p>Ledger gets inserted but filing status was not updated with 'FRZ' value due to database connectivity loss.</p> <p>As a next step, taxpayer opted 'yes' in questionnaire page for nil filing of GSTR-3B and was able to complete the NIL filing. As a part of NIL filing process, 'Y' questionnaire values updated in Hbase whereas no updates happen in the ledger tables. This will result in mismatch between HBase and ledger.</p>	
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### **Discussion:**

EVP, GSTN explained that the taxpayer has filed the GSTR-3B returns but there was a mismatch between the HBASE and ledger of the taxpayer. The tax payer has done nil filing of GSTR-3B by opting ' yes' in questionnaire page for nil filing of GSTR-3B and as a result values were updated in Hbase whereas no updates happened in the ledger table and thereby, resulting in a mismatch between Hbase and ledger. He stated that the data fix was done and that the permanent fix is being developed

Chairperson, ITGRC enquired as to the frequency at which these type of data fixes need to be done. EVP, GSTN replied that the requirement for such data fixes occur only on as and when ticket is raised. Further, as permanent fix is being developed for the above scenario, the said issue is presumed not to recur in future.

**Decision:** ITGRC took note of the data fix done by the GSTN.

### **5(a).8**

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
8.	GSTR9 Post Filing behavior - Entry posted to ledger Table but filing status of the return could not be updated.	5	Returns	<p>Taxpayers have filed the GSTR9 form for FY:2018-19 &amp; 2022-23 but status was still showing "Not Filed" on portal.</p> <p>Reason Entries got posted to ledger tables, but the status of filing were not updated in the Hbase table.</p>	Issue has been fixed on 29 Mar 2024 via ICRNo.25265. RQM:21228 is under progress for permanent fix.

**Discussion:**

EVP, GSTN explained that the taxpayers have filed the GSTR-9 returns and that the entries got posted to ledger tables, but the status of filing were not updated in the Hbase table. There are 05 such cases for which data fix had been done by GSTN and that the permanent fix is in the process.

**Decision:** ITGRC took note of the data fix done by the GSTN.

**5(a).9**

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
9.	ISD filed GSTR6 However corresponding invoices couldn't be reflected in GSTR2A of the recipient. Hence, there was ITC mismatch.	333	Returns	<p>Problem Statement</p> <p>This is for the R2A data population issue in which ISD invoices are not reflecting in GSTR2A form when uploaded from GSTR6 form till February 2022 return period. While adding the multiple invoices through offline utility, due to the bug 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>	Permanent fix has already gone to production through RQMNo.22445 on 15th Feb,2022. Team is working on utility for One Go Fix for all such cases that pertains prior to 16 <sup>th</sup> Feb 22.

**Discussion:**

EVP, GSTN explained that in some cases there was issue in auto population of data from GSTR-6 to GSTR2A. While adding the monthly multiple ISD invoices through offline utility, due to a bug in the code, all of the invoices data were not getting reflected in the GSTR-2A and only the data relating to last invoice was getting saved in the portal. On account of this, the user was unable to view all their invoices on the portal. A permanent data fix has already gone to production through RQMNo.22445 on 15th Feb,2022. and in addition, GSTN is working on a utility for One Go Fix for all such cases that pertains prior to 16<sup>th</sup> Feb 22.

Chairperson, ITGRC enquired as to the number of cases impacted by this issue. EVP, GSTN replied that 333 cases were covered under this issue.

Joint Secretary, GST Council enquired as to whether these are the total number of cases and also as to the financial implications, EVP, GSTN replied that there would be some more cases. However, this does not involve any financial implication.

Chairperson, ITGRC stated that the technology should be made robust to ensure correct auto population of figures in the system.

**Decision:** ITGRC took note of the data fix done by the GSTN.

**5(a).10**

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
10.	Update the financial year from '2024-25' to '2023-24' for a taxpayer having GSTIN = 09AALCC4943L 1Z4, reference to ticket no. 11764973	1	GTA	Due to a bug in a filing of Annexure V functionality for a newly registered taxpayer, the taxpayer was unable to choose ongoing FY i.e. 2023-24, and then he chose FY 2024-25 and filed an Annexure V.	To permanently resolve this issue, a code fix has already been moved to production on 14th Feb 2024, through ECR 24608, regarding enabling filing of Annexure V for the current FY for the newly registered GTA.

**Discussion:**

EVP, GSTN explained that in the case of this taxpayer on account of a bug in the system they were unable to select ongoing F.Y 2023-24 while filing Annexure V for the newly registered GTA and instead F.Y 2024-25 was getting selected. GSTN has already moved a code fix to enable filing of Annexure V for the F.Y 2023-24.

**Decision:** ITGRC took note of the data fix done by the GSTN.

**5(a).11a**

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status

11a.	<b>“Data already submitted” This error was reflected during amendment of invoices in GSTR5A</b>	2	Returns	<p>Taxpayer is unable to amend the invoices for previous return periods in the current return period.</p> <p>Taxpayer has amended the record from the previous financial year and saved it.</p> <p>Record type status is changed to ‘A’ in the backend. Before filing the GSTR5A that saved amended record has been deleted by taxpayer, and then in the next return period, the ‘Data already submitted’ error is coming up, while going for amendment of the same record.</p> <p>Record type status is changed to ‘A’ in backend and hence ‘Data already submitted’ error is coming in UI due to design issue.</p>	Data Fix Done. Permanent fix is done on date ()
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#### 5(a).11b

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
11b.	<b>Unable to amend B2C(others) record</b>	43	Returns	<p>When taxpayer is trying to amend B2C (other) record, he gets error "B2CS Amendment already exists for the original month in different return period".</p> <p>As per analysis user did DELETE activity after amending record. But we have found that AMDBL_PRD Column value is holding “amendable return period” in B2C_SUMMARY table due to which user is unable to amend again.</p> <p>Since the taxpayer has deleted the amended invoice before filing, data</p>	Data Fix Done

				fix have to be done for 43 taxpayers to remove the entries for these documents which are saved in Hbase but not included in filing, so that taxpayer can amend the document	
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### **Discussion:**

EVP, GSTN stated that presently the taxpayers are unable to amend the record for B2C in GSTR-1 and GSTR5A more than once. In these cases, the taxpayers after amending the records had deleted the entry before filing the returns and on account of this deleted record remaining in the data base, the taxpayer is being prevented from making further amendments of the same record for future periods. GSTN has fixed the issue by removing the said traces.

Chairperson, ITGRC enquired as to the quantum involved in these B2Cs as there appeared to be no need for reporting of B2C invoices individually in cases where invoice value is less than Rs. 2.5 lakh. EVP, GSTN replied that the B2C invoices were of less than Rs. 2.5 lakh, however, these were cases where there was error in the summary.

Chairperson, ITGRC stated that as per law there is no restriction on the number of amendments but in this case the system is not allowing the amendments. On enquiry by Chairperson, ITGRC whether the issue has been permanently fixed, EVP, GSTN replied that the process for permanent fix is in progress and currently a data fix has been done.

**Decision:** ITGRC took note of the data fix carried out by GSTN.

### **5(a).12**

<b>S. No.</b>	<b>Issue reported</b>	<b>No. of Cases Impacted</b>	<b>Module</b>	<b>Detail Description</b>	<b>Status</b>
<b>12.</b>	<b>After Filing GSTR1 for the tax period 03/2023 , however invoices are not reflected in GSTR-2B of the</b>	1	Returns	During the peak filing period of GSTR-1, a situation unfolded in the production environment where one taxpayer conducted multiple save actions. Subsequently, the user then initiated a reset process, which was still in progress at that point. Despite this ongoing reset, the taxpayer proceeded to save and file the return for the tax period 03/2023.  In an unexpected turn of events, the previous reset operation that was still	Data Fix Done. Team is working on Permanent fix.

	<b>recipient.</b>			processing was successfully executed after the filing had taken place. This led to the removal of data pertaining to GSTR1, GSTR2B, ITC, and GSTR9 from the underlying HBASE table.	
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### **Discussion:**

EVP, GSTN stated that the taxpayer is unable to claim ITC in GSTR-2B on account of invoices not being visible due to removal of data pertaining to GSTR1, GSTR2B, ITC, and GSTR9 from the underlying HBASE table for the tax period 03/2023. He explained that the taxpayer had initiated reset option after multiple save actions and then proceeded to complete the filing process of return. The previous reset operation was still running and got successfully executed after the completion of filing process. On account of this, the data pertaining to GSTR1, GSTR2B, ITC, and GSTR9 got removed from the underlying HBASE table.

Pr. DG, DG Systems enquired as to whether the person could have availed credit. EVP, GSTN replied that in most likely scenario credit would not have been availed. However, an audit might be done to check the same.

**Decision:** ITGRC took note of the data fix carried out by GSTN and directed GSTN to inform jurisdictional tax officer to confirm whether or not taxpayer has utilized credit only once for the invoices in GSTR1 affected by the reset .

### **5(a).13**

<b>S. No.</b>	<b>Issue reported</b>	<b>No. of Cases Impacted</b>	<b>Module</b>	<b>Detailed Description</b>	<b>Status</b>
13	<b>Taxpayer facing issue while filing GSTR3B getting error "You have submitted TRAN-1 but have not filed it"</b>	6	Returns	Taxpayers who were filing Tran-1 return in the earlier TRAN filing flow from 01-07-2017 to 28-09-2022 used to get the credit on submission of TRAN but the system doesn't allow them to file GSTR -3B due to a validation for filing TRAN return post submission. However, few taxpayers submitted TRAN returns and then opted for composition scheme. These taxpayers when switched back to normal scheme, then the system didn't allow them to file their GSTR-3B due to the validation on submission but non-filing of TRAN.	Data Fix Done.

				Reason:  As per the old code of TRAN-1 flow the Taxpayers were able to get credit (ITC) on submit (FRZ) of TRAN return but there was a validation in the system wherein the system does not allow to file GSTR-3B unless TRAN is filed. So, these Taxpayers shifted to composition scheme and did not complete the filing of TRAN-1 return.	
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### **Discussion:**

EVP, GSTN stated that the taxpayer is facing issues in filing GSTR-3B on account of filing of form TRAN-1 . He explained that taxpayers who had submitted but not filed their TRAN-1 return from 01-07-2017 to 28-09-2022 got their electronic ledger credited on submitting the TRAN-1 return instead of filing. As per the old,flow of TRAN-1, Taxpayer were able to get credit on submit of form Tran-1. Therefore, the taxpayers did not complete the filing of TRAN-1 return and shifted to Composition Scheme. Later the taxpayers shifted back to normal taxpayers in 2022. Now, while trying to file GSTR-3B as a normal taxpayer they are getting an error message that they have not filed TRAN-1 form and that GSTR-3B can be filed only on filing the TRAN-1 form. Data fix done has been done by GSTN and issue has been resolved.

Chairperson, ITGRC enquired as to the period for which the data fix has been done and GSTN replied that the cases mostly pertain to the period 2022.

Pr. DG, DG Systems, CBIC stated that in these cases, credit is not eligible so the jurisdictional officer needs to be alerted to not allow the TRAN -1 credit. Chairperson, ITGRC directed GSTN to seek a compliance report from the jurisdictional tax officer.

**Decision:** ITGRC took note of the data fix carried out by GSTN and directed GSTN to obtain report from jurisdictional tax officers as to whether taxpayers have availed credit in the 6 cases mentioned in the agenda.

### **5(a).14**

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
14.	M/s OPaL (ONGC Petro additions Limited), having GSTIN 24AAACO9200B3Z2,a SEZ unit located in	1	Refund	This is related to grievance raised by M/s OPaL (ONGC Petro additions Limited), a SEZ unit located in Gujarat. The export ledger of this taxpayer is deficit to the amount of Rs	Data Fix will be given in the export Ledger to offset the negative

	<p><b>Bharuch, Gujrat.</b>  <b>During FY 18, the taxpayer has reported SEZ-DTA supply (Normal supply) as SEZ-SEZ (Zero rated supply) in GSTR 1.</b></p> <p><b>As per the taxpayer, GST system did not allow him to pay IGST as the DTA's GSTIN is also located in Gujrat. To circumvent, SEZ-DTA supply is reported as SEZ-SEZ supply i.e., "SEZ supply with payment" on GST portal in GSTR 1. However, the taxpayer has made the payment under the correct head in GSTR 3B (Table 3.1(a)).</b></p>			<p>1,11,42,985.35.</p> <p>During FY 18, the taxpayer has reported the supplies made to a DTA unit located in Gujarat as SEZ supplies. As per the taxpayer, GST system was not accepting the DTA's GSTIN for IGST payment as both are in the same State. To disclose the correct liability under IGST, these supplies have been reported as "SEZ supply with payment" on GST portal while filing GSTR 1. The taxpayer has made the payment in table 3.1(a) of GSTR 3B and also the same has been verified by the technical team.</p> <p>As the supplies have been reported as 'SEZ' supply, it has created liability in Export ledger. The payment has been done in Table 3.1(a) and therefore, it is not reflecting in Export ledger and created the negative balance. The negative value (deficit) in the export ledger is not allowing further eligible invoices to get transmitted to ICEGATE. The only solution available in this case is to provide offset for Rs 1,11,42,985.35 in the export ledger.</p>	balance
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### **Discussion:**

EVP, GSTN stated that the taxpayer had incorrectly reported the SEZ-DTA supply (Normal supply) as SEZ-SEZ (Zero rated supply) as the system did not allow them to pay IGST on SEZ-DTA transaction. He explained that the export ledger of the taxpayer is having negative balance on account of this action by taxpayer in GSTR-1 and this negative balance is disallowing transfer of eligible export invoices to ICEGATE for IGST Refund. He further added that though the liability is reported wrongly in Table 6 of GSTR 1, the taxpayer has made the payment under the correct head in GSTR 3B i.e. Table 3.1(a) instead of Table 3.1(b).

Chairperson, ITGRC enquired whether there is any check provided in the system to check these scenarios and EVP, GSTN replied that if corresponding IGST is not paid, then invoices would not be transmitted to ICEGATE. Chairperson, ITGRC clarified that this should not have been reported in Table 4 of GSTR-1 as the same is not an export but normal supply.

Chairperson, ITGRC asked GSTN about the amount involved and GSTN replied that the supplies misreported as Zero rated has created negative balance in the export ledger to the tune of INR 1,11,42,985.35. Chairperson, ITGRC directed GSTN to seek clarification from the jurisdictional officer within next 48 hours. He directed that copy of the invoice be obtained and the same be analysed in detail and re-submitted after clarification. If the same is not obtained, issue may be re-submitted in the next ITGRC meeting.

EVP, GSTN stated that data fix will be given in the export Ledger to offset the negative balance.

**Decision:** Report of Jurisdictional officer is to be submitted before issuance of MoM. If not submitted, the issue will be postponed for next ITGRC meeting.

**Notes by GSTN before issuance of MoM:** This is a supply of services from SEZ to DTA where the liability to report in GSTR 1 and pay the tax in GSTR 3B is the responsibility of SEZ. For supply of services, the taxpayer instead of reporting in Table 4 reported the same in Table 6 of GSTR 1. The report and details sought by the Chairperson will be submitted in next ITGRC meeting.

#### 5(a).15

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
15.	The export ledger is having negative balance due to mistakes committed by taxpayer in GSTR-1 and this negative balance disallows transfer of eligible export invoices to ICEGATE for IGST Refund. In this case, the “Export supplies without payment of duty” are reported as “Export supplies with payment of	1	Refund	The issue pertains to M/s IDE Technologies India Private Limited (GSTIN 09AABCI9713N1Z2). The taxpayer has made “Export supplies without payment of duty” for the period of August 2017 and November 2017. However, these supplies were mis-reported as “Export with Payment” in GSTR 1 and created negative balance in export ledger. Also, these supplies are reported correctly in GSTR 3B. As per the claim of the taxpayer, the tax department has made a demand for the supplies mentioned as “Export with payment” which is not paid in GSTR 3B. The taxpayer went for appeal and the demand raised by the proper officer was nullified by Appellate Authority.	Data Fix will be given in the export Ledger to offset the negative balance.

	<b>duty” in GSTR 1.</b>			Thereafter, the taxpayer approached GST helpdesk for nullifying the negative balance in the export ledger to the amount of Rs. 1785963.42/- .	
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### **Discussion:**

EVP, GSTN stated that the taxpayer had made Export supplies without payment of duty for the period of August 2017 and November 2017. However, these supplies were mis-reported as “Export with Payment” in GSTR 1 and this created negative balance in export ledger. These supplies are reported correctly in GSTR 3B. The department had raised demand for the supplies mentioned as “Export with payment” which is not paid in GSTR 3B and the taxpayer went in appeal. The appellate authority has nullified the order and the taxpayer has now requested for nullifying the negative balance in the export ledger to the amount of Rs. 1785963.42.

Pr. DG, DG Systems stated that in this case data should not be transmitted to ICEGATE after the data fix. EVP, GSTN stated that the invoices would not be transmitted to ICEGATE.

Chairperson, ITGRC stated that as the appellate authority has decided the issue, data fix might be approved subject to the condition that the invoices are not transmitted to ICEGATE

**Decision:** ITGRC approved of the data fix proposed by the GSTN subject to invoices not being transmitted to ICEGATE.

### **5(a).16**

<b>S. No.</b>	<b>Issue reported</b>	<b>No. of Cases Impacted</b>	<b>Module</b>	<b>Detailed Description</b>	<b>Status</b>
16.	<b>The export ledger is having negative balance due to mistakes committed by taxpayer in GSTR-1 and this negative balance disallows transfer of eligible export invoices to ICEGATE for IGST Refund. In this case, DTA-SEZ (not meant for authorized operation) supply is reported as Export supply instead of domestic supply in GSTR 1.</b>	1	Refund	M/s Corrtch (GSTIN 24AAACI8838F1ZK) has misreported DTA-SEZ supplies (not meant for authorized operation) as zero-rated supplies for the period of December 2018, March 2019 and May 2019 in GSTR 1. It has created negative balance of Rs 16,67,197 in the export ledger. This negative balance has stopped further transmission of eligible export invoices to ICEGATE	Data Fix will be given in the export Ledger to offset the negative balance of Rs 16,67,197.

				belonging to the period November 2022 to October 2023 and IGST refund of Rs 7,23,91,175.70 is stuck.	
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### **Discussion:**

EVP, GSTN stated that the present matter is pending in the Hon'ble High Court. In this case the taxpayer has misreported DTA-SEZ supplies (not meant for authorized operations) as zero-rated supplies for the period of December 2018, March 2019 and May 2019 in GSTR 1. This has created negative balance of Rs 16,67,197 in the export ledger and this in turn has stopped further transmission of eligible export invoices to ICEGATE belonging to the period November 2022 to October 2023.

Chairperson, ITGRC enquired whether IGST involved in the supplies had been paid to which EVP, GSTN replied in the affirmative. Chairperson, ITGRC suggested that the agenda may be deferred for the next meeting as the matter is pending in the court. Also, the Chairperson sought report from the jurisdictional tax officer.

**Decision:** ITGRC agreed to defer the item to the next meeting.

### **Notes from GSTN before issuance of MoM:**

In this Writ Petition, GSTN is made as one of the respondents. In the reply filed before the Court, GSTN has stated that the agenda is placed before ITGRC for decision on offsetting the export ledger. After ITGRC meeting, an email is written to Commissionerate to submit report for the next ITGRC meeting.

### **5(a).17**

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
17	<b>Appeal application filed with Zero disputed amount and was acknowledged by the officer. As the disputed amount is Zero the officer could not issue the final order.</b>	1	Appeal	This issue is forwarded by the State of Rajasthan. In this case, a taxpayer (08AFCPD0195G1ZS) has filed an appeal against Enforcement Order with 'disputed amount' as Zero in Appeal application. When Zero amount is entered, the officer cannot issue the Appeal order 'APL 04'. In this case, the officer has mistakenly admitted the application also but couldn't issue the final order.	Data fix is given to change the status from appeal admitted to" appeal submitted " so that officer can reject the application.

**Discussion:**

EVP, GSTN stated that this issue has been referred by Rajasthan State Tax Department and that the taxpayer has mistakenly reported the disputed amount as zero while filing APL-01 and on account of which APL-04 cannot be issued by the tax officer. As the case officer has admitted the application they are unable to reject the application without APL04. Therefore, data fix is given to change the status from appeal admitted to” appeal submitted “so that officer can reject the application.

**Decision:** ITGRC took note of the data fix done by the GSTN.

**5(a).18**

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
18.	<b>Appeal ARN: AD0709230003288 was filed by GSTIN : 07BMHPS5748B1ZV against Registration Order : ZA071220040517Z which was inadvertently rejected by the officer instead of accepting the same.</b>	1	Appeal	A taxpayer (GSTIN: 07BMHPS5748B1ZV) filed an Appeal ARN : AD0709230003288 against Registration Order : ZA071220040517Z which was inadvertently rejected by the officer instead of accepting the same. The appeal was inadvertently rejected by selecting the option "I reject the Original Order" instead of "I accept the original order". Rectification option is not available for Registration related appeals. Therefore, in this case, the only option was to do reset of APL 04 from back end.	Data fix is given to reset APL-04 for reissuance.

**Discussion:**

EVP, GSTN stated that the taxpayer had filed an appeal, and this was mistakenly rejected by the officer while issuing APL 04 instead of accepting and rectification option is not available for Registration related appeals. Therefore, GSTN had to reset APL 04 from back end.

Officer from West Bengal requested that in such cases option may be given to the tax officer to correct the error apparent on face of record.

Chairperson, ITGRC thanked officer from West Bengal for raising the issue and enquired from GSTN as to whether this was a permanent fix. EVP, GSTN replied that in this, data fix has been given to reset APL-04 for reissuance and that they will provide a functionality for rectification for errors apparent on the face of the record.

Pr. DG, DG Systems stated that earlier in service tax also there existed provisions for rectification of errors on the face of record.

**Decision:** ITGRC took note of the data fix done by the GSTN.

**5(a).19**

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
19.	Issue in adjustment of excess tax paid with RCM liability.	1	Return	<p>Taxpayer reported that while filing GSTR 3B for the month of Nov. 2022, the CGST amount under RCM Liability mentioned in table 3.1d (inward supplies liable to reverse charge) was not reflecting in Table 6 (Payment of Tax details). Upon analysis, it was found that the system was auto adjusting the Excess paid tax by the taxpayer from his reverse charge liability and showing the details in negative liability ledger. As per the analysis, for July 2017 return, the total CGST liability to be paid under “Other than reverse charge” was Rs. 4781595.00 and total liability to be under “Reverse charge” was Rs. 12311.00.</p> <p>At the time of payment, the Reverse charge liability of Rs. 12311 was set off through cash ledger as per the functionality. On the hand, the other than reverse charge liability was set off with an amount of Rs. 790126 which was utilized from the cash ledger. Now, the liability left for “other than reverse charge” was Rs. 3991469.00 but instead taxpayer again paid the total liability amount (i.e., Rs. 4781595.00) through ITC (Credit Ledger). Hence, this way excess payment of CGST liability of Rs. 790126 was done in July 2017. This excess payment was considered as the negative liability balance under the</p>	<p>The taxpayer is asking either for a refund of the remaining excess tax collected or to shift the amount to the ITC ledger so that the same can be used for other than reverse charge liability. Note – If refund is filed by the TP under Excess payment of Tax category (July, 2017) , it will be time barred. The solution available is to give the excess paid amount in ITC ledger through data fix.</p>

				CGST Tax Head and is getting adjusted in Reverse Charge CGST liability in subsequent months till now.	
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### **Discussion:**

EVP, GSTN stated that this issue was deferred from the last meeting. In this case, in the GSTR-3B filed by the taxpayer for the month of November 2022, the CGST amount under RCM Liability mentioned in table 3.1d (inward supplies liable to reverse charge) was not reflecting in Table 6 (Payment of Tax details). Upon technical analysis, it was found that the system was auto adjusting the Excess paid tax by the taxpayer from his reverse charge liability. The taxpayer paid excess tax of Rs. 7,90,126/-in July 2017 through double debit of cash ledger and ITC Ledger. EVP, GSTN stated that the taxpayer is asking either for a refund of the remaining excess tax collected or to shift the amount to the ITC ledger so that the same can be used for other than reverse charge liability. EVP, GSTN suggested that the excess paid amount could be given in ITC ledger through data fix, as refund would be time barred Upon enquiry by the Chairperson, ITGRC as to whether the taxpayer could be advised to use the balance for payment of RCM liability, EVP, GSTN stated that the RCM liability of the taxpayer is very less and he has been able to use only Rs. 3.5 lakh for the same in the past 7 years.

Chairperson, ITGRC accepted the suggestion of EVP, GSTN and asked whether the same issue could recur. EVP, GSTN replied that as per the data there is a remote possibility for the same. However the issues will be resolved on the same lines when any ticket is raised.

**Decision:** ITGRC took note of the data fix done by the GSTN.

### **5(a).20**

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
20.	As per Hon'ble Supreme Court order, the taxpayer has filed a revised TRAN-1(new) application as prescribed under Circular No. 180/12/2022-GST dated 09.09.2022. The taxpayer	1	Returns	As per circular No. 180/12/2022-GST dated 09.09.2022, the registered taxpayers were given an opportunity to file their TRAN-1/TRAN-2 forms or to revise their already filed TRAN forms during the two months windows provided from 01.10.2022 to 30.11.2022. The back office functionality for passing the TRAN orders was designed in such way that the system will automatically deduct the earlier claimed TRAN credit from the approved amount and the remaining TRAN credit will be posted to the electronic credit ledger (ECL) of the	In such cases where the net amount was arriving negative due to filing of TRAN forms with differential/missed values, the LC has already decided that the tax officer can approve amount more than the amount claimed by taxpayer in their revised TRAN forms so that the

	had missed out the cenvat credit related to service tax amounting to Rs.23,70,696/- during filing of old TRAN-1 application. The tax officer vide order dated 20.02.2023 approved the TRAN-1 credit of Rs. 23,56,554/- but the said amount has not been credited to taxpayer's ECL.			taxpayer on passing of order by Tax Officer in back office. M/s Escon Gensets Pvt Ltd.(29AAACE3903H1ZU) had filed TRAN forms the old TRAN-1 application on 13.12.2017 for carrying forward the credit of Rs.75,48,705/-. The said amount was credited to taxpayer's ECL. During the two months window opened as per Hon'ble Supreme Court order, the taxpayer has filed a revised TRAN-1(new). The taxpayer had missed out the cenvat credit related to service tax amounting to Rs.23,70,696/- during filing of old TRAN-1 application. The tax officer approved the TRAN-1 credit of Rs. 23,56,554/- but the said amount has not been credited to taxpayer's ECL.	net amount in back office can become equal to the eligible credit and the same can be posted to taxpayer's ECL. Accordingly, in the instant case, GSTN can reset the rectified order from backend and tax officer may put the higher values in back office so that the net amount can become the amount approved in order passed by the tax officer.
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#### **Discussion:**

EVP, GSTN stated that in this case the tax officer has erroneously entered the order and the rectification order with the same amount of Rs.23,56,554/- in the system and thus, the amount posted in taxpayer's Electronic credit ledger got zero. EVP, GSTN further stated that GSTN can reset the rectified order from backend and tax officer may put the higher values in back office so that the net amount can become the amount approved in order passed by the tax officer.

Chairperson, ITGRC allowed GSTN to reset the rectified order from backend

**Decision:** ITGRC allowed GSTN to reset the rectified order from backend.

#### **5(a).21**

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
21.	GSTR9 tile is not enabled for FY:2019-	10	Returns	Taxpayers were inactive at the time of GSTR2A processing for GSTR-9. Due to that R2A entry for these taxpayers were not inserted into the database. Later, these taxpayers became active and were trying to	Issue has been fixed on 29 Mar 2024.

	<b>20,2020-21,2021-22 and 2022-23</b>			file the GSTR-9 but the GSTR9 tile was not enabled for them, due to which, R2A entries for the reported taxpayers were needed to be inserted manually from backend.	
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### **Discussion:**

EVP, GSTN stated that in these 10 cases, the taxpayers were inactive at the time of GSTR-2A processing for GSTR-9 for the FY:2019-20,2020-21,2021-22 and 2022-23. Therefore, GSTR-2A entry for these taxpayers were not inserted into the database. Later, these taxpayers became active and on trying to file the GSTR-9, the tile was not enabled for these taxpayers.

Chairperson, ITGRC enquired whether the number of years were different in all the said 10 cases. EVP, GSTN replied in affirmative.

Pr. DG, DG Systems enquired as to period for which these 10 taxpayers were inactive and GSTN replied that the same are for different periods. GSTN has done data fix for these taxpayers by inserting the R2A entries for the reported taxpayers manually.

**Decision:** ITGRC took note of the data fix done by the GSTN.

### **5(a).22**

<b>S. No.</b>	<b>Issue reported</b>	<b>No. of Cases Impacted</b>	<b>Module</b>	<b>Detailed Description</b>	<b>Status</b>
<b>22.</b>	<b>1. Creation of missing APOB entries in ADDR_DETL for large firms.</b>  <b>2. RC regeneration for missing APOB of large firms.</b>  <b>3. Data loading from backend for core/non-core for large firms having high count of APOB.</b>  <b>Below Taxpayers are impacted by the data-fix</b>  <b>1. 08AAACC9762A1ZT, CHAMBAL</b>	4 +8 (data fix done between April'24-June'24) (Similar issue discussed and approved in 20th ITGRC)	Registration	1. End user is not able to see list of newly added APOB in amended RC as database transaction is not getting completed with in optimized time limit as a result master tables are not getting updated. This is happening with large firms who are adding 400+ new APOB in one go.  2. End user is not able to see amended RC as database transaction is not getting completed within optimized time limit as a result master tables are not getting updated. This is happening with large	Data fix done. For permanent fix CR No. 26195 has been given which is under development.(TFD approved on 12.06.2024)

	<b>FERTILISERS AND CHEMICALS LTD</b>  <b>2.33AAACS7018R1Z0, SHRIRAM FINANCE LTD</b>  <b>3.27AAACB2894G1ZN, BHARTI AIRTEL LTD</b>  <b>4.32AADCM4352R1Z6 MUTHOOT VEHICLE &amp; ASSET FINANCE LTD</b>			firms who are adding 400+ new APOB in one go.  3. End user is not able to open fresh core/non-core application as data from all the master tables is not getting loaded with in optimized time limit. This is happening with large firms who are having high count of APOB.	
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### **Discussion:**

EVP, GSTN stated that in these cases the issue is with respect to updation of additional place of business. The taxpayer is not able to see the additional place of business that were getting added as the database transaction were not getting completed within optimized time limit on account of which result master tables are not getting updated. He added that similar issue was discussed and approved in 20th ITGRC meeting.

**Decision:** ITGRC took note of the data fix done by the GSTN.

### **5(a).23**

<b>S. No.</b>	<b>Issue reported</b>	<b>No. of Cases Impacted</b>	<b>Module</b>	<b>Detailed Description</b>	<b>Status</b>
<b>23.</b>	<b>Casual taxpayers who are having null registration end date in the database are facing issue in returns module.</b>	15 +28 (Data fix done between April'24-June'24) (39 Such cases have been approved in 20 <sup>th</sup> ITGRC. )	Registration	As per the current code implementation, system is updating registration end date as null in the database in following scenarios if cancellation order is not passed or has been withdrawn. This implementation is present in the system since go live of the following use cases: Drop proceedings of Suo-moto cancellation. Rejection of self-cancellation application. Withdrawal of self-cancellation application.	Data fix done and issue resolved

**Discussion:**

EVP, GSTN stated that Casual taxpayers who are having null registration end date in the database are facing issue in returns module. As the end registration date was null, users were facing issue for filing of returns. As per the current code implementation, system is updating registration end date as null in the database in following scenarios if cancellation order is not passed or has been withdrawn - Drop proceedings of Suo-moto cancellation, rejection of self-cancellation application and withdrawal of self-cancellation application. GSTN has done data fix and issue has been resolved. He added that 39 similar cases were discussed and approved in 20th ITGRC

**Decision:** ITGRC took note of the data fix done by the GSTN.

**5(a).24a**

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
24a.	Transfer of Cash Ledger Amount from Temporary Registration to GSTIN with same PAN.	1 (Advance Ruling issue has been discussed in the 19th & 20th ITGRC and were approved.)	Cash Ledger	<p>The challan amount of Rs.39,08,237/- was deposited in GST No.372300001317ARW(Temporary) meant for Advance Ruling. This amount cannot be used for any other purpose as there is no functionality for setting off against any demand or claiming refund.</p> <p>Reason The taxpayer has wrongly deposited the amount in Temp ID instead of the regular GSTIN.</p>	Functionality to restrict payment for more than required amount through Challan for Advance Ruling Temp IDs has been deployed on 06-04-2024. Data fix is done for this particular case.

**Discussion:**

EVP, GSTN stated that the taxpayer has wrongly deposited the amount Rs.39,08,237/- in Temp ID GST No.372300001317ARW for Advance Ruling through Challan facility and that this amount cannot be used for any other purpose as there is no functionality for setting off against any demand or claiming refund. He added that the issue has been discussed in the 19th & 20th ITGRC meetings and it was approved that a functionality to restrict payment (more than required amount) through Challan for Advance Ruling Temp

ID users be made available and the same has been deployed on 06-04-2024. He also stated that data fix is done for this particular case.

**Decision:** ITGRC took note of the data fix done by the GSTN.

**5(a).24b**

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
24b.	Credit entry missed for destination GSTIN while transferring amount through PMT-09 from one GSTIN to another GSTIN registered on the same PAN.	1	Return	<p>While transferring cash amount through PMT-09 from one GSTIN to another GSTIN registered on the same PAN, amount got debited from source GSTIN but not credited into destination GSTIN.</p> <p>Reason Duplicate entries coming from CMP08 and GSTR3B (same timestamp) with different source id. Even though there is no impact on the balance in 'Cash Balance' table, these cases might impact PMT09 filing, due to a check enabled in PMT09 code to validate the 'Cash Ledger Id' in both 'Cash Ledger' &amp; 'Cash Balance' tables.</p>	Data fix was done on 1 Jan 2024 via ICRNo.24506.

**Discussion:**

EVP, GSTN stated that while transferring cash amount through PMT-09 from one GSTIN to another GSTIN registered on the same PAN, amount got debited from source GSTIN but was not credited into destination GSTIN. He added that there is no option for filing of refund through Advance Ruling and therefore, data fix is done by transferring the amount involved to the Taxpayer's another GSTIN.

**Decision:** ITGRC took note of the data fix done by the GSTN.

## 5(a).25

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
25.	Taxpayer tried to file CMP08 for Jan – March 2022 and ARN was generated but filing status was not updated to FIL. Now while clicking on Proceed to file button, taxpayer is getting error “The turnover reported exceeds the threshold limit for availing composition scheme.”	2 (Already discussed and approved in 20th ITGRC)	Return	<p>Taxpayer has filed CMP08 for Jan – March 2022 with taxable value of Rs. 3537250 and with Rs. 17886 CGST/SGST tax but Filing Status not updated from RTF to FIL. Taxpayer has aggregate turnover of Rs. 12334295 for FY 2021-22. When taxpayer tried again and clicked on save button, previous RTF entry got deleted from filing status table and while clicking Proceed to file button, turnover error is coming because last quarter turnover has been adding twice in GT_DETL h-base table which resulted in crossing the threshold limit of Rs. 1.5 crore.</p> <p>Reason Taxpayer tried to file the return during peak filing days and issue might have occurred due to high load. Transaction was not completed and filing status was not updated to FIL. Since turnover for last quarter was already posted in the database, now while doing proceed to file with same turnover of Rs. 3537250 again, previous 'Return to File' entry got deleted from filing status table.</p> <p>Now as per system functionality on click of proceed to file, due to PAN based aggregate turnover validation, taxpayer received turnover error message.</p>	Data fix was done on 21 Dec 2023 via ICRNo.24036. Permanent fix in process through RQM 25635.

**Discussion:**

EVP, GSTN stated that the taxpayer has tried to file CMP-08 for Jan – March 2022 and ARN was generated but filing status was not updated from RTF to FIL. He added that when multiple attempts were made to save the change in status the previous RTF got deleted and on account of which the last quarter turnover has been counted twice in base table and this has resulted in the taxpayer crossing the threshold for composition scheme. He stated that the data fix was done and that the permanent fix is in the process.

**Decision:** ITGRC took note of the data fix done by the GSTN.

**5(a).26a**

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
26a.	No Document Found Issue	17 (Already discussed and approved in 18th ITGRC)	Return	1.Hbase Columns are missing from INV_DTL table. So, when they try to amend a invoice they are getting No Document found Error 2. When Taxpayer is validating the statement in Refund, system is giving error “RF-FCAS1007” and not allowing to file the Refund	Permanent fix has been done through RQM 25821 on 25th April 2024, Night

**Discussion:**

EVP, GSTN stated that due to missing of HBase Columns in Invoice details table, when taxpayers tried to amend invoice details, they were getting “No Document found” Error. He stated that the issue was already discussed and approved in the 18<sup>th</sup> ITGRC. Accordingly, 17 more similar issues have been addressed and GSTN has done permanent fix for the issue.

**Decision:** ITGRC took note of the data fix done by the GSTN.

**5(a).26b**

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
26b.	MD Column	27 (Already discussed and	Return	When Taxpayer is validating the statement in Refund,	Permanent Fix has

	<b>Null Issue</b>	approved in 18th ITGRC)		system is giving error “RF-FCAS1007” (MD column null issue) and not allowing to file the Refund.  Permanent Fix has already been deployed through a ICR 25155/ RQM 26414 +E6	already been deployed through a ICR 25155/ RQM 26414, on 21st March 2024 .
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**Discussion:**

EVP, GSTN stated in this case, when Taxpayer is validating the statement in Refund, system showing MD column null issue error and not allowing to file the Refund. He stated that the issue was already discussed and approved in the 18<sup>th</sup> ITGRC. Accordingly, 27 more similar issues have been addressed and GSTN has done permanent fix for the issue.

**Decision:** ITGRC took note of the data fix done by the GSTN.

**5(a).27**

<b>S. No.</b>	<b>Issue reported</b>	<b>No. of Cases Impacted</b>	<b>Module</b>	<b>Detailed Description</b>	<b>Status</b>
27.	<b>Problem in integration with CBIC w.r.t update TRAN summary.</b>	59 (Similar cases have been discussed in the 19th & 20th ITGRC and were approved.)	TRAN	Due to technical issue, whenever the tax officers are trying to update the summary, the records get stuck in IP/REC (the records were received more than once while the previous record was under execution and hence, they were finally not processed being rejected as duplicate). Therefore, the tax officers are unable to proceed with issuing order for TRAN, for the respective taxpayers.	Data Fix ICR to update the IP/REC records to ER so that it can be re-processed from tax Officers end.

**Discussion:**

EVP, GSTN stated that CBIC was required to send report to GSTN through API with respect to TRAN however on account of faulty operation of the system whenever the tax officers were trying to update the summary, the records were getting stuck and therefore, the tax officers were unable to proceed with issuing order for TRAN for the respective taxpayers.

Chairperson, ITGRC enquired as to reason for the delay in rectification to which EVP, GSTN replied that data fix has been done in February/March, 2024.

**Decision:** ITGRC took note of the data fix done by the GSTN.

**5 (b).** Thereafter, EVP, GSTN explained 03 cases where there were technical issues affecting locally with financial implications and where the correct data was known.

The details of the cases are mentioned as follows:

**5 (b).1**

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
1.	Issue in filing GSTR-4 annual due to unsuccessful auto-population of data in Table 4A & 4B.	763	Cash Ledger	<p>During the initial phase of GST implementation, taxpayers were allowed to make debit in cash ledger with decimal values as well. Later, as part of improvement it was restricted to whole number for all the ledger transactions.</p> <p>Reason Due to the impact of earlier implementation, there were few entries found with decimal amounts in cash balance of the taxpayer. The balances of the identified cases need to be corrected so that the amount could be utilized by the taxpayer during the filing of return forms.</p>	The balances of the identified cases were corrected so that the amount could be utilized by the taxpayer during the filing of return forms. It has been Permanently fixed via RQM 25366 on 30-09-2023.

**Discussion:**

EVP, GSTN stated that in the initial phase of GST implementation, taxpayers were allowed to make debit in cash ledger with decimal values however, as part of improvement it was restricted to whole number for all the ledger transactions. He stated that on account of this there were few entries found with decimal amounts in cash balance of the taxpayers. While filing the returns the auto population of data in table 4A and 4B from GSTR-4A was not successful due to decimal values present in cash ledger. Accordingly, the balances of the identified cases were corrected so that the amount could be utilized by the taxpayer during the filing of return forms.

Chairperson, ITGRC enquired as to number of cases and the amount involved and EVP, GSTN stated that there were 763 cases and Net amount to be credited is Rs. 139.60.

**Decision:** ITGRC took note of the data fix done and recovery made by the GSTN.

## 5 (b).2

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
2.	The taxpayer has reported that their ledger has been credited & debited twice for the same transaction.	1	Returns	<p>When the taxpayer was trying to file GSTR-3B, the first transaction of taxpayer was in progress and was not completed. Due to this, its status was not visible and meanwhile the taxpayer initiated another transaction, thinking the previous one got failed. Both the transactions were now in progress at the same time and also got completed in parallel . Hence, Ledger was credited &amp; debited twice for the same transaction and the ledger has been updated accordingly, thereby leading to a loss in the overall balance.</p> <p>Reason This has happened due to high load to the system when taxpayers were trying to file GSTR-3B.</p> <p>In this case, the first transaction of taxpayer was in progress and not committed. Due to this, its status was not available, and taxpayer initiated another transaction, thinking the previous one failed. Both the transactions were now in progress at the same time and got committed in parallel which has leads to the problem being observed.</p>	Code fix for XA transactions issue was fixed on 14 Nov 2018 and Payment API issue was fixed on 14 March 2019. This is old case prior to code fix which can be fixed by data fix.

### Discussion:

EVP, GSTN stated that the taxpayer while trying to file GSTR-3B was unable to see the status of transaction and therefore, they initiated another transaction, thinking the previous one got failed. However, both the transactions were executed parallel and this resulted in their ledger getting credited/debited twice for the same transaction and the ledger has been updated accordingly, thereby leading to a loss in the overall balance. He informed that this system glitch occurred on account of the

high traffic in the system. GSTN has done the data fix. Total amount of Rs. 1,150/- has to be re-credited to the taxpayer.

**Decision:** ITGRC took note of the data fixes done by the GSTN.

### 5 (b).3

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
3.	Late Fee Waiver in GSTR3B for 4 districts of Tamil Nadu due to Cyclonic Storm	1	Returns	<p>Problem Reported: -</p> <p>We are dealers having our principal place of business in Chennai. As per Notification no. 55/2023-CT dated 20.12.23 the due date for filing GSTR 3B for the month of Nov-23 was extended up to 27.12.2023 for districts of Chennai, Tiruvallur, etc. We had filed our GSTR 3B for Nov-23 on 26.12.23. However, while filing GSTR 3B for Dec-23, we are being charged late fees of Rs. 150+150 for late filing of Nov-23 GSTR-3B. Request you to kindly make corrections so that we can file the Dec-23 GSTR 3B without delay.</p> <p>GSTIN : 33ARBPN6698P2ZX</p> <p>Reason:-</p> <p>Due date of GSTR3B for the month of November 2023 for the affected districts was extended from 20th December 2023 to 27th December 2023, but for few taxpayer late fee was levied in spite of due date extension. This was because their district code was not present in GST_MSTR table and due to this due date extension was not applicable on them.</p>	Data fix is done through ICR no.25479. Permanent fix will be done through RQM 26807.

### **Discussion:**

EVP, GSTN stated that this was in relation to the late Fee Waiver in GSTR3B for 4 districts of Tamil Nadu due to Cyclonic Storm. He stated that due date of GSTR3B for the month of November 2023 for the affected districts was extended from 20th December 2023 to 27th December 2023, but for few taxpayers late fee was levied in spite of due date extension. This was because their district code was not present in GST\_MSTR table and due to this due date extension was not made applicable to them. GSTN has done the data fix.

**Decision:** ITGRC took note of the data fixes done by the GSTN.

### 5(c) Court Directions:

Thereafter, EVP, GSTN explained 2 cases of Court Directions. The details of the cases are mentioned as follows:

#### 5(c).1

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
1.	Basis on the decision made by Hon'ble Delhi Court, late fee has to be refunded to the taxpayer.	1	Refund	<p>In pursuance of Order dated 18.05.2023, in WP, Civil No. 10363 of 2022 passed by Hon'ble High Court of Delhi. GSTR3B for the month of September 2020 and October 2020 have been filed with payment of late fee of Rs. 10,000/-. Therefore, you are requested to refund recredit the late fee paid.</p> <p>As there is no provision of late fee waiver in GSTR3B currently, therefore user can be asked to pay his late fee, and once late fee is paid, same can be reversed. The late fee which has been paid by the taxpayers should be refunded to them under the same major head and late fee minor head.</p> <p>As above taxpayer already paid the late fee, therefore late fee needs to be refunded.</p> <p><b><u>Reason</u></b> Late fee has to be refunded to the taxpayer in pursuance of Order dated 18.05.2023, in WP, Civil No. 10363 of 2022 passed by Hon'ble High Court of Delhi.</p>	Data fix was done on 8 Mar 2024 via ICRNo. 25055.

### Discussion:

EVP, GSTN stated that this was in pursuance of an Order of the Hon'ble High Court of Delhi. The taxpayer had filed GSTR3B for the month of September 2020 and October 2020 after making a payment of late fee of Rs. 10,000/-. A total amount of Rs. 20,000/- was to be refunded to the taxpayer. GSTN has done the data fix by reversing the amount to the taxpayer.

Chairperson, ITGRC stated that a provision needs to be made for tax officers to carry out Courts' directions and inputs can be sought from the Law Committee on this issue. Pr. DG, DG Systems stated that there needs to a facility for tax officers to manually override the system in case of Courts' orders and that this shall be taken up in the Law Committee for approval.

**Decision:** ITGRC took note of the data fix done by the GSTN.

5(c).2

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
2.	<b>Appeals filed against registration rejection orders which were rejected by the appellate authorities. However, HCs allowed the petitioners to re-file the appeal. Therefore, reset was given to the ARN to allow re-filing of appeal as remand back functionality is not available for Registration Orders.</b>	2	Appeal	<p>The issue in brief is that the taxpayers have filed appeal against the Registration orders and the appeal have been rejected by the Appellate authority. Against the rejections, the said taxpayers have filed Appeal in Hon'ble High court of Rajasthan and Jammu and Kashmir The Courts has allowed the petitioner to refile the appeal within 10 days.</p> <p>As per the existing business process, once appeal is filed against an Order, Appeal cannot be filed against the same order. Also, remand back functionality for Appellate authority is available for Demand and Refund orders. For Registration and other type of orders, it is not available and yet to be develop.</p> <p>To comply with the high courts' orders, APL 04 issued against earlier Appeal has to be removed from the system. Therefore, please allow data fix for this case to comply with High court order.</p>	Appeal status reverted from acknowledged to submitted

**Discussion:**

EVP, GSTN stated that this was in pursuance of orders of the Hon'ble High Courts of Rajasthan and J&K. The taxpayers had filed appeal against the Registration rejection orders and the appeals were rejected by the Appellate authority. The taxpayers filed appeals in the Hon'ble High Courts and the Courts have allowed the petitioner to re-file the appeal within 10 days. He stated that as per the existing business process, appeal cannot be filed against an order more than once. Further, as of now, remand back functionality is available only for Demand and Refund orders and not for Registration orders. Therefore, in order to comply with the Hon'ble High Courts' orders, the appeal status has been reverted from "acknowledged" to "submitted" in the 2 cases.

**Decision:** ITGRC took note of the data fixes done by the GSTN.

## 5 (d) Other issues presented during the meeting

Thereafter, EVP, GSTN took up 23 data fixes done between April – June, 2024 of which 13 were technical issues with no financial Implications – Correct data known and 10 were technical issues affecting locally with financial implications – Correct data known.

### Technical issues with no financial Implications – Correct data known

#### 5(d).1

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
1.	Restoration of Suo-moto cancelled TDS GSTINs.	4	Registration	<p>04 TDS GSTINs were Suo-moto cancelled due to non-filing of monthly returns continuously for six months. Since the time limit for applying for revocation was over, therefore, data fix was required.</p> <p>1. 33CHED00302B1DV: Directorate of Census Operations, Tamil Nadu, basis the Appeal Order passed by Additional Commissioner, Appeals II, Chennai.</p> <p>2. 33CHER05232D1DJ: Indian Civil Accounts Service Office, Chennai basis the request received by AC, CGST, Chennai (CPGRAM received by AC)</p> <p>3. 37AAALY0152H1D8: M/s Yelamanchili Municipality on the basis of request by Superintendent, Narayanpet.</p> <p>4. 09AAALN2188C1DC: NAGAR PANCHYAT UMRI KALAN, basis the Appeal Order passed by Joint Commissioner, CGST(Appeals), Meerut</p>	Data Fix done and GSTIN status has been restored to active, Taxpayer is requested to file return.

#### Discussion:

EVP, GSTN stated that in these 04 cases the GSTINs were suo-moto cancelled due to non-filing of monthly returns continuously for six months and that the time limit for applying for revocation was over and that GSTN had done a Data Fix by restoring GSTIN status to active, and that Taxpayers have been requested to file returns

Chairperson, ITGRC enquired as to how these cases came to GSTN and as to whether appeal orders have been received in these cases. EVP, GSTN stated that out of these 04 cases, they have received orders of Appellate authorities in 02 cases for restoration of registration and in other 02 cases, the requests were received from the tax officials. He stated that Data Fix has been done and GSTIN status has been restored to active.

Pr DG, DG Systems enquired as to the provisions of GST law under which such suo-moto cancellations had taken place as registered persons under section 51 had to file monthly returns only for the months in which deductions had been made. EVP, GSTN stated in the recent GST Council meeting the same had been amended to ensure that GSTR-7s are filed each month, however, these cases were of governmental authorities who had failed to file monthly returns continuously for six months and after data fix taxpayers have been requested to file returns.

**Decision:** ITGRC took note of the data fix done by the GSTN.

#### 5.d (2)

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
2.	<b>Taxpayer was unable to file Amendment of Core-Field application.</b>	1	Registration	<p>The taxpayer EPSILON INDIA DATA AND DIGITAL TECHNOLOGY SOLUTIONS LLP (GSTIN: 29AAKFC0829P1ZW) had been migrated from VAT to GST. State Jurisdiction details were not added during migration period.</p> <p>Therefore, the taxpayer was unable to file Amendment of Core-Field application, as State jurisdiction details were blank on the portal and State Jurisdiction dropdown was disabled, which in turn was blocking the taxpayer from moving to the next tab</p>	State Jurisdiction of the migrated taxpayer is now updated in DB and Taxpayer can file amendment application.

#### **Discussion:**

EVP, GSTN stated that the taxpayer EPSILON INDIA DATA AND DIGITAL TECHNOLOGY SOLUTIONS LLP (GSTIN: 29AAKFC0829P1ZW) had migrated from VAT to GST. However, State Jurisdiction details were not added during migration period. Therefore, the taxpayer was unable to file Amendment of Core-Field application, as State jurisdiction details were blank on the portal and State Jurisdiction drop down was disabled. He stated that State Jurisdiction of the migrated taxpayer is now updated in database and that taxpayer can now file amendment application.

**Decision:** ITGRC took note of the data fix done by the GSTN.

**5.d (3)**

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
3.	<b>Auto Drop proceeding against the Taxpayers who have filed their return, was not working at CBIC back office. Hence, after there migration into GSTN BO, this data fix is required.</b>	61044 ARNs	Registration	<p>1. System starts proceedings against the Taxpayers who have not filed returns continuously for 6 months.</p> <p>2. When the Taxpayer files the return the proceedings are auto dropped. Taxpayer is also provided with a functionality on FO to drop proceedings after returns are filed.</p> <p>3. the GSTIN status was restored to Active from Suspended but the ARNs are still in pending clarification status.</p>	ARN status updated and proceedings dropped.

**Discussion:**

EVP, GSTN stated that the Auto Drop proceedings against the Taxpayers who have filed their return was not working at CBIC back office. In this case, the GSTIN status was restored to Active from Suspended but the ARNs were still shown in pending clarification status.

Chairperson, ITGRC enquired as to what are Auto Drop proceedings and EVP, GSTN replied that the system starts proceedings against the taxpayers who have not filed returns continuously for 6 months and thereafter, when the taxpayer files the returns, the proceedings are auto dropped. In addition, the taxpayer is also provided with a functionality on FO to drop proceedings after returns are filed.

EVP, GSTN stated that this is a coding issue and ARN is not updated whenever taxpayer files the pending returns and upon migration of CBIC into GSTN Back Office, this data fix is required. GSTN has done the data fix and the ARN status has been updated and proceedings dropped.

**Decision:** ITGRC took note of the data fix done by the GSTN.

#### 5(d).4

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
4.	In ITC ledger, the state code is updated as 99 instead of actual state code of the taxpayers.	965	Tran	The CBIC team issued the Tran1 order with state code 99 during the period 18-02-2023 to 01-03-2023. Hence the state codes in ITC ledger was appearing as 99 instead of actual state codes of the taxpayer.	The same has been corrected in the ledger and the issue is also fixed permanently via RQM 26608.

#### Discussion:

EVP, GSTN stated that in this issue the Tran 1 order for the period 18-02-2023 to 01-03-2023 was issued with State code as 99 instead of the actual State code of the taxpayers by CBIC and therefore, the same has been corrected in the ledger and the issue has been fixed permanently by GSTN.

Chairperson, ITGRC enquired as to whether the State code is connected to ITC ledger. EVP, GSTN replied that the same was required for distribution of credit.

**Decision:** ITGRC took note of the data fix done by the GSTN.

#### 5(d).5

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
5.	Rectification of APL-02. During migration of CBIC to GSTN BO, some appeals of center were erroneously allocated to state and some tax officers also acted upon the same. Hence, the data fix is required in one case as in other 31 cases no action was initiated by the officer. Hence,	1	Appeal	For the appeal application AD1902240009457, the tax officer has rejected the application by APL 02 inadvertently. There is no option available for rectification of APL 02 in GST system.  The only option	Reset of APL-02 to be given as a data fix. Assignment logic is permanently fixed.

	they were simply reassigned to center jurisdiction.			available is to give a reset of APL 02 through data fix so that the center officer can reissue APL 02.	
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**Discussion:**

EVP, GSTN stated that during migration of CBIC to GSTN BO, some of the appeals of the center were erroneously allocated to State. For the appeal application AD1902240009457, the tax officer has rejected the application by APL 02 inadvertently and there is no option available for rectification of APL 02 in GST system. Therefore, data fix is required in that case and in other 31 cases no action was initiated by the officer, therefore they were reassigned to center. GSTN informed that the assignment logic is permanently fixed.

**Decision:** ITGRC took note of the data fix done by the GSTN.

**5(d).6**

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
6.	<b>Issuance of PMT-03A for zero amount. This was on account of data loss in transmission from CBIC system to GSTN system.</b>	13	Refund	DG systems reported that certain PMT-03A were issued for re-credit of ITC and in the payload no amount was received for these PMT-03As. Since no amount was received. Therefore, no re-crediting happened to the taxpayer's Electronic credit ledger. DG systems requested GSTN to delete the entries of PMT-03A so that fresh PMT-03A's could be issued with the correct recredit amounts.	Data fix required to delete PMT-03A from the system.

**Discussion:**

EVP, GSTN stated that DG systems had reported that certain PMT-03A were issued for re-credit of ITC and that in the payload no amount was received for these PMT-03As. He stated that as no amount was received for these PMT-03As therefore, no re-crediting happened to the taxpayer's Electronic credit ledger. GSTN was requested by DG Systems to delete the entries of PMT-03A so as to issue fresh PMT-03A's with the correct recredit amounts. GSTN informed that data fix is required to delete PMT-03A from the system.

**Decision:** ITGRC took note of the data fix done by the GSTN.

**5(d).7**

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
7.	Partial commit happened on click of old reset button in GSTR-3B.	1	Returns	<p>This is an old issue when there used to be a reset button on portal.</p> <p>When the taxpayer was filing the GSTR 3B for Dec 2017. Taxpayer clicked on “Reset” button with intention to clear liabilities posted and the submit entry in return database. However, a rollback happened in return database, post which entries in ledger database were also supposed to be rolled back. However, this did not happen because commit issue in a distributive environment. Hence, the return was filed without Tax payment.</p>	Defect was fixed in Reset code as part of relaunch of Reset button functionality that was deployed to production on 27th March 2018.

**Discussion:**

EVP, GSTN stated that while filing GSTR 3B for Dec 2017 the taxpayer clicked on “Reset” button with intention to clear liabilities posted and the submit entry in return database but a rollback happened in return database, post which entries in ledger database were also supposed to be rolled back but this did not happen. Therefore, the return was filed without Tax payment.

GSTN informed that defect was fixed in Reset code as part of relaunch of Reset button functionality that was deployed to production on 27th March 2018.

**Decision:** ITGRC took note of the data fix done by the GSTN.

**5(d).8**

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
8.	Mismatch in the Annual Aggregate Turnover (AATO)	56	Return	Mismatch in the AATO of the taxpayers because few records are getting missed intermittently during the pick-up and processing from Hbase tables for AATO calculation. Thus the	The permanent fix of this issue will be accommodated in the scope of AATO design change approach

				accurate AATO could not be updated to the MySQL master tables. The system processes data from GSTR 3B and CMP08 filings to calculate turnover (AATO) of the taxpayers. The records are stored in HBase tables in the backend. Every hour, a system process (periodic bolt) calculates the aggregate turnover and updates the MySQL master tables. However, some records are intermittently missed by this hourly process, leading to incomplete turnover data in the MySQL tables.	CR 27001 “Changes in computation of aggregate turnover” which is currently under CR prioritization
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#### **Discussion:**

EVP, GSTN explained that the system processes messages from GSTR-3B and CMP08 filings to calculate turnover. These messages are stored in HBASE table and every hour, system processes the aggregate turnover and updates the master tables. However, some records are missed intermittently in this hourly process, leading to incomplete data.

Chairperson, ITGRC enquired as to how this issue has come to light. JS, GSTCS stated that there appeared to be a discrepancy in the turnover data.

**Decision:** ITGRC decided to defer the issue to the next meeting.

#### **5(d).9**

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
9.	Mismatch between h-base and ledger data	14	Returns	14 taxpayers have raised tickets stating that they have filed the GSTR 3B return but there is a mismatch in the data entered vis-à-vis payment made.  On analysis of the issue, it was found that in certain situations due to technical	Data fix was completed on 9-Apr-2024 via ICRNo.25530  RQM: 22721 has been created for the permanent fix and is in

				<p>glitches system is storing different values in the HBase tables and the Ledger entries of the taxpayers. (The table 6 of GSTR 3B i.e. the payment table is auto-populated from values in table 3 i.e. Outward supplies and table 4 i.e. ITC Available. Post the payment of the liability, the values are then posted to the respective ledgers i.e., the Cash, ITC and Liability ledgers.)</p> <p>On reporting of these values on the GST portal, the data is thereby stored in Hbase tables in the backend.</p> <p>Further, in some rare cases system also allowed the returns to be filed without debiting the taxes from the respective ledgers.</p>	development.
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**Discussion:**

EVP, GSTN stated that this issue initially came to notice through CAG audit but later on tickets were filed by 14 taxpayers. The taxpayers have filed the return but there is a mismatch in the data entered vis-à-vis payment made. GSTN informed that on analysis it was found that in certain situations, due to technical glitches, the system was storing different values in the Hbase tables and the Ledger entries of the taxpayers. He informed that on reporting of these values on the GST portal, the data is thereby stored in Hbase tables in the backend. Also, in some rare cases system also allowed the returns to be filed without debiting the taxes from the respective ledgers. GSTN has done the data fix and the permanent fix is in the process.

Chairperson, ITGRC enquired as to whether such issues had come to light previously also. EVP, GSTN replied in the affirmative and stated that the same had been brought as an agenda in the previous meeting too covering all 5 scenarios. Chairperson, ITGRC stated that the data fix may be taken note of.

**Decision:** ITGRC took note of the data fix done by the GSTN.

#### 5(d).10

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
10.	Taxpayer was unable to file GSTR-3B for month September 2017 because taxpayer has submitted entries for GSTR-4 return for quarter Jul-Sept and Oct - Dec 2017-18.	1	Returns	Taxpayer (GSTIN-09BAEPA7929R1Z1) was trying to file GSTR-3B for month September 2017 where system gives the error "Something seems to have gone wrong while processing your request. Please try again. If error persists quote error number RT-3BAS-9018 when you contact customer care for quick resolution".	Data fix was completed on 22-May-2024 via ICRNo.26 020.

#### Discussion :

EVP, GSTN stated that in this case taxpayer was unable to file GSTR-3B for month of September 2017 because taxpayer has submitted entries for GSTR-4 return for quarter Jul-Sept and Oct - Dec 2017-18. This issue arose because the taxpayer had opted for composition scheme from 1.7.2017 and later withdrawn from composition scheme on the same date. Hence all GSTR-4 entries in data base become invalid.

Chairperson, ITGRC enquired as to how GSTR-4 returns were available in the database when the taxpayer had opted for composition scheme on a particular date and also withdrawn from it on the same date. He suggested that the agenda be deferred till the next meeting when the same could be re-submitted with clarity.

**Decision:** ITGRC decided to defer the issue to the next meeting.

#### 5(d).11

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
11.	Deductors were not able to file GSTR-7	2	Returns	GSTR7 users (Deductor) were not able to file the GSTR-7 return form for the month of September and October 2023. System shows the error	Data fix was completed on 27-June-2024

	<b>return form.</b>			RET791135 i.e. “No action taken on TDS details rejected by counter party”.	via ICRNo.26 683.
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**Discussion:**

EVP, GSTN stated that this issue arose because deductors were not able to file GSTR-7 returns for the months of September and October, 2023 as no action had been taken on TDS details rejected by the counter party.

JS, GSTCS enquired why September return could not be filed when record had been rejected in June, 2023. EVP, GSTN stated that it might have been due to late filing of return.

Chairperson, ITGRC enquired as to why the issue cropped up and stated that the issue may be deferred till the next meeting when GSTN could clarify the issues raised by JS, GSTCS.

**Decision:** ITGRC decided to defer the issue to the next meeting.

**6(d).12**

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
12.	<b>GSTR6 &amp; GSTR9 users have filed the respective returns form but in the portal status is showing as ‘Not Filed’</b>	2	Returns	<p>Taxpayer (24RKTA05807E1D9) has filed the GSTR6 return form but in the portal, status is still not filed.</p> <p>Taxpayer (33ATRPS6591C2Z7) has filed the GSTR9 return form but in the portal, status is not updated.</p>	<p>Data fix was completed on 22-May-2024 via ICRNo.25940 for GSTR6.</p> <p>Data fix was completed on 6-June-2024 via ICRNo.26330 for GSTR9.</p> <p>RQMNo.21228 has been raised for the permanent fix which is under progress.</p>

**Discussion:**

EVP, GSTN stated that the 02 taxpayers have filed the respective returns but the status is being shown as “not filed” in the portal. He stated that there should be two entries - one should be in Ledger table and other should be in Return Filing Status table. Entries got posted to ledger tables, but the status of filing

were not updated in the Hbase table. GSTN has done the fix in these 02 cases and permanent fix is in progress.

**Decision:** ITGRC took note of the data fix done by GSTN.

#### 5(d).13

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
13.	Data is not reflecting in Table 7J of PDF of GSTR9 Return Form. Same data is not reflecting in GSTR9C Return Form in table 12 E.	91	Returns	<p>In GSTR 9 Return Form, Resultant difference of Table 6 column O(Total ITC availed)and Table 7column I(Total ITC Reversed) is to be put/displayed for Table 7 column J(Net ITC Available for Utilization (6O - 7I) ) which must be displayed on UI and the Preview Draft GSTR9 PDF/ Excel as well.</p> <p>The 7J data is further used in GSTR9C Return Form. Post the correction, 7J Data will be stored in Hbase and displayed to the user correctly which will be further used in GSTR9C Return Form.</p>	<p>The permanent fix was deployed on production via RQM: 25857, ECR 23365 on 2-Nov-2023.</p> <p>These are older cases prior to permanent fix for which data fix was completed on 4-June-2024 via ICRNo.26333.</p>

**Decision:** ITGRC decided to defer the agenda item and also the rest of the issues listed in the agenda to the next meeting in view of paucity of time. Chairperson, ITGRC directed that the next meeting of ITGRC may be held at the earliest possible.

**Centre:**

- i. Member (GST), CBIC – Sh. Shashank Priya (Chairman, ITGRC)
- ii. Additional Secretary, DoR – Sh. Vivek Aggarwal
- iii. Pr. Chief Commissioner, CGST, Delhi Zone – Sh. Rajesh Sodhi
- iv. Pr. DG, DG (Systems) – Sh. Yogendra Garg

**States:**

- i. Additional Commissioner, Excise and Taxation, Haryana – Dr. Hemant Kumar
- ii. Additional Commissioner, State Tax, Gujarat – Sh. Milind Kavatkar
- iii. Additional Commissioner, State Tax, Tamil Nadu – Sh. M. Ravi
- iv. Special Commissioner, State Tax, West Bengal – Sh. Aashish Mukherjee
- v. Additional Commissioner, State Tax, West Bengal – Sh. Joyjit Banik
- vi. Additional Commissioner, State Tax, West Bengal – Ms. Srobona Bose Datta

**GST Council Secretariat:**

- i. Additional Secretary, GSTCS- Sh. Pankaj Kumar Singh
- ii. Joint Secretary, GSTCS- Ms. Ashima Bansal
- iii. Joint Secretary, GSTCS- Ms. B. Sumidaa Devi
- iv. Under Secretary, GSTCS- Ms. Reshma R Kurup

**Special Invitee:**

- i. Executive Vice President, GSTN- Sh. Dheeraj Rastogi

### **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 15<sup>th</sup> meeting held on 12/08/2021, which is as below:

- i. Analysis of data discrepancy.
- ii. Confirmation of discrepancy sought from MSP.
- iii. Upon confirmation, utility to be created by MSP to extract similar cases from GST System data.
- iv. A root cause analysis conducted to fix the issue and implemented by MSP in consultation with GSTN to rectify data inconsistency.
- v. Scripts created for data fix and tested in multiple cycles by MSP and GSTN.
- vi. Approval note presented to competent authority to fix the issue.
- vii. After approval, audit entries created for each change affecting the data.

- viii. Scripts executed and post execution state of data stored for reference later.
- ix. 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**

**Technical Issues Requiring Data Fixes through Backend Utility**

**(Period -01st Nov 2023 to 31<sup>st</sup> Mar 2024)**

Cases Requiring Internal Approval of SVP, EVP/CEO or Post facto Approval of ITGRC										
No Financial Implication										
S. No.	Module	Issue reported By	Issue in Brief	Detailed Description	Approved By	Date of Approval	No. of Cases Impacted	Financial Implication (Yes/No)	Correct Data Known / Not Known	Status
1	Registration	Taxpayers Tickets	Taxpayers are unable to select the Composition opt out date from the Previous Financial Year though their turnover has exceeded in the previous FY. Below are the Taxpayers details that are impacted : 1. 27AABPG4719 M2ZK, 2. 07BBRPS2420P 1Z0, 3. 24ADPPA8651 F1ZL, 4. 27AFHPJ5769D 1Z9	Circular No. CBEC-20/16/04/2018-GST dt 31.12.2018 provided that date of withdrawal from composition scheme may not be prior to the commencement of FY in which such intimation/application for withdrawal is being filed. Few tickets pertaining to such composition taxpayer who had crossed the annual aggregate turnover in 4th quarter of pervious FY 2022-23 but taxpayer got to	EVP (Ser.)	20-11-2023	4	No		Data fix done for such taxpayer to enable them for filing their returns for past period.

			<p>Taxpayers are unable to select the Composition opt out date from the Previous Financial Year though their turnover has exceeded in the previous FY. Below GSTINs are impacted :</p> <ol style="list-style-type: none"> <li>1. 27ACEPK0771 E2ZU</li> <li>2. 24AAFFH6444 Q2ZW</li> <li>3. 24AFEPJ9521J 2ZE</li> <li>4. 19AQCPD6469 N1ZA</li> <li>5. 27AEGPM9692 G2ZW</li> <li>6. 03BTUPK6238 C1ZN</li> <li>7. 27ADLFS8724 K1ZD</li> <li>8. 09AFJPY5645 M1ZG</li> <li>9. 32ANIPR1176 M2ZN</li> </ol>	<p>know this fact when he was trying to file CMP-08 for the period of Jan-March quarter of FY 2022-23 in April'23 i.e in the subsequent FY 2023-24.</p> <p>As a result , Taxpayers wanted to opt out of composition scheme from the last quarter of FY 2022-23 but the maximum passed date was provided as opt out date within current FY on portal. Therefore, these taxpayers miss the opportunity for opting out in FY 2022-23. Though, they were not qualified to continue the composition from the last quarter 2022-23, they are not able to apply for withdrawal vide Rule-6 (2). Due to this implementation of the directions in the circular on the portal, the</p>	EVP (Ser.)	09-01-2024	9	No		
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		taxpayers Tickets	<p>Taxpayers are unable to select the Composition opt out date from the Previous Financial Year though their turnover has exceeded in the previous FY.</p> <p>1.33AIZPD8886C2ZQ 2.27AABPG4719M2ZK 3.07BBRPS2420P1Z0 4.24ADPPA8651F1ZL 5.27AFHPJ5769D1Z9 6.27ACEPK0771E2ZU 7.24AAFFH6444Q2ZW 8.03BTUPK6238C1ZN 9.09AFJPY5645M1ZG 10.32ANIPR1176M2ZN</p>	<p>following issues are being faced by TPs:</p> <p>From the opt out date, they are filing returns as a normal TP but they are not able to file the returns for the 4th quarter of 2022-23 or the past returns before opting out. It has subsequent impact of interest and late fee.</p>	EVP (Ser.)	06-03-2024	10	No		
2	Registration	Taxpayers Tickets	<p>Taxpayer M/s SHRI RAM PRINT "N" PACK (GSTIN-02ABFFS4545L1Z2) is trying to login first time but getting error while generating the OTP.</p>	<p>OTP is not sent to taxpayer due to double quotes in the name. Since Name have been matched with Income tax name, taxpayer was advised to fix the name in income tax end. As per the advice Taxpayer had already updated the name without double quotes at income tax end. The same have to be addressed in GSTN database through Data fix to enable to OTP for the user.</p>	EVP (Ser.)	18-12-2023	1	No		Data fix done on 20.12.2023 and issue resolved. Double quotes have been deleted.

3	Registration	Taxpayers Tickets	Request from Embassy of The Bolivarian Republic of Venezuela (UIN 0717VEN00140 UNM) and Embassy of Iceland (UIN 0717ISL00057 UNV) to update their contact details and email ID.	Request from Embassy of The Bolivarian Republic of Venezuela (UIN 0717VEN00140 UNM) to update mobile number to 9205236616 and Embassy of Iceland (UIN 0717ISL00057 UNV) to update their contact details to 9311090160 and email ID to newdelhi@utn.is	EVP (Ser.)	02-02-2024	2	No		Data fix done and issue resolved. Permanent fix will get automatically resolved after CBIC migration.
4	Registration	Taxpayers Tickets	End date of Registration (GSTN: 01AAPPD3636 C3Z9) in GST Master was 17.05.2019 as selected by the taxpayer, whereas the cancellation date per Tax Officer Order was 11.06.2019. Due to this, taxpayer was unable to file return for June 2019 for GSTR1 and GSTR3B and the GSTR9, also return tile were disabled. This was an old case, and the GST master date was needs to be updated to 11.06.2019.	The taxpayer has applied for self-cancellation and the Registration End date was captured as 17th May 2019 in GST_MSTR table. However, the actual cancellation date was 11th June 2019. Due to this, the taxpayer was unable to file return for June 2019 period. There was a gap in the self-cancellation process. As per the old implementation, if there was a difference between cancellation date selected by the taxpayer at the time of filing and cancellation date selected by the authority at the time of disposal then master table used to consider REG_END_DT as cancellation date selected by the taxpayer at the time of filing in GST MSTR	EVP (Ser.)	28-02-2024	1	No		Data fix done and issue resolved

				table. Based on new business requirement it was decided to change the flow in self-cancellation form and consider cancellation date and REG_END_DT as the date selected by the officer at the time of disposal.						
5	Registration	Taxpayers Tickets	Foreign National is unable to perform Aadhaar Authentication. Air India Limited, Maharashtra(27 AACCN6194P1 ZP)	Rule 10B of the CGST Rules requires mandatory Aadhaar Authentication of MD or WTD for processing of refund of IGST paid on export of goods. Accordingly, AIL is unable to do Aadhaar Authentication as: - AIL does not have any WTD and - AIL has a MD, who is not a citizen of India, as exempted from Aadhaar Authentication and GST portal does not provide any functionality to do Aadhaar Authentication of foreign national	EVP (Ser.)	21-03-2024	1	No		Data fix done and issue resolved
6	Cash Ledger	Basis on the report generated at GSTN	Correction in cash ledger balance due to credit/debit happened simultaneously.	The issue has occurred due to debit and credit entry happening simultaneously in the cash ledger, due to which balance was not updated properly for 7 taxpayers. These 7 cases pertain to the period - Jul 2023 to Oct 2023.  Reason It is happening	EVP (Services)	05.12.2023	7	No. Total amount credited to cash ledger: 18,686 /- (CGST TAX AMT : Rs. 10,41	Known	Data fix was done on 15 Dec 2023 via ICR#23856. Permanent fix is in process through CR 21982.

				due to defect in the application which is being looked after separately.				7/-, CGS T FEE AMT : Rs. 825/- , SGS T TAX AMT : Rs.6, 553/- , SGS T FEE AMT : Rs.8 25/-)		
7	GSTR-3B	Taxpayer has raised ticket#10895479	Taxpayer (Riso India Ltd) has already filed their respective GSTR-3B returns but they have reported a mismatch in their saved and offset data.	<p>Taxpayer has done offset but filing status not updated with 'FRZ' in the Return Filing Status table and taxpayer has done the NIL filings. Taxpayer has done offset on 19th April 2023 and has done nil filing on 11th May 2023. GSTIN: 33AADCR4540C1ZW Return period: Mar, 2023</p> <p>Reason Taxpayer has done offset, and Ledger gets inserted but filing status was not updated with 'FRZ' value due to database connectivity loss.</p> <p>As a next step, taxpayer opted 'yes' in questionnaire page for nil filing</p>	EVP (Services)	25.01.2024	1	No	Known	Data fix was done on 30 Jan 2024. RQM#22721 is raised for permanent fix and is in development.

				of GSTR-3B and was able to complete the NIL filing. As a part of NIL filing process, 'Y' questionnaire values updated in Hbase whereas no updates happen in the ledger tables. This will result in mismatch between hbase and ledger.						
8	GSTR-9	Taxpayers have raised tickets# 116287, 86,1174, 9140, 11747138, 117406, 47,1173, 8421	GSTR9 Post Filing behaviour - Entry posted to ledger Table but not posted in FILING Table.	<p>Taxpayers have filed the GSTR9 form for FY:2018-19 &amp; 2022-23 but status was still not filed on portal.</p> <p>Reason Entries got posted to ledger tables, but corresponding records were not updated from 'Return To FIL' to 'FIL' in 'Return Filing Status' table in return database.</p>	SVP (Services)	20.03.2024	5	No	Known	Issue has been fixed on 29 Mar 2024 via ICR#25265. RQM:21228 is under progress for permanent fix.
9	GSTR 6	taxpayers raised Ticket	GSTR6 to GSTR2A Data Reflection	<p>Problem Statement</p> <p>This is for the R2A data population issue in which ISD invoices are not reflecting in GSTR2A form when uploaded from GSTR6 form till February 2022 return period.</p> <p>While adding the multiple invoices through offline utility, due to the bug in code (for loop ended in the wrong place), only the last invoice was getting saved in</p>	EVP (Services)	Multiple Dates	333	No	Known	Permanent fix has already gone to production through RQM#22445 via ECR#15337 on 15th Feb, 2022. Team is working on utility for One Go Fix for all such cases that pertain prior to 16th Feb 22 via RQM 26996.

				<p>ISD_UNIT_RelationShip Hbase table and that is why user was unable to view all their invoices on the portal.</p> <p>Permanent fix has already gone to production through RQM#22445 via ECR#15337 on 15th Feb,2022.</p>						
10	GTA	Taxpayer raised Ticket	update the financial year from '2024-25' to '2023-24' for a taxpayer having GSTIN = 09AALCC4943 L1Z4, reference to ticket no. 11764973	<p>update the financial year from '2024-25' to '2023-24' for a taxpayer having GSTIN = 09AALCC4943 L1Z4, reference to ticket no. 11764973. Due to a bug in a filing of Annexure V functionality for a newly registered taxpayer, the taxpayer was unable to choose ongoing FY i.e. 2023-24, and then he chose FY 2024-25 and filed an Annexure V.</p>	EVP (Services)	19-03-2024	1	No	Known	To permanently resolve this issue, a code fix has already been moved to production on 14th Feb 2024, through ECR 24608, regarding 'Enable filing of Annexure V for the current FY for the newly registered GTA'.
11a	GSTR 5A	Taxpayer raised Ticket	Data already submitted error during amendment of invoices in R5A	<p>Taxpayer is unable to amend the invoices for previous return periods in the current return period.</p> <p>TP has amended the record from the previous financial year and saved it. Record type status is changed to 'A' in the backend. Before filing the Gstr5a that saved amended record has been deleted</p>	EVP (Services)	Multiple Dates	2	No	Known	Data Fix Done

				<p>by taxpayer, and then in the next return period, the 'Data already submitted' error is coming up, while going for amending the same record.</p> <p>Record type status is changed to 'A' in backend and hence 'Data already submitted' error is coming in UI due to design issue.</p> <p>Permanent fix is taken care in ongoing CR 25039</p>						
11b	GSTR 1	Taxpayers raised Ticket	<p>Unable to amend B2C(others) record B2CS Amendment already exists for the original month in different return period</p>	<p>When taxpayer is trying to amend B2C (other) record getting error "B2CS Amendment already exists for the original month in different return period".</p> <p>As per analysis user did DELETE activity after amending record. But we have found that AMDBL_PRD Column value is holding "amendable return period" in B2C_SUMMARY table due to which user is unable to amend again.</p> <p>Since the taxpayer has deleted the amended invoice before filing, data fix have to be done for 43 taxpayers to remove the entries for these</p>	EVP(Tech)	05-12-2023	43	No	Known	Data Fix Done

				documents which are saved in Hbase but not included in filing, so that taxpayer can amend the document  RQM No is 25474.						
12	GSTR 1	Taxpayer raised Ticket	After Filing GSTR1 during 032023 invoices are not visible. Receiver unable to claim ITC in GSTR-2B.	<p>During the peak filing period of GSTR-1, a situation unfolded in the production environment where 1 Taxpayer, who conducted multiple save actions. Subsequently, the user then initiated a reset process, which was still in progress at that point. Despite this ongoing reset, the taxpayer proceeded to save and file for the return period 032023.</p> <p>In an unexpected turn of events, the previous reset operation that was still processing was successfully executed after the filing had taken place. This led to the removal of data pertaining to GSTR1, GSTR2B, ITC, and GSTR9 from the underlying HBASE table.</p> <p>GSTR1- INVOICE_DTL, Invoices, INV_RELATION</p> <p>GSTR2B/ITC- GSTR2B FORM</p>	EVP( Services)	04-11-2023	1	No	Known	Data Fix Done. Team is working on Permanent fix via RQM 24995.

				_SUMMARY, INVOICES_2B, NOTES_2B						
				GSTR9- ANNUAL_RETU RN DTL						
13a	TRAN	Taxpay ers	Taxpayer facing issue while filing GSTR3B getting error "You have submitted TRAN-1 but have not filed it"	Taxpayers who have submitted but not filed their TRAN-1 return from 01-07-2017 to 28-09-2022 got the electronic ledger credited on submitting the TRAN-1 return instead of getting Electronic ITC Ledger credit after TRAN-1 return filing. Taxpayer opted for composition scheme in 2017 & became normal taxpayer in 2022, when same taxpayer is filing GSTR3B now, taxpayer is getting the below error "You have submitted TRAN- 1 form but have not filed it. You are requested to file the same before submitting this return. If error persists quote error number RT- 3BAS1055 when you contact customer care for quick resolution" while filing the GSTR-3B.	EVP Tech and Servi ces	04- 11- 2023	1	No	Kno wn	

13b	TRAN	Taxpayers	Taxpayer facing issue while filing GSTR3B getting error "You have submitted TRAN-1 but have not filed it"	Taxpayers who have submitted but not filed their TRAN-1 return from 01-07-2017 to 28-09-2022 got the electronic ledger credited on submitting the TRAN-1 return instead of getting Electronic ITC Ledger credit after TRAN-1 return filing. Taxpayer opted for composition scheme in 2017 & became normal taxpayer in 2022, when same taxpayer is filing GSTR3B now, taxpayer is getting the below error "You have submitted TRAN-1 form but have not filed it. You are requested to file the same before submitting this return. If error persists quote error number RT-3BAS1055 when you contact customer care for quick resolution" while filing the GSTR-3B.	EVP Tech and Services	18-12-2023	4	No	Known	
13c	TRAN	Taxpayers	Taxpayer facing issue while filing GSTR3B getting error "You have submitted TRAN-1 but have not filed it"	Taxpayers who have submitted but not filed their TRAN-1 return from 01-07-2017 to 28-09-2022 got the electronic ledger credited on submitting the TRAN-1 return instead of getting Electronic ITC Ledger credit after TRAN-1 return filing. Taxpayer opted for composition scheme in 2017 &	EVP Tech and Services	24-01-2024	1	No	Known	

				became normal taxpayer in 2022, when same taxpayer is filing GSTR3B now, taxpayer is getting the below error "You have submitted TRAN-1 form but have not filed it. You are requested to file the same before submitting this return. If error persists quote error number RT-3BAS1055 when you contact customer care for quick resolution" while filing the GSTR-3B.						
14	Refund	Taxpayer	We, ONGC Petro additions Limited ('OPaL' or 'We'), having GSTIN 24AAACO9200 B3Z2 are registered Special Economic Zone (SEZ) unit located in Bharuch, Gujarat. The export ledger balance is negative to the amount of INR 1,11,42,985.35 under IGST head. The taxpayer has made payment under Table 3.1(a) instead of table 3.1(b), therefore, the export ledger is showing negative balance. The negative value (deficit) in the export ledger is not allowing	<p>This is related to grievance raised by M/s OPaL (ONGC Petro additions Limited), a SEZ unit located in Gujrat. The export ledger of this taxpayer is deficit to the amount of Rs 1,11,42,985.35.</p> <p>During FY 18, the taxpayer has reported the supplies made to a DTA unit located in Gujrat as SEZ supplies. As per the taxpayer, GST system was not accepting the DTA's GSTIN for IGST payment as both are in the same State. To disclose the correct liability under IGST, these supplies have been reported as "SEZ supply with payment" on GST portal while filing</p>	To be placed before ITGR C for approval.		1	No, Because payment against liability is already made in another head.	Known	Data Fix will be given in the export Ledger to offset the negative balance

			further eligible invoices to get transmitted to ICEGATE	<p>GSTR 1. The taxpayer has made the payment in table 3.1(a) of GSTR 3B and also the same has been verified by the technical team.</p> <p>As the supplies have been reported as 'SEZ' supply, it has created liability in Export ledger. The payment has been done in Table 3.1(a) and therefore, it is not reflecting in Export ledger and created the negative balance. The negative value (deficit) in the export ledger is not allowing further eligible invoices to get transmitted to ICEGATE. The only solution available in this case is to provide offset for Rs 1,11,42,985.35 in the export ledger.</p>						
15	Refund	Taxpayer	The export ledger is having negative balance due to mistakes committed by taxpayer in GSTR-1 and this negative balance disallows transfer of eligible export invoices to ICEGATE for IGST Refund. In this case, the "Export supplies without payment of duty" are reported as "Export supplies	The issue pertains to M/s IDE Technologies India Private Limited (GSTIN 09AABCI9713N1 Z2). The taxpayer has made "Export supplies without payment of duty" for the period of August 2017 and November 2017. However, these supplies were mis-reported as "Export with Payment" in GSTR 1 and created negative balance in export ledger. Also,	To be placed before ITGR C for approval.		1	Since the invoices that were reported under WP category didn't get transmit to ICEGATE as the Expo	Yes, Rs. 1785 963.42/-	Data Fix will be given in the export Ledger to offset the negative balance.

			with payment of duty” in GSTR 1.	these supplies are reported correctly in GSTR 3B. As per the claim of the taxpayer, the tax department has made a demand for the supplies mentioned as “Export with payment” which is not paid in GSTR 3B. The taxpayer went for appeal and the demand raised by the proper officer was nullified by Appellate Authority. Thereafter, the taxpayer approached GST helpdesk for nullifying the negative balance in the export ledger to the amount of Rs. 1785963.42/- .				rt Ledger was negative and no refund has been taken w.r.t those invoices. Therefore, <b>NO</b> financial implication is seen in this case.		
16	Refund	Writ petition . Filed by taxpayer in GJ HC	The export ledger is having negative balance due to mistakes committed by taxpayer in GSTR-1 and this negative balance disallows transfer of eligible export invoices to ICEGATE for IGST Refund. In this case, DTA-SEZ (not meant for authorized operation) supply is reported as Export supply instead of domestic supply in GSTR 1.	M/s Corrtch (GSTIN 24AAACI8838F1ZK) has misreported DTA-SEZ supplies (not meant for authorized operation) as zero-rated supplies for the period of December 2018, March 2019 and May 2019 in GSTR 1. It has created negative balance of Rs 16,67,197 in the export ledger. This negative balance has stopped further transmission of eligible export invoices to ICEGATE belonging to the	To be placed before ITGR C for approval.		1	For July 2018, the GST system will create a back end fix and will remove the double liability at the earliest.		Data Fix will be given in the export Ledger to offset the negative balance of Rs 16,67,197 .

				period November 2022 to October 2023 and IGST refund of Rs 7,23,91,175.70 is stuck.						
17	Appeal	Rajasthan State	Appeal application filed with Zero disputed amount and was acknowledged by the officer. As the disputed amount is Zero the officer could not issue the final order.	This issue is forwarded by the State of Rajasthan. In this case, a taxpayer (08AFCPD0195G1ZS) has filed an appeal against Enforcement Order with 'disputed amount' as Zero in Appeal application. When Zero amount is entered, the officer cannot issue the Appeal order 'APL 04'. In this case, the officer has mistakenly admitted the application also but couldn't issue the final order.	EVP (Services)	10th February, 2024	1	No	N.A	Data fix is given to change the status from appeal admitted to "appeal submitted" so that officer can reject the application.
18	Appeal	Delhi State	Appeal ARN : AD0709230003288 was filed by GSTIN : 07BMHPS5748B1ZV against Registration Order : ZA071220040517Z which was inadvertently rejected by the officer instead of accepting the same.	A taxpayer (GSTIN: 07BMHPS5748B1ZV) filed an Appeal ARN : AD0709230003288 against Registration Order : ZA071220040517Z which was inadvertently rejected by the officer instead of accepting the same. The appeal was inadvertently rejected by selecting the option "I reject the Original Order" instead of "I accept the original order". Rectification option is not available for Registration related appeals.	EVP (Services)	20th February 2024	1	No	N.A	Data fix is given to reset APL-04 for reissuance.

				Therefore, in this case, the only option was to do reset of APL 04 from back end.						
19	Return		Issue in adjustment of excess tax paid with RCM liability.	<p>Taxpayer reported that while filing GSTR 3B for the month of Nov. 2022, the CGST amount under RCM Liability mentioned in table 3.1d (inward supplies liable to reverse charge) was not reflecting in Table 6 (Payment of Tax details). Upon analysis, it was found that the system was auto adjusting the Excess paid tax by the taxpayer from his reverse charge liability. Upon technical analysis it was found that the taxpayer paid excess tax of Rs. 7,90,126/- in July 2017 through double debit of cash ledger and ITC Ledger and the system was built to accept the excess tax payment. Over the course of years his excess tax collected is getting adjusted in the Reverse Charge Liability due to the transaction code of 90018 which was designed for adjustment of negative liability, and it can be adjusted into only reverse charge liability. Hence the system is adjusting the</p>	To be approved by ITGR C		1	No	Known	<p>The taxpayer is asking either for a refund of the remaining excess tax collected or to shift the amount to the ITC ledger so that the same can be used for other than reverse charge liability. Note – If refund is filed by the TP under Excess payment of Tax category (July, 2017), it will be time barred. The solution available is to give the excess paid amount in ITC ledger through data fix.</p>

				negative liability with Reverse charge CGST only and the remaining negative liability amount is ~ 4.58 lakh.						
20	Returns		As per Hon'ble Supreme Court order, the taxpayer has filed a revised TRAN-1(new) application as prescribed under Circular No. 180/12/2022-GST dated 09.09.2022. The taxpayer had missed out the cenvat credit related to service tax amounting to Rs.23,70,696/- during filing of old TRAN-1 application. The tax officer vide order dated 20.02.2023 approved the TRAN-1 credit of Rs. 23,56,554/- but the said amount has not been credited to taxpayer's ECL.	As per circular No. 180/12/2022-GST dated 09.09.2022, the registered taxpayers were given an opportunity to file their TRAN-1/TRAN-2 forms or to revise their already filed TRAN forms during the two months windows provided from 01.10.2022 to 30.11.2022. The back office functionality for passing the TRAN orders was designed in such way that the system will automatically deduct the earlier claimed TRAN credit from the approved amount and the remaining TRAN credit will be posted to the electronic credit ledger (ECL) of the taxpayer on passing of order by Tax Officer in back office.M/s Escon Gensets Pvt Ltd.(29AAACE3903H1ZU) had filed TRAN forms the old TRAN-1 application on 13.12.2017 for carrying forward the credit of Rs.75,48,705/-. The said amount was credited to	Data fix to be done post approval of ITGR C		1	No	Known	In such cases where the net amount was arriving negative due to filing of TRAN forms with differential/missed values, the LC has already decided that the tax officer can approve amount more than the amount claimed by taxpayer in their revised TRAN forms so that the net amount in back office can become equal to the eligible credit and the same can be posted to taxpayer's ECL. Accordingly, in the

				taxpayer's ECL. During the two months window opened as per Hon'ble Supreme Court order, the taxpayer has filed a revised TRAN-1(new). The taxpayer had missed out the cenvat credit related to service tax amounting to Rs.23,70,696/- during filing of old TRAN-1 application. The tax officer approved the TRAN-1 credit of Rs. 23,56,554/- but the said amount has not been credited to taxpayer's ECL.						instant case, GSTN can reset the rectified order from backend and tax officer may put the higher values in back office so that the net amount can become the amount approved in order passed by the tax officer.
21	GSTR-9	Taxpayers have raised tickets# 116409 68,1163 0952,11 764904, 117643 74,1175 9691,11 754934, 117516 55,1174 3166,11 743124, 117383 72	GSTR9 tile is not enable for FY:2019-20,2020-21,2021-22 and 2022-23	<p>Taxpayers were inactive at the time of GSTR2A processing for GSTR-9 due to that R2A entry for these taxpayers were not inserted into the database. Later, these taxpayers were active and were trying to file the GSTR-9 but the GSTR9 tile was not enabled. Due to which, R2A entries for the reported taxpayers were needed to be inserted manually.</p> <p>Reason Taxpayers were inactive at the time when R2A batch ran for the FY:2019-20,2020-21,2021-22 and 2022-23</p>	EVP (Services)	20.03 .2024	10	No	Known	Issue has been fixed on 29 Mar 2024 via ICR#25259.

**Repetitive Issues/Issues already discussed in previous ITGRC**

22	Registration	Taxpayers Tickets	<p>1. Creation of missing APOB entries in ADDR_DETL for large firms.</p> <p>2. RC regeneration for missing APOB of large firms.</p> <p>3. Data loading from backend for core/non-core for large firms having high count of APOB.</p> <p>Below Taxpayers are impacted by the data-fix</p> <p>1.</p> <p>08AA ACC9762A1ZT , CHAMBAL FERTILISERS AND CHEMICALS LTD</p> <p>2.</p> <p>33AA ACS7018R1Z0, SHRIRAM FINANCE LTD</p> <p>3.</p> <p>27AA ACB2894G1ZN , BHARTI AIRTEL LTD</p> <p>4.</p> <p>32AA DCM4352R1Z6 MUTHOOT VEHICLE &amp; ASSET FINANCE LTD</p>	<p>1. End user is not able to see list of newly added APOB in amended RC as database transaction is not getting completed with in optimized time limit as a result master tables are not getting updated. This is happening with large firms who are adding 400+ new APOB in one go.</p> <p>2. End user is not able to see amended RC as database transaction is not getting completed within optimized time limit as a result master tables are not getting updated. This is happening with large firms who are adding 400+ new APOB in one go.</p> <p>3. End user is not able to open fresh core/non-core application as data from all the master tables is not getting loaded with in optimized time limit. This is happening with large firms who are having high count of APOB.</p>	EVP (Ser.)	24-01-2024	4 (Similar issue discussed and approved in 20th ITG RC)	No		Data fix done. For permanent fix CR No. 26195 has been given which is under development.
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23	Registration	Taxpayers Tickets	Casual taxpayers who are having null registration end date in the database are facing issue in returns module.	As per the current code implementation, system is updating registration end date as null in the database in following scenarios if cancellation order is not passed or has been withdrawn. This implementation is present in the system since go live of the following use cases: Drop proceedings of Suo-moto cancellation. Rejection of self-cancellation application. Withdrawal of self-cancellation application.	EVP (Ser.)	06-03-2024	15 (Such cases have been approved in 20th ITG RC)	No		Data fix done and issue resolved
24a	Cash Ledger	CGST, Tirupati	Transfer of Cash Ledger Amount from Temporary Registration to GSTIN with same PAN.	<p>The challan amount of Rs.39,08,237/- was deposited in GST No.37230000131 7ARW(Temporary) meant for Advance Ruling. This amount cannot be used for any other purpose as there is no functionality for setting off against any demand or claiming refund.</p> <p>Reason The taxpayer has ignorantly deposited amount in Temp ID for Advance Ruling through Challan facility.</p>	EVP (Services)	04.11.2024	1 (Advance Ruling issue has been discussed in the 19th & 20th ITG RC and were approved.)	No	Known	Functionality to restrict payment (more than required amount) through Challan for Advance Ruling Temp ID users has been deployed on 06-04-2024. Data fix is done for this particular case.

24b	PMT-09	Taxpayer has raised ticket#1652938	Credit entry missed for destination GSTIN while transferring amount through PMT-09 from one GSTIN to another GSTIN registered on the same PAN.	<p>While transferring cash amount through PMT-09 from one GSTIN to another GSTIN registered on the same PAN, amount got debited from source GSTIN but not credited into destination GSTIN.</p> <p>Reason Duplicate entries coming from CMP08 and GSTR3B (same timestamp) with different source id. Even though there is no impact on the balance in 'Cash Balance' table, these cases might impact PMT09 filing, due to a check enabled in PMT09 code to validate the 'Cash Ledger Id' in both 'Cash Ledger' &amp; 'Cash Balance' tables.</p>	EVP (Services)	25.01.2024	1	No Amount of Rs. 19,048/- credited back to the taxpayer	Known	Data fix was done on 1 Jan 2024 via ICR#24506.
25	CMP-08	Taxpayer have raised tickets#11544531, 11577913	Taxpayer tried to file CMP08 for Jan – March 2022 and ARN was generated but filing status was not updated to FIL. Now while clicking on Proceed to file button, taxpayer is getting error "The turnover reported exceeds the threshold limit for availing composition scheme."	Taxpayer has filed CMP08 for Jan – March 2022 with taxable value of Rs. 3537250 and with Rs. 17886 CGST/SGST tax but Filing Status not updated from RTF to FIL. Taxpayer has aggregate turnover of Rs. 12334295 for FY 2021-22. When taxpayer tried again and clicked on save button, previous RTF entry got deleted from filing status table and while clicking Proceed	EVP (Services)	14.12.2023	2 (Already discussed and approved in 20th ITG RC)	No	Known	Data fix was done on 21 Dec 2023 via ICR#24036. Permanent fix in process through RQM 25635.

				<p>to file button, turnover error is coming because last quarter turnover has been adding twice in GT_DETL h-base table which resulted in crossing the threshold limit of 1.5 crore.</p> <p>Reason Taxpayer tried to file the return during peak filing days and issue might have occurred due to high load. Transaction was not completed and filing status was not updated to FIL. Since turnover for last quarter was already posted in the database, now while doing proceed to file with same turnover of Rs. 3537250 again, previous 'Return to File' entry got deleted from filing status table.</p> <p>Now as per system functionality on click of proceed to file, due to PAN based aggregate turnover validation, taxpayer received turnover error message.</p>						
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26a	GSTR 1	Taxpayer raised Ticket	No Document Found Issue	1.Hbase Columns are missing from INV_DTL table. So, when they try to amend a invoice they are getting No Document found Error 2. When Taxpayer is validating the statement in Refund, system is giving error “RF-FCAS1007” and not allowing to file the Refund	EVP (Tech )	45313	17 (Already discussed and approved in 18th ITG RC)	No	Known	Permanent fix has been done through RQM 25821 on 25th April 2024, Night
26b	GSTR 1	taxpayers raised Ticket	MD Column Null Issue	When Taxpayer is validating the statement in Refund, system is giving error “RF-FCAS1007” (MD column null issue) and not allowing to file the Refund.  Permanent Fix has already been deployed through a ICR 25155/ RQM 26414 +E6	EVP (Tech )	45313	27 (Already discussed and approved in 18th ITG RC)	No	Known	Permanent Fix has already been deployed through a ICR 25155/ RQM 26414, on 21st March 24 Night.
27	TRAN	CBIC	Problem in integration with CBIC w.r.t update TRAN summary.	Due to technical issue, whenever the tax officers are trying to update the summary, the records get stuck in IP/REC (the records were received more than once while the previous record was under execution and hence, they were finally not processed being rejected as duplicate). Therefore, the tax officers are unable to proceed with issuing order for TRAN, for the respective taxpayers.	EVP Services	04.11.2023	59 (Similar cases have been discussed in the 19th & 20th ITG RC and were approved.)	No	Known	Data Fix ICR to update the IP/REC records to ER so that it can be re-processed from tax Officers end.

Financial Implications										
S. No.	Module	Issue reported by	Issue in Brief	Detailed Description	Approved By	Date of Approval	No. of Cases Impacted	Financial Implication (Yes/No)	Correct Data Known / Not Known	Status
1	Cash Ledger	GSTN Analysis	Issue in filing GSTR-4 annual due to unsuccessful auto-population of data in Table 4A & 4B.	<p>During the initial phase of GST implementation, taxpayers were allowed to make debit in cash ledger with decimal values as well. Later, as part of improvement it was restricted to whole number for all the ledger transactions.</p> <p>Reason Due to the impact of earlier implementation, there were few entries found with decimal amounts in cash balance of the taxpayer. The balances of the identified cases need to be corrected so that the amount could be utilized by the taxpayer during the filing of return forms.</p>	EVP (Services)	04.11.2024	763	Yes. Net amount to be credited: Rs. 139.60 /- (CGST: Rs. 87.14 /-, SGST: Rs. 77.63 /-, IGST : Rs. - 25.86 /-, CES S: Rs. 0.69 /-)	Known	The balances of the identified cases were corrected so that the amount could be utilized by the taxpayer during the filing of return forms. It has been fixed via RQM 25366.

2	GSTR-3B	Taxpayer has raised ticket#1631620	ITC Ledger balance is not correct due to double credit and debit entries.	<p>Ledger has been credited/debited twice for the same transaction and the ledger has been updated accordingly, thereby leading to a loss in the overall balance.</p> <p>In the current design of system, there are three types of ledgers viz. Liability Ledger, Electronic Cash Ledger and Electronic Credit Ledger for keeping account of payments and input tax credit respectively.</p> <p>Cash Ledger is credited on deposit of amount by the taxpayer through bank whereas the Credited Ledger is credited on claiming of ITC mainly through returns (GSTR-3B or GSTR-6) or any ITC forms.</p> <p>Liabilities related to return or other than return are discharged by debiting either or both of the two (Cash or ITC) ledgers.</p> <p>When credit is claimed, a credit entry is inserted in the credit ledger and when the liabilities are discharged by utilising the credit balance, a debit entry is made in the ledger.</p>	EVP (Services)	19.03.2024	1	Yes, Total amount of Rs. 1,150/- (CGST-Rs. 575, SGST-Rs. 575) has to be re-credited to the taxpayer.	Known	Code fix for XA transactions issue was fixed on 14 Nov 2018 and Payment API issue was fixed on 14 March 2019. This is old case prior to code fix which can be fixed by data fix.
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				<p>In this case, both debit and credit had happened twice. The credit ledger has got double credit entries as well as double debit entries, impacting their overall balance in the ledger.</p> <p>Reason This has happened due to high load to the system when taxpayers were trying to file GSTR-3B.</p> <p>In this case, the first transaction of taxpayer was in progress and not committed. Due to this, its status was not available, and taxpayer initiated another transaction, thinking the previous one failed. Both the transactions were now in progress at the same time and got committed in parallel which has leads to the problem being observed.</p>						
3	GSTR-3B	TaxPayer raised Ticket	Late Fee Waiver in GSTR3B for 4 districts of Tamil Nadu due to Cyclonic Storm	<p>Problem Reported: - We are dealers having our principal place of business in Chennai. As per Notification no. 55/2023-CT dated 20.12.23 the due date for filing GSTR 3B for the month of Nov-23 was extended up to 27.12.2023 for districts of</p>	EVP (Services)	09.04.2024	1	Yes	Known	Data fix is done through ICR no.25479. Permanent fix will be done through RQM 26807.

				<p>Chennai, Tiruvallur, etc. We had filed our GSTR 3B for Nov-23 on 26.12.23. However, while filing GSTR 3B for Dec-23, we are being charged late fees of Rs. 150+150 for late filing of Nov-23 GSTR-3B. Request you to kindly make corrections so that we can file the Dec-23 GSTR 3B without delay. GSTIN : 33ARBPN6698P2 ZX Reason:-</p> <p>Due date of GSTR3B for the month of November 2023 for the affected districts was extended from 20th December 2023 to 27th December 2023, but for few taxpayer late fee was levied in spite of due date extension. This was because their district code was not present in GST_MSTR table and due to this due date extension was not applicable on them.</p>						

Court Directions										
S. No.	Module	Issue reported By	Issue in Brief	Detailed Description	Approved By	Date of Approval	No. of Cases Impacted	Financial Implication (Yes/No)	Correct Data Known / Not Known	Status
1	GSTR-3B	As per order passed by Hon'ble High Court of Delhi.  Ticket# 11786800	Basis on the decision made by Hon'ble Delhi Court, late fee has to be refunded to the taxpayer.	<p>In pursuance of Order dated 18.05.2023, in WP, Civil No. 10363 of 2022 passed by Hon'ble High Court of Delhi. GSTR3B for the month of September 2020 and October 2020 have been filed with payment of late fee of Rs. 10,000/-. Therefore, you are requested to refund recredit the late fee paid.</p> <p>As there is no provision of late fee waiver in GSTR3B currently, therefore user can be asked to pay his late fee, and once late fee is paid, same can be reversed. The late fee which has been paid by the taxpayers should be refunded to them under the same major head and late fee minor head.</p> <p>As above taxpayer already paid the late fee, therefore late fee needs to be refunded.</p> <p><b>Reason</b></p>	EVP (Services)	05.03.2024	1	<p>Yes,</p> <p>Total amount for reversal to the taxpayer is Rs. 20,000/- (CGST:Rs. 10,000/-, SGS T:Rs. 10,000/-)</p>	Known	Data fix was done on 8 Mar 2024 via ICR#25055.

				Late fee has to be refunded to the taxpayer in pursuance of Order dated 18.05.2023, in WP, Civil No. 10363 of 2022 passed by Hon'ble High Court of Delhi.						
2a	Appeal	H.C Order received via Rajasthan State Officer	An appeal was filed against a registration rejection order which was rejected by the appellate authority. However, HC allowed the petitioner to re-file the appeal. Therefore, reset was given to the ARN to allow re-filing of appeal as remand back functionality is not available for Registration Orders.	<p>The issue in brief is that the taxpayer with GSTIN 08ARJPM7935N1ZY has filed appeal against the Registration order (ZA0801230452604) and the appeal has been rejected by the Appellate authority. Against the rejection, the said taxpayer has filed Appeal in Hon'ble High court of Rajasthan. The court has allowed the petitioner to refile the appeal within 10 days.</p> <p>As per the existing business process, once appeal is filed against an Order, Appeal cannot be filed against the same order. Also, remand back functionality for Appellate authority is available for Demand and Refund orders. For Registration and other type of orders, it is not available and yet to be develop.</p> <p>To comply with the high court, APL 04 issued against earlier</p>	EVP (Services)	19th January, 2024	1	No	N.A	Appeal status reverted from acknowledged to submitted

				Appeal has to be removed from the system. Therefore, please allow data fix for this case to comply with High court order.						
2b	Appeal	H.C Order received via J&K State Officer	An appeal was filed against a registration rejection order which was rejected by the appellate authority. However, HC allowed the petitioner to re-file the appeal. Therefore, reset was given to the ARN to allow re-filing of appeal as remand back functionality is not available for Registration Orders.	<p>The issue in brief is that the taxpayer with GSTIN 01AAICA2918C1 ZD has filed appeal against a registration order and the appeal (AD0101240013930) has been rejected by the Appellate authority. Against the rejection, the said taxpayer has filed Appeal in Hon'ble High court of J&amp;K. The court has directed the Appellate authority to rehear the case.</p> <p>As per the existing business process, once appeal is filed against an Order, Appeal cannot be filed against the same order. Also, Remand back functionality for Appellate authority is available for Demand and Refund orders. For Registration and other type of orders, it is not available and yet to be developed.</p> <p>To comply with the high court, APL 01 has to be changed to appeal submitted status for the purpose of rehearing.</p>	EVP (Services)	25th January, 2024	1	No	N.A	Appeal status reverted from acknowledged to submitted

				Therefore, please allow data fix for this case to comply with High court order.						
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S. No.	Types of Issues	Count
1	Technical issues with no financial Implications – Correct data known	27
2	Technical issues affecting locally with financial implications – Correct data known	3
3	Court Directions	2
4	Data Fix Done Between April'24-June'24	23
5	Updation on Previous ITGRC Issues	1

# 1. Technical Issues With No Financial Implications – Correct Data Known

## 1. Issue in selecting Composition opt out date

#	Heading	Details
1	<b>Issue Summary</b>	Taxpayers are unable to select the Composition opt out date from the Previous Financial Year though their turnover has exceeded in the previous FY.
2	<b>Issues Description</b>	<p>Circular No. 77/51/2018-GST dt 31.12.2018 provided that date of withdrawal from composition scheme may not be prior to the commencement of FY in which such intimation/application for withdrawal is being filed.</p> <p>Few tickets pertaining to such composition taxpayer who had crossed the annual aggregate turnover in 4<sup>th</sup> quarter of pervious FY 2022-23 but taxpayer got to know this fact when he was trying to file CMP-08 for the period of Jan-March quarter of FY 2022-23 in April'23 i.e in the subsequent FY 2023-24.</p> <p>As a result , Taxpayers wanted to opt out of composition scheme from the last quarter of FY 2022-23 but the maximum passed date was provided as opt out date within current FY on portal. Therefore, these taxpayers miss the opportunity for opting out in FY 2022-23. Though, they were not qualified to continue the composition from the last quarter 2022-23, they are not able to apply for withdrawal vide Rule-6 (2).</p> <p>Due to this implementation of the directions in the circular on the portal, the following issues are being faced by TPs:</p> <ol style="list-style-type: none"> <li>1. From the opt out date, they are filing returns as a normal TP but they are not able to file the returns for the 4<sup>th</sup> quarter of 2022-23 or the past returns before opting out.</li> <li>2. It has subsequent impact of interest and late fee.</li> </ol>
A	<b>Reason</b>	Provision made in circular i.e. date of withdrawal from composition scheme may not be prior to the commencement of FY in which such intimation/application for withdrawal is being filed to be removed.
4	<b>Status</b>	Data fix done for such taxpayer to enable them for filing their returns for past period.
5	<b>Financial Implications</b>	No
6	<b>No. of Cases</b>	24 (includes 1 case of data fix done between April'24-June'24)

## 2. Issue in first time login



#	Heading	Details
1	<b>Issue Summary</b>	The taxpayer M/s SHRI RAM PRINT "N" PACK (GSTIN-02ABFFS4545L1Z2) was unable to login as OTP was not generated due to presence of double quotes in Legal Name of the TP.
2	<b>Issues Description</b>	The taxpayer M/s SHRI RAM PRINT "N" PACK (GSTIN-02ABFFS4545L1Z2) has double quotes in his Income tax database and the same name was reflected in his Legal Name. Due to presence of double quotes in the Legal name, OTP was not getting generated for this taxpayer. This note was submitted on 14.12.2023 for approval and was approved on 18.12.2023 by EVP(Services). GSTN advised the TP to change his name in CBDT database and subsequent to that data fix was given on GST portal.
3	<b>Reason</b>	Presence of double quotes in Legal Name of GSTIN.
4	<b>Status</b>	Data fix done on 20.12.2023 and issue resolved. Double quotes have been deleted.
5	<b>Financial Implications</b>	No
6	<b>No. of Impacted Cases</b>	1

## 3. Request to update contact details and email ID.



#	Heading	Details
1	<b>Issue Summary</b>	Request from Embassy of The Bolivarian Republic of Venezuela (UIN 0717VEN00140UNM) and Embassy of Iceland (UIN 0717ISL00057UNV) to update their contact details and email ID.
2	<b>Issue Description</b>	Request from Embassy of The Bolivarian Republic of Venezuela (UIN 0717VEN00140UNM) to update mobile number to 9205236616 and Embassy of Iceland (UIN 0717ISL00057UNV) to update their contact details to 9311090160 and email ID to newdelhi@utn.is.
3	<b>Reason</b>	CBIC does not have a functionality/API to update such details in their backend application. So , they forward such requests to GSTN. This was done to enable the diplomats to claim refund.
4	<b>Status</b>	Data fix done and issue resolved. Permanent fix will get automatically resolved after CBIC migration.
5	<b>Financial Implications</b>	No
6	<b>No. of Impacted Cases</b>	2

#### 4. Taxpayer-unable to file Return due to difference in Cancellation Date

#	Heading	Details
1	<b>Issue Summary</b>	End date of Registration (GSTN: 01AAPPD3636C3Z9) in GST Master was 17.05.2019 as selected by the taxpayer, whereas the cancellation date per Tax Officer Order was 11.06.2019. Due to this, taxpayer was unable to file return for June, 2019 for GSTR1 and GSTR3B and the GSTR9, also return tile were disabled. This was an old case and the GST master date was needs to be updated to 11.06.2019.
2	<b>Issues Description</b>	The taxpayer has applied for self-cancellation and the Registration End date was captured as 17th May, 2019 in GST_MSTR table. However, the actual cancellation date was 11th June 2019. Due to this, the taxpayer was unable to file return for June 2019 period.
3	<b>Reason</b>	There was a gap in the self-cancellation process. As per the old implementation, if there was a difference between cancellation date selected by the taxpayer at the time of filing and cancellation date selected by the authority at the time of disposal then master table used to consider REG_END_DT as cancellation date selected by the taxpayer at the time of filing in GST_MSTR table. Based on new business requirement it was decided to change the flow in self-cancellation form and consider cancellation date and REG_END_DT as the date selected by the officer at the time of disposal.
4	<b>Status</b>	Data fix done and issue resolved
5	<b>Financial Implications</b>	No
6	<b>No. of Cases</b>	1

#### 5. Issue in Aadhaar Authentication of foreign national

#	Heading	Details
1	<b>Issue Summary</b>	Foreign National is unable to perform Aadhaar Authentication. Air India Limited, Maharashtra(27AACCN6194P1ZP).
2	<b>Issues Description</b>	Rule 10B of the CGST Rules requires mandatory Aadhar Authentication of MD or WTD for processing of refund of IGST paid on export of goods. Accordingly, AIL is unable to do Aadhar Authentication as: - AIL does not have any WTD and - AIL has a MD, who is not a citizen of India, as exempted from Aadhar Authentication and GST portal does not provide any functionality to do Aadhar Authentication of foreign national.
3	<b>Reason</b>	GST portal does not provide any functionality to do Aadhar Authentication of foreign national.
4	<b>Status</b>	Data fix done and issue resolved Already approved, only put up for compliance.
5	<b>Financial Implications</b>	No
6	<b>No. of Impacted Cases</b>	1

## 6. Correction in cash ledger balance

#	Heading	Details
1	<b>Issue Summary</b>	Correction in cash ledger balance due to credit/debit happened simultaneously.
2	<b>Issues Description</b>	The issue has occurred due to debit and credit entry happening simultaneously in the cash ledger, due to which balance was not updated properly for 36 taxpayers. These 7 cases pertain to the period - Jul 2023 to Oct 2023 and 29 taxpayers (28 are active taxpayers and 1 is cancelled taxpayer) cases pertain to the period - Nov 2023 to Mar 2024.
3	<b>Reason</b>	The reason for occurrence of the issue is due to the two transactions happened simultaneously on the same record and non execution of one of them.
4	<b>Status</b>	Data fix was done on 15 Dec 2023 via ICR#23856. Permanent fix is in process through CR 21982.
5	<b>Financial Implications</b>	No. only the entries were corrected to reflect correct balance. Total amount credited to cash ledger: 18,686 /- (CGST TAX AMT: Rs. 10,417/-, CGST FEE AMT: Rs. 825/-, SGST TAX AMT: Rs.6,553/-, SGST FEE AMT: Rs.825/-) (For all 7 taxpayers)
6	<b>No. of Impacted Cases</b>	7+28 (Data fix done between April'24-June'24)

## 7. Mismatch between hbase and ledger.

#	Heading	Details
1	<b>Issue Summary</b>	Taxpayer (Riso India Ltd) has already filed GSTR-3B return but reported a mismatch in their saved and offset data.
2	<b>Issues Description</b>	Taxpayer (GSTIN: 33AADCR4540C1ZW) has done offset on 19 <sup>th</sup> April 2023, for Return period: Mar, 2023. The values in Ledger got updated but filing status not updated with 'FRZ' in the Return Filing Status table. As a next step, taxpayer opted 'yes' in questionnaire page for nil filing of GSTR-3B and was able to complete the NIL filing on 11 <sup>th</sup> May 2023. As a part of NIL filing process, 'Y' questionnaire values updated in Hbase whereas no updates happen in the ledger tables. This resulted in mismatch between hbase and ledger.
3	<b>Reason</b>	Taxpayer has done offset, and Ledger gets inserted but filing status was not updated with 'FRZ' value due to database connectivity loss.
4	<b>Status</b>	Data fix was done on 30 Jan 2024. RQM#22721 is raised for permanent fix and is in development.
5	<b>Financial Implications</b>	No
6	<b>No. of Impacted Cases</b>	1

## 8. GSTR-9 Post Filing behaviour

#	Heading	Details
1	<b>Issue Summary</b>	GSTR9 Post Filing behavior - Entry posted to ledger Table but not posted in FILING Table.
2	<b>Issues Description</b>	Taxpayers have filed the GSTR9 form for FY:2018-19 & 2022-23. Entries got posted to ledger tables, but corresponding records were not updated from 'Return To FIL' to 'FIL' in 'Return Filing Status' table in return database. Consequent to this status was not updated on portal.
3	<b>Reason</b>	In return ,Database entries were posted to ledger tables, but corresponding record were not updated from 'Return To FIL' to 'FIL' in 'Return Filing Status' table.
4	<b>Status</b>	Issue has been fixed on 29 Mar 2024 via ICR#25265. RQM:21228 is under progress for permanent fix.
5	<b>Financial Implications</b>	No
6	<b>No. of Impacted Cases</b>	5

## 9. Auto population of data from GSTR6 to GSTR2A

#	Heading	Details
1	<b>Issue Summary</b>	GSTR6 to GSTR2A Data Reflection.
2	<b>Issues Description</b>	When the Input Service Distributor (ISD) uploaded invoices in form GSTR6 for February 2022 return period, The ISD invoices were not reflected in GSTR2A form for the particular period. Taxpayer was unable to view all the invoices on the portal.
3	<b>Reason</b>	While adding the multiple invoices through offline utility, due to the bug in code (for loop ended in the wrong place), only the last invoice was getting saved in ISD_UNIT_RelationShip Hbase table.
4	<b>Status</b>	Permanent fix has already gone to production through RQM#22445 via ECR#15337 on 15th Feb,2022. Team is working on utility for One Go Fix for all such cases that pertains prior to 16 <sup>th</sup> Feb 22 via RQM 26996.
5	<b>Financial Implications</b>	No
6	<b>No. of Impacted Cases</b>	333

## 10. Bug in filing of Annexure V functionality for GTA



#	Heading	Details
1	<b>Issue Summary</b>	Selection of wrong FY while filing Annexure V declaration w.r.t GTA.
2	<b>Issues Description</b>	The taxpayer (GSTIN = 09AALCC4943L1Z4) was unable to select the financial year '2023-24' and instead selected '2024-25' while filing Annexure V.
3	<b>Reason</b>	Due to a bug in a filing of Annexure V declaration for a newly registered taxpayer, the taxpayer was unable to choose ongoing FY i.e. 2023-24.
4	<b>Status</b>	To permanently resolve this issue, a code fix has already been moved to production on 14th Feb 2024, through ECR 24608, regarding 'Enable filing of Annexure V for the current FY for the newly registered GTA'.
5	<b>Financial Implications</b>	No
6	<b>No. of Impacted Cases</b>	1

## 11. Error during amendment of invoices in GSTR5A/ B2C(other) record



#	Heading	Details
1	<b>Issue Summary</b>	TP Unable to amend Records in GSTR1-B2CS and GSTR5A
2	<b>Issues Description</b>	In the B2CS and GSTR5A, Records are allowed only for one amendment. After amending their records, the taxpayer deleted an entry before filing. However, traces of that deleted record remained in the database. Unfortunately, this issue prevents the user from making amendments of the same record in future return periods. The fix is done against the 45 tickets (43 for B2CS and 2 for GSTR5A), where the removal of the mentioned traces has been done.
3	<b>Reason</b>	User did DELETE activity after amending record. But we have found that Traces of the previous amendments exist in DB which prevents the amendments of these records in future return period.
4	<b>Status</b>	Data Fix Done & B2CS permanent fix analysis is in progress and respective RQM number is 27128 For GSTR5A- Permanent fix has been done through CR 25039.
5	<b>Financial Implications</b>	No
6	<b>No. of Impacted Cases</b>	45 (43 for B2CS and 2 for GSTR5A)

## 12. Receiver unable to claim ITC in GSTR-2B

#	Heading	Details
1	<b>Issue Summary</b>	After Filing GSTR1 during 032023 invoices are not visible and the receiver unable to claim ITC in GSTR-2B.
2	<b>Issues Description</b>	<p>During the peak filing period of GSTR-1, 1 Taxpayer, conducted multiple save actions. Subsequently, the user then initiated a reset process, which was still in progress at that point. Despite this ongoing reset, the taxpayer proceeded to save and file for the return period 032023.</p> <p>In an unexpected turn of events, the previous reset operation that was still processing was successfully executed after the filing had taken place. This led to the removal of data pertaining to GSTR1, GSTR2B, ITC, and GSTR9 from the underlying HBASE table.</p> <p>GSTR1- INVOICE_DTL, Invoices, INV_RELATION GSTR2B/ITC- GSTR2B_FORM_SUMMARY, INVOICES_2B, NOTES_2B GSTR9- ANNUAL_RETURN_DTL</p>
3	<b>Reason</b>	Due to removal of data pertaining to GSTR1, GSTR2B, ITC, and GSTR9 from the underlying HBASE table.
4	<b>Status</b>	Data Fix Done. Team is working on Permanent fix via RQM 24995.
5	<b>Financial Implications</b>	No
6	<b>No. of Impacted Cases</b>	1

## 13. Issue in Filing GSTR3B.

#	Heading	Details
1	<b>Issue Summary</b>	Taxpayer facing issue while filing GSTR3B getting error "You have submitted TRAN-1 but have not filed it"
2	<b>Issues Description</b>	<p>Taxpayers who was filing Tran-1 return from 01-07-2017 to 28-09-2022 have submitted but not filed the TRAN-1. TP got the electronic ledger credited on submitting the TRAN-1 return instead of getting Electronic ITC Ledger credit after TRAN-1 return filing. Taxpayer opted for composition scheme in 2017 &amp; became normal taxpayer in 2022, when same taxpayer was filing GSTR3B now, taxpayer was getting the below error "You have submitted TRAN-1 form but have not filed it. You are requested to file the same before submitting this return. If error persists quote error number RT-3BAS1055 when you contact customer care for quick resolution" while filing the GSTR-3B.</p>
3	<b>Reason</b>	Taxpayers who have submitted but not filed their TRAN-1 return from 01-07-2017 to 28-09-2022 got the electronic ledger credited on submitting the TRAN-1 return instead of getting Electronic ITC Ledger credit after TRAN-1 return filing. As per the old code flow of TRAN-1, Taxpayer were able to get credit on submit (FRZ). So, Taxpayer did not complete the filing of TRAN-1 return.
4	<b>Status</b>	Data Fix Done & RQM No is 24423.
5	<b>Financial Implications</b>	No
6	<b>No. of Impacted Cases</b>	6

## 14. Negative Export ledger and non-transmission of export invoices - 1

#	Heading	Details
1	<b>Issue Summary</b>	The export ledger is having negative balance due to mistakes committed by taxpayer in GSTR-1 and this negative balance disallows transfer of eligible export invoices to ICEGATE for IGST Refund. In this case, normal supply(SEZ to DTA) is reported as export supply(SEZ to SEZ) in GSTR 1.
2	<b>Issues Description</b>	M/s OPaL (ONGC Petro additions Limited), having GSTIN 24AAACO9200B3Z2, a SEZ unit located in Bharuch, Gujarat. During FY 18, the taxpayer has reported SEZ-DTA supply (Normal supply) as SEZ-SEZ (Zero rated supply) in GSTR 1.  As per the taxpayer, GST system did not allow him to pay IGST as the DTA's GSTIN is also located in Gujarat. To circumvent, SEZ-DTA supply is reported as SEZ-SEZ supply i.e., "SEZ supply with payment" on GST portal in GSTR 1. However, the taxpayer has made the payment under the correct head in GSTR 3B (Table 3.1(a)) .
3	<b>Reason</b>	The supplies misreported as Zero rated has created negative balance in the export ledger to the amount of INR 1,11,42,985.35. The negative balance is not allowing any eligible export invoices to be transmitted to ICEGATE from 2018.
4	<b>Status</b>	Data Fix will be given in the export Ledger to offset the negative balance.
5	<b>Financial Implications</b>	No
6	<b>No. of Cases</b>	1

## 15. Negative Export ledger and non-transmission of export invoices - 2

#	Heading	Details
1	<b>Issue Summary</b>	The export ledger is having negative balance due to mistakes committed by taxpayer in GSTR-1 and this negative balance disallows transfer of eligible export invoices to ICEGATE for IGST Refund. In this case, the "Export supplies without payment of duty" are reported as "Export supplies with payment of duty" in GSTR 1.
2	<b>Issues Description</b>	The issue pertains to M/s IDE Technologies India Private Limited (GSTIN 09AABCI9713N1Z2). The taxpayer has made "Export supplies without payment of duty" for the period of August 2017 and November 2017. However, these supplies were mis-reported as "Export with Payment" in GSTR 1 and created negative balance in export ledger. Also, these supplies are reported correctly in GSTR 3B.  As per the claim of the taxpayer, the tax department has made a demand for the supplies mentioned as "Export with payment" which is not paid in GSTR 3B. The taxpayer went for appeal and the demand raised by the proper officer was nullified by Appellate Authority. Thereafter, the taxpayer approached GST helpdesk for nullifying the negative balance in the export ledger to the amount of Rs. 1785963.42/- .
3	<b>Reason</b>	Export ledger is negative as supplies with "Export without payment" were reported as "Export with payment" in GSTR 1
4	<b>Status</b>	Data Fix will be given in the export Ledger to offset the negative balance.
5	<b>Financial Implications</b>	No
6	<b>No. of Cases</b>	1

## 16. Negative Export ledger and non-transmission of export invoices - 3



#	Heading	Details
1	<b>Issue Summary</b>	The export ledger is having negative balance due to mistakes committed by taxpayer in GSTR-1 and this negative balance disallows transfer of eligible export invoices to ICEGATE for IGST Refund. In this case, DTA-SEZ (not meant for authorized operation) supply is reported as Export supply instead of domestic supply in GSTR 1.
2	<b>Issues Description</b>	M/s Corrtch (GSTIN 24AAACI8838F1ZK) has misreported DTA-SEZ supplies (not meant for authorized operation) as zero-rated supplies for the period of December 2018, March 2019 and May 2019 in GSTR 1. It has created negative balance of Rs 16,67,197 in the export ledger. This negative balance has stopped further transmission of eligible export invoices to ICEGATE belonging to the period November 2022 to October 2023 and IGST refund of Rs 7,23,91,175.70 is stuck.
3	<b>Reason</b>	The supplies misreported a domestic supply as Zero-rated supply and it has created negative balance in the export ledger to the amount of INR 16,67,197. The negative balance is not allowing any eligible export invoices to be transmitted to ICEGATE from 2018.
4	<b>Status</b>	Data Fix will be given in the export Ledger to offset the negative balance of Rs 16,67,197.
5	<b>Financial Implications</b>	No
6	<b>No. of Impacted Cases</b>	1 (Court Case)

## 17. ARN status was reverted from APL-02 to APL-01



#	Heading	Details
1	<b>Issue Summary</b>	Appeal application filed with Zero disputed amount and was acknowledged by the officer. As the disputed amount is Zero the officer could not issue the final order.
2	<b>Issues Description</b>	This issue is forwarded by the State of Rajasthan. In this case, a taxpayer (08AFCPD0195G1ZS) has filed an appeal against Enforcement Order with 'disputed amount' as Zero in Appeal application. When Zero amount is entered, the officer cannot issue the Appeal order 'APL 04'. In this case, the officer has mistakenly admitted the application also but couldn't issue the final order.
3	<b>Reason</b>	Due to Zero disputed amount, the officer cannot issue the Appeal order 'APL 04'. In this case, the officer has mistakenly admitted the application also but couldn't issue the final order.
4	<b>Status</b>	Data fix is given to change the status from appeal admitted to " appeal submitted " so that officer can reject the application.
5	<b>Financial Implications</b>	No
6	<b>No. of Impacted Cases</b>	1

## 18. Appeal inadvertently rejected by the officer



#	Heading	Details
1	<b>Issue Summary</b>	Taxpayer filed Appeal against Registration Order : ZA071220040517Z which was inadvertently rejected by the officer instead of accepting the same.
2	<b>Issues Description</b>	<ol style="list-style-type: none"> <li>1. A taxpayer (GSTIN : 07BMHPS5748B1ZV) filed an Appeal ARN : AD0709230003288 against Registration Order : ZA071220040517Z which was inadvertently rejected by the officer instead of accepting the same. The appeal was inadvertently rejected by selecting the option "I reject the Original Order" instead of "I accept the original order". Rectification option is not available for Registration related appeals. Therefore, in this case, the only option was to do reset of APL 04 from back end.</li> <li>2. Request was received from the tax officer ( West Bengal) to rectify APL-04 for the appeal orders : AD1904230036581 &amp; AD190423013030T. The Appellate authority has made a mistake while issuing appeal order (APL 04) where in the order under appeal is refund order. The officer wants to rectify the APL 04. However, rectification functionality for APL 04 is unavailable for refund order related appeals. Therefore, the APL-04 issued has been reset for re-issuance.</li> </ol>
3	<b>Reason</b>	<ol style="list-style-type: none"> <li>1. The appeal was inadvertently rejected by selecting the option "I reject the Original Order" instead of "I accept the original order".</li> <li>2. The Appellate authority has made a mistake while issuing appeal order (APL 04) where in the order under appeal is refund order.</li> </ol>
4	<b>Status</b>	Data fix is given to reset APL-04 for reissuance.
5	<b>Financial</b>	No

## 19. Issue in adjustment of excess tax paid with RCM liability.



#	Heading	Details
1	<b>Issue Summary</b>	Issue in adjustment of excess tax paid with RCM liability.
2	<b>Issues Description</b>	Taxpayer reported that while filing GSTR 3B for the month of Nov. 2022, the CGST amount under RCM Liability mentioned in table 3.1d (inward supplies liable to reverse charge) was not reflecting in Table 6 (Payment of Tax details). Upon analysis, it was found that the system was auto adjusting the Excess paid tax by the taxpayer from his reverse charge liability.
3	<b>Reason</b>	<p>Upon technical analysis it was found that the taxpayer paid excess tax of Rs. 7,90,126/- in July 2017 through double debit of cash ledger and ITC Ledger and the system was built to accept the excess tax payment.</p> <p>Over the course of years his excess tax collected is getting adjusted in the Reverse Charge Liability due to the transaction code of 90018 which was designed for adjustment of negative liability and it can be adjusted into only reverse charge liability. Hence the system is adjusting the negative liability with Reverse charge CGST only and the remaining negative liability amount is ~ 4.58 lakh.</p>
4	<b>Status</b>	<p>The taxpayer is asking either for a refund of the remaining excess tax collected or to shift the amount to the ITC ledger so that the same can be used for other than reverse charge liability.</p> <p>Note – If refund is filed by the TP under Excess payment of Tax category (July, 2017) , it will be time barred. The solution available is to give the excess paid amount in ITC ledger through data fix.</p>
5	<b>Financial Implications</b>	No

## 20. TRAN Order Rectification.



#	Heading	Details
1	<b>Issue Summary</b>	In compliance of Hon'ble Supreme Court order, GST Portal was opened from 01.10.2022 to 30.11.2022 for aggrieved taxpayer to file their TRAN form. During this window this taxpayer filed a revised TRAN-1 amounting to Rs.23,70,696/-. The tax officer vide order dated 20.02.2023 approved the TRAN-1 credit of Rs. 23,56,554/- . Tax officer was supposed to credit (Rs. 75,48,075/- + Rs.23,56,554/- ) to taxpayer's ECL. However, he credited only Rs. 23,56,554/- to the taxpayer's ECL.
2	<b>Issues Description</b>	During the window for re-filing of TRAN M/s Escon Gensets Pvt Ltd.(29AAACE3903H1ZU) filed his TRAN-1 for Rs.23,70,696/-. The tax officer initially approved this TRAN of Rs. 23,56,554/- has entered the same amount in the system. However, the functionality in the system was developed so that it automatically deduct the earlier claimed TRAN credit from the new claimed amount and net amount could be posted in taxpayer's ECL. However, in case of resulting of negative entry, no amount was credited to taxpayer's ECL. In this case system calculated (Rs.23,56,554/- - Rs. 75,48,075/-) a negative entry and hence no amount was credited to the taxpayer's ECL. Through the Rectification order of TRAN the tax officer again erroneously entered the original amount for Rs. 23,56,554/- only in the system and hence zero amount got posted to taxpayer's ECL again. As per current implementation of back office, no further rectification is allowed.
3	<b>Reason</b>	As per current implementation of back office, rectification of TRAN order is only allowed once. The tax officer has erroneously entered the order and the rectification order with the same amount of Rs.23,56,554/- in the system, the amount posted in taxpayer's ECL got zero.
4	<b>Proposal</b>	As tax officer has already issued rectification order with wrong amount, in the instant case, GSTN can reset the rectified order from backend and tax officer may put the

## 21. Issue in enabling GSTR-9 tiles



#	Heading	Details
1	<b>Issue Summary</b>	GSTR9 tile is not enabled for FY:2019-20,2020-21,2021-22 and 2022-23
2	<b>Issues Description</b>	Taxpayers were inactive at the time of GSTR2A processing for GSTR-9 due to that R2A entry for these taxpayers were not inserted into the database. Later, these taxpayers were active and were trying to file the GSTR-9 but the GSTR9 tile was not enabled. Due to which, R2A entries for the reported taxpayers were needed to be inserted manually.
3	<b>Reason</b>	Taxpayers were inactive at the time when R2A batch ran for the FY:2019-20,2020-21,2021-22 and 2022-23
4	<b>Status</b>	Issue has been fixed on 29 Mar 2024 via ICR#25259.
5	<b>Financial Implications</b>	No
6	<b>No. of Impacted Cases</b>	10

## 22. Issue in updation of APOB.

#	Heading	Details
1	<b>Issue Summary</b>	1. Creation of missing Additional Place of Business (APOB) entries in ADDR_DETL for large firms. 2. RC regeneration for missing APOB of large firms. 3. Data loading from backend for core/non-core for large firms having high count of APOB.
2	<b>Issues Description</b>	1. End user was not able to see list of newly added APOB in amended RC as database transaction was not getting completed with in optimized time limit. As a result master tables were not getting updated. 2. End user was not able to see amended RC as database transaction was not getting completed within optimized time limit and as a result master tables were not getting updated. 3. End user was not able to open fresh core/non-core application as data from all the master tables was not getting loaded with in optimized time limit. This is happening with large firms who are having high count of APOB.
3	<b>Reason</b>	Database transaction is not getting completed within optimized time limit as a result master tables were not getting updated.
4	<b>Status</b>	Data fix done. For permanent fix CR No. 26195 has been given which is under development.(TFD approved on 12.06.2024)
5	<b>Financial Implications</b>	No
6	<b>No. of Cases</b>	4 +8 (data fix done between April'24-June'24)(Similar issue discussed and approved in 20 <sup>th</sup> ITGRC)

## 23. Issue in returns module for Casual Taxpayers

#	Heading	Details
1	<b>Issue Summary</b>	Casual taxpayers who are having null registration end date in the database are facing issue in returns module.
2	<b>Issues Description</b>	As the end registration date was null , users were facing issue in updating invoices for certain dates in GSTR-1.
3	<b>Reason</b>	As per the current code implementation, system is updating registration end date as null in the database in following scenarios if cancellation order is not passed or has been withdrawn. : Drop proceedings of Suo-moto cancellation. Rejection of self-cancellation application. Withdrawal of self-cancellation application.
4	<b>Status</b>	Data fix done and issue resolved
5	<b>Financial Implications</b>	No
6	<b>No. of Impacted Cases</b>	15 +28 (Data fix done between April'24-June'24) (39 Such cases have been approved in 20 <sup>th</sup> ITGRC. )

## 24. Issue in setting off Cash Ledger amount against any Demand



#	Heading	Details
1	<b>Issue Summary</b>	<ol style="list-style-type: none"> <li>1. Transfer of Cash Ledger Amount from Temporary Registration to GSTIN with same PAN.</li> <li>2. Transaction failure in PMT-09 while transferring one GSTIN to another GSTIN registered on the same PAN.</li> </ol>
2	<b>Issues Description</b>	<ol style="list-style-type: none"> <li>1. The TP has inadvertently deposited amount of Rs.39,08,237/- in Temp ID No.372300001317ARW created for Advance Ruling. This amount could not be used for any other purpose, therefore, the taxpayer was seeking Refund of the Challan amount.</li> <li>2. While transferring cash amount through PMT-09 from one GSTIN to another GSTIN registered on the same PAN, amount got debited from source GSTIN but not credited into destination GSTIN.</li> <li>3. Similar fixes have been done for GSTINs 27LDNPS8265E1ZO, 19AYNPD6734H1Z4</li> </ol>
3	<b>Reason</b>	<ol style="list-style-type: none"> <li>1. No option for filing of refund through Advance Ruling GSTIN</li> <li>2. Failure due to Simultaneous Cash Ledger update, which has impact on the balance of the Taxpayer.</li> </ol>
4	<b>Status</b>	Data fix is done by transferring the amount involved to the Taxpayer's another GSTIN.
5	<b>Financial Implications</b>	No
6	<b>No. of Impacted Cases</b>	2 + 2 (April – June 2024) (Advance Ruling issue has been discussed in the 19 <sup>th</sup> & 20 <sup>th</sup> ITGRC and were approved.)

## 25. Issue in updating Filing Status for Composition Taxpayer



#	Heading	Details
1	<b>Issue Summary</b>	Taxpayer tried to file CMP08 for Jan – March 2022 and ARN was generated but filing status was not updated to FIL. Now while clicking on Proceed to file button, taxpayer is getting error “The turnover reported exceeds the threshold limit for availing composition scheme.”
2	<b>Issues Description</b>	Taxpayer has filed CMP08 for Jan – March 2022 with taxable value of Rs. 3537250 and with Rs. 17886 CGST/SGST tax but Filing Status not updated from RTF to FIL. When taxpayer tried again and clicked on save button, previous RTF entry got deleted from filing status table and while clicking Proceed to file button, turnover error is coming because last quarter turnover has been adding twice in GT_DETL h-base table which resulted in crossing the threshold limit of 1.5 crore while Taxpayer has aggregate turnover of Rs. 12334295 for FY 2021-22.
3	<b>Reason</b>	<p>Turnover for Jan to March 2022 quarter was posted in database but Filing status was not updated to FIL instead it was ‘Ready To File’.</p> <p>When taxpayer checked on portal the filing status was ‘Ready To File’ so taxpayers clicked on ‘Save’ button with same set of data which deletes ‘Ready To File’ status and ‘Signed Summary’ from database and status becomes ‘Saved’.</p> <p>After that taxpayer clicked on ‘Proceed to File’ button then system has given error “The turnover reported exceeds the threshold limit for availing composition scheme.” This is because, turnover was already posted in database while filing in first attempt.</p>
4	<b>Status</b>	Data fix was done on 21 Dec 2023 via ICR#24036. Permanent fix in process through RQM 25635.
5	<b>Financial Implications</b>	No

## 26. Missing Hbase Columns/MD Columns in INV\_DTL Table.



#	Heading	Details
1	<b>Issue Summary</b>	Missing Hbase Columns/MD Columns in INV_DTL Table.
2	<b>Issues Description</b>	Due to missing Hbase Columns in INV_DTL table leading to following issues: 1. when Taxpayers try to amend a invoice they were getting “No Document found” Error. 2. When Taxpayer validated the statement in Refund, system was giving error “RF-FCAS1007”(MD column null issue) and not allowing to file the Refund.
3	<b>Reason</b>	<b>MD Column:</b> While adding data to HBase for an invoice there is missing of insert timestamp in MD column which is causing the issue while cleanup activity before inserting into HBase. Fix have added there so it won't clean the MD column while Cleanup activity. <b>No Document Found:</b> For Export invoices while doing multiple amendment(more than 1 amendment) for a invoice in different RTNPRD and clicking RESET button Hbase INVOICE_DTL table data rollback functionality is not implemented in R1ResetTopology. Here did the code fix for this case so user can amend even after clicking RESET button.
4	<b>Status</b>	<b>MD Column:</b> Permanent Fix has already been deployed through a ICR 25155/RQM 26414, on 21 <sup>st</sup> March 24 Night. <b>No Document Found:</b> Permanent fix has been done through RQM 25821 on 25 <sup>th</sup> April 2024, Night
5	<b>Financial Implications</b>	No
6	<b>No. of Cases</b>	17+27 (Already discussed and approved in 18th ITGRC)

## 27. Tran summary records stuck in IP/REC



#	Heading	Details
1	<b>Issue Summary</b>	Problem in integration with CBIC w.r.t update TRAN summary.
2	<b>Issues Description</b>	While the tax officers are trying to update the Tran order summary, in some cases the records got stuck in a processing state. Therefore, the tax officers were unable to proceed with issuing order for TRAN return.
3	<b>Reason</b>	The TRAN summary records got stuck in processing due to integration issues with CBIC system. These records needed to be updated to error status so that the tax officers can retry to update the summary and the data would be processed.
4	<b>Status</b>	Data Fix ICR to update the IP/REC records to ER so that it can be re-processed from tax Officers end.
5	<b>Financial Implications</b>	No
6	<b>No. of Impacted Cases</b>	59 (Similar cases have been discussed in the 19 <sup>th</sup> & 20 <sup>th</sup> ITGRC and were approved.)

## 2..Technical issue affecting locally with financial implications – Correct data known

### 1. Error in auto-populating details in table 4A and 4B

#	Heading	Details
1	<b>Issue Summary</b>	Issue in filing GSTR-4 annual due to unsuccessful auto-population of data in Table 4A & 4B.
2	<b>Issues Description</b>	During the initial phase of GST implementation, taxpayers were allowed to make debit in cash ledger with decimal values as well. Later, as part of improvement it was restricted to whole number for all the ledger transactions. Due to the impact of earlier implementation, there were few entries found with decimal amounts in cash balance of the taxpayer. Taxpayer attempted to file his GSTR4 Annual but auto population of data in table 4A and 4B from GSTR-4A was not successful due to decimal values present in cash ledger.
3	<b>Reason</b>	During the initial phase of GST implementation, taxpayers were allowed to make debit in cash ledger with decimal values as well. Later, as part of improvement it was restricted to whole number for all the ledger transactions.
4	<b>Status</b>	The balances of the identified cases was corrected so that the amount could be utilized by the taxpayer during the filing of return forms. It has been fixed via RQM 25366.
5	<b>Financial Implications</b>	Yes. Net amount to be credited : Rs. 139.60 /- (CGST: Rs. 87.14 /-, SGST: Rs. 77.63 /-, IGST: Rs. -25.86 /-, CESS: Rs. 0.69 /-).
6	<b>No. of Cases</b>	763

## 2. Incorrect ITC Ledger due to double credit and debit entries

#	Heading	Details
1	<b>Issue Summary</b>	ITC Ledger balance is not correct due to double credit and debit entries.
2	<b>Issues Description</b>	When the taxpayer was trying to file GSTR-3B, the first transaction of taxpayer was in progress and not completed. Due to this, its status was not visible and meanwhile the taxpayer initiated another transaction, thinking the previous one got failed. Both the transactions were now in progress at the same time and also got completed in parallel. Hence, Ledger was credited/debited twice for the same transaction and the ledger has been updated accordingly, thereby leading to a loss in the overall balance.
3	<b>Reason</b>	This has happen due to high load to the system when taxpayers were trying to file GSTR-3B.
4	<b>Status</b>	Code fix for XA transactions issue was fixed on 14 Nov, 2018 and Payment API issue was fixed on 14 March, 2019. This is old case prior to code fix which can be fixed by datafix.
5	<b>Financial Implications</b>	Yes, Total amount of Rs. 1,150/- (CGST-Rs. 575, SGST- Rs. 575) has to be re-credited to the taxpayer.
6	<b>No. of Impacted Cases</b>	1

## 3. Late Fee Waiver in GSTR-3B

#	Heading	Details
1	<b>Issue Summary</b>	Late Fee Waiver in GSTR3B for 4 districts of Tamil Nadu due to Cyclonic Storm.
2	<b>Issues Description</b>	The taxpayer (GSTIN : 33ARBPN6698P2ZX) having principal place of business in Chennai. As per Notification no. 55/2023-CT dated 20.12.23 the due date for filing GSTR 3B for the month of Nov-23 was extended up to 27.12.2023 for districts of Chennai, Tiruvallur, etc. TP had filed GSTR 3B for Nov-23 on 26.12.23. However, while filing GSTR 3B for Dec-23, TP were being charged late fees of Rs. 150+150 for late filing of Nov-23 GSTR-3B.
3	<b>Reason</b>	The issue was because the districts code for the 4 districts was not present in GST_MSTR table and due to this due date extension was not applicable on them.
4	<b>Status</b>	Data fix is done through ICR no.25479. Permanent fix will be done through RQM 26807.
5	<b>Financial Implications</b>	Yes.
6	<b>No. of Impacted Cases</b>	1

## 3. Court Directions

### 1. Recredit of the late fee paid

#	Heading	Details
1	<b>Issue Summary</b>	Basis the decision made by Hon'ble Delhi Court, late fee has to be refunded to the taxpayer.
2	<b>Issues Description</b>	<p>In pursuance of Order dated 18.05.2023, in WP, Civil No. 10363 of 2022 passed by Hon'ble High Court of Delhi. GSTR3B for the month of September 2020 and October 2020 have been filed with payment of late fee of Rs. 10,000/-. Therefore, you are requested to refund recredit the late fee paid.</p> <p>As there was no provision of late fee waiver in GSTR3B currently, therefore user could be asked to pay his late fee, and once late fee was paid, same could be reversed. The late fee which has been paid by the taxpayers should be refunded to them under the same major head and late fee minor head.</p> <p>As above taxpayer already paid the late fee, therefore late fee needs to be refunded.</p>
3	<b>Reason</b>	High Court Directions
4	<b>Status</b>	Data fix was done on 8 Mar 2024 via ICR#25055.
5	<b>Financial Implications</b>	Yes, Total amount of reversal to the taxpayer is Rs. 20,000/- (CGST Rs. 10,000/- and SGST Rs. 10,000/-).
6	<b>No. of Cases</b>	1

## 2. Reversal of appeal status from acknowledged to submitted.



#	Heading	Details
1	<b>Issue Summary</b>	Appeals were filed against registration rejection orders, which was further rejected by the appellate authority. However, Hon'ble HC allowed the petitioners to re-file the appeal. Therefore, reset was given to the ARN to allow re-filing of appeal.
2	<b>Issues Description</b>	<p>The taxpayers with GSTIN 08ARJPM7935N1ZY &amp; 01AAICA2918C1ZD have filed appeal against Registration Rejection Orders and the appeal was rejected by the Appellate authority.</p> <p>As per the existing business process, appeal cannot be filed against an order more than once. Also, presently remand back functionality for Appellate authority is available only for Demand and Refund orders &amp; not for Registration orders. The same is under development.</p> <p>Therefore, to comply with the high court orders, the appeal in APL-02 (<i>acknowledgment</i>) has been reverted to APL-01 (<i>submitted</i>).</p>
3	<b>Reason</b>	High Court Directions ( Two cases of Rajasthan and J &K)
4	<b>Status</b>	Appeal status reverted from acknowledged to submitted.
5	<b>Financial Implications</b>	No
6	<b>No. of Cases</b>	2



S. No.	Types of Issues	Count
1	Technical issues with no financial Implications – Correct data known	13
2	Technical issues affecting locally with financial implications – Correct data known	10
3	Court Directions	0

# 1. Technical Issues With No Financial Implications – Correct Data Known

## 1. Restoration of suo-moto cancelled TDS GSTINs

#	Heading	Details
1	<b>Issue Summary</b>	Restoration of Suo-moto cancelled TDS GSTINs.
2	<b>Issues Description</b>	<p>04 TDS GSTINs were Suo-moto cancelled due to non-filing of monthly returns continuously for six months. Since the time limit for applying for revocation was over, therefore, data fix was required.</p> <p>1. 33CHED00302B1DV: Directorate of Census Operations, Tamil Nadu, basis the Appeal Order passed by Additional Commissioner, Appeals II, Chennai.</p> <p>2. 33CHER05232D1DJ: Indian Civil Accounts Service Office, Chennai basis the request received by AC, CGST, Chennai (CPGRAM received by AC)</p> <p>3. 37AAALY0152H1D8: M/s Yelamanchili Municipality on the basis of request by Superintendent, Narayanpet.</p> <p>4. 09AAALN2188C1DC: NAGAR PANCHYAT UMRI KALAN, basis the Appeal Order passed by Joint Commissioner, CGST(Appeals), Meerut</p>
A	<b>Reason</b>	The time limit for applying for revocation was over.
4	<b>Status</b>	Data Fix done and GSTIN status has been restored to active, Taxpayer is requested to file return.
5	<b>Financial Implications</b>	No
6	<b>No. of Cases</b>	4

## 2. Issue in filing Amendment of Core-Field application.



#	Heading	Details
1	<b>Issue Summary</b>	Taxpayer was unable to file Amendment of Core-Field application.
2	<b>Issue Description</b>	The taxpayer EPSILON INDIA DATA AND DIGITAL TECHNOLOGY SOLUTIONS LLP (GSTIN: 29AAKFC0829P1ZW) had been migrated from VAT to GST. State Jurisdiction details were not added during migration period. Therefore, the taxpayer was unable to file Amendment of Core-Field application, as State jurisdiction details were blank on the portal and State Jurisdiction dropdown was disabled, which in turn was blocking the taxpayer from moving to the next tab.
3	<b>Reason</b>	The taxpayer had been migrated from VAT to GST. State Jurisdiction details were not added during migration period.
4	<b>Status</b>	State Jurisdiction of the migrated taxpayer is now updated in DB and Taxpayer can file amendment application.
5	<b>Financial Implications</b>	No
6	<b>No. of Impacted Cases</b>	1

## 3. Issue in Auto Drop Proceeding.



#	Heading	Details
1	<b>Issue Summary</b>	Auto Drop proceeding against the Taxpayers who have filed their return was not working at CBIC back office. Hence, after there migration into GSTN BO, this data fix is required.
2	<b>Issues Description</b>	<ol style="list-style-type: none"> <li>1. System starts proceedings against the Taxpayers who have not filed returns continuously for 6 months.</li> <li>2. When the Taxpayer files the return the proceedings are auto dropped. Taxpayer is also provided with a functionality on FO to drop proceedings after returns are filed.</li> <li>3. the GSTIN status was restored to Active from Suspended but the ARNs are still in pending clarification status.</li> </ol>
3	<b>Reason</b>	Code issue, ARN status is not updated whenever taxpayer files the pending returns.
4	<b>Status</b>	ARN status updated and proceedings dropped.
5	<b>Financial Implications</b>	No
6	<b>No. of Cases</b>	61044 ARNs

#### 4. Issue in updating the state code.

#	Heading	Details
1	<b>Issue Summary</b>	In ITC ledger, the state code is updated as 99 instead of actual state code of the taxpayers.
2	<b>Issues Description</b>	The CBIC team issued the Tran1 order with state code 99 during the period 18-02-2023 to 01-03-2023. Hence the state codes in ITC ledger was appearing as 99 instead of actual state codes of the taxpayer.
3	<b>Reason</b>	The CBIC team issued the Tran 1 order with state code 99 during the period 18-02-2023 to 01-03-2023.
4	<b>Status</b>	The same has been corrected in the ledger and the issue is also fixed permanently via RQM 26608.
5	<b>Financial Implications</b>	No
6	<b>No. of Impacted Cases</b>	965

#### 5. Rectification of APL-02.

#	Heading	Details
1	<b>Issue Summary</b>	Rectification of APL-02. During migration of CBIC to GSTN BO, some appeals of center were erroneously allocated to state and some tax officers also acted upon the same. Hence, the data fix is required in one case as in other 31 cases no action was initiated by the officer. Hence, they were simply reassigned to center jurisdiction.
2	<b>Issues Description</b>	For the appeal application AD1902240009457, the tax officer has rejected the application by APL 02 inadvertently. There is no option available for rectification of APL 02 in GST system.  The only option available is to give a reset of APL 02 through data fix so that the center officer can reissue APL 02.
3	<b>Reason</b>	Due to technical issue during migration, The appeal application wrongly assigned to state administration instead of center administration.
4	<b>Status</b>	Reset of APL-02 to be given as a data fix. Assignment logic is permanently fixed.
5	<b>Financial Implications</b>	No
6	<b>No. of Impacted Cases</b>	1

## 6. Issuance of PMT-03A for zero amount.



#	Heading	Details
1	<b>Issue Summary</b>	Issuance of PMT-03A for zero amount. This was on account of data loss in transmission from CBIC system to GSTN system.
2	<b>Issues Description</b>	DG systems reported that certain PMT-03A were issued for re-credit of ITC and in the payload no amount was received for these PMT-03As. Since no amount was received, therefore, no re-crediting happened to the taxpayer's Electronic credit ledger. DG systems requested GSTN to delete the entries of PMT-03A so that fresh PMT-03A's could be issued with the correct recredit amounts.
3	<b>Reason</b>	PMT-03A were issued by the officers with zero amount.
4	<b>Status</b>	Data fix required to delete PMT-03A from the system.
5	<b>Financial Implications</b>	No
6	<b>No. of Impacted Cases</b>	13

## 7. Partial commit happened on click of old reset button.



#	Heading	Details
1	<b>Issue Summary</b>	Partial commit happened on click of old reset button in GSTR-3B.
2	<b>Issues Description</b>	This is an old issue when there used to be a reset button on portal. When the taxpayer was filing the GSTR 3B for Dec 2017. Taxpayer clicked on "Reset" button with intention to clear liabilities posted and the submit entry in return database. However, a rollback happened in return database, post which entries in ledger database were also supposed to be rolled back. However, this did not happen because commit issue in a distributive environment. Hence, the return was filed without Tax payment.
3	<b>Reason</b>	When the taxpayer clicked on "Reset" button with intention to clear liabilities posted and the submit entry in return database. A rollback happened in return database, post which entries in ledger database were also supposed to be rolled back. However, this did not happen because of commit issue in a distributive environment.
4	<b>Status</b>	Defect was fixed in Reset code as part of relaunch of Reset button functionality that was deployed to production on 27th March 2018.
5	<b>Financial Implications</b>	No
6	<b>No. of Impacted Cases</b>	1

## 8. Mismatch in the AATO.



#	Heading	Details
1	<b>Issue Summary</b>	Mismatch in the Annual Aggregate Turnover (AATO)
2	<b>Issues Description</b>	The dashboard shows an estimated turnover of 2,387,086.91, but the actual sales based on returns filed up to February 2023 are 2,188,163. Including the March turnover of 153,910, the total should be 2,342,073. This discrepancy indicates the system has only updated data until February 2023.
3	<b>Reason</b>	The system processes messages from GSTR 3B and CMP08 filings to calculate turnover. These messages are stored in an HBase table, and their status is tracked. Every hour, a system process (periodic bolt) calculates the aggregate turnover and updates the MySQL master tables. However, some records are intermittently missed by this hourly process, leading to incomplete turnover data in the MySQL tables.
4	<b>Status</b>	The permanent fix of this issue will be accommodated in the scope of AATO design change approach CR 27001 "Changes in computation of aggregate turnover" which is currently under CR prioritization
5	<b>Financial Implications</b>	No
6	<b>No. of Impacted Cases</b>	56

## 9. Mismatch between h-base and ledger data



#	Heading	Details
1	<b>Issue Summary</b>	Mismatch between h-base and ledger data
2	<b>Issues Description</b>	<p>14 taxpayers have raised tickets stating that they have filed the GSTR 3B return but there is a mismatch in the data entered vis-à-vis payment made.</p> <p>On analysis of the issue, it was found that in certain situations due to technical glitches system is storing different values in the HBase tables and the Ledger entries of the taxpayers. (The table 6 of GSTR 3B i.e. the payment table is auto-populated from values in table 3 i.e. Outward supplies and table 4 i.e. ITC Available. Post the payment of the liability, the values are then posted to the respective ledgers i.e., the Cash, ITC and Liability ledgers.)</p> <p>On reporting of these values on the GST portal, the data is thereby stored in Hbase tables in the backend.</p> <p>Further, in some rare cases system also allowed the returns to be filed without debiting the taxes from the respective ledgers. Return details are attached.</p>
3	<b>Reason</b>	<ol style="list-style-type: none"> <li>1. Nil filling is allowed even if user have auto populated data from GSTR1.</li> <li>2. Race condition due to which system is not able to verify if previous save is in in-progress state.</li> </ol>
4	<b>Status</b>	Data fix was completed on 9-Apr-2024 via ICR#25530 RQM: 22721 has created for the permanent fix and is in development.
5	<b>Financial Implications</b>	No
6	<b>No. of Cases</b>	14

## 10. Issue in filing GSTR-3B for Composition Scheme.



#	Heading	Details
1	<b>Issue Summary</b>	Taxpayer was unable to file GSTR-3B for month September 2017 because taxpayer has submitted entries for GSTR-4 return for quarter Jul-Sept and Oct - Dec 2017-18.
2	<b>Issues Description</b>	Taxpayer (GSTIN-09BAEPA7929R1Z1) was trying to file GSTR-3B for month September 2017 where system gives the error "Something seems to have gone wrong while processing your request. Please try again. If error persists quote error number RT-3BAS-9018 when you contact customer care for quick resolution".
3	<b>Reason</b>	Taxpayer was under composition scheme at the time of save & submit for the quarter Jul-Sep 2017, but taxpayer didn't file the return. Later taxpayer opted for composition scheme from 1st July 2017 and later withdrawn from composition scheme on same date. Taxpayer has opted for composition scheme from 1st July 2017 and later withdrawn from composition scheme on same date. Hence all the GSTR-4 entries in database are invalid.
4	<b>Status</b>	Data fix was completed on 22-May-2024 via ICR#26020.
5	<b>Financial Implications</b>	No
6	<b>No. of Cases</b>	1

## 11. Issue in filing GSTR-7.



#	Heading	Details
1	<b>Issue Summary</b>	Deductors were not able to file GSTR-7 return form.
2	<b>Issues Description</b>	GSTR7 users (Deductor) were not able to file the GSTR-7 return form for the month of September and October 2023. System shows the error RET791135 i.e. "No action taken on TDS details rejected by counter party".
3	<b>Reason</b>	1. GSTR2X (29AJBPM2202J1ZG) user took action on 10/2021 records and rejected the 10/2021 record in 11/2023. 2. GSTR2X (37ADQPT5160R1ZF) user took action on 05/2023 records and rejected the 05/2023 record in 06/2023.  Due to this both GSTR7 users (37HYDM02204G2DL and 29BLRE03895D1DX) were not able to file the return for the month September 2023 and October 2023.
4	<b>Status</b>	Data fix was completed on 27-June-2024 via ICR#26683.
5	<b>Financial Implications</b>	No
6	<b>No. of Impacted Cases</b>	2

## 12. Issue in showing status on portal for GSTR-6 & GSTR-9



#	Heading	Details
1	<b>Issue Summary</b>	GSTR6 & GSTR9 users have filed the respective returns form but in the portal status is showing as 'Not Filed'
2	<b>Issues Description</b>	<p>Taxpayer (24RKTA05807E1D9) has filed the GSTR6 return form but in the portal, status is still not filed.</p> <p>Taxpayer (33ATRPS6591C2Z7) has filed the GSTR9 return form but in the portal, status is still not filed.</p>
3	<b>Reason</b>	<p>There should be two entries one should be in Ledger table, and another should be in Return Filing Status table.</p> <p>In these cases, entry got posted to Ledger tables, however, corresponding entries did not happen into Return Filing Status table.</p>
4	<b>Status</b>	<p>Data fix was completed on 22-May-2024 via ICR#25940 for GSTR6.</p> <p>Data fix was completed on 6-June-2024 via ICR#26330 for GSTR9.</p> <p>RQM#21228 has been raised for the permanent fix which is under progress.</p>
5	<b>Financial Implications</b>	No
6	<b>No. of Impacted Cases</b>	2

## 13. Issue in GSTR-9 & 9C.



#	Heading	Details
1	<b>Issue Summary</b>	Data is not reflecting in Table 7J of PDF of GSTR9 Return Form. Same data is not reflecting in GSTR9C Return Form in table 12 E.
2	<b>Issues Description</b>	<p>In GSTR 9 Return Form , Resultant difference of Table 6 (Total ITC Available under Details of ITC Available During Financial Year) column O(Total ITC availed)and Table 7(Details of ITC for the financial year ) column I(Total ITC Reversed) is to be put/displayed for Table 7(Details of ITC for the financial year ) column J(Net ITC Available for Utilization (6O - 7I) ) which must be displayed on UI and the Preview Draft GSTR9 PDF/ Excel as well.</p> <p>The 7J data is further used in GSTR9C Return Form. Post the correction, 7J Data will be stored in HBase and displayed to the user correctly which will be further used in GSTR9C Return Form.</p>
3	<b>Reason</b>	Taxpayers have changed the Json value which was created by GSTR9 offline tool. This has created null pointer exception, and the values are not updated in HBase, due to that the updated values are not displaying in GSTR9 Table 7J Column instead old values are getting displayed.
4	<b>Status</b>	<p>The permanent fix was deployed on production via RQM: 25857, ECR 23365 on 2-Nov-2023.</p> <p>These are older cases prior to permanent fix for which data fix was completed on 4-June-2024 via ICR#26333.</p>
5	<b>Financial Implications</b>	No
6	<b>No. of Impacted Cases</b>	91

## 2..Technical issue affecting locally with financial implications – Correct data known

### 1. Issue in filing CMP-08 on-crossing 50 lakhs threshold.

#	Heading	Details
1	<b>Issue Summary</b>	Taxpayers were unable to file CMP-08 on crossing 50 lakhs threshold as they were considered under turnover limit of 50 lakhs instead of 1.5 cr.
2	<b>Issues Description</b>	<p>Taxpayer was not able to select any Registration Category while applying for New Registration under Composition Scheme because during that time the functionality of choosing the Registration Category was not live in Production.</p> <ul style="list-style-type: none"> <li>•Existing taxpayer's category was not updated post go live of change and no functionality has been given to taxpayers to update the same.</li> <li>•Taxpayer is not able to file CMP 08 Returns due the NULL value of Registration Category, as his Turnover is defaulted to 50 Lakhs.</li> <li>•Basis confirmation with returns and HSN code, the category of taxpayer was changed to 'Suppliers making supplies referred to in clause (b) of paragraph 6 of schedule ii'. ( Composition supplier of restaurant service through ECO )</li> </ul>
A	<b>Reason</b>	Provision made in circular i.e. date of withdrawal from composition scheme may not be prior to the commencement of FY in which such intimation/application for withdrawal is being filed to be removed.
4	<b>Status</b>	Data fix done and issue resolved.
5	<b>Financial Implications</b>	Yes
6	<b>No. of Cases</b>	2

## 2. Error in Filing GSTR-6

#	Heading	Details
1	<b>Issue Summary</b>	Error in filing of GSTR-6 because Table-4 summary incorrectly calculating negative value at the time of filing April GSTR-6
2	<b>Issues Description</b>	<ul style="list-style-type: none"> <li>i. Taxpayer uploaded B2B invoices to be distributed in Table-3, CN in Table-6B and ISD invoices in Table-5, using the GSP API on 13<sup>th</sup> May 2024 for April GSTR-6</li> <li>ii. However, none of these invoices got populated in their respective tables of GSTR-6 though CN were available in Table-6B</li> <li>iii. This led to negative net amount in Table-4 and taxpayer could not proceed to file GSTR-6.</li> <li>iv. The taxpayer was able to file GSTR-6 on 14<sup>th</sup> May (one day late) after many tries and interactions between MSP and Taxpayer.</li> <li>v. As a result, the ITC Credit got queued for May GSTR-2B of instead of April GSTR-2B.</li> <li>vi. Considering the above experience, taxpayer was advised to initiate the filing process earlier than the last day to avoid any late filing in subsequent periods.</li> </ul>
3	<b>Reason</b>	Though the root cause for the above behaviour is not yet found, it is anticipated that the population of large-scale invoices were delayed due to slow processing of topology and some other defect in the system that is preventing the complete invoice data getting populated even though the data, uploaded using GSP API, was available in Hbase tables.
4	<b>Status</b>	Taxpayer is recurrently reporting same problem since last 3 return periods – they have been filing GSTR-6 after multiple attempts with different combinations for all these 3 periods. Ticket 202406130244299 was created by taxpayer for difficulty faced in May GSTR-6.
5	<b>Financial Implication</b>	Since the April GSTR-6 got filed late by 1 day, data fix was done to shift the ITC for April return period instead of May.
6	<b>No. of Impacted</b>	1 Taxpayer (Amazon Seller Services) has reported the issue involving 29,984 B2B invoices of value Rs. 174,41,45,551 (Table-3) and 3,258 CN of value Rs. 2,66, 16, 186 (Table-6B) in April GSTR-6.

## 3. Due to technical issue refund applications were created twice.

#	Heading	Details
1	<b>Issue Summary</b>	For refund under Any other category for Export cases, the Refund applications are automatically created by GST system. Due to some technical issue, for 222 GST invoices, the shipping bills were retransmitted by ICEGATE resulting in processing of refund claims against these 222 GST Invoices.
2	<b>Issues Description</b>	During the period 2022-23 when ICEGATE sent shipping bills with multiple invoices, the first customs invoice number got repeated for all the subsequent invoices for those shipping bills. This occurred for some Shipping bills and not for all. GST system has the values of GSTIN, Shipping bill number, Shipping bill date, Customs Invoice number and Customs for de-duplication check. In this case, as Customs invoices number got repeated, those invoices were rejected as duplicate, and refund applications were not generated at that time. Only for one invoice in that shipping bill was considered for generation of refund application. This was informed to ICEGATE at that point of time. Later, ICEGATE has resolved the Customs-invoice-number-repeating issue and sent all the SBs/invoices which were rejected earlier by GST system. This time, ICEGATE has sent all the details correctly on 30.04.2024. These invoices were processed on 15.05.2024.
3	<b>Reason</b>	On analysis, it is found that when the invoices were processed for the first time in 2022-23, GST system had picked up the last invoice in each Shipping bill (having incorrect Customs invoice number and GST invoice number combination instead of first invoice of the shipping bill) and generated the refund application due to file-level de-duplication check. As the invoice with incorrect combination (different GST invoice and Custom invoice) was processed and GST system has de-duplication check based on Customs invoice, refund application is created twice for the same GST invoice number.
4	<b>Status</b>	Recover to be done for 4 ARNs, where Refund has been sanctioned by the officer twice. For 6 cases, the officer has already rejected the duplicate refunds. 42 ARNs kept in hidden stage to avoid processing by the officers.
5	<b>Financial Implication</b>	Yes( Amount Rs. 40,08,025/- for the 5 ARNs Recovery has been done)
6	<b>No. of Cases</b>	52 ARNs, 222 invoices

#### 4. Post issuance of deficiency memo, refund amount got credited twice in the ledger.



#	Heading	Details
1	<b>Issue Summary</b>	Post issuance of deficiency memo, ITC got credited twice in the electronic credit ledger.
2	<b>Issues Description</b>	<p>The taxpayer M/S. VAL-MATIC COMPONENTS GSTN:- 24ATVPP2352C1ZN has filed refund application on 03-04-2024 vide ARN No. AA240424010471V.</p> <p>After scrutiny of this application, Deficiency Memo was issued on 19-04-2024 vide Reference No. ZD240424045128M. The claimed refund amount is credited two times in their electronic credit ledger. However, the available credit balance amount in electronic credit ledger was not reflected/updated. Therefore, taxpayer was not able to file new refund application.</p>
3	<b>Reason</b>	RCA is yet to be done.
4	<b>Status</b>	Data Fix Done
5	<b>Financial Implications</b>	Yes
6	<b>No. of Impacted Cases</b>	1

#### 5. Negative balance in export ledger due to amendment of SEZ invoice.



#	Heading	Details
1	<b>Issue Summary</b>	Negative balance in export ledger due to amendment of SEZ invoice.
2	<b>Issues Description</b>	<p>M/s Louis Dreyfus (GSTIN 37AAACL7361E1ZK) has reported SEZ supply incorrectly with Tax amount of INR 73,36,736 in GSTR-1 of January'23 but the actual tax amount was only Rs 18,34,184. However, in GSTR-3B of the same return period, the amount was correctly reported as 18,34,184. Due to mismatch between reporting in GSTR-1 &amp; 3B, a negative liability was created for Rs. 55,02,552.</p> <p>The amendment for such invoices was then done by the taxpayer in Feb'23-month GSTR-1. However, the SEZ amendment value is not captured in export ledger leading to negative balance of Rs 55,02,552.</p>
3	<b>Reason</b>	In the export ledger, the amendment of SEZ invoices are not captured and export ledger is not adjusted accordingly.
4	<b>Status</b>	The export ledger has to be given offset of Rs 55,02,552 through the data fix.
5	<b>Financial Implications</b>	No
6	<b>No. of Impacted Cases</b>	1

## 6. Waiver of GSTR-3B late fee.

#	Heading	Details
1	<b>Issue Summary</b>	Waiver of GSTR3B late fee.
2	<b>Issues Description</b>	<p>On February 20<sup>th</sup>, 2024, an incident occurred wherein some GSTR3B-related tables were not updated due to database lag (connection lost issue). The system checks for data in columns 4A(5), 4B(2), and 4D(1). If there is no entry in the respective DB table for the previous return period, the system prevents taxpayers from successfully saving their form for the current return period.</p> <p>Hence, the late fee for GSTR3B for the month of February 2024 needs to be waived as the taxpayer was not able to file his return on time due to a technical issue.</p>
3	<b>Reason</b>	The previous month's entry for ITC reclaim was missing in the DB table due to technical issue.
4	<b>Status</b>	DataFix/CodeFix done
5	<b>Financial Implications</b>	Yes (Total amount for reversal to taxpayer is Rs. 850)
6	<b>No. of Impacted Cases</b>	1

## 7. Issue in filing GSTR-3B.

#	Heading	Details
1	<b>Issue Summary</b>	While filing GSTR3B some of user are getting the error "Issue while filing GSTR-3B - "Error! Payment amount should not exceed the outstanding".
2	<b>Issues Description</b>	<p>In the old GSTR-3B filing process, there were three steps: Submit, Offset, and File. Now, there are only two steps: Offset and File.- Previously, the late fee was calculated during the Submit step and included in the same return period. Any late fee for delays between submission and actual filing was added to the next return period.</p> <p>If the total late fee for the current and previous month exceeded the cap of Rs. 5000, the excess amount was recorded as a negative entry in the liability ledger under the Late Fee section. This meant that taxpayers didn't pay any extra late fee. The late fee for both months was adjusted, and any amount over Rs. 5000 was posted as a negative balance.</p>
3	<b>Reason</b>	The system considered any amount over Rs. 5000 as excess and recorded it as a negative entry in the liability ledger. This negative balance automatically adjusted any late fee in the subsequent month, even though the taxpayer didn't actually pay the excess amount.
4	<b>Status</b>	Data Fix done
5	<b>Financial Implications</b>	Yes (Additional late fee liability as Tax liability payable Rs.34440)
6	<b>No. of Impacted</b>	-

## 8. Refund of Late fee.

#	Heading	Details
1	<b>Issue Summary</b>	Refund of Late fee which was imposed to the taxpayer.
2	<b>Issues Description</b>	<p>As per our policy GSTR10 should be filed within 90 days from Cancellation/Order Date . The taxpayer was unable to file his final return even after more than two months from the issuance of the order of cancellation which was 06/09/2023.</p> <p>The issue had occurred because of cache clearance, due to which GSTIN / UIN Status was reflecting as ACTIVE on the portal despite cancellation of the registration. Registration team has completed the cache clearance on 12/12/2023. Due date for filing the return was 06/12/2023 which led late fee imposition for delay in filing.</p>
3	<b>Reason</b>	The issue had occurred because of cache clearance, due to which GSTIN / UIN Status was reflecting as ACTIVE on the portal despite cancellation of the registration.
4	<b>Status</b>	Data fix was completed on 2-May-2024 via ICR#25643.
5	<b>Financial Implications</b>	Yes. Amount of Rs. 1400/- (CGST: Rs. 700/-, SGST: Rs. 700/-) to be credited to the cash ledgers of the taxpayer
6	<b>No. of Cases</b>	1

## 9. Request for refund as cash balance has become negative due to recovery of negative liability..

#	Heading	Details
1	<b>Issue Summary</b>	Taxpayer has requested for refund as cash balance has become negative due to recovery of negative liability.
2	<b>Issues Description</b>	<p>In FY 2021-22, due to non-filling up of table 6 of GSTR-4 (Annual), the amount paid through CMP-08s of the year was credited to negative liability statement. In FY 2022-23 the same was nullified by passing a debit entry in the said statement. If the amount was utilized, a debit was made in the cash ledger to recover the amount. As a result, cash ledger balance for few taxpayers have become negative.</p> <p>Later all such cases were refunded but since the taxpayer was cancelled at the time of refund activity in July 2022, amount was not refunded to this taxpayer. Now, taxpayer is active and has negative cash ledger balance and has requested to refund the deducted amount.</p>
3	<b>Reason</b>	Taxpayer was cancelled at the time of refund activity in July 2022, amount was not refunded to this taxpayer. Now, taxpayer is active and has negative cash ledger balance and has requested to refund the deducted amount.
4	<b>Status</b>	Data fix was completed on 8-May-2024 via ICR#25689 . Action was taken as per L.C decision for the purpose of Refund.
5	<b>Financial Implications</b>	Yes, Refund of RS. 95,000/- to be done for the extra liability paid. CGST tax amount: 47500/- SGST tax amount: 47500/-
6	<b>No. of Cases</b>	1

#	Heading	Details
1	<b>Issue Summary</b>	Taxpayer was getting turnover validation error while filing GSTR-4 Annual for FY 2022-23.
2	<b>Issues Description</b>	<p>Taxpayer (GSTIN-32ABCFR1426N1Z9) was trying to file GSTR-4 Annual Return form for FY 2022-23 but while filing, system was showing error “</p> <ol style="list-style-type: none"> <li>1. The turnover reported exceeds the threshold limit for availing composition scheme. Please check and correct the values before next attempt to file.</li> <li>2. If the turnover is correct, then please opt out of Composition Scheme from the date when the turnover exceeded the threshold and file CMP-08 return up to the date of exceeding the threshold.</li> <li>3. After the date of opting out of composition scheme, return shall be filed as a normal taxpayer for the remaining period.”</li> </ol>
3	<b>Reason</b>	<p>Taxpayer filled CMP08 while turnover check was removed and taxpayer despite being “Service” type and registration category as “Others” was able to file with turnover more than 50 lakhs. Taxpayer had crossed the threshold limit of Rs. 50 lacs while filing second quarter of CMP08 for FY 2022-23 with total turnover Rs. 76,09,681 as turnover restriction for service providers was not present from 16-Feb-2022 to 31-May-2023. As taxpayer has filed the return on 13-Jan-2023, taxpayer was able to cross the turnover.</p> <p>Turnover check for service provider taxpayers was re-introduced on 31-May-2023 in the system. Now while filing GSTR-4 Annual for FY 2022-23, taxpayer is getting turnover validation error.</p>
4	<b>Status</b>	Data fix is completed on 5-Jul-2024 via ICR#26701.
5	<b>Financial Implications</b>	Yes, Amount to be refunded: Rs. 1,68,018 /- (CGST /SGST Amount: Rs. 81,718 each and CGST/SGST Interest Amount: Rs. 2,291 each)
6	<b>No. of Cases</b>	1

## 1. Data mismatch between Hbase & Ledger in GSTR-3B

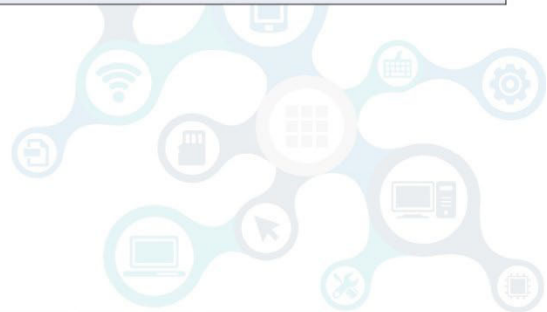


#	Heading	Details
1	<b>Issue Summary</b>	Update on the Data mismatch issue between Hbase & Ledger in GSTR-3B.
2	<b>Issues Description</b>	With reference to issue of mismatch in Hbase and ledger database of taxpayers, reported in 21 <sup>st</sup> ITGRC meeting held on 12.01.2024; it was decided that in such 75,732 identified cases the GSTR-3B returns shall be reset by the system which would be communicated to the taxpayers via email and SMS so that the taxpayers can file their GSTR-3B again with the correct values.
3	<b>Action Taken</b>	<ol style="list-style-type: none"> <li>1) While doing the reset it was noticed that there were some duplicate records in the database and as a result the revised count for the impacted cases got reduced from 75,732 to 61,763 and the amount involved was reduced from Rs 4,822.96 Cr to Rs.4,377.26 Cr.</li> <li>2) Accordingly, these cases were successfully reset by the system and the impacted taxpayers were communicated via email and SMS.</li> <li>3) The nodal officer of State Tax Departments and the DG Systems, Chennai were also communicated the list of impacted taxpayers along with reset done cases.</li> <li>4) Out of 61,763 cases, 45,785 cases have been reset by the system and till date 6,803 returns have been re-filed in which amount of Rs 2,222.08 Cr has been recovered.</li> <li>5) In 15,960 cases the reset did not happen because the taxpayers were cancelled due to various reasons and the list of cancelled taxpayers is being communicated to the field formations. Out of these 6,174 cases are suo-moto cancelled.</li> </ol>

## Data mismatch between Hbase & Ledger in GSTR-3B



#	Heading	Details
4	<b>Proposed Solution</b>	1) Taxpayers who are cancelled – a) the impacted returns of such cancelled taxpayers shall also be reset
5	<b>Status</b>	CR#22721 is created for permanent fix development is in progress.
6	<b>Financial Implications</b>	Yes
7	<b>No. of Impacted Cases</b>	15,960



# THANK YOU!!

 Goods And Services Tax Network



## 11. Transfer of cash ledger balance from temporary ID to permanent GSTIN.



#	Heading	Details
1	<b>Issue Summary</b>	Transfer of cash ledger balance from temporary ID to permanent GSTIN.
2	<b>Issues Description</b>	<p>As per the earlier implementation, Advance Ruling temporary user was able to create a challan of any amount through Payment application. This has been addressed in CR 26150. Restriction applied on the challan amount; Advance Ruling temporary user can create a challan of amount 5000/- only under each major head.</p> <p>Since this taxpayer had already obtained temporary GST Registration on the category of Advance Ruling, they can't debit their cash ledger towards payment of GST dues.</p>
3	<b>Reason</b>	As per the functionality of PMT09 form transfer of amount from temporary ID to permanent GSTIN feature is not available in the system.
4	<b>Status</b>	<p>CR 26150 was deployed in production on 06-Apr-2024.</p> <p>These are old cases; data fix was completed on 26-Apr-2024 via ICR#25606</p>
5	<b>Financial Implications</b>	No
6	<b>No. of Impacted Cases</b>	1

## 6. Transfer of erroneously deposited amount in cash ledger of AR temp ID to GSTIN.



#	Heading	Details
1	<b>Issue Summary</b>	The amount deposited erroneously in cash ledger of AR temp ID was to be transferred to GSTIN of the same taxpayer as refund functionality was not available.
2	<b>Issues Description</b>	<ol style="list-style-type: none"> <li>The issue is related to temp ID 272100000581AR3 which was created for filing of Advance Ruling(AR). The taxpayer with GSTIN 27LDNPS8265E1ZO has raised a grievance saying that they have inadvertently deposited amount of Rs 1,80,600 in the AR GSTIN. As, there is no refund option in Advance Ruling Temp IDs, the cash ledger balance from Advance Ruling temp ID 272100000581AR3 is to be transferred to their GSTIN 27LDNPS8265E1ZO through data fix.</li> <li>Similarly, issue reported for AR temp ID 192200001233AR4. The taxpayer has raised a grievance saying that she has inadvertently deposited amount of Rs 6,49,660 in the AR GSTIN. There is no refund option in AR GSTIN. The cash ledger balance was to be transferred from AR GSTIN 192200001233AR4 to another of her GSTIN 19AYNPD6734H1Z4 through data fix.</li> </ol>
3	<b>Reason</b>	The amount deposited erroneously in cash ledger of AR temp ID and there is no refund option in AR GSTIN.
4	<b>Status</b>	Functionality is live to keep validation of the amount deposited in Advance Ruling Temp ID.
5	<b>Financial Implications</b>	No
6	<b>No. of Cases</b>	2

## 16. Transfer of cash ledger balance from temporary ID to permanent GSTIN registered on same PAN



#	Heading	Details
1	<b>Issue Summary</b>	Transfer of cash ledger balance from temporary ID to permanent GSTIN registered on same PAN.
2	<b>Issues Description</b>	<p>The Taxpayer has made the IGST Payment of Rs 1,80,600/- dated 21.10.2022 on the name of Hitech Industries (GSTN 27LDNPS8265E1ZO) by HDFC BANK Ltd CPIN No is 22102700801454 &amp; BRN No. R2229438643750.</p> <p>But it has gone to Temporary ID 272100000581AR3 of Zafar Noorul Haque Shaikh (PAN No. LDNPS8265E). Hence, the taxpayer requested to reverse the payment of Rs. 1,80,600/- on the original GSTN 27LDNPS8265E1ZO of Zafar Noorul Haque Shaikh Proprietor Hitech Industries.</p>
3	<b>Reason</b>	As per the functionality of PMT09 form transfer of amount from temporary ID to permanent GSTIN feature is not available in the system.
4	<b>Status</b>	Data fix is completed on 14-Jun-24 via ICR#26435. (Functionality for “Transfer of cash ledger balance from temporary ID to permanent GSTIN registered on same PAN” is not available with current system.)
5	<b>Financial Implications</b>	No
6	<b>No. of Impacted Cases</b>	1



# **Agenda for 54<sup>th</sup> GST Council Meeting**

**09<sup>th</sup> September, 2024**

**Volume - II**







## **GST Council Secretariat New Delhi**

5<sup>th</sup> Floor, Tower-II, Jeevan Bharti Building, New Delhi  
09<sup>th</sup> August, 2024

### **OFFICE MEMORANDUM**

**Subject: Notice for the 54<sup>th</sup> GST Council Meeting to be held on 09<sup>th</sup> September, 2024-reg**

The undersigned is directed to refer to the above subject and to convey that the 54<sup>th</sup> Meeting of the GST Council will be held on 09<sup>th</sup> September, 2024 at New Delhi. The schedule of the meeting is as follows:-

- **Monday, 9th September, 2024, from 11.00 A.M. onwards**

2. In addition, an Officers' Meeting will be held on 8th September, 2024 at New Delhi as per the following schedule:

- **Sunday, 8th September, 2024 from 2.30 P.M. onwards**

3. The venue of the meeting, agenda items and other details for the 54<sup>th</sup> Meeting of the GST Council and officers' Meeting will be communicated in due course of time.

4. Kindly convey the invitation to the Hon'ble Member of the GST Council to attend the 54<sup>th</sup> 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 proceedings of the Council.
5. CEO, GST Network



**TABLE OF CONTENTS  
(VOLUME-II)**

<b><u>Sl. No.</u></b>	<b><u>Agenda Item</u></b>	<b><u>Page No.</u></b>
6.	Performance Report of the Competition Commission of India (CCI), State Level Screening Committee (SLSC) and DG (Anti-Profiteering) for 1 <sup>st</sup> quarter of the F.Y 2024-25 along with Performance Report of Standing Committee (SC) for 3 <sup>rd</sup> quarter and 4 <sup>th</sup> quarter of F.Y. 2023-24 and 1 <sup>st</sup> quarter of F.Y 2024-25 for the information of the Council.	7-9
7.	Issues recommended by GSTN	
	(a) Integration of UPI, Credit Cards and Debit Card Payment Option by Accounting Authorities	10
	(b) B2C e-Invoicing Pilot Project	11
	(c) Enhancement in the existing GST Return Architecture	12
8.	(a) Review of revenue position under Goods and Services Tax	13-22
	(b) Status update on Compensation Cess	23-28
	(c) IGST Settlement	29-32



# Discussion on Agenda Items

**Agenda Item 6: Performance Report of the Competition Commission of India (CCI), State Level Screening Committee (SLSC) and DG (Anti-Profiteering) for 1<sup>st</sup> quarter of the F.Y 2024-25 along with Performance Report of Standing Committee (SC) for 3<sup>rd</sup> quarter and 4<sup>th</sup> quarter of F.Y. 2023-24 and 1<sup>st</sup> quarter of F.Y 2024-25 for the information of the Council.**

The performance report of Anti-profiteering authorities at various levels are as under:

## 2.1 Performance of Competition Commission of India (CCI) :

Opening Balance	No. of Investigation Reports received from DGAP during the quarter	Disposal of Cases (During Quarter)				Closing Balance
		Total Disposal during the Quarter	No. of cases where Profiteering established	No. of cases where Profiteering not established	No. of cases referred back to DGAP	
Quarter 1 <sup>st</sup> April, 2024 to 30 <sup>th</sup> June, 2024						
57	8	12	2	0	10*	53

\*8 out of 10 cases which pertains to real estate sector have been sent back to DGAP for re-investigation for re-working the profiteered amount in terms of judgement dated 29.01.2024 of the Hon'ble High Court and remaining 2 cases pertain to non-real estate sector which have been sent back to DGAP for re-investigation on case specific issues.

## 2.2 Performance of DG (Anti-profiteering):

Opening Balance (No. of cases)	Receipt	Disposal	Mode of disposal of cases		Closing Balance (No. of cases)
			Report to CCI confirming profiteering	Report to CCI for closure action	
Quarter 1 <sup>st</sup> April, 2024 to 30 <sup>th</sup> June, 2024					
136	13	8	7	1	141

## 2.3 Performance report of the Standing Committee on Anti-profiteering:

Opening Balance (No. of cases)	Receipt	Disposal	Closing Balance (No. of cases)
--------------------------------	---------	----------	--------------------------------

Quarter 1 <sup>st</sup> October, 2023 to 31 <sup>st</sup> December, 2023			
59	104	46	117
Quarter 1 <sup>st</sup> January, 2024 to 31 <sup>st</sup> March, 2024			
117	53	81	89
Quarter 1 <sup>st</sup> April, 2024 to 30 <sup>th</sup> June, 2024			
89	77	38	128

#### 2.4 Performance report from the State Level Screening Committee:

Opening Balance (No. of cases)	Receipt	Disposal		Closing Balance (No. of cases)
		Cases referred to Standing Committee	Cases Rejected	
Quarter 1 <sup>st</sup> April, 2024 to 30 <sup>th</sup> June, 2024				
66	111	1	3	173
*Report from the Arunachal Pradesh, Bihar, Haryana, Karnataka, Kerala, Manipur, Meghalaya, Mizoram, Tamil Nadu and Tripura State Screening has not been received				

3. During the quarter, CCI has undertaken the following activities/initiatives-

**(i). The Quarterly Performance report for the quarter 1<sup>st</sup> April, 2024 to 30<sup>th</sup> June, 2024 is submitted as under:-**

- i. The mandate to examine profiteering has been vested with Competition Commission of India (CCI) w.e.f. 01.12.2022, as per the Notification No. 23/2022- Central Tax dated 23.11.2022 issued by Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance. The required quorum in the CCI to proceed with the anti-profiteering matters has been restored w.e.f. 23.05.2023 with the joining of the Chairperson. Proceedings in anti-profiteering cases has commenced w.e.f. 22.06.2023 and the Commission has passed 46 orders in anti-profiteering cases till 30.06.2024.
- ii. 2 Final Orders have been passed by the Commission during the quarter ending on 30.06.2024. As on 30.06.2024, 53 cases of anti-profiteering are pending with Commission.

During the quarter ending on 30.06.2024, 8 cases of real estate sector have been sent back to DGAP for re-investigation for re-working the profiteered amount in terms of judgement dated 29.01.2024 of the Hon'ble High Court and 2 cases pertaining to non-real estate sector have been sent back to DGAP for re-investigation on case-specific issues.

- iii. Eight Ordinary meetings of the Commission were held during the quarter ending on 30.06.2024. Therefore, total 36 meetings were held by the Commission w.e.f. 01.12.2022 till 30.06.2024.
- iv. 12 hearings in 6 cases were accorded by the Commission during the quarter ending on 30.06.2024. In total 43 hearings were given by the Commission w.e.f. 01.12.2022 till 30.06.2024
- v. W.e.f. 01.12.2022 till 30.06.2024, the Commission has forwarded 138 complaints to the respective Authorities for further necessary action. For the quarter ending on 30.06.2024, out of 11 complaints, 5 complaints relating to profiteering in terms of Section 171 of the CGST Act, 2017 were forwarded to respective Screening Committees/Standing Committee for further action/examination and 6 complaints which related to other GST/Enforcement issues were forwarded to the Jurisdictional State & Central GST Commissioners/Chief Commissioners for necessary action.

4. Accordingly, the Performance Report of Competition Commission of India (CCI), SLSC and DG, Anti-Profiteering for 1<sup>st</sup> Quarter (April-June) of the F.Y 2024-25 and Performance Report of SC for the 3<sup>rd</sup> Quarter (October-December) and 4<sup>th</sup> Quarter (January-March) of F.Y. 2023-24 and 1<sup>st</sup> Quarter (April-June) of the F.Y 2024-25 are placed before the GST Council for information.

## **Agenda Item 7: Issues recommended by GSTN**

### **Agenda Item 7(a): Integration of UPI, Credit Cards and Debit Card Payment Option by Accounting Authorities**

1. GSTN has enabled additional payment options - UPI, credit card, and debit card - for tax payments on the GST portal, in addition to the already available option of payment through net banking. However, the integration of these three new payment options also requires preparedness on the part of the accounting authorities of the States/UTs.

2. Currently, seventeen States/UTs namely Assam, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Odisha, Rajasthan, Tripura, Uttar Pradesh, and West Bengal have successfully integrated these new options. As a result, only taxpayers registered in these States/UTs are able to use the new payment options.

#### **Proposal before the GST Council**

3. The remaining States/UTs are requested to expedite the integration of the three additional payment options namely - UPI, credit card and debit card.

## **Agenda Item 7(b): B2C e-Invoicing Pilot Project**

### **1. Background**

1.1 The Goods and Services Tax (GST) framework has successfully implemented e-invoicing for Business-to-Business transactions. This system has now reached a considerable level of maturity and has proven to be a robust tool for improving tax compliance, reducing errors and facilitating auto population of GSTR-1 for faster filing of returns. Given the maturity of B2B e-invoicing, it is proposed to consider extending this digital transformation to Business-to-Consumer (B2C) transactions.

### **2. Proposal for B2C e-Invoicing Pilot Project**

2.1 Building upon the learnings from the B2B e-invoicing system, it is proposed to start a pilot project for B2C e-invoicing. This pilot project would be implemented on a voluntary basis in selected sectors, in collaboration with willing States/UTs. The primary objective is to gather valuable insights and assess the feasibility and impact of B2C e-invoicing in the Indian context.

### **3. Benefits of B2C e-Invoicing**

3.1 The implementation of B2C e-invoicing is expected to bring several benefits to taxpayers, consumers and tax administration. It would promote environmental sustainability by reducing paper usage through digital invoices. The system would help control tax evasion and improve compliance in B2C transactions. It would also lower the transaction costs, bringing in cost efficiency for businesses. Consumers would be able to easily verify the authenticity of their bills. It can also be used for GST refunds for foreign tourists in future. Thus, there are multiple benefits for the economy from B2C e-invoicing.

### **4. Proposal before the GST Council**

4.1 In view of the above, the GST Council is requested to kindly

- (i) accord in principle approval for initiating the B2C e-invoicing pilot project on a voluntary basis;
- (ii) direct Law Committee to propose necessary amendments in the law to enable the same and
- (iii) authorise the GSTN Board to prepare and finalise the commercial model for this.

## **Agenda Item 7(c): Enhancement in the existing GST Return Architecture**

### **Background: ITC Reclaim Ledger:**

To facilitate the taxpayers in accurate reporting of reversal and reclaim of ITC a new ledger namely Electronic Credit and Re-claimed Statement (**ITC Reclaim ledger**) was introduced on the GST portal for each return period, starting from August 2023. Taxpayers were provided a facility to report their Opening Balance in the said ledger and were also given 3 opportunities to amend the same till 29th Feb 2024. Therefore, an **alert message** comes in case taxpayer attempts to re-claim excess ITC than reversed however, the taxpayer is allowed to file its Form GSTR-3B. Further, Law Committee held on 23.08.2024 decided that the taxpayers may be given one more opportunity to declare opening balance till 31.10.24 and to amend the same till 30.11.2024.

### **Background: RCM Ledger:**

Further, the taxpayer reports its liability under the reverse charge in Table 3.1.d and claims corresponding ITC in Table 4A2 and Table 4A3 of GSTR-3B. Due to return being editable taxpayer can avail excess ITC than the liability paid and file its return in form GSTR-3B. Therefore, as per decision of Law Committee on 18.03.2024, a running **RCM ledger** has been developed wherein the RCM liability and its corresponding ITC in would be monitored in the system and the taxpayer would be given a warning message in case of availing excess ITC than paid in GSTR-3B. Law Committee, in its meeting on 23.08.24 decided that till 31.10.24 the taxpayers may be given time to declare their opening balance of unclaimed or excess claimed ITC on reverse charge basis and opportunity to amend the same in case of any mistakes till 30.11.2024.

### **Benefit to the Taxpayers:**

Implementation of ITC re-claim ledger and RCM ledger will reduce the mismatch issues on account of ITC and thus will reduce the notices issued to this effect.

### **Invoice management System (IMS):**

Under the GST regime monitoring of ITC is not available at invoice level, it is being monitored at ledger level. Resultantly, various mismatches happen which lead to various notices to the taxpayer. There is no platform available to the taxpayer to accept, reject or to rollover any invoice, if required. To enable taxpayers to avail the correct ITC, a functionality to allow the taxpayer to accept, reject or keep the invoices pending in the system called the **Invoice Management System (IMS)** has now been developed. IMS will also provide a communication platform between supplier and recipient, so that at invoice level correction could be carried out, if pointed out by the recipient by way of rejection.

## **5. Proposal before the GST Council:**

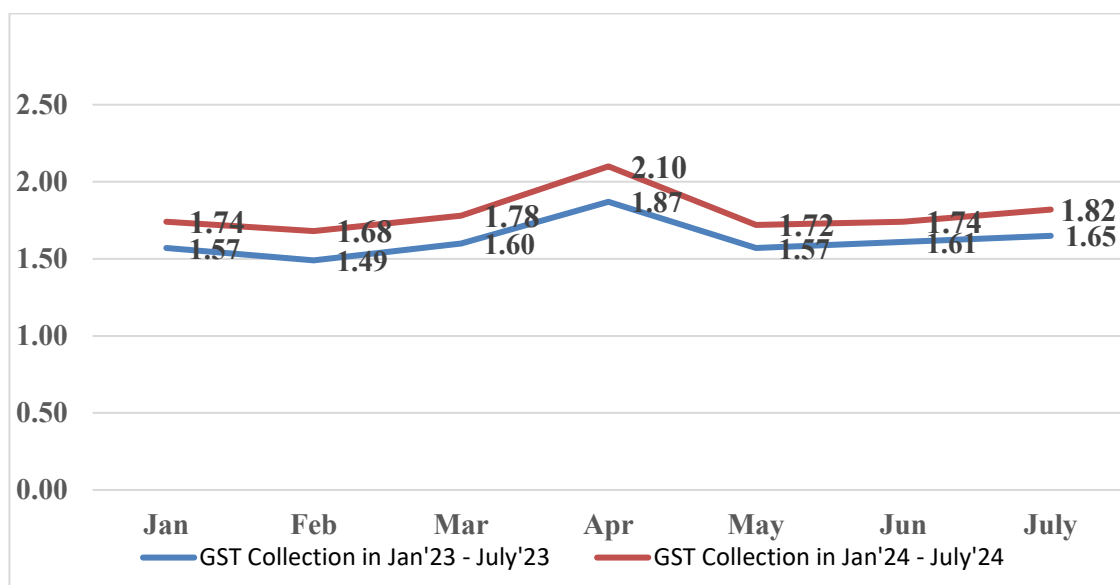
The Council is requested to kindly

- (i) take note of the above developments related to ITC re-claim ledger, RCM ledger and IMS;
- (ii) approve the above time lines of opportunity given for declaration of opening balance and amendment thereof in ITC re-claim ledger and RCM ledger and
- (iii) further authorise the Law Committee to revise the time lines if necessary. This would present an opportunity in due course of time to prevent erroneous claim of ITC and will reduce erroneous return filling.

## Agenda Item 8 (a): 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 Jan'24 – July'24 vis-à-vis Jan'23 – July'23.

**Figure 1: Monthly gross GST collection (in ₹ lakh crore)**



**Table 1: Monthly gross GST collection (₹ crore)**

GST Collection	Jan'24	Feb'24	Mar'24	Apr'24	May'24	Jun'24	Jul'24
CGST	32,685	31,785	34,532	43,846	32,409	32,627	32,386
SGST	40,895	39,615	43,746	53,538	40,265	40,715	40,289
IGST	88,550	84,098	87,947	99,623	87,781	87,310	96,447
<i>Domestic</i>	48,952	45,505	47,625	61,797	47,902	47,270	49,437
<i>Imports</i>	39,598	38,593	40,322	37,826	39,879	40,040	47,009
Comp Cess	11,976	12,839	12,259	13,260	12,284	13,160	12,953
<i>Domestic</i>	11,173	11,854	11,263	12,252	11,207	12,188	11,923
<i>Imports</i>	803	984	996	1,008	1,076	972	1,029
<b>Gross Total</b>	<b>1,74,106</b>	<b>1,68,337</b>	<b>1,78,484</b>	<b>2,10,267</b>	<b>1,72,739</b>	<b>1,73,812</b>	<b>1,82,075</b>
<b>Less – Refunds (Domestic + Imports)</b>	<b>19,255</b>	<b>17,810</b>	<b>13,891</b>	<b>18,507</b>	<b>28,410</b>	<b>19,946</b>	<b>16,283</b>
<b>Net GST Collection</b>	<b>1,54,851</b>	<b>1,50,527</b>	<b>1,64,593</b>	<b>1,91,760</b>	<b>1,44,329</b>	<b>1,53,866</b>	<b>1,65,792</b>

2. Table 2 shows the IGST collected, refunded, and settled/apportioned during FY 2024-25 till July, 2024.

**Table 2: IGST Collection/Settlement/Apportionment/Refund in FY 2023-24 & 2024-25**  
(Figures in Rs. Crore)

#	Particulars	2023-24	2024-25
1	Collections (+)	10,22,280	3,66,725
2	Recovery from IGST Ad-hoc apportionment (+)	-	-
3	Refunds (-)	1,46,730	60,468
4	Settlement (-)	8,99,067	3,17,367
	i. CGST	4,87,039	1,71,665
	ii. SGST	4,12,028	1,45,702
5	Ad-hoc Settlement (-)	-18,000	-
	i. CGST ad hoc	-9,000	-
	ii. SGST ad hoc	-9,000	-
6	<b>Net (1+2-3-4-5)</b>	<b>-5,516</b>	<b>-11,110</b>

Source: Pr. CCA, 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 July, 2024 and the compensation released till July, 2024 are shown in the table below:

**Table 3: Compensation Cess collected and compensation released as on 31.07.2024**

	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25#
Opening Balance	-	21,466	47,271	55,736	9,734	11,501	11,018	18,393
Add: Collected (net)	62,612	95,081	95,551	85,191	1,04,609	1,25,863	1,43,109	50499
<b>Less: Released</b>	41,146	69,275	1,20,498	1,36,988	97,500	1,49,168	44,946	4407

Add: Transfers from CFI to Cess Fund*	-	-	33,412	5,796	-	36,805	1300	-
Balance	21,466	47,271	55,736	9,734	16,844	25,001	1,10,481	64,485
Less: Interest and Principal of B2B Loan	-	-	-	-	5,343	13,983	92,088	-
Balance Carried forward	21,466	47,271	55,736	9,734	11,501	11,018\$	18,393^	64,485

\*Centre had transferred Rs. 33,412 crore from CFI to cess fund as part of an exercise to apportion balance IGST pertaining to 2017-18 on 01.06.2020. Centre had transferred Rs. 5,796 crore from CFI to cess fund as part of an exercise to apportion balance IGST pertaining to 2018-19 on 08.03.2022.

\$ Balance GST compensation cess available in FY 2023-24 is Rs. (-11,804) crore. Centre had transferred Rs. 36805 Crore from CFI to cess fund through budgetary provision on 12.04.2023. Hence GST Compensation cess carried forward to FY 2023-24 as opening balance is Rs. 11018 crore.

^ Balance GST compensation cess available in FY 2024-25 is Rs. 1,09,181 crore. Centre had transferred Rs. 1300 Crore from CFI to cess fund through budgetary provision on 15.04.2024. Hence GST Compensation cess carried forward to FY 2023-24 as opening balance is Rs. 18393 crore.

# upto July 2024

**Table 4: Status of AG's certificate received and processed**

S. No.	Name of State/UT	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022- 23 (Q1)
1	Andhra Pradesh						
2	Arunachal Pradesh						
3	Assam						
4	Bihar						
5	Chhattisgarh						
6	Delhi						
7	Goa						
8	Gujarat						
9	Haryana						
10	Himachal Pradesh						
11	J & K						
12	Jharkhand						
13	Karnataka						
14	Kerala						
15	Madhya Pradesh						
16	Maharashtra						
17	Manipur						
18	Meghalaya						
19	Mizoram						
20	Nagaland						
21	Odisha						
22	Puducherry						
23	Punjab						
24	Rajasthan						
25	Sikkim						
26	Tamil Nadu						
27	Telangana						
28	Tripura						
29	Uttar Pradesh						
30	Uttarakhand						
31	West Bengal						

AG's Certificate not received

AG's Certificate received and GST compensation finalised

AG's certificate received and file is under process

## States Revenue Comparison

4. The State-wise details of comparison of SGST revenue and the post settlement SGST revenue (including ad-hoc settlement) for FY 2024-25 (April-July) as compared to FY 2023-24 (April-July) may be seen in the Table 5.

**Table 5: State-wise Revenue Comparison (Apr-July) (FY 2024-25) vs (Apr-July) (FY 2023-24)**

(Amount Rs. in Crore)							
State Code	State/UT	Pre-settlement (Apr'23-July'23)	Pre-settlement (Apr'24-July'24)	SGST Growth (%)	Post-Settlement (Apr'23-July'23)	Post-Settlement (Apr'24-July'24)	SGST Growth Post settlement (%)
1	Jammu and Kashmir	1,063	1,067	0%	2,816	3,007	7%
2	Himachal Pradesh	948	949	0%	2,023	2,126	5%
3	Punjab	2,952	3,207	9%	7,248	7,585	5%
4	Chandigarh	232	252	9%	758	770	2%
5	Uttarakhand	1,820	2,075	14%	2,807	3,156	12%
6	Haryana	6,720	7,878	17%	11,724	13,096	12%
7	Delhi	5,316	6,046	14%	10,978	12,027	10%
8	Rajasthan	5,902	6,289	7%	13,066	14,187	9%
9	Uttar Pradesh	11,173	12,574	13%	25,278	29,111	15%
10	Bihar	2,791	3,073	10%	8,734	9,575	10%
11	Sikkim	196	146	-25%	401	353	-12%
12	Arunachal Pradesh	266	228	-14%	742	685	-8%
13	Nagaland	109	106	-3%	373	367	-2%
14	Manipur	127	152	20%	403	439	9%
15	Mizoram	115	125	8%	353	362	2%
16	Tripura	188	186	-1%	547	606	11%
17	Meghalaya	220	222	1%	601	636	6%
18	Assam	2,017	2,226	10%	4,954	5,331	8%
19	West Bengal	8,265	8,466	2%	14,324	15,249	6%
20	Jharkhand	3,023	3,050	1%	4,230	4,740	12%
21	Odisha	5,537	6,438	16%	7,484	9,139	22%
22	Chhattisgarh	2,796	3,044	9%	4,286	5,073	18%
23	Madhya Pradesh	4,356	4,728	9%	10,714	12,167	14%
24	Gujarat	14,229	15,502	9%	21,936	23,709	8%
25&26	Dadra and Nagar Haveli & Daman and Diu	217	264	21%	380	393	3%
27	Maharashtra	34,424	38,283	11%	50,313	56,013	11%
29	Karnataka	13,600	15,214	12%	24,713	26,951	9%
30	Goa	771	884	15%	1,386	1,445	4%

State Code	State/UT	Pre-settlement (Apr'23-July'23)	Pre-settlement (Apr'24-July'24)	SGST Growth (%)	Post-Settlement (Apr'23-July'23)	Post-Settlement (Apr'24-July'24)	SGST Growth Post settlement (%)
31	Lakshadweep	13	2	-87%	54	28	-48%
32	Kerala	4,783	4,947	3%	10,607	10,704	1%
33	Tamil Nadu	13,337	14,807	11%	21,254	24,896	17%
34	Puducherry	161	180	12%	531	475	-11%
35	Andaman and Nicobar Islands	89	82	-8%	197	219	11%
36	Telangana	6,470	6,892	7%	13,280	14,203	7%
37	Andhra Pradesh	4,783	5,086	6%	10,311	11,182	8%
38	Ladakh	65	74	15%	182	203	12%
97	Other Territory	82	62	-23%	350	301	-14%
	<b>Grand Total</b>	<b>1,59,155</b>	<b>1,74,808</b>	<b>10%</b>	<b>2,90,339</b>	<b>3,20,509</b>	<b>10%</b>

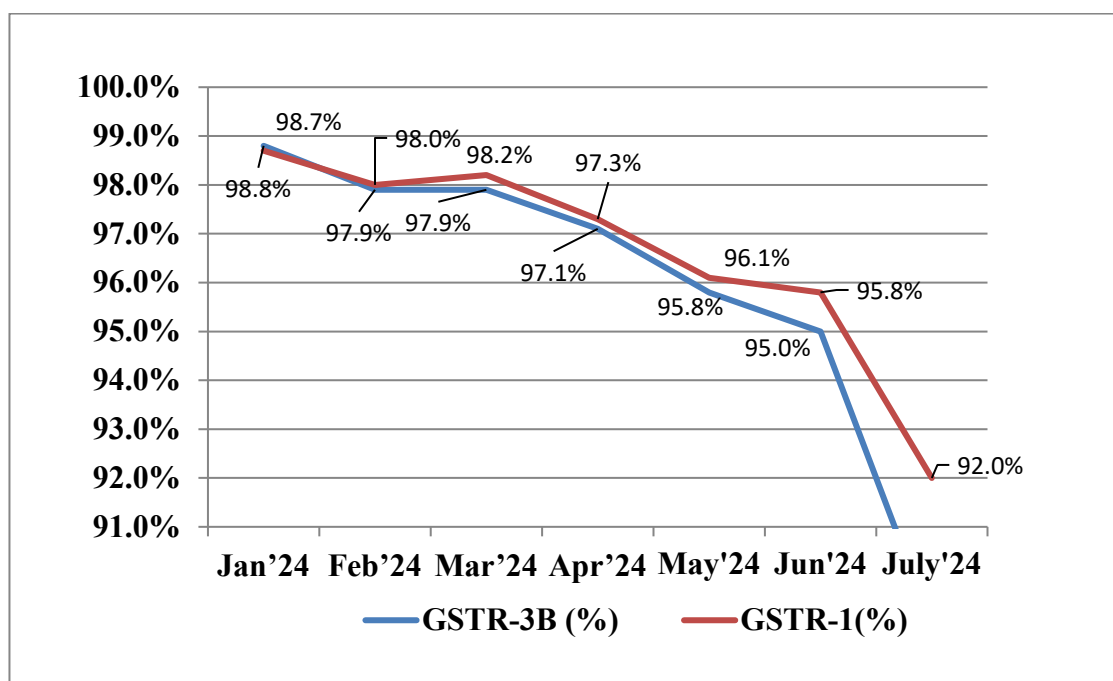
### Trends in Return filing

5. The table 6 shows the trend in return filing in FORM GSTR-3B and GSTR-1 as on 26.08.2024 for return period Jan'24 to July'24. Tables 7 and 8 show the State wise filing for **these months**.

**Table 6: Return filing (GSTR-3B/GSTR-1) as on 26.08.2024**

Return Period	GSTR-3B (%)	GSTR-1(%)
Jan'24	98.8%	98.7%
Feb'24	97.9%	98.0%
Mar'24	97.9%	98.2%
Apr'24	97.1%	97.3%
May'24	95.8%	96.1%
Jun'24	95.0%	95.8%
July'24	89.0%	92.0%

**Figure 2: GSTR-3B/GSTR-1 Filing as on 26.08.2024**



**Table 7: State-wise Return filing (GSTR-3B) till 26.08.2024 (Jan'24-July'24)**

	State/UT	Jan-24	Feb-24	Mar-24	Apr-24	May-24	Jun-24	July-24
1	Jammu and Kashmir	99.2%	98.4%	98.9%	98.3%	97.0%	96.4%	90.3%
2	Himachal Pradesh	99.4%	98.4%	98.5%	97.5%	96.0%	95.4%	89.6%
3	Punjab	99.2%	98.0%	98.5%	97.7%	96.2%	95.8%	91.3%
4	Chandigarh	100.2%	99.1%	99.7%	98.7%	97.2%	96.7%	91.9%
5	Uttarakhand	99.2%	97.8%	97.6%	97.0%	93.8%	94.4%	87.9%
6	Haryana	98.7%	98.1%	98.2%	97.6%	96.7%	95.8%	89.6%
7	Delhi	98.1%	97.1%	97.4%	96.9%	95.4%	94.7%	89.3%
8	Rajasthan	99.5%	97.7%	98.6%	98.0%	96.6%	95.7%	90.4%
9	Uttar Pradesh	98.6%	97.7%	97.8%	97.2%	95.8%	95.3%	89.4%
10	Bihar	97.4%	94.9%	95.3%	94.7%	92.2%	92.9%	86.7%
11	Sikkim	96.7%	95.6%	95.9%	93.6%	86.2%	89.3%	81.2%
12	Arunachal Pradesh	98.6%	96.4%	95.0%	89.5%	87.9%	86.2%	77.2%
13	Nagaland	96.4%	96.4%	96.3%	93.5%	92.8%	90.4%	83.0%

	State/UT	Jan-24	Feb-24	Mar-24	Apr-24	May-24	Jun-24	July-24
14	Manipur	97.6%	95.2%	93.4%	91.6%	90.7%	88.3%	79.1%
15	Mizoram	97.1%	96.9%	96.4%	95.4%	94.1%	91.9%	85.5%
16	Tripura	99.1%	98.1%	98.1%	93.3%	94.9%	94.3%	86.7%
17	Meghalaya	98.4%	95.9%	96.0%	95.8%	93.6%	93.2%	85.1%
18	Assam	97.5%	95.9%	95.0%	92.0%	91.4%	90.5%	82.1%
19	West Bengal	98.8%	97.9%	98.1%	97.1%	95.1%	95.0%	89.8%
20	Jharkhand	98.5%	97.8%	97.6%	96.5%	95.4%	94.2%	87.8%
21	Odisha	98.4%	96.9%	96.9%	95.9%	94.1%	93.2%	86.4%
22	Chhattisgarh	99.3%	98.3%	98.2%	97.8%	96.1%	95.1%	85.3%
23	Madhya Pradesh	99.4%	97.8%	98.1%	97.2%	95.6%	95.1%	88.2%
24	Gujarat	100.2%	99.8%	99.9%	99.6%	98.7%	98.3%	94.0%
25	Dadra and Nagar Haveli & Daman and Diu	99.5%	98.9%	98.7%	97.8%	97.2%	95.7%	87.9%
27	Maharashtra	99.3%	98.2%	98.3%	97.2%	95.8%	94.9%	88.1%
29	Karnataka	98.6%	97.8%	97.4%	96.7%	95.7%	94.7%	88.6%
30	Goa	100.0%	98.5%	97.4%	95.8%	93.9%	92.4%	85.0%
31	Lakshadweep	97.0%	95.2%	93.5%	93.3%	90.5%	91.3%	85.4%
32	Kerala	98.7%	97.8%	97.1%	95.9%	94.8%	93.3%	86.7%
33	Tamil Nadu	98.7%	98.4%	98.3%	98.0%	97.1%	96.2%	90.8%
34	Puducherry	98.0%	97.7%	97.1%	96.2%	95.4%	93.7%	87.0%
35	Andaman and Nicobar Islands	99.3%	98.1%	96.0%	94.2%	91.7%	88.8%	78.7%
36	Telangana	98.2%	97.7%	97.3%	96.3%	94.8%	93.1%	86.0%
37	Andhra Pradesh	97.8%	97.4%	97.2%	96.3%	94.9%	93.5%	86.9%
38	Ladakh	104.2%	99.0%	100.5%	97.4%	93.2%	93.4%	81.1%
97	Other Territory	81.5%	81.3%	81.3%	81.3%	81.3%	80.8%	96.9%
<b>Total</b>		<b>98.8%</b>	<b>97.9%</b>	<b>97.9%</b>	<b>97.1%</b>	<b>95.8%</b>	<b>95.0%</b>	<b>89.0%</b>

**Table 8: State-wise Return filing (GSTR-1) till 26.08.2024 (Jan'24-July'24)**

	State/UT	Jan-24	Feb-24	Mar-24	Apr-24	May-24	Jun-24	July-24
1	Jammu and Kashmir	99.0%	98.5%	99.2%	98.4%	97.1%	97.0%	92.7%
2	Himachal Pradesh	98.9%	98.3%	98.9%	97.1%	96.0%	96.3%	92.4%
3	Punjab	98.9%	98.0%	98.8%	97.6%	96.4%	96.5%	94.1%
4	Chandigarh	100.1%	99.1%	100.1%	98.7%	97.4%	97.6%	94.7%
5	Uttarakhand	98.8%	97.8%	98.1%	97.0%	94.1%	95.4%	91.1%
6	Haryana	98.5%	98.1%	98.6%	97.7%	97.0%	96.7%	93.3%
7	Delhi	97.9%	97.2%	97.8%	96.9%	95.7%	95.6%	92.5%
8	Rajasthan	99.0%	97.5%	99.0%	97.7%	96.7%	96.4%	93.1%
9	Uttar Pradesh	98.5%	97.8%	98.1%	97.3%	96.1%	96.0%	92.0%
10	Bihar	97.4%	95.0%	95.6%	94.9%	92.5%	93.7%	88.7%
11	Sikkim	96.5%	95.6%	96.2%	93.8%	86.5%	90.0%	83.3%
12	Arunachal Pradesh	98.7%	96.8%	95.7%	89.9%	88.4%	87.0%	79.4%
13	Nagaland	96.5%	96.5%	96.7%	94.0%	93.3%	91.0%	85.6%
14	Manipur	97.8%	95.4%	94.0%	92.0%	91.1%	89.2%	81.2%
15	Mizoram	97.2%	97.1%	96.9%	95.6%	94.5%	92.6%	87.2%
16	Tripura	99.1%	98.2%	98.5%	93.6%	95.3%	95.0%	90.3%
17	Meghalaya	98.2%	95.9%	96.3%	95.8%	93.9%	93.8%	87.0%
18	Assam	97.5%	96.0%	95.5%	92.3%	91.7%	91.4%	85.0%
19	West Bengal	98.7%	97.9%	98.4%	97.3%	95.4%	95.7%	92.5%
20	Jharkhand	98.5%	97.8%	97.9%	96.8%	95.8%	94.9%	90.4%
21	Odisha	98.4%	96.9%	97.4%	96.0%	94.5%	94.0%	89.0%
22	Chhattisgarh	99.1%	98.3%	98.5%	97.8%	96.3%	96.0%	88.8%
23	Madhya Pradesh	99.1%	97.7%	98.4%	97.1%	95.8%	95.9%	90.7%
24	Gujarat	99.9%	99.7%	100.0%	99.4%	98.6%	98.9%	96.8%
25	Dadra and Nagar Haveli & Daman and Diu	99.5%	99.1%	99.1%	98.1%	97.7%	97.0%	93.8%
27	Maharashtra	99.3%	98.3%	98.7%	97.4%	96.2%	95.8%	91.9%

	State/UT	Jan-24	Feb-24	Mar-24	Apr-24	May-24	Jun-24	July-24
29	Karnataka	98.7%	98.0%	97.8%	97.0%	96.0%	95.5%	91.5%
30	Goa	100.0%	98.8%	97.9%	96.2%	94.4%	93.6%	88.5%
31	Lakshadweep	97.0%	95.2%	94.4%	93.3%	91.5%	91.8%	89.8%
32	Kerala	98.9%	98.1%	97.7%	96.4%	95.4%	94.3%	90.7%
33	Tamil Nadu	98.8%	98.6%	98.6%	98.2%	97.4%	96.9%	93.9%
34	Puducherry	98.2%	97.9%	97.5%	96.6%	95.9%	94.7%	90.5%
35	Andaman and Nicobar Islands	99.4%	98.4%	97.0%	94.6%	92.1%	89.8%	82.3%
36	Telangana	98.4%	97.9%	97.7%	96.7%	95.3%	94.0%	89.1%
37	Andhra Pradesh	97.8%	97.6%	97.6%	96.6%	95.3%	94.3%	89.9%
38	Ladakh	104.0%	99.0%	101.0%	97.5%	93.3%	94.5%	84.4%
97	Other Territory	81.5%	81.3%	81.3%	81.3%	81.3%	82.1%	96.9%
<b>Total</b>		<b>98.7%</b>	<b>98.0%</b>	<b>98.2%</b>	<b>97.3%</b>	<b>96.1%</b>	<b>95.8%</b>	<b>92.0%</b>

### **Agenda Item 8 (b): Status update on Compensation Cess**

GST Council's decision in its 52<sup>nd</sup> meeting on October 7, 2023, may please be recalled, wherein it was decided that a status update on Compensation cess be presented to the Council. Extracts of the minutes are reproduced hereunder:

*“It was decided that a complete picture of the compensation cess, the likely time by which loan will be repaid and the proposal for tax/cess in lieu of compensation cess post repayment be presented to the Council.”*

2. Accordingly, a status note with regard to Compensation Cess is being put up for perusal and consideration of the Council. In this regard, it may be seen that from July 2017 till July, 2024, the net collection of the GST Compensation Cess is Rs. **7,61,215** crores [*State wise details of Compensation Cess collected tabulated in the Table given in Annexure I*].

3. Total actual collections upto July, 2024 and projected cess collection for the remaining compensation period [*i.e. till March, 2026*] are summarized below:

*(Amount in ₹ Crores)*

<b>Year</b>	<b>Total</b>
2017-18 (from July 2017)	62,612
2018-19	95,081
2019-20	95,551
2020-21	85,191
2021-22	1,04,609
2022-23	1,25,863
2023-24	1,41,809
2024-25 (upto July, 2024)	50,499
<b>Actual Total (up to July 2024)</b>	<b>7,61,215</b>
Projected (August, 2024 -March 2025)	99,501
<b>Projected Total (till Mar 2025)</b>	<b>8,60,716</b>
FY 25-26 (est. @ 11.5% growth)	1,67,250
<b>Projected Total (till Mar 2026)</b>	<b>10,27,966</b>

4. Similarly, State-wise details of payment to states from the compensation account are given in **Annexure 2** (with status of AG certificate for final compensation). It is noteworthy that the entire amount of provisionally admissible GST compensation for the period up to 30<sup>th</sup> June, 2022 has already been paid to all states. Further, Final Compensation arising out of reconciliation of provisional figures with audited figures is released immediately on receipt of the AG's certificate and no amount is pending for release to the States/UTs. Details of compensation paid, year wise, till date and the back-to-back loan are given below:

*Amount in ₹ Crores*

<b>Year</b>	<b>Compensation Cess paid till 29<sup>th</sup> Aug 2024</b>	<b>Back-to-Back Loan</b>	<b>Total</b>
2017-18 (from July 2017)	49,688		49,688
2018-19	85,439		85,439
2019-20	1,67,631		1,67,631
2020-21	1,96,001	1,10,208	3,06,209
2021-22	1,02,906	1,59,000	2,61,906
2022-23 (upto June 2022)	62,538		62,538
<b>Total</b>	<b>6,64,203</b>	<b>2,69,208</b>	<b>9,33,411</b>

5. The original repayment schedule of the loan and the amount of principal and interest actually paid till date is given in Annexure 3. However, if the loan taken was to be repaid with interest by 31.03.2025, Compensation account summary projected as of March 31, 2025 is as follows:

<b>Particulars</b>	<b>Amount (₹ Crores)</b>
Total Cess Collections (actual + projected) up to March 2025	<b>8,60,716</b>
Compensation Paid till 29 <sup>th</sup> August 2024	-6,64,203
Back-to-Back Loan	-2,69,208
Estimated Compensation payable	-13,000
Interest on B2B Loan (projected)	-51,561
Excess compensation to be recovered	213
<b>Shortfall in Compensation Account as of March 31, 2025</b>	<b>-1,37,043</b>

6. As can be seen from the table above, it is estimated that there will still be a **shortfall of ₹ 1,37,043 crore** in the compensation account as of March 31, 2025. Therefore, the Compensation Cess levy would have to be continued beyond FY 2024-25 and well into FY 2025-26.

7. The above status update on Compensation Cess is placed before the GST Council.

**Annexure 1****State wise Compensation Cess collected till July 2024:***(Amount in ₹ Crores)*

Sr. No.	State/UT	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25 (till July 24)	Total
1	Jammu and Kashmir	47	42	42	59	54	68	86	51	449
2	Himachal Pradesh	10	15	19	10	17	20	21	9	122
3	Punjab	87	154	211	174	222	340	378	182	1,748
4	Chandigarh	6	4	13	11	15	22	20	12	103
5	Uttarakhand	145	240	190	90	87	124	131	47	1,053
6	Haryana	2,795	3,889	3,671	3,816	4,977	6,031	7,041	2,429	34,649
7	Delhi	746	1,072	1,093	888	1,022	1,023	1,312	461	7,617
8	Rajasthan	1,144	1,516	1,470	1,508	1,872	1,501	1,852	591	11,455
9	Uttar Pradesh	7,582	12,264	12,762	10,910	12,649	14,236	15,556	5,515	91,473
10	Bihar	1,294	1,923	2,063	1,677	1,940	2,005	2,043	733	13,677
11	Sikkim	1	2	2	1	1	1	1	1	9
12	Arunachal Pradesh	1	2	2	2	2	2	2	0	14
13	Nagaland	2	9	10	6	14	44	47	11	143
14	Manipur	1	1	2	2	2	3	3	0	12
15	Mizoram	0	1	1	1	0	1	1	1	5
16	Tripura	6	3	2	3	2	3	3	0	22
17	Meghalaya	26	21	5	4	9	19	24	6	116
18	Assam	317	468	479	309	403	628	1,033	560	4,197
19	West Bengal	2,277	3,898	3,995	3,254	3,494	4,251	4,603	1,945	27,716
20	Jharkhand	3,331	5,160	5,211	4,571	5,431	5,772	6,939	2,686	39,100
21	Odisha	4,241	5,641	5,723	6,198	7,840	8,874	9,368	3,289	51,174
22	Chhattisgarh	4,097	6,489	6,171	5,869	6,861	7,041	7,708	2,808	47,044
23	Madhya Pradesh	3,183	4,939	5,525	5,530	6,280	7,006	7,554	2,678	42,696
24	Gujarat	2,460	3,975	4,588	4,821	6,263	6,667	8,025	2,856	39,654
25	Daman and Diu	0	0	0	0	-	-	-	-	1
26	Dadra and Nagar Haveli	2	1	1	2	4	11	7	1	28
27	Maharashtra	7,606	11,442	11,513	8,953	14,092	19,907	23,229	8,342	1,05,084
29	Karnataka	6,619	10,079	9,446	7,521	9,468	13,342	16,852	5,991	79,319
30	Goa	19	29	33	19	21	39	42	16	217
31	Lakshadweep	-	-	-	-	-	-	-	-	-
32	Kerala	71	64	120	79	80	75	57	23	569
33	Tamil Nadu	4,248	7,168	5,894	5,586	7,076	8,051	8,747	3,089	49,858
34	Puducherry	6	6	7	4	5	8	8	4	49
35	Andaman and Nicobar Islands	0	1	1	1	0	1	2	0	6
36	Telangana	3,789	6,497	6,500	5,161	6,310	6,481	6,549	2,185	43,471
37	Andhra Pradesh	154	273	1,537	2,113	2,361	3,794	3,398	1,047	14,676
38	Ladakh	-	-	-	2	1	1	1	1	6
97	Other Territory	9	0	-	0	-	0	-	-	10
99	Centre Jurisdiction	-	-	-	-	-	-	-	-	-
	<b>Total Cess - Domestic</b>	<b>56,319</b>	<b>87,290</b>	<b>88,303</b>	<b>79,152</b>	<b>98,878</b>	<b>1,17,390</b>	<b>1,32,639</b>	<b>47,571</b>	<b>7,07,542</b>
	<b>Total Cess - Import</b>	<b>6,295</b>	<b>10,080</b>	<b>10,442</b>	<b>9,190</b>	<b>8,789</b>	<b>10,896</b>	<b>11,915</b>	<b>4,086</b>	<b>71,692</b>
	<b>Total Gross</b>	<b>62,614</b>	<b>97,369</b>	<b>98,745</b>	<b>88,342</b>	<b>1,07,667</b>	<b>1,28,286</b>	<b>1,44,554</b>	<b>51,657</b>	<b>7,79,234</b>
	<b>Net Cess Collection</b>	<b>62,612</b>	<b>95,081</b>	<b>95,551</b>	<b>85,191</b>	<b>1,04,609</b>	<b>1,25,862</b>	<b>1,41,809</b>	<b>50,499</b>	<b>7,61,215</b>

## Annexure 2

### Status of Compensation released with updated status of AG's certificate received and processed:

(Amount in ₹ Crores)

S.No	Name of State/UT	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23 (Q1)	Total
1	Andhra Pradesh	382.00	0.00	2864.68	5086.08	3047.13	2222.24	13602.13
2	Arunachal Pradesh	-	-	-	-	-	0.00	0.00
3	Assam	980.39	454.26	1305.64	1612.47	21.89	568.06	4942.71
4	Bihar	2921.55	2805.20	5440.58	4205.57	231.77	500.69	16105.35
5	Chhattisgarh	1589.00	2608.09	4537.69	3021.16	775.31	1876.08	14407.33
6	Delhi	326.00	5868.49	9148.13	10793.45	8367.80	3556.55	38060.42
7	Goa	281.00	693.98	1303.68	1335.23	1231.08	464.10	5309.07
8	Gujarat	4277.00	8787.96	15557.81	17771.02	7150.19	5250.89	58794.86
9	Haryana	1461.00	3835.41	6810.97	6736.84	2975.99	1707.48	23527.70
10	Himachal Pradesh	1088.11	2084.02	2619.10	1485.63	647.99	841.27	8766.12
11	J & K	1160.00	1667.00	3281.00	1834.06	0.00	418.12	8360.18
12	Jharkhand	1368.00	1106.27	2277.63	2639.97	1016.53	1167.39	9575.79
13	Karnataka	7669.59	12465.14	18463.16	19300.85	9877.21	7966.44	75742.39
14	Kerala	2102.00	3757.40	8172.58	7352.30	4282.56	3191.86	28858.70
15	Madhya Pradesh	2668.00	3402.17	6735.14	6797.63	2981.24	2897.01	25481.19
16	Maharashtra	3077.00	8453.62	18873.81	35626.65	22099.23	7205.51	95335.82
17	Manipur	0.00	0.00	0.00	0.00	0.00	0.00	0.00
18	Meghalaya	113.31	114.21	146.96	271.70	20.22	0.00	666.41
19	Mizoram	0.00	0.00	0.00	11.37	0.00	0.00	11.37
20	Nagaland	0.00	0.00	0.00	14.22	0.00	0.00	14.22
21	Odisha	2348.08	4241.08	5331.92	4243.43	834.48	1052.48	18051.47
22	Puducherry	387.29	692.71	1057.42	926.71	26.62	377.46	3468.22
23	Punjab	5224.88	9764.18	12737.77	8776.59	4755.15	4792.54	46051.12
24	Rajasthan	2989.22	2569.57	7084.78	7624.79	1820.10	2161.95	24250.41
25	Sikkim	6.00	0.00	0.00	2.62	0.00	0.00	8.62
26	Tamil Nadu	1018.00	5366.39	11423.19	16963.32	11698.29	4863.50	51332.69
27	Telangana	0.00	0.00	2996.21	6062.09	1561.12	1608.30	12227.72
28	Tripura	140.06	176.11	284.14	219.83	6.07	-9.62	816.59
29	Uttar Pradesh	2431.00	0.00	9168.33	15329.77	9815.21	3851.91	40596.22
30	Uttarakhand	2071.45	2485.23	3400.26	2126.29	1191.67	1161.43	12436.33
31	West Bengal	1608.00	2040.52	6608.81	7829.58	6470.97	2844.76	27402.64
	<b>Total</b>	<b>49687.93</b>	<b>85439.02</b>	<b>167631.39</b>	<b>196001.23</b>	<b>102905.81</b>	<b>62538.42</b>	<b>664203.80</b>

AG's certificate not received. Provisional compensation released
AG's certificate received and GST compensation finalised
AG's certificate received and file is under process.

#### Note:

1. For States where AG certificate is received, final compensation is shown.
2. For States where AG Certificate is not received, provision compensation is shown.

### Annexure 3

#### **Original repayment schedule of back-to-back loan:**

*(Amount in ₹ Crores)*

<b>Year</b>	<b>Principal</b>	<b>Interest</b>	<b>Total Repayment</b>
<b>FY 20-21</b>	0.00	0.00	0.00
FY 21-22	0.00	5342.15	5342.15
FY 22-23	0.00	13983.64	13983.64
FY 23-24	78104.00	13983.64	92087.64
FY 24-25	123604.00	10575.28	134179.28
FY 25-26	0.00	3838.07	3838.07
FY 26-27	67500.00	3838.07	71338.07
<b>Total</b>	<b>269208.00</b>	<b>51560.85</b>	<b>320768.85</b>

**Updated (on 29.08.2024) Status of AG's certificate received and processed**

**Status of AG's certificate received and processed**

S.No.	Name of State/UT	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23(Q1)
1	Andhra Pradesh						
2	Arunachal Pradesh						
3	Assam						
4	Bihar						
5	Chhattisgarh						
6	Delhi						
7	Goa						
8	Gujarat						
9	Haryana						
10	Himachal Pradesh						
11	J & K						
12	Jharkhand						
13	Karnataka						
14	Kerala						
15	Madhya Pradesh						
16	Maharashtra						
17	Manipur						
18	Meghalaya						
19	Mizoram						
20	Nagaland						
21	Odisha						
22	Puducherry						
23	Punjab						
24	Rajasthan						
25	Sikkim						
26	Tamil Nadu						
27	Telangana						
28	Tripura						
29	Uttar Pradesh						
30	Uttarakhand						
31	West Bengal						

AG's certificate not received

AG's certificate received and GST compensation finalised

AG's certificate received and file is under process

## **Agenda Item 8 (c): IGST Settlement**

### **Background:**

This agenda aims to lay down a standardized procedure for ad-hoc advance apportionments and adjustments/recovery thereof which are done from the excess balance or shortfall in IGST account respectively.

2. In terms of Section 17 of the Integrated Goods and Services Tax Act, 2017 ("IGST Act") related to apportionment of tax and settlement of funds, the IGST collected by the Central Government is required to be transferred to Central Goods and Service Tax ("CGST") and the respective States/UTs' Goods and Services Tax ("SGST"/ "UTGST") as per the method specified in the Goods and services Tax Settlement of funds Rules, 2017 ("GST Settlement Rules"). Goods and Services Tax Network ("GSTN") provides the details of amount of apportionment and Input Tax Credit ("ITC") cross utilization in respect of the Centre and States

3. After making the settlement as per the procedure laid down in GST Settlement Rules, if any positive or negative balance remains in the IGST account, then the need for ad-hoc apportionment or adjustment/recovery thereof would arise. The objective is to maintain the balance in the IGST account as close to zero as possible. Both apportionment and recovery are carried in the 50:50 ratio between Centre and States.

4. Ad-hoc apportionment and recoveries made from time to time are summarised below, while month wise details are given in **Annexure:**

*(Amount in ₹ Crores)*

FY	STATES			CENTRE		
	Advance Apportionment	Recovery	Balance	Advance Apportionment	Recovery	Balance
2017-18	17,500	0	17,500	17,500	0	17,500
2018-19	65,000	-3,500	61,500	65,000	-3,500	61,500
2019-20	16,500	-14,500	2,000	16,500	-14,500	2,000
2020-21	38,000	0	38,000	38,000	0	38,000
2021-22	39,500	-5,500	34,000	39,500	-5,500	34,000
2022-23	24,500	-1,500	23,000	24,500	-1,500	23,000
2023-24	0	-9,000	-9,000	0	-9,000	-9,000
TOTAL	2,01,000	-34,000	1,67,000	2,01,000	-34,000	1,67,000

5. During FY 2023-24, after accounting for the recovery of Rs. 18,000 crore, the negative balance in the IGST Account for FY 2023-24 was Rs.5,516 crore. It was decided to observe the movement in the

account for few months so as to avoid frequent apportionment/recovery. During the first 4 months of the current fiscal year, the net negative balances are as follows:

(Amount in ₹ Crores)

Month	Balance for the month
April 2024	-2,645
May 2024	-8,238
June 2024	707
July 2024	-483
<b>Cumulative Balance</b>	<b>-10,659</b>

6. Together with the negative balance of Rs. 5,516 crore for FY 2023-24, cumulative negative balance in the IGST account as of date is Rs. 6,175 crore. For the month of August, 2024 also, as per estimates there would be a shortfall of another Rs. 10,000 crore. Since, it is not expected that the trend of negative balance would reverse dramatically during this year, it is proposed that the negative balance be recovered in the ratio of 50:50 from Centre and the States. Accordingly, the amount of shortfall at the end of August, 2024 (expected to be around Rs. 25,000 crore) is proposed to be recovered from the Centre (Rs. 12,500 crore) and the States (Rs. 12,500 crore) in four instalments beginning September 2024.

7. While the ratio of apportionment (50:50) between the Centre and the States is specified in law, method of apportionment among the States is not specified. Ad-hoc advance apportionment has been consistently distributed among the States in the ratio of their revenues in FY 2015-16 revenue. Recoveries have been consistently made in the ratio of the actual settlement of the month.

8. The share of revenue of each state has changed significantly post implementation of GST and so it is not appropriate to continue making advance apportionment on the basis of revenues of FY 2015-16. Accordingly, it is proposed to revise the method of apportionment of ad-hoc surplus and shortfall of IGST among States. The adopted method needs to be dynamic enough to reflect current realities and at the same time stable for administrative ease and better predictability.

9. It is proposed that the decided methodology may be implemented and followed for advance apportionment and recovery adjustments to be made from 01.04.2024 onwards and the ad-hoc advance balance as on 31.03.2024 may be left on an *as-is where-is* basis [**Approval Point -1**].

10. Moreover, the IGST is to be given to state that actually utilises the IGST. There is therefore no reason that the advance apportionment of surplus IGST is done on the basis of the share of revenue of each state, especially since the proportion of IGST utilisation of a state to the revenue of the state varies from state to state. IGST utilisation of a state is a good indicator of the IGST accumulation in the state. Accordingly, it is proposed that the advance apportionment of surplus IGST may be done to each state in the ratio of the amount of IGST utilised by the state to that of the total IGST utilised by all the states together in the recent past [**Approval Point- 2**].

11. In the interest of stability, it is proposed to calculate the ratio of the past period, a rolling period of the immediate previous three financial years may be used. The advance apportionment for FY 2024-25 would be based on the total amount of IGST utilisation of the states in FYs 2021-22 to 2023-24. Similarly, the advance apportionment for FY 2025-26 would be based on the total amount of IGST utilisation of the states in FYs 2022-23 to 2024-25. This would also apply to recovery from the States. ***[Approval Point-3].***

12. The above proposals are placed before the GST Council for kind consideration and kind approval.

\*\*\*\*\*

**Annexure**

The details of the ad-hoc advance apportionment carried out and the recovery adjustments carried out in the past periods are detailed in the below Tables:

**Details of Advance Appointment:**

(Amount in ₹ Crores)

	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	Total
Apr			6,000					
May								
Jun		25,000				13,500		
Jul			7,500					
Aug		6,000			12,000			
Sep								
Oct		15,000				11,000		
Nov								
Dec		9,000						
Jan					17,500			
Feb	17,500			24,000				
Mar		10,000	3,000	14,000	10,000			
Total	17,500	65,000	16,500	38,000	39,500	24,500	0	2,01,000

**Details of Recovery adjustments:**

(Amount in ₹ Crores)

	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	Total
Apr		-1,750						
May		-1,750						
Jun								
Jul			-4,000					
Aug			-3,000		-5,500			
Sep			-2,000					
Oct			-3,000					
Nov							-9,000	
Dec			-2,500					
Jan								
Feb								
Mar						-1,500		
Total		-3,500	-14,500		-5,500	-1,500	-9000	-34,000

# Volume - III







## **GST Council Secretariat New Delhi**

5<sup>th</sup> Floor, Tower-II, Jeevan Bharti Building, New Delhi  
09<sup>th</sup> August, 2024

### **OFFICE MEMORANDUM**

**Subject: Notice for the 54<sup>th</sup> GST Council Meeting to be held on 09<sup>th</sup> September, 2024-reg**

The undersigned is directed to refer to the above subject and to convey that the 54<sup>th</sup> Meeting of the GST Council will be held on 09<sup>th</sup> September, 2024 at New Delhi. The schedule of the meeting is as follows:-

- **Monday, 9th September, 2024, from 11.00 A.M. onwards**

2. In addition, an Officers' Meeting will be held on 8th September, 2024 at New Delhi as per the following schedule:

- **Sunday, 8th September, 2024 from 2.30 P.M. onwards**

3. The venue of the meeting, agenda items and other details for the 54<sup>th</sup> Meeting of the GST Council and officers' Meeting will be communicated in due course of time.

4. Kindly convey the invitation to the Hon'ble Member of the GST Council to attend the 54<sup>th</sup> 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 proceedings of the Council.
5. CEO, GST Network



**TABLE OF CONTENTS**  
**(VOLUME-III)**

<b><u>Sl. No.</u></b>	<b><u>Agenda Item</u></b>	<b><u>Page No.</u></b>
(Part-II) of Sl. No. 3. (Vol-I)	Issues recommended by the <b>Law Committee</b> for the consideration of the GST Council	
	vii) Consequential amendments required in CGST Rules, 2017 and relevant forms subsequent to insertion of Section 128A and clarification on various related issues	7-47
(Part-II) of Sl. No. 4. (Vol-I)	Recommendations of the <b>Fitment Committee</b> for the consideration of the GST Council	48
	c) (Part-II) Recommendations made by the Fitment Committee for making changes in GST rates or for issuing clarifications in relation to services (2 issues) – Annexure-IV	49-52
	e) (Part-II) Recommendations made by the Fitment Committee for deferring issues for further examination in relation to services (1 issue) – Annexure-VI	53-55
	g) Issuance of circular clarifying the scope of the phrase 'as is where is basis'	56
	h) Report of Committee of Officers on Taxation of Extra-Neutral Alcohol under GST for the past period (from 1.7.2017 to 20.10.2023)	57
	i) Status update on Group of Ministers (GoM) on Rate Rationalisation	58-59
	j) Status update on Group of Ministers (GoM) on boosting real estate sector under GST regime	60-63
(Part-II) of Sl. No. 8. (Vol-II)	(d) GST Appellate Tribunal - Issues for approval	64-74
	(e) Sharing of personally Identifiable Information of Taxpayers with other Ministries/Departments	75-77
9.	Ad-hoc Exemptions Orders issued under Section 25(2) of the Customs Act, 1962 to be placed before the GST Council for information.	78-82
10.	Any other agenda item with the permission of the Chairperson	



# Discussion on Agenda Items

## **Agenda Item 3 (Part-II): Issues recommended by the Law Committee for the consideration of the GST Council**

### **Agenda Item 3 (vii): Consequential amendments required in CGST Rules, 2017 and relevant forms subsequent to insertion of Section 128A and clarification on various related issues.**

1.1 GST Council in its 53<sup>rd</sup> meeting held on 22<sup>nd</sup> June 2024, recommended insertion of Section 128A in the Central Goods and Services Tax Act, 2017 (hereinafter referred to as 'the CGST Act') to provide for a waiver of interest or penalty or both, relating to tax demands under Section 73 pertaining to FYs 2017-18, 2018-19 and 2019-20. Section 146 of Finance Act (no.2), 2024 provides for the same. Subsequent to the insertion of the said section, corresponding rules are required to be inserted in Central Goods and Services Tax Rules, 2017 (hereinafter referred to as 'the CGST Rules'), along with new forms, in order to implement the same.

2.1 Law Committee in its meetings held on 09.08.2024, 23.08.2024, 29.08.2024 and 02.09.2024 discussed the procedure for implementation of Section 128A of CGST Act in detail and recommended to insert Rule 164 in CGST Rules, as per the details in **Annexure-A** enclosed with this agenda.

2.2 Further, the Law Committee also recommended to introduce various forms mentioned below in CGST Rules, as per details in **Annexure-B** enclosed with this agenda:

S. No.	Name of the FORM	Particulars
1	FORM GST SPL -01	Application for waiver of interest or penalty or both in cases pertaining to notices issued under Section 73 that are yet to be adjudicated (clause (a) of sub-section (1) of section 128A)
2	FORM GST SPL -02	Application for waiver of interest or penalty or both in cases pertaining to orders issued under Section 73 (clause (b) and clause (c) of sub-section (1) of section 128A)
3	FORM GST SPL -03	Show cause notice in respect of application of waiver of interest or penalty or both under section 128A
4	FORM GST SPL -04	Reply to show cause notice in FORM GST SPL-03
5	FORM GST SPL -05	Order for conclusion of proceedings under Section 128A to be issued by the proper officer, accepting the application made in FORM GST SPL-01 or FORM GST SPL-02
6	FORM GST SPL-05A	Order for conclusion of proceedings under Section 128A to be issued by the Appellate Authority, in cases where appeal is filed against rejection of the said application by the proper officer in FORM GST SPL -06

7	FORM GST SPL -06	Order rejecting the application made in FORM GST SPL-01 or FORM GST SPL-02
8	FORM GST SPL -07	Undertaking submitted by the applicant under the proposed rule 164(15)(b)(ii) of CGST Rules, 2017

3. Further, the Law Committee also recommended issuance of a circular to clarify the procedure to be followed by the taxpayers and the tax officers in order to avail and implement the benefit provided under Section 128A of the CGST Act. The draft circular recommended by the Law Committee is enclosed as **Annexure C** with this agenda.

4. The Law Committee also recommended for issuance of the notification under sub-section (1) of Section 128A of CGST Act in order to provide for a date on or before which the payment of tax may be made by different class of registered persons, to avail the benefit of waiver of interest or penalty or both provided under Section 128A of the CGST Act. In this regard, it is to mention that the Law committee recommended that date to be notified under sub-section (1) of 128A of the CGST Act (i.e. the date upto which the payment of tax may be made in respect of the due tax liability) may be preferably at least 6 months from the date of notification of Section 128A of the CGST Act. The draft notification recommended by the Law Committee is enclosed as **Annexure D** with this agenda.

5. The recommendations of the Law Committee, as detailed in paras 2 to 4, are placed before Council, for deliberation and approval.

**Rule 164: Procedure and conditions for closure of proceedings under section 128A in respect of demands issued under section 73. -**

- (1) *Any person who is eligible for waiver of interest or penalty or both in respect of a notice or a statement mentioned in clause (a) of sub-section (1) of section 128A, may file an application electronically in **FORM GST SPL-01** on the common portal, providing the details of the said notice or the statement, as the case may be, along with the details of the payments made in **FORM GST DRC-03** towards the tax demanded.*
- (2) *Any person who is eligible for waiver of interest or penalty or both in respect of orders mentioned in clause (b) and clause (c) of sub-section (1) of section 128A, may file an application electronically in **FORM GST SPL 02** on the common portal, providing the details of the said order, along with the details of the payments made towards the tax demanded:*

***Provided*** that the payment towards such tax demanded shall be made only by crediting the amount in the electronic liability register against the debit entry created by the said order:

***Provided further*** that if the payment towards such tax demanded has been made through **FORM GST DRC-03**, an application in **FORM GST DRC-03A**, as prescribed in rule 142(2B), shall be filed by the said person for credit of the said amount in the Electronic Liability Register against the debit entry created for the said demand, before filing the application in **FORM GST SPL 02**.
- (3) *Where the notice or statement or order mentioned in sub-section (1) of section 128A includes demand of tax partially on account of erroneous refund, and partially for other reasons, an application under sub-rule (1) or sub-rule (2) can be filed only after payment of the full amount of tax demanded in the said notice or statement or order on or before the date notified under the said sub-section.*
- (4) *Where the notice or statement or order mentioned in sub-section (1) of section 128A includes demand of tax partially for the period mentioned in the said sub-section, and partially for the period other than that mentioned in the said sub-section, an application under sub-rule (1) or sub-rule (2) can be filed only after payment of the full amount of tax demanded in the said notice or statement or order on or before the date notified under the said sub-section.*
- (5) *The amount payable under sub-rule (1) or sub-rule (2) shall be the amount that remains payable after deducting the amount not payable in accordance with sub-section (5) or sub-section (6) of Section 16, from the amount payable in terms of the notice or statement or order under section 73, as the case may be.*

- (6) Any person who wishes to file an application under sub-rule (1) or sub-rule (2) may do so within a period of three months from the date notified under sub-section (1) of section 128A:

**Provided** that where an application in **FORM GST SPL-02** is to be filed in cases referred to in the first proviso to sub-section (1) of section 128A, the time limit for filing the said application shall be six months from the date of communication of the order of the proper officer redetermining such tax under section 73.

- (7) The application under sub-rule (1) or sub-rule (2) shall be accompanied by documents evidencing withdrawal of appeal or writ petition, if any, filed before any Appellate Authority, or Tribunal or Court, as the case may be, to establish that the applicant is eligible for the waiver of interest or penalty or both in terms of section 128A:

**Provided** that where the applicant has filed an application for withdrawal of an appeal or writ petition filed before Appellate Authority or Appellate Tribunal or a court, as the case may be, but the order for withdrawal has not been issued by the concerned authority till the date of filing of the application under sub-rule (1) or sub-rule (2), the applicant shall upload the copy of such application or document filed for withdrawal of the said appeal or writ petition along with the application under sub-rule (1) or sub-rule (2), and shall upload the copy of the order for withdrawal of the said appeal or writ petition on the common portal, within one month of the issuance of the said order for withdrawal by the concerned authority.

- (8) Where the proper officer is of the view that the application made in **FORM GST SPL-01** or **FORM GST SPL-02**, is liable to be rejected as not being eligible for waiver of interest or penalty or both as per section 128A, he shall issue a notice on the common portal to the applicant in **FORM GST SPL-03** within three months from the date of receipt of the said application and shall also give the applicant an opportunity of being heard.

- (9) On receiving the notice under sub-rule (8), the applicant may file a reply to the said notice on the common portal, in **FORM GST SPL-04**, within a period of one month from the date of receipt of the said notice.

- (10) If the proper officer is satisfied that the applicant is eligible for waiver of interest and penalty as per section 128A, he shall issue an order in **FORM GST SPL-05** on the common portal accepting the said application and concluding the proceedings under section 128A.

- (11) In cases where the order in **FORM GST SPL-05** is issued by the proper officer under sub-rule (10),

- a. in respect of an application filed in **FORM GST SPL-01** pertaining to a notice or statement referred to in clause (a) of sub-section (1) of section 128A, the summary of order in **FORM GST DRC-07** as per rule 142(5) shall not be required to be issued by the proper officer, in respect of the said notice or statement.
- b. in respect of an application filed in **FORM GST SPL-02**, pertaining to an order referred to in clause (b) or clause (c) of sub-section (1) of section 128A,

*the liability created in the part II of Electronic Liability Register, shall be modified accordingly.*

- (12) *If the proper officer is not satisfied with the reply of the applicant, the proper officer shall issue an order in **FORM GST SPL-06** rejecting the said application.*
- (13) (a) *In cases where notice in **FORM GST SPL-03** has not been issued, the proper officer shall issue the order under sub-rule (10) within a period of three months from the date of receipt of the application in **FORM GST SPL-01** or **FORM GST SPL-02**, as the case may be.*

*(b) In cases where notice in **FORM GST SPL-03** has been issued, the proper office shall issue the order in sub-rule (10) or sub-rule (12) within a period of-three months from the date of receipt of reply of the applicant in **FORM GST SPL-04**, or within a period of four months from the date of issuance of notice in **FORM GST SPL-03** in case where no reply is received from the applicant.*

**Explanation:** *For the purpose of this sub-rule, in cases referred in proviso to sub-rule (7), the time period from the date of filing of the application under sub-rule (1) or sub-rule (2) till the date of submission of the order for withdrawal of the appeal or the writ, as the case may be, shall not be included while calculating the time period under clause (a) or clause (b) of this sub-rule.*

- (14) *If no order is issued by the proper officer within the time limit prescribed in sub-rule (13), then the application in **FORM GST SPL-01** or **FORM GST SPL-02**, as the case may be, shall be deemed to be approved and the proceedings shall be deemed to be concluded.*
- (15) (a) *In cases where no appeal is filed against the order in **FORM GST SPL-06**, within the time period specified in sub-section (1) of section 107, the original appeal, if any, filed by the applicant against the order mentioned in clause (b) or clause (c) of sub-section (1) of section 128A, and withdrawn for filing the application in **FORM GST SPL-02** in accordance with sub-section (3) of section 128A, shall be restored.*
- (b) *In cases where an appeal is filed against the order in **FORM GST SPL-06**, for rejection of application for waiver of interest or penalty or both, if*
- (i) the appellate authority has held that the proper officer has wrongly rejected the application for waiver of interest or penalty or both in **FORM GST SPL-06**, the said appellate authority shall pass an order in **FORM GST SPL-05A** on the common portal accepting the said application and concluding the proceedings under section 128A.*
  - (ii) the appellate authority has held that the proper officer has rightly rejected the application for waiver of interest or penalty or both in **FORM GST SPL-06**, the original appeal, if any, filed by the applicant against the order mentioned in clause (b) or clause (c) of sub-section (1) of section 128A, and withdrawn*

*for filing the application in **FORM GST SPL-02** in accordance with sub-section (3) of section 128A, shall be restored, subject to condition that the applicant files an undertaking electronically on the portal in **FORM GST SPL-07**, within a period of three months from the date of issuance of the order by the appellate authority in **FORM GST APL-04**, that he has neither filed nor intends to file any appeal against the said order of the Appellate Authority.*

- (16) *In cases where the taxpayer is required to pay an additional amount of tax liability as per second proviso to sub-section (1) of section 128A and such additional payment is not made within the time limit specified in the said proviso, the waiver of interest or penalty or both under section 128A as per the order issued in FORM GST SPL-05 or FORM GST SPL-05A, if any, shall become void.*
- (17) *In cases where the taxpayer is required to pay any amount of interest or penalty or both, in respect of any demand pertaining to erroneous refund or on account of demand pertaining to the period other than the period mentioned in sub-section (1) of section 128A, and the details of such amount have been mentioned in FORM GST SPL-05 or FORM GST SPL-05A, the applicant shall pay the said amount of interest or penalty or both, within a period of three months from the date of issuance of the order in FORM GST SPL-05 or FORM GST SPL-05A, as the case may be, and where the said amount is not paid within the said time period, the waiver of interest or penalty or both under section 128A as per the order issued in FORM GST SPL-05 or FORM GST SPL-05A, shall become void.*

**Explanation:** *For the purposes of this rule, the proper officer for issuance of order under this rule, in cases where the application for waiver of interest or penalty or both is made with respect to a notice or statement mentioned in clause (a) of subsection (1) of section 128A, shall be the proper officer for issuance of order as per section 73 of the Act, and in cases where the application for waiver of interest or penalty or both is made with respect to an order mentioned in clause (b) or clause (c) of subsection (1) of section 128A, shall be the proper officer referred to in section 79 of the Act.*

**FORM GST SPL – 01****[See Rule 164(1)]****Application for waiver of interest or penalty or both under Section 128A,****in respect of a notice or a statement mentioned in clause (a) of sub-section (1) of section 128A**

Reference No.

Date:

S. No.	Particulars		
<b>1</b>	a	GSTIN/Temporary ID/UIN	
	b	Legal Name of the Business (As mentioned in PAN No.)	
	c	Mobile Number	
	d	Email Address	
	e	Address	
	f	Jurisdiction	
<b>2</b>	<b>S. No.</b>	<b>Details of the notice</b>	
	1	Notice / Statement No	
	2	Date of issuance of notice/ statement	
	3	Section under which notice/ statement is issued	Drop down i. 73 ii. 74 read with section 75(2)
	4	Whether any writ petition is filed against the notice/ statement before High Court/ Supreme Court	Drop down Yes / No
	5	If Yes in '4',  whether the order for withdrawal of writ petition is issued or not?	Drop down Yes / No
	6	Whether notice/ statement involves demand of erroneous refunds	Drop down Yes / No

(Amount in Rs.)

2A	Financial Year	Amount demanded in notice/ statement (A)							Out of amount mentioned in (A), demand pertaining only to ITC which has been denied solely on account of contravention of Section 16(4) and not on any other grounds, and which has now become eligible as per Section 16(5) or Section 16(6), if any.  (B)				
		I G S T	C G S T	S G S T	C E S S	Total Tax including Cess	Interest	Penalty	IGST	CGST	SGST	CESS	Total Tax including Cess
	1	2	3	4	5	6	7	8	9	10	11	12	13
	TOTAL												

2B	Amount paid through DRC -03					
	Payment Reference No.		IGST	CGST	SGST	Total Tax including Cess
	1		2	3	4	5
			<Auto>	<Auto>	<Auto>	<Auto>
			<Auto>	<Auto>	<Auto>	<Auto>
	TOTAL		<Auto>	<Auto>	<Auto>	<Auto>

<b>3</b>	<p><b><u>Declaration:</u></b></p> <p>1. I undertake that, I have not filed any writ petition against the said notice/ statement.</p> <p style="text-align: center;">OR</p> <p>I undertake that though I had filed a writ petition against the said order, I have withdrawn the said writ petition or filed an application for withdrawal of the same and have attached the copy of withdrawal order or the application filed for withdrawal, with this application.</p> <p>2. Further, I understand and agree that no appeal shall be filed against the order concluding demand proceedings, issued under section 128A, in any forum in the future.</p> <p>3. I declare that all information provided by me is accurate and truthful. I understand that any incorrect declaration or suppression of facts will render this application void and may lead to recovery proceedings for the outstanding dues along with applicable interest and penalties.</p>
<b>4</b>	<p><b><u>Verification:</u></b></p> <p>I _____ (name of the authorized signatory), hereby declare that the information provided above is true and correct to the best of my knowledge and belief. I understand that any incorrect declaration or suppression of facts will render my application void and all benefits under Section 128A will be withdrawn.</p>

<b>5</b>	<b>Upload required documents</b>	
	Self-certified copy of notice/ statement	
	Proof of payment made through FORM GST DRC 03	
	Proof of withdrawal of writ petition or application filed for withdrawal of writ petition (if the order for withdrawal has not been issued) (where applicable)	
	Any other document (please specify)	

Signature of authorized signatory

Name/Designation

Email address

Mobile No.

**Instructions:**

1. In entries 1 to 6 of Table 2, the details of the notice/ statement against which the application under Section 128A is filed needs to be filled in by the applicant.
2. In case the notice/ statement is available on the common portal, ARN number of the same needs to be filled. If the same is not available on the portal, the reference number of the manually issued notice/ statement needs to be filled.
3. In entry 3 of Table 2, the applicant has to choose the option 'Section 73' from the dropdown, if the notice/ statement is issued under Section 73 at the first instance, and the option 'Section 74 read with Section 75(2)' in case the notice was initially issued under Section 74 and was later deemed to be issued under Section 73, based on the order of the Appellate Authority/ Appellate Tribunal or Court as per Section 75(2).
4. In Table 2A, columns 2 to 8 will be auto filled, in case the notice/ statement is available on the common portal. If the same is not available on the portal, the details of the same are to be manually filled by the applicant.
5. While calculating the amount deductible on account of not being payable in accordance with sub-section (5) or sub-section (6) of Section 16, from the amount payable in terms of the notice or statement or order under section 73, as the case may be, applicant is required to ensure that such amount is deducted only where ITC has been denied solely on account of contravention of Section 16(4) and not on any other grounds.

## FORM GST SPL -02

**[See rule 164(2)]**

Application for waiver of interest or penalty or both under Section 128A, in respect of an order mentioned in clause (b) or clause (c) of sub-section (1) of section 128A

Reference No.

S. No.	Particulars		Remarks
1	a	GSTIN/Temporary ID/UIN	
	b	Legal Name of the Business (As mentioned in PAN No.)	<Auto>
	c	Mobile Number	<Auto>
	d	Email Address	<Auto>
	e	Address	<Auto>
	f	Jurisdiction	<Auto>
<b>2</b>	<b>S. No.</b>	<b>Details of the demand order</b>	
	1	Demand Order No	
	2	Date of issuance of order	
	3	Section under which order is issued	Drop down  i. 73 ii. 74 read with section 75(2)
	4	Whether any appeal or writ petition is filed against order before the Appellate Authority/ Appellate Tribunal/ High Court/ Supreme Court	Drop down  Yes / No
	5	If Yes in '4',  whether the order for withdrawal of appeal or writ petition is issued or not?	Drop down  Yes / No
	6	Whether demand order involves demand of erroneous refunds	Drop down  Yes / No

(Amount in Rs.)

2 A	Finan cial Year	Amount demanded in the order (A)							Out of the amount mentioned in (A), demand pertaining only to ITC which has been denied solely on account of contravention of Section 16(4) and not on any other grounds, and which has now become eligible as per Section 16(5) or Section 16(6) (B)				
		IG ST	CG ST	SG ST	CE SS	Total Tax includ ing Cess	Inter est	Pena lty	IG ST	CG ST	SG ST	CE SS	Total Tax includ ing Cess
	1	2	3	4	5	6	7	8	9	10	11	12	13
	TOT AL												

2B	Amount paid through payment Facility against demand order mentioned in Table 2A [including those paid through FORM GST DRC-03 and later adjusted through filing an application in FORM GST DRC - 03A]							
	Credit entry Reference No.	Reference number of FORM GST DRC- 03 (where applicable)	Reference number of FORM GST DRC- 03A (where applicable)	IGST	CGST	SGST	CESS	Total Tax including Cess
	1	2	3	4	5	6	7	8
				<Auto>	<Auto>	<Auto>	<Auto>	<Auto>
				<Auto>	<Auto>	<Auto>	<Auto>	<Auto>
	Total			<Auto>	<Auto>	<Auto>	<Auto>	<Auto>

3	<b><u>Declaration:</u></b>
	1. I undertake that, I have not filed any appeal or writ petition against the said order. OR I undertake that though I had filed an appeal / writ petition against the said order, I have withdrawn the said appeal/ writ petition (or) I have filed an application for withdrawal of the same and have attached the copy of withdrawal order or the application filed for withdrawal, with this application.
	2. Further, I understand and agree that no appeal shall be filed against the order

	<p>concluding demand proceedings, issued under section 128A in any forum in the future.</p> <p>3. I also undertake that on issue of an order concluding demand proceedings issued under section 128A, no writ shall be filed against the order mentioned in Table 2 of this form.</p> <p>4. If an application is filed/ has been filed by the department against the order mentioned in Table 2 or if any proceedings are initiated under sub-section (1) of section 108 against the said order, and the Appellate Authority or the Appellate Tribunal or the court or the Revisional Authority, as the case may be, issues an order enhancing my tax liability, I undertake to pay the additional amount of tax payable within three months from the date of the said order of the Appellate Authority or the Appellate Tribunal or the court or the Revisional Authority, as the case may be, as per second proviso to sub-section (1) of section 128A.</p> <p>5. I declare that all information provided by me is accurate and truthful. I understand that any incorrect declaration or suppression of facts will render this application void and lead to recovery proceedings for the outstanding dues along with applicable interest and penalties.</p>
--	---

<b>4</b>	<p><b><u>Verification:</u></b></p> <p>I _____ (name of the authorized signatory), hereby declare that the information provided above is true and correct to the best of my knowledge and belief. I understand that any incorrect declaration or suppression of facts will render this application void and the benefits provided under section 128A will not be valid.</p>
----------	--

<b>5</b>	<b>Upload required documents</b>	
	Self-certified copy of the order	
	Proof of withdrawal of appeal / writ petition or application filed for withdrawal of appeal/ writ petition (if the order for withdrawal has not been issued) (where applicable)	
	Proof of payment made towards demand / paid through FORM GST DRC-03 and adjusted through FORM GST DRC-03A.	
	Any other document (please specify)	

Signature of authorized signatory

Name/Designation.....

Email address.....

Mobile No.....

**Instructions:**

1. In columns 1 to 6 of Table 2, the details of the order against which the application under Section 128A is filed needs to be filled in by the applicant.
2. In case the order is available on the common portal, ARN number of the same needs to be filled. If the same is not available on the portal, the order number of the manually issued order needs to be filled.
3. In Table 2A, columns 2 to 8 will be auto filled, in case the order is available on the common portal. If the same is not available on the portal, the details of the same are to be manually filled in by the applicant.
4. Similarly, the reference number of the credit entry (made in ELR- Part II) needs to be filled in column 1 of Table 2B. In case the payment intended to be made towards the said demand order was originally paid through FORM GST DRC-03, and later adjusted through filing an application in FORM GST DRC - 03A, the reference numbers of the same are to be filled in columns 2 and 3, and the rest of the columns will be auto-filled.
5. While calculating the amount deductible on account of not being payable in accordance with sub-section (5) or sub-section (6) of Section 16, from the amount payable in terms of the notice or statement or order under section 73, as the case may be, applicant is required to ensure that such amount is deducted only where ITC has been denied solely on account of contravention of Section 16(4) and not on any other grounds.

**FORM GST SPL -03**

**Notice in response to an application filed under Section 128A**

[See Rule 164(8)]

Date:

Reference No.:

To

GSTIN of applicant .....

Legal Name of applicant .....

Address of applicant .....

Reference No. of FORM GST SPL -01 or FORM GST SPL -02 ..... dated .....

**Subject:** Notice in response to application filed under Section 128A-regarding

1. Whereas, you have submitted an application under Section 128A, declaring your outstanding dues and seeking waiver of interest and penalty in the FORM GST SPL-01/ FORM GST SPL-02 bearing reference no.....dated .....
2. Upon verification of your application and the details provided therein, your application is liable to be rejected for the following reasons:
  - [Reason 1]
  - [Reason 2]

OR/ AND

In this regard, it appears that the amount of tax is short paid by you as given below:

Demand details (A)							Demand paid through FORM GST DRC 03 (in case of notice/ statement) or by crediting electronic liability register in case of orders					Out of amount mentioned in (A), demand pertaining only to ITC which has been denied solely on account of contravention of Section 16(4) and not on any other grounds, and which has now become eligible as per Section 16(5) or Section 16(6), if any.					Demand Short Paid				
No tice id/ Or der id No	Fin an cial Per iod	IG ST	CG ST	SG ST	CE SS	Tota l Tax inclu ding Cess	IG ST	CG ST	SG ST	CE SS	Tota l Tax inclu ding Cess	IG ST	CG ST	SG ST	CE SS	Tota l Tax inclu ding Cess	IG ST	CG ST	SG ST	CE SS	Tota l Tax inclu ding Cess
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22
	Drop down																				
	Drop down																				

- You are hereby required to show cause, along with necessary documents in FORM GST SPL-04, to support your claim, as to why your application no..... dated ..... should not be rejected.
- You are also granted an opportunity for a personal hearing on [date and time] at [venue]. You may appear in person or through an authorized representative to present your case.

[Signature]  
[Name of the Tax Officer]  
[Designation]  
[Jurisdiction]  
[Address]

**Upload Attachment**

**Reply to Notice issued under Rule 164(9)**

Date:

To

Proper Officer .....

Jurisdiction .....

Legal Name of the applicant.....

Address of applicant .....

Reference No of FORM GST SPL-03: ..... Dated .....

**Subject: Reply to the Notice issued in respect of application filed under Section 128A.**

Sir/Madam,

This is in reference to the notice issued in FORM GST SPL-03 vide no ..... dated .....  
from your office.

The reply is as under:

[illegible]

**Enclosures:**

The following documents in respect of payment proof or additional submissions are enclosed for your reference:

- Document 1: [Taxpayer's Document 1]
- Document 2: [Taxpayer's Document 2]
- Document 3: [Taxpayer's Document 3]

**Verification:**

I \_\_\_\_\_ hereby solemnly affirm and declare that the information given hereinabove are true and correct to the best of my knowledge and belief and nothing has been concealed therefrom.

[Signature of Authorised Signatory]  
[Name of the of authorized signatory]  
[Designation/Status]  
[Date]

**FORM GST SPL -05**  
**Order for conclusion of proceedings as per Section 128A**

[See Rule 164 (10)]

Reference No. ....

Date:

To,

GSTIN of applicant .....

Legal Name of applicant .....

Address of applicant .....

**Reference No.** of FORM GST SPL-01/ FORM GST SPL-02 ..... dated .....

**Subject: Order for Approval of Application submitted under Section 128A**

This has reference to your application with reference no. .... dated .... furnishing details/ information and documents in support of your request for availing the benefit of waiver of interest or penalty or both under section 128A.

OR

This has reference to your application with reference no. .... dated .... , and your reply in FORM GST SPL-04 with reference no. .... dated ..... furnishing details/ information/ submission and documents in support of your request for availing the benefit of waiver of interest or penalty or both under section 128A .

2. Upon verification of the details provided in your application and the reply, where applicable, waiver of interest or penalty or both under section 128A, is allowed as under:

3. Demand Notice/ Demand Order Details:

a. Order No/ Notice No.:

b. Date of order/ Notice:

Financial Year	Amount demanded in the notice/ statement/ order against which application under Section 128A was filed (A)								Out of the amount mentioned in (A), demanded pertaining only to ITC which has been denied solely on account of contravention of Section 16(4) and not on any other grounds, and which has now become eligible as per Section 16(5) or Section 16(6)	Amount already paid towards the said notice/ statement / order								Amount of interest and Penalty waived as per Section 128A		Remaining amount of interest and penalty, payable, if any, by the applicant (in cases referred to in sub-rule (3) and sub-rule (4) of Rule 164)	
	Place of Supply (PoS)	Act	Tax including cess	Interest	Penalty	Fee	Others	Tax including cess	Place of Supply (PoS)	Act	Tax including cess	Interest	Penalty	Fee	Others	Interest	Penalty	Interest	Penalty		
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	
		CGST								CGST											

		SG ST								SG ST									
		IG ST								IG ST									
		Ce ss								Ce ss									
	TOTAL									TOTAL									
		CG ST								C GS T									
		SG ST								SG ST									
		IG ST								IG ST									
		Ce ss								Ce ss									
	TOTAL									TOTAL									

[Signature]  
 [Name of the Tax Officer]  
 [Designation]  
 [Jurisdiction]  
 [Address]

**Notes -**

Any incorrect declaration or suppression of facts will render this approval void and may lead to recovery proceedings for the outstanding dues along with applicable interest and penalties.

**FORM GST SPL -05A**  
**Order for conclusion of proceedings as per Section 128A**

[See Rule 164 (15)(b)(i)]

Reference No. ....

Date:

To,

GSTIN of applicant .....

Legal Name of applicant .....

Address of applicant .....

Name of the authorised representative -

**Reference No.** of FORM GST SPL-01/ FORM GST SPL-02 ..... dated .....

**Reference No.** of FORM GST SPL-06 ..... dated .....

**Reference No.** of FORM GST APL-01 ..... dated .....

**Subject: Order for Approval of Application submitted under Section 128A**

1. This has reference to your appeal with reference no. .... dated ..... furnishing details/ information/ prayer and documents in support of your request for availing the benefit of waiver of interest or penalty or both under section 128A.
2. Upon verification of the details provided in your application and the reply, where applicable, waiver of interest or penalty or both under section 128A, is allowed as under:
3. Demand Notice/ Demand Order Details:
  - a. Order No/ Notice No.:
  - b. Date of order/ Notice:

Financial Year	Amount demanded in the notice/ statement/ order against which application under Section 128A was filed (A)								Out of the amount mentioned in (A), demand pertaining only to ITC which has been denied solely on account of contravention of Section 16(4) and not on any other grounds, and which has now become eligible as per Section 16(5) or Section 16(6)	Amount already paid towards the said notice/ statement / order								Amount of interest and Penalty waived as per Section 128A		Remaining amount of interest and penalty, payable, if any, by the applicant (in cases referred to in sub-rule (3) and sub-rule (4) of Rule 164)	
	Place of Supply (PoS)	Act	Tax including cess	Interest	Penalty	Fee	Others	Tax including cess	Place of Supply (PoS)	Act	Tax including cess	Interest	Penalty	Fee	Others	Interest	Penalty	Interest	Penalty		
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	
		CGST								CGST											
		SGST								SGST											

		IG ST								IG ST									
		Ce ss								Ce ss									
		<b>TOTAL</b>								<b>TOTAL</b>									
		CG ST								C GS T									
		SG ST								SG ST									
		IG ST								IG ST									
		Ce ss								Ce ss									
		<b>TOTAL</b>								<b>TOTAL</b>									

[Signature]  
[Name of the Appellate Authority]  
[Designation]  
[Jurisdiction]

**Notes -**

Any incorrect declaration or suppression of facts will render this approval void and may lead to recovery proceedings for the outstanding dues along with applicable interest and penalties.

**FORM GST SPL -06**

**Order for Rejection of Application submitted under Section 128A**

[See Rule 164(12)]

Reference No. ....

**Date:**

**To,**

GSTIN of applicant .....

Legal Name of applicant .....

Address of applicant .....

Reference is invited to:

Particulars	Reference No.	Dated
Application in FORM GST SPL -01/ FORM GST SPL-02		
Show Cause Notice in FORM GST SPL -03:		
Reply to the Show Cause Notice in FORM GST SPL -04:		

**Subject: Order for Rejection of Application submitted under Section 128A**

This has reference to your application with reference no. .... dated .... furnishing details/ information and documents in support of your request for availing the benefit of waiver of interest and penalty under section 128A. The notice referred to above was issued to you to explain the reasons as to why the said application should not be rejected, for which you had furnished reply dated ...../ no reply was furnished by you.

2. Introduction:

3. Submissions, if any:

4. Conclusion:

Based on the verification your application with reference no. .... dated ..... filed under Section 128A, is hereby rejected.

5. Summary of rejection:

Order id/ SCN id	Reason for rejection
	<p style="text-align: center;">&lt;Drop Down&gt;</p> <p><i>Options in &lt;Drop Down&gt;</i></p> <ol style="list-style-type: none"> <li>1. <i>Full payment not made</i></li> <li>2. <i>Payment made after the date notified in Section 128A.</i></li> <li>3. <i>Notice/ Order pertaining to Sections other than Section 73.</i></li> <li>4. <i>Appeal/ writ petition filed before Appellate Authority/ Appellate Tribunal/ High Court/ Supreme Court not withdrawn</i></li> <li>5. <i>Others, please specify.</i></li> </ol>

[Signature]  
[Name of the Tax Officer] .....  
[Designation].....  
[Office Name] .....  
[Contact Information].....

**FORM GST SPL -07**

**Undertaking submitted under Rule 164(15)(b)(ii)**

[See Rule 164(15)(b)(ii)]

Date:

Reference No:

1. Legal Name of the applicant.....
2. Address of applicant .....
3. *GSTIN of the applicant:*
4. Reference No of FORM GST SPL-02: ..... dated .....
5. Reference No of FORM GST SPL-06: ..... dated .....
6. Reference No of FORM GST APL-04 passed with reference to FORM GST SPL-06 specified at serial number 5 above: ..... dated .....
7. Reference number of appeal filed originally but subsequently withdrawn ..... dated .....

**Subject: Undertaking submitted in respect of Rule 164(15)(b)(ii).**

Sir/Madam,

I hereby undertake not to file an appeal against the order of the appellate authority bearing reference number ..... dated ...., as specified at serial number 6 above, and accordingly I pray for restoration of my appeal filed vide reference number ..... dated .... as specified at serial number 7 above.

I \_\_\_\_\_ hereby solemnly affirm and declare that the information given hereinabove are true and correct to the best of my knowledge and belief and nothing has been concealed therefrom.

[Signature of Authorized Signatory]  
[Name of the of authorized signatory]  
[Designation/Status]  
[Date]

**CBIC-.....-GST**  
**Government of India**  
**Ministry of Finance**  
**Department of Revenue**  
**Central Board of Indirect Taxes and Customs**  
**GST Policy Wing**  
\*\*\*\*

New Delhi, Dated the .....

To,

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

Madam/Sir,

**Subject: Clarification of various doubts related to Section 128A of the CGST Act, 2017.**

Based on the recommendations of the GST Council made in its 53<sup>rd</sup> meeting, Section 128A has been inserted in the Central Goods and Services Tax Act, 2017 (hereinafter referred to as 'the CGST Act'), to provide for waiver of interest or penalty or both, relating to demands under section 73 of the CGST Act, pertaining to Financial Years 2017-18, 2018-19 and 2019-20, subject to certain conditions.

1.2 Subsequently, based on the recommendations of the GST Council made in its 54<sup>th</sup> meeting, Rule 164 has been inserted in Central Goods and Services Tax Rules, 2017 (hereinafter referred to as 'the CGST Rules') vide notification No. xx/2024 dated xx September 2024, providing for procedure and conditions for closure of proceedings under section 128A of CGST Act.

1.3 Further, vide notification No. xx/2024 dated xx September 2024, dd/ mm/ yyyy has been notified under sub-section (1) of section 128A of CGST Act, as the date on or before which, the full payment of tax demanded in the notice/ statement/ order needs to be made by the taxpayer in order to avail the benefit of waiver of interest or penalty or both under the said section. Also, for cases where the application is made as per the first proviso to the sub-section (1) of the section 128A, the date on or before which, the full payment of tax demanded in the order issued by the proper officer redetermining the tax under section 73 needs to be made by the taxpayer, has been notified as six months from the date of issuance of such order by the proper officer redetermining the tax under section 73.

2.1 Various doubts have been raised by the trade and the field formations in respect of implementation of provisions of Section 128A of the CGST Act, relating to waiver of interest or penalty or both in respect of demands under section 73 of the CGST Act pertaining to Financial Years 2017-18, 2018-19 and 2019-20.

2.2 In order to clarify the issue and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168(1) of the CGST Act, hereby issues the following clarifications and guidelines.

2.3 Unless otherwise specified, all the sections mentioned in this circular refer to sections of the CGST Act and all the rules mentioned refer to the CGST Rules.

3. The procedure to be followed by the taxpayers and the tax officers to avail and implement the benefit provided under Section 128A, is as follows:

3.1 **Filing of application:**

3.1.1 Section 128A provides for “Waiver of interest or penalty or both relating to demands raised under **section 73**, for certain tax periods”. Therefore, provisions of Section 128A are applicable in cases where notices/ statements have been issued under Section 73, for the FYs 2017-18, 2018-19 and 2019-20, in the following situations:

(a) Where a notice issued under sub-section (1) of section 73 or a statement issued under sub-section (3) of section 73, and where no order under sub-section (9) of section 73 has been issued;

(b) Where an order has been issued under sub-section (9) of section 73, in respect of such notice/ statement issued under section 73, but where no order has been issued by the Appellate Authority/ Revisional Authority under sub-section (11) of section 107 or sub-section (1) of section 108;

(c) Where an order has been issued by the Appellate Authority/ Revisional Authority under sub-section (11) of section 107 or sub-section (1) of section 108, in such cases where notice/ statement was issued under section 73 and where no order under sub-section (1) of section 113 has been passed by the Appellate Tribunal;

3.1.2 Additionally, as per the first proviso to sub-section (1) of Section 128A, in cases where a notice was initially issued under section 74 for FYs 2017-18, 2018-19 and 2019-20, and an order is passed or required to be passed by the proper officer under section 73 (in pursuance of the direction of the Appellate Authority or Appellate Tribunal or a court in accordance with the provisions of sub-section (2) of section 75), those cases are also covered under Section 128A for the purpose of waiver of interest or penalty or both.

3.1.3 In cases referred to in clause (a) of sub-section (1) of Section 128A where a notice/ statement under Section 73 has been issued demanding tax *inter alia* pertaining to the period from July 2017 to March 2020, for which no order has been issued under section 73, an application in FORM GST SPL-01, may be filed electronically on the common portal, by the taxpayer.

3.1.4 In cases referred to in clause (b) of sub-section (1) of Section 128A, where an order has been issued under Section 73 demanding tax *inter alia* pertaining to the period from July 2017 to March 2020, for which no order has been issued under section 107 or section 108, an application in FORM GST SPL-02, may be filed electronically on the common portal, by the taxpayer. Similarly, in cases referred to in clause (c) of sub-section (1) of Section 128A, where an order has been issued

under Section 107 or Section 108, but no order has been issued under section 113, an application in FORM GST SPL-02, may be filed electronically on the common portal, by the taxpayer.

3.1.5 The application in FORM GST SPL-01 or FORM GST SPL-02, as the case may be, shall be filed within a period of three months from the date notified under section 128A (1), i.e., within three months from [REDACTED]. However, as per the first proviso to sub-section (1) of Section 128A, where a notice has been issued under section 74, and the Appellate Authority or Appellate Tribunal or a court directs the proper officer to redetermine the tax as if the demand notice is issued under section 73, in accordance with the provisions of section 75(2), then same is covered under clause (b) of sub-section (1). Therefore, as mentioned in proviso to sub-rule (6) of Rule 164, in such cases, an application in FORM GST SPL-02, can be filed within six months from the date of communication of order of the proper officer redetermining the amount of tax to be paid under section 73.

3.1.6 Where an appeal under Section 107 or section 112 has been filed by the taxpayer, against an order referred to in clause (b) or clause (c) of sub-section (1) of section 128A, or where a writ petition has been filed by the taxpayer against a notice/ statement/ order referred to in clause (a) or (b) or clause (c) of sub-section (1) of section 128A, the taxpayer is required to withdraw the same before filing an application for waiver of interest or penalty or both, and enclose the order of withdrawal of such appeal/ writ petition in along with the application filed in FORM GST SPL-01 or FORM GST SPL-02, as the case may be. However, in cases where the applicant has filed the application or any other document, for withdrawal of an appeal or writ petition before Appellate Authority or Appellate Tribunal or a court, as the case may be, but the order for withdrawal has not been issued by the concerned authority till the date of filing of the application in FORM GST SPL-01 or FORM GST SPL-02, he is required to upload the copy of such application or the document filed for withdrawal of the said appeal or writ petition along with the said application in FORM GST SPL-01 or FORM GST SPL-02. It is to be mentioned that he is required to upload the final order for withdrawal of the said appeal or writ petition on the common portal, within one month of the issuance of the said order for withdrawal by the concerned authority.

3.1.7 It may be noted that, in case the taxpayer has been issued multiple notices/ statements/ orders pertaining to demands under section 73, for period from July 2017 to March 2020, he is required to file a separate application in FORM GST SPL-01 or FORM GST SPL-02, as the case may be, in respect of each of the concerned notice/ statement/ order.

### 3.2 **Payment of tax:**

3.2.1 With respect to a notice or statement referred to in clause (a) of sub-section (1) of Section 128A, i.e., a notice or statement that is yet to be adjudicated, the payment towards the tax demanded in the said notice shall be made by the taxpayer through FORM GST DRC-03.

3.2.2 With respect to an order referred to in clause (b) and clause (c) of sub-section (1) of Section 128A, the payment towards such tax demanded shall be made by the taxpayer, only by the making the payment against the debit entry created in the Part II of the Electronic Liability Register (ELR) by the demand order. In this regard, the procedure mentioned in para 4 of Circular No. 224/18/2024 -GST dated 11<sup>th</sup> July 2024 may be referred to. However, in cases where the payment towards tax demanded in the demand order has already been made through FORM GST DRC-03, the procedure prescribed in rule 142(2B) may be followed. In such cases, the taxpayer shall be required to file an application in FORM GST DRC-03A as prescribed in the said rule, in order to adjust the amount already paid vide the FORM GST DRC-03, towards the demand created in the ELR-Part II, before

filing the application for waiver under Section 128A in FORM GST SPL-02. For the purposes of determining the date of payment of full amount of tax, the date on which the amount has been paid through FORM GST DRC-03 may be considered and not the date on which the said amount has been adjusted using FORM GST DRC-03A.

3.2.3 Such payment shall be made on or before the date notified under section 128A (1), i.e., **on or before** . Where applications are filed in respect of cases referred to in the first proviso to sub-section (1) of section 128A, then the applicants shall be required to make the payment on or before the date notified under section 128A (1) specifically for those cases, i.e., within six months of the communication of the order of the proper officer redetermining the amount of tax to be paid under section 73.

3.2.4 In cases where the amount of tax payable as per the notice/ statement/ order includes the amount that was demanded due to contravention of provisions of sub-section (4) of section 16, which is however not payable anymore due to the retrospective insertion of sub-section(5) and sub-section(6) to section 16, the full amount of tax payable as per the notice/ statement/ order as mentioned in sub-section (1) of section 128A for eligibility of waiver of interest or penalty or both shall be calculated after deducting the amount, which is not payable anymore as per sub-sections (5) and (6) of section 16, as per sub-rule (5) of Rule 164. In this regard, it is also to be mentioned that, where the taxpayer is deducting the amount of ITC which was denied on account of contravention of sub-section (4) of section 16, but which is now available as per retrospectively inserted provisions of sub-section (5) or sub-section (6) of section 16 of the CGST Act, he is not required to file an application for rectification for the same in terms of the special procedure notified under section 148 vide notification No. **XX/2024** dated .....

3.2.5 It is also clarified that while calculating the amount deductible on account of not being payable in accordance with sub-section (5) or sub-section (6) of Section 16, from the amount payable in terms of the notice or statement or order under section 73, as the case may be, taxpayer is required to ensure that such amount is deducted only where ITC has been denied solely on account of contravention of Section 16(4) of the CGST Act and not on any other grounds. The tax officer scrutinising such applications is also required to verify that the said amount that has been deducted by the taxpayer as not payable anymore on account of retrospective insertion of sub-section (5) and sub-section (6) to section 16, was initially denied solely deducted on the basis of contravention of sub-section (4) of section 16, and not on any other grounds.

3.2.6 It is further mentioned that, in cases referred to in sub-rule (3) and sub-rule (4) of rule 164, the applicant can file the application for waiver of interest or penalty or both under section 128A, in respect of a notice/ statement/ order mentioned in sub-section (1) of section 128A, only after payment of full amount of tax demanded in the said notice/ statement/ order, including on account of demand pertaining to erroneous refund, if any, and also on account of demand pertaining to the period other than the period mentioned in sub-section (1) of section 128A, if any, in the said notice/ statement/ order.

### 3.3 **Processing of application and issuance of order:**

3.3.1 The proper officer for processing the application for waiver of interest or penalty or both under Section 128A, would be the proper officer to issue the order under section 73, in case the

application is filed in FORM GST SPL-01, and would be the proper officer for recovery under Section 79, in case the application is filed in FORM GST SPL-02.

3.3.2 The proper officer on receipt of the application in FORM GST SPL-01 or FORM GST SPL-02, shall examine the said application. If, on examination, he finds that the said application is liable to be rejected, he shall issue a notice to the applicant, within three months from the date of receipt of the said application, in FORM GST SPL-03 on the common portal. The proper officer shall also give the applicant an opportunity of personal hearing.

3.3.3 On receipt of the notice in FORM GST SPL-03, the applicant may file his reply in FORM GST SPL-04, electronically on the common portal, within a period of one month from the date of receipt of the notice.

3.3.4 The proper officer shall issue an order in FORM GST SPL-05, accepting the said application, if he is satisfied that the applicant is eligible for waiver of interest or penalty or both under Section 128A. However, if the proper officer, based on the application and the reply in FORM GST SPL-04 received from the taxpayer, is of the view that the applicant is not eligible for waiver of interest or penalty or both under Section 128A, he shall issue an order in FORM GST SPL-06, rejecting the said application.

3.3.5 The order in FORM GST SPL-05 or FORM GST SPL-06 shall be required to be issued within the time period prescribed in sub-rule (13) of rule 164. In terms of sub-rule (14) of rule 164, in cases where no order is issued within the time limit prescribed in sub-rule (13) of rule 164, the application filed in FORM GST SPL-01 or FORM GST SPL -02, as the case may be, shall be deemed to be approved, and the order in FORM GST SPL-05 approving the said application shall be made available on the common portal.

3.3.6 In cases where an application for waiver of interest or penalty or both was filed in FORM GST SPL-01 and an order approving the said application is issued by the proper officer in FORM GST SPL-05, then a summary of order in FORM GST DRC-07 need not be issued on the common portal. However, in cases where an order in FORM GST SPL-05 or in FORM GST SPL-05A, as the case may be, has been issued approving an application filed in FORM GST SPL-02, the liability earlier created in the ELR – Part II by the demand order or the appellate order, as the case may be, shall stand modified accordingly.

3.3.7 It is also to be mentioned that as per the second proviso to sub-section (1) of Section 128A, the conclusion of proceedings against a demand notice/ statement/ order under this section and further issuance of such conclusion order in FORM GST SPL-05 or in FORM GST SPL-05A, as the case may be, in cases where the department had filed an application/ initiated revisional proceedings against the said demand notice/ statement/ order, is conditional upon the payment of additional tax payable, if any, as determined by the Appellate Authority or the Appellate Tribunal or the court or the Revisional Authority, as the case may be, within three months of issuance of such order. In case, such additional tax is not paid within the specified time limit, then as per sub-rule (16) of Rule 164, the waiver of interest or penalty or both provided under section 128A as per the order issued in FORM GST SPL-05 or FORM GST SPL-05A, as the case may be, shall become void.

3.3.8 Further, while processing the said application, the proper officer shall ensure that the applicant has paid the amount of tax demanded in the notice/ statement/ order referred in sub-section (1) of section 128A (other than the amount not payable anymore due to the retrospective insertion of sub-section(5) and sub-section(6) to section 16, as referred in para 3.2.4), including the amount of tax demand pertaining to erroneous refund, if any, and also on account of demand pertaining to the period other than the period mentioned in sub-section (1) of section 128A, if any, in the said notice/ statement/ order. Further, the proper officer shall also keep in consideration that waiver of interest and penalty under section 128A is available only in respect of demand pertaining to the period mentioned in sub-section (1) of section 128A, and the demand on issues other than on account of erroneous refund.

3.3.9 Where it is found that any amount of interest and penalty is payable by the applicant on account of some demand pertaining to the period other than the period mentioned in sub-section (1) of section 128A or pertaining to demand of erroneous refund, the detail of the same shall be mentioned in column no. 19 and column no. 20 of FORM GST SPL-05 or FORM GST SPL-05A, as the case may be. Further, in such cases, an opportunity of personal hearing may be granted to the applicant, before issuance of order in FORM GST SPL-05 or FORM GST SPL-05A.

3.3.10 In cases referred in para 3.3.9, the applicant is required to pay the amount of interest or penalty or both, detailed in column no. 19 and column no. 20 of FORM GST SPL-05 or FORM GST SPL-05A, within a period of three months from the date of issuance of the said order in FORM GST SPL-05 or FORM GST SPL-05A, as the case may be. In case where the said amount is not paid within the period of three months from the date of issuance of the said order in FORM GST SPL-05 or FORM GST SPL-05A, as the case may be, the waiver of interest or penalty or both under section 128A as per the order issued in FORM GST SPL-05 or FORM GST SPL-05A, shall become void, as per sub-rule (17) of rule 164.

#### 3.4 **Appeal against the orders issued under Rule 164:**

3.4.1 No appeal shall lie under section 107, against an order issued in FORM GST SPL-05 concluding the proceedings under section 128A. The order issued in FORM GST SPL-06, rejecting the application for waiver, shall be, however, appealable in accordance with sub-section (1) of section 107 within the time limit specified therein, by filing an application in FORM GST APL-01. In such cases, normally, no pre-deposit may be required to be paid by the taxpayer for filing the said appeal, as the said amount may already have been paid as a part of payment of tax dues involved in the demand notice/ statement / order before filing an application in FORM GST SPL-01 or FORM GST SPL-02. However, in cases where no amount of tax dues has been paid or amount of tax dues paid is less than the requisite amount for pre-deposit for filing appeal as per sub-section (6) of section 107, the remaining amount of pre-deposit will be required to be paid for filing the said appeal.

3.4.2 It is also important to note that the subject matter of the appeal will only be regarding the applicability of waiver of interest or penalty or both under Section 128A and not on the merits of the original notice/ statement/ order.

3.4.3 It is to be mentioned that, in cases where an appeal has been filed by the applicant against the order in FORM GST SPL-06, and the appellate authority holds that the proper officer has wrongly rejected the application, thereby allowing the applicant the benefit of the waiver of interest

or penalty or both, the said appellate authority shall pass an order in FORM GST SPL-05A. This form shall accordingly modify the liability created, if any, in the ELR-Part II.

3.4.4 Where appeal had been withdrawn before filing an application in FORM GST SPL-02, for availing the waiver of interest or penalty or both under Section 128A, but the application for waiver is rejected by the proper officer by issuance of order in FORM GST SPL-06,

(a) in cases, where the taxpayer prefers an appeal against the said rejection order, and the appellate authority holds that the proper officer has rightly rejected the said application made in FORM GST SPL-02, and issues an order in FORM GST APL-04, then the original appeal filed by the applicant shall be restored, subject to condition that the applicant files an undertaking electronically on the portal in FORM GST SPL-07, that he has neither filed nor intends to file any appeal against such order of the Appellate Authority.

(b) in cases, where the taxpayer prefers an appeal against the said rejection order, and the appellate authority holds that the proper officer has wrongly rejected the said application made in FORM GST SPL-02, and issues an order in FORM GST SPL-05A, thereby holding that the appellant is eligible for waiver of interest or penalty or both, no appeal shall lie against the said order issued in FORM GST SPL-05A.

(c) in case, where the taxpayer does not prefer an appeal within the time period mentioned in sub-section (1) of section 107 against the said rejection order, then the original appeal filed by the applicant shall be restored.

4. Further, the following issues with respect to availing the benefit of waiver of interest or penalty or both provided under Section 128A, are also clarified hereby:

S. No.	Issue	Clarification
1	Whether the benefit provided under Section 128A will be applicable to taxpayers who have paid the tax component in full before the date on which the said section has come into effect?	In this regard, it is to be mentioned that all such amount paid towards the said demand upto the date notified under sub-section (1) of section 128A, irrespective of whether the said payment has been done before Section 128A comes into effect, or after that, and irrespective of whether such payment was made before the issuance of the demand notice or demand order, or after that, shall be considered as paid towards the amount payable in sub-section (1) of Section 128A, as long as the said amount has been paid upto the date notified under sub-section (1) of section 128A and was intended to be paid towards the said demand.
2	Whether amount recovered by the tax officers as tax due from any other person on behalf of the taxpayer, against a particular demand can be considered as tax paid towards the same for the	Yes.  The said amount recovered by the tax officers as tax due from any other person on behalf of the taxpayer against a demand, shall also be considered as the tax paid towards the said demand, for the purpose of section 128A

	purpose of Section 128A?	provided the same has been recovered on or before the date notified under sub-section (1) of section 128A.
3	Whether the amount recovered by the tax officers as interest or penalty or both, pertaining to demand under Section 73 pertaining to Financial Years 2017-18, 2018-19 and 2019-20, can be adjusted against the tax amount payable towards the demand made under Section 73 pertaining to the said financial years?	<p>No. It is mentioned that as per the third proviso to sub-section (1) of section 128A, no refund of such amount of interest or penalty or both, is available.</p> <p>Accordingly, any amount paid by the taxpayer or recovered by the tax officers, as interest or penalty cannot be adjusted towards the amount payable as tax.</p>
4	Whether the benefit provided under Section 128A will be applicable in cases, where the tax due has already been paid and the notice or demand orders under Section 73 only pertains to interest and/or penalty involved?	<p>Where the tax due has already been paid and the notice or demand orders under Section 73 only pertains to interest and/or penalty involved,</p> <p>the same shall be considered for availing the benefit of section 128A.</p> <p>However, the benefit of waiver of interest and penalty shall not be applicable in the cases where the interest has been demanded on account of delayed filing of returns, or delayed reporting of any supply in the return, as such interest is related to demand of interest on self-assessed liability and does not pertain to any demand of tax dues and is directly recoverable under sub-section (12) of section 75.</p>
5	Whether the benefit under Section 128A is available, if the taxpayer intends to avail partial waiver of interest or penalty or both, on certain issues, by making part payment of the amount demanded in the notice/ statement/ order, as the case may be, and opts to litigate for the remaining issues?	<p>No.</p> <p>Section 128A (1) clearly provides that the waiver of interest or penalty or both is only applicable when the full amount of tax demanded in the notice/ statement/ order is paid.</p>
6	Where the notice/order involves multiple periods, ranging from the period for which waiver provided in Section 128A is applicable, and includes some other tax periods for which such waiver is not applicable, whether the benefit of waiver of interest or	<p>The taxpayer is eligible to apply for waiver of interest or penalty or both, in such cases where the demand notice/ order spans tax periods covered under Section 128A and those not covered under the said section.</p> <p>However, as per sub-rule (4) of Rule 164, the taxpayer shall be required to pay the full amount of tax demanded in the notice/ statement / order, as the case may be, to</p>

	<p>penalty or both under Section 128A can be availed for the period covered under section 128A?</p> <p>If so, what is the tax amount payable for claiming waiver under Section 128A?</p>	<p>avail the benefit of waiver of interest or penalty or both under Section 128A.</p> <p>Further, though the amount of tax demanded shall be required to be paid as per the notice/ statement / order, as the case may be, for whole of the period covered under the said notice/ statement / order, but the waiver of interest or penalty or both under section 128A shall only be applicable for the period specified in section 128A, and not for the period not covered under the said section.</p> <p>On payment of the full amount demanded in the notice/ statement/ order, if the proper officer finds that the applicant is eligible for waiver of interest or penalty or both for tax periods covered under Section 128A, he will reduce the liability to that extent in his order in FORM GST SPL-05, and the remaining liability of interest or penalty or both for tax periods not covered under Section 128A, remains payable by the taxpayer.</p> <p>The said amount shall be required to be paid by the applicant within three months from the date of issuance of order in FORM GST SPL-05 or FORM GST SPL-05A, as the case may be. If the said amount is not paid within the time limit as mentioned above, the order in in FORM GST SPL-05 or FORM GST SPL-05A, as the case may be, the waiver of interest or penalty or both under section 128A as per the order issued in FORM GST SPL-05 or FORM GST SPL-05A, shall become void, as per sub-rule (17) of rule 164.</p>
7	<p>Where the notice/ statement/ order issued under Section 73 involves multiple issues and one of them is regarding demand of erroneous refund, whether an application can be filed for waiver of interest or penalty or both under Section 128A?</p> <p>If so, what is the tax amount payable for claiming waiver under Section 128A?</p>	<p>Yes.</p> <p>However, as per sub-rule (3) of Rule 164, the taxpayer shall be required to pay the full amount of tax demanded in the notice/ statement / order, as the case may be, including on account of demand of erroneous refund, to avail the benefit of waiver of interest or penalty or both under Section 128A.</p> <p>Further, in such cases, the waiver of interest or penalty or both under section 128A shall only be available in respect of tax demand other than that pertaining to demand of erroneous refund.</p> <p>On payment of the full amount demanded in the notice/ statement/ order, if the proper officer finds that the applicant is eligible for waiver of interest or penalty or</p>

		<p>both for tax periods covered under Section 128A in respect of tax demand other than that pertaining to demand of erroneous refund, he will reduce the liability to that extent in his order in FORM GST SPL-05, and the remaining liability of interest or penalty or both, that corresponds to demand of erroneous refund, remains payable by the applicant.</p> <p>The said amount shall be required to be paid by the applicant within three months from the date of issuance of order in FORM GST SPL-05 or FORM GST SPL-05A, as the case may be. If the said amount is not paid within the time limit as mentioned above, the order in in FORM GST SPL-05 or FORM GST SPL-05A, as the case may be, the waiver of interest or penalty or both under section 128A as per the order issued in FORM GST SPL-05 or FORM GST SPL-05A, shall become void, as per sub-rule (17) of rule 164.</p>
8	<p>In cases where department has filed an appeal against the order mentioned in clause (b) or clause (c) of sub-section (1) of section 128A and the Appellate Authority or the Appellate Tribunal or the court or the Revisional Authority, has issued an order enhancing the tax liability, and in the meanwhile the proper officer has issued an order in FORM GST SPL-05 under section 128A, and the taxpayer has not paid the said additional amount of tax liability within the specified time limit, what will be the status of the conclusion of proceedings under Section 128A?</p>	<p>Yes, as per the second proviso to section 128A, the conclusion of proceedings in such cases is subject to the condition that the said person pays the additional amount of tax payable, if any, in accordance with the order of the Appellate Authority or the Appellate Tribunal or the court or the Revisional Authority, as the case may be, within three months from the date of the said order.</p> <p>Accordingly, it becomes clear that even in cases where an order in FORM GST SPL-05 or in FORM GST SPL-05A has been issued the conclusion of the said proceedings will be subject to the condition that the taxpayer pays the additional tax amount as determined by the Appellate Authority or the Appellate Tribunal or the court or the Revisional Authority by an order issued in the matter of appeal filed by the department, within a period of three months from the date of the such order enhancing the tax liability.</p> <p>In case such additional payment is not done within a period of three months from the date of the said order, then as per sub-rule (16) of Rule 164, the waiver of interest or penalty or both under section 128A as per the order issued in FORM GST SPL-05 shall become void.</p>
9	<p>Sub-section (3) of section 128A refers to only appeal or writ petition.</p>	<p>Yes, in such cases also the applicant will be required to withdraw the said special leave petition and file an application in FORM GST SPL-01 or FORM GST SPL-02, as the case may be, along with proof of withdrawal of SLP or the copy of the application or any other</p>

	In this regard, whether matters where SLP filed by the applicant is pending before the Supreme Court, what is the procedure to be followed by the taxpayer to avail the waiver of interest or penalty or both?	document filed for withdrawal of SLP, where the order for withdrawal of SLP has not been issued at the time of filing application in FORM GST SPL-01 or FORM GST SPL-02. In such cases, the procedure mentioned in para 3.1.6 may be followed.
10	Whether the benefit provided under Section 128A will be available for matters involving IGST and Compensation Cess?	<p>Yes.</p> <p>On joint reading of section 20 of the Integrated Goods and Services Tax Act, 2017 and section 11 of GST (Compensation to States) Act, 2017 along with section 128A of CGST Act, it becomes clear that the benefit provided under Section 128A of CGST Act will be available for matters involving IGST and compensation cess as well.</p> <p>In this regard, it is mentioned that in such cases, full payment of tax means payment of CGST, SGST, IGST and compensation cess demanded in the notice/ statement/ order, as the case may be.</p>
11	Whether Section 128A covers cases involving demand of irregularly availed transition credit?	<p>The transitional credit is considered to be availed on the date on which the said credit amount is credited in the Electronic Credit Ledger.</p> <p>On reading Rule 121 read with sub-rule (3) of rule 117, it is clear that any demand in respect of transitional credit wrongly availed, whether wholly or partly can be made under section 73 or, as the case may be, section 74.</p> <p>Therefore, it is mentioned that if the amount of transitional credit has been availed in the period covered under Section 128A and notice for demand of wrongly availed credit is issued under section 73, the same is covered under Section 128A.</p>
12	Whether Section 128A will cover waiver of penalties under other provisions, late fee, redemption fine etc?	<p>It is clarified that any penalty, including penalties under section 73, section 122, section 125 etc, demanded under the demand notice/ statement/ order issued under section 73, is covered under the waiver provided under Section 128A.</p> <p>However, late fee, redemption fine etc are not covered</p>

		under the waiver provided under Section 128A.
13	Whether payment to avail waiver under Section 128A can be made by utilizing ITC?	<p>Yes.</p> <p>The payment of tax required to be made for eligibility for waiver under section 128A is the amount of tax demanded in the notice/ statement/ order. Therefore, it can be paid either by debiting from electronic cash ledger or by utilising the Input Tax Credit (ITC), by debiting the electronic credit ledger, or partly from both.</p> <p>However, where the demand is in respect of any amount of tax to be paid by the recipient under Reverse Charge Mechanism or by the Electronic Commerce Operator under section 9(5), then the said amount shall be required to be paid by debiting the electronic cash ledger only and not through the electronic credit ledger. Further, where the amount has to be paid for demand of erroneous refund, the demand in respect of erroneous refund paid in cash is required to be paid only by debiting the electronic cash ledger only and not through the electronic credit ledger.</p>
14	Whether the benefit of waiver under Section 128A be availed qua import IGST payable under the Customs Act, 1962?	<p>No.</p> <p>In such cases, demand is not issued under section 73 of the CGST Act, but is issued under the provisions of Customs Act, 1962 and therefore, such cases are not covered under waiver of interest or penalty or both under section 128A.</p>
15	<p>With retrospective insertion of sub-sections (5) and (6) to Section 16 of the CGST Act, the tax demanded in notice/ statement/ order reduces.</p> <p>Whether the entire tax amount demanded in the notice/ statement/ order has to be paid in such cases, to avail the benefit under section 128A?</p>	<p>Sub-rule (5) of rule 164 mentions that the amount payable in order to avail the benefit under section 128A, shall be calculated after deducting the amount not payable in accordance with sub-section (5) or sub-section (6) of Section 16, from the amount payable in terms of the notice or statement or order under section 73, as the case may be.</p> <p>Therefore, the applicant is required to pay only the amount that is payable, calculated after deducting the amount not payable in accordance with sub-section (5) or sub-section (6) of Section 16, from the amount payable in terms of the notice or statement or order under section 73, as the case may be, before submitting the application. While calculating the amount deductible on account of not being payable in accordance with sub-section (5) or sub-section (6) of Section 16, from the amount payable in terms of the notice or statement or order under section 73,</p>

		<p>as the case may be, taxpayer is required to ensure that such amount is deducted only where ITC has been denied solely on account of contravention of Section 16(4) of the CGST Act and not on any other grounds.</p> <p>He is also advised to provide a breakup of the amount not payable by him anymore, as per sub-sections (5) and (6) of section 16, in FORM GST SPL-01 or FORM GST SPL-02, as the case may be, to enable the officer to verify the payment easily.</p> <p>It is also re-iterated that where the taxpayer is deducting the amount of ITC which was denied on account of contravention of sub-section (4) of section 16 of the CGST Act, but which is now available, as per retrospectively inserted provisions of sub-section (5) or sub-section (6) of section 16 of the CGST Act, he is not required to file application for rectification in respect of the same as per special procedure notified under Section 148 vide notification No. xx/2024 dated .....</p>
16	In case of application in FORM GST SPL-02, where the applicant has paid full or partial amount of tax through FORM GST DRC-03, whether the said applicant is mandatorily required to file application in FORM GST DRC-03A for such tax amount which he desires to get adjusted against tax demand as per FORM GST DRC-07/ FORM GST DRC-08/ FORM GST APL-04?	<p>Yes.</p> <p>In cases where order in FORM GST DRC-07, FORM GST DRC-08 or FORM GST APL-04, as the case may be, has been issued and such taxpayer has paid required amount through FORM GST DRC-03, such applicant is required to adjust the said amount towards the demand created in the Electronic Liability Register, as per the second proviso to sub-rule (2) of rule 164, before filing the application in FORM GST SPL-02.</p>

5. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

6. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

Sanjay Mangal  
Principal Commissioner (GST)

**Annexure-D**

[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/2024–Central Tax**

New Delhi, the \_\_\_ September 2024

G.S.R.....(E). – In exercise of the powers conferred by sub-section (1) of section 128A of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Government, on the recommendations of the Council, hereby notifies the date upto which payment for the tax payable as per the notice or statement or the order referred to in clause (a) or clause (b) or clause (c) of section 128A, as the case may be, can be made by the class of registered person specified in column (2) of the Table below, as the date specified in the corresponding entry in column (3) of the said Table, namely:

**Table**

Sl. No.	Class of registered person	Date upto which payment for the tax payable as per the notice or statement or the order referred to in clause (a), clause (b) or clause (c) of section 128A, as the case may be, can be made, for waiver of interest or penalty or both under section 128A.
(1)	(2)	(3)
1	Registered persons to whom a notice or statement or order has been issued referred to in clause (a) or clause (b) or clause (c) of section 128A, on or before the date of issuance of this notification	31.03.2025
2	Registered persons to whom a notice has been issued under sub-section (1) of section 74 in respect of the period referred to in section 128A, and an order is passed or required to be passed by the proper officer in pursuance of the direction of the Appellate Authority or Appellate Tribunal or a court in accordance with the provisions of sub-section (2) of section 75, for determination of the tax payable by such person, deeming as if the notice were issued under sub-section (1) of section 73.	Date ending on completion of six months from the date of issuance of the order by the proper officer redetermining tax under section 73.

[F.No.20/xx/xx/2024-GST]

(Raghavendra Pal Singh)  
Director

**Agenda Item 4 (Part-II): Recommendations of the Fitment Committee for the consideration of the GST Council**

I. Additional Agenda of the Fitment Committee pertaining to goods:

1. Issuance of circular clarifying the scope of the phrase 'as is where is basis'
2. Report of Committee of Officers on Taxation of Extra-Neutral Alcohol under GST for the past period ( from 1.7.2017 to 20.10.2023)

II. Additional Agenda of the Fitment Committee pertaining to services:

1. Recommendations for making changes in GST rates or for issuing clarifications (2 issues)
2. Recommendations for deferring the issues for further examination (1 issue)

III. Agenda notes on status updates of the GoM meetings:

1. Status update on GoM on Rate Rationalisation
2. Status update on GoM on boosting real estate sector

**Agenda Item 4 (c) (Part-II): Recommendations made by the Fitment Committee for making changes in GST rates or for issuing clarifications in relation to services**

**Annexure IV**

Sl. No.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations
1.	Reduction of GST paid by individuals on health insurance premiums from 18% to 5%.  Or  To exempt GST on medical insurance premiums.	<ul style="list-style-type: none"> <li>The Department of Financial Services (DFS), Ministry of Finance, Government of India has requested for reducing the GST on individual health insurance premiums from 18% to 5% to make health insurance more affordable and accessible.</li> <li>This reduction aims to address the low penetration of health insurance in India by lowering the cost of premiums, encouraging more people to purchase health insurance and opt for higher coverage.</li> <li>The key benefits of this reduction include making health insurance premiums more affordable, enabling individuals to choose higher coverage within the</li> </ul>	<ul style="list-style-type: none"> <li>Presently, as per the residual entry at Sl. No. 15(vii) of Notification No. 11/2017-Central Tax (Rate), health insurance policies, other than those which have been specifically exempted, attract 18% GST.</li> <li>The data for <b>FY 2022-23</b> provided by DFS is as follows: <ul style="list-style-type: none"> <li>Total health insurance premiums in India amounted to approximately Rs. 90,032 crores.</li> <li>Out of the above, <i>individual</i> health insurance segment contributed Rs. 35,300 crore (39.21% of the total health premiums).</li> <li>GST amounting to Rs 6,354 crore was collected on individual health insurance premiums at the current rate of 18%.</li> </ul> </li> <li>As per a NITI Aayog Report (Health Insurance for India's Missing Middle, October 2021), the Ayushman Bharat - Pradhan Mantri Jan Arogya Yojana - a flagship scheme towards Universal Health Coverage, and State Government extension schemes - provide comprehensive hospitalization cover to the bottom 50% of the population. Further, around 20% of the population is covered through social health insurance such as ESIS, CGHS, and private voluntary health insurance (PVHI). The NITI-Aayog Report identifies that nearly 40 crore people (30%), largely belonging to low-middle-income categories, remain without any health insurance coverage. This group is known as the '<i>missing middle</i>'.</li> <li>Further, the report by Standing Committee on Finance (Performance Review and Regulation of Insurance Sector, February 2024) has recommended to rationalize the GST rate on insurance products, especially health and term insurance. The report has observed that the high rate of GST results in a high premium burden which acts as a deterrent to getting insurance policies.</li> <li>The Fitment Committee deliberated upon the issue and</li> </ul>

Sl. No.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations										
		<p>same budget, and reducing the health protection gap in the country.</p> <ul style="list-style-type: none"><li>• The anticipated increase in the number of insured individuals is expected to offset the initial reduction in GST revenue.</li><li>• This move supports the Government's efforts to provide a minimum social coverage net for every citizen and aligns with the vision of "Insurance for All" by 2047.</li><li>• 18% GST on medical insurance is proving to be a deterrent to the growth of the segment which is socially necessary.</li></ul>	<p>following options were discussed:</p> <ul style="list-style-type: none"><li>a) Exempting all individual health insurance premiums;</li><li>b) Exempting individual health insurance premiums which are paid by senior citizens and individual health insurance premiums (irrespective of age) where the coverage is up to Rs. 5 lakhs;</li><li>c) Exempting only those individual health insurance premiums which are paid by senior citizens;</li><li>d) Reducing the rate of GST on all individual health insurance services to 5% without ITC;</li></ul> <ul style="list-style-type: none"><li>• The revenue implications of the above options (FY 2022-23 data) are tabulated below:</li></ul> <table><tr><th>Scenario</th><th>Revenue Implication (Rs. Crores)</th></tr><tr><td>Exempting all individual health insurance premiums</td><td>3,495</td></tr><tr><td>Exempting individual health insurance premiums which are paid by senior citizens and those individual health insurance premiums with cover up to Rs. 5 lakhs (irrespective of age)</td><td>2,110</td></tr><tr><td>Exempting only those individual health insurance premiums which are paid by senior citizens</td><td>645</td></tr><tr><td>Reducing the rate of GST on all individual health insurance services to 5% without ITC</td><td>1,730</td></tr></table> <ul style="list-style-type: none"><li>• The Fitment Committee recommended that the GST Council may decide from the above options and a similar benefit may be extended to reinsurance services also. The Committee further recommended</li></ul>	Scenario	Revenue Implication (Rs. Crores)	Exempting all individual health insurance premiums	3,495	Exempting individual health insurance premiums which are paid by senior citizens and those individual health insurance premiums with cover up to Rs. 5 lakhs (irrespective of age)	2,110	Exempting only those individual health insurance premiums which are paid by senior citizens	645	Reducing the rate of GST on all individual health insurance services to 5% without ITC	1,730
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Sl. No.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations
			<b>that the GST Council may also record its desire that the benefit given in GST rates, if any, must be passed on to the policy holders.</b>
2.	Reduction of GST on premiums paid by individuals for the term/pure protection insurance plans from 18% to 5%.  Or  To exempt GST on life insurance premiums.	<ul style="list-style-type: none"> <li>The Department of Financial Services (DFS), Ministry of Finance, Government of India has requested for reducing the applicable rate of GST on premiums paid by individuals on term/pure protection insurance plans from 18% to 5%.</li> <li>Term insurance plans are considered a basic financial necessity as they offer higher life insurance cover at affordable premiums.</li> <li>Life insurance penetration in India is only 3% and the mortality protection gap is at 91%.</li> <li>Life insurance is a push product and most of the policies are sold with savings element in consideration.</li> <li>Term insurance policies do not offer any survival benefit so the willingness</li> </ul>	<ul style="list-style-type: none"> <li>Presently, life insurance policies attract GST rate of 18% vide residual entry at Sl. No. 15(vii) of the Notification No. 12/2017-Central Tax (Rate).</li> <li>Rule 32(4) of the GST Rules, 2017 prescribes valuation in case of life insurance schemes. The premium paid in life insurance policies represents two portions – risk coverage and savings.</li> <li>GST is only on the risk portion of the premium and not on savings portion.</li> <li>Consequently, pure term life policies, i.e. where the entire premium paid by the policy holder is only towards the risk cover, get taxed at the full value of the premium paid at the rate of 18%.</li> <li>The data for <b>FY 2022-23</b> provided is as follows: <ul style="list-style-type: none"> <li>Total term life insurance premiums in India amounted to approximately Rs. 23,943 crores.</li> <li>Out of the above, <i>individual</i> pure term life insurance segment contributed Rs. 2,669 crore (11.15% of the total term life premiums).</li> <li>GST amounting to Rs 480 crore was collected on individual health insurance premiums at the current rate of 18%, of which Rs. 202 crores has been paid in cash.</li> </ul> </li> <li>DFS has informed that most life insurance products sold in India have a savings component rather than being pure protection/term insurance. This is because life insurance is often viewed more as a savings instrument rather than a risk protection tool. Term insurance policies do not offer any survival benefits, and the willingness to buy term insurance is negligible as they are not actively pushed by insurance providers.</li> <li>The report by Standing Committee on Finance (Performance Review and Regulation of Insurance Sector, February 2024) has recommended rationalizing the GST rate on insurance products, especially health and</li> </ul>

Sl. No.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations
		<p>to buy term insurance is negligible. The GST of 18% makes the product completely lack-lustre.</p> <ul style="list-style-type: none"> <li>The reduction in GST rate would make term insurance policies more affordable, encourage more citizens to opt for term insurance, enable insured to opt for higher coverage which would result in reducing the protection gap. The reduction in GST rate would also encourage public-private partnerships to devise more affordable insurance solutions.</li> <li>18% GST on life insurance amounts to levying tax on uncertainties of life and may be withdrawn.</li> </ul>	<p>term insurance. The report has observed that the high rate of GST results in a high premium burden which acts as a deterrent to getting insurance policies and recommended to reduce GST rate on term insurance policies.</p> <ul style="list-style-type: none"> <li><b>After deliberations, Fitment Committee recommended exempting pure term individual life insurance policies along with reinsurance thereof. The revenue implication of the same is likely to be Rs. 213 crores. The Committee further recommended that the GST Council may also record its desire that the benefit given in GST rates, if any, must be passed on to the policy holders.</b></li> </ul>

**Agenda Item 4 (e) (Part-II): Recommendations made by the Fitment Committee for deferring issues for further examination in relation to services**

**Annexure VI**

Sl • N o.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations
1.	<p>(a) To amend Schedule I of the CGST Act to declare that there is no supply by Head Office of foreign shipping lines to its Indian GST registration or their agents with retrospective effect from 01.07.2017.</p> <p>(b) Since amendment to the schedule I would require completion of various legislative processes, following may be considered:</p> <ul style="list-style-type: none"> <li>Notification may be issued retrospectively w.e.f 01.07.2017 to grant exemption for all alleged deemed supplies from Head office of Foreign shipping lines to its Indian GST registrations or agents in India.</li> <li>For ease of reporting in GST returns the value</li> </ul>	<ul style="list-style-type: none"> <li>Foreign shipping lines (FSLs) operate a global shipping business conducted across international trade lanes.</li> <li>They do not have presence in any country which may be covered by the trade lanes.</li> <li>FSLs would merely appoint an agent in each country for the limited purpose of undertaking necessary compliance in that country.</li> <li>FSLs have formally obtained registration under GST laws and discharge GST in respect of all contracts entered into by it with Indian customers.</li> <li>The business of the foreign shipping lines is conducted through offices, vessels, assets, networks and personnel-all based outside India. The business of foreign shipping lines is not conducted through any branch, agency, or representational office in India.</li> <li>Explanation 1 and 2 of Section 8 of IGST Act, 2017 cannot apply in their case. FSLs do not have an establishment or a distinct person in India.</li> <li>All the shipping contracts including contracts with Indian customers are entered into by the foreign shipping lines which are overseas entities. The expenses incurred and the profits earned - including under contracts with</li> </ul>	<ul style="list-style-type: none"> <li>As per DGGI investigations, the shipping lines are liable to pay GST under RCM as recipient of services from their head offices located outside India.</li> <li>The same is on account of various costs incurred by head office such as lease of vessel, repairs and maintenance undertaken outside India etc.</li> <li>As per entry 4 of Schedule I of CGST Act, <i>“import of service by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business”</i> is to be treated as a supply even if made without consideration.</li> <li>Further, as per explanation to sub-section 2 of section 8 of IGST Act, where a person has an establishment in India and any other establishment outside India then such establishments shall be treated as establishments of distinct persons.</li> <li>Section 7(1)(c) of CGST Act, 2017 states that <i>“the expression supply includes the activities specified in Schedule I, made or agreed to be made without a consideration”</i>.</li> <li>Section 2 (11) of IGST Act, 2017 defines ‘import of services’ as the <i>“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.”</i></li> <li>Based on the above provisions, DGGI is of the view that branch offices of foreign shipping lines are liable to pay</li> </ul>

Sl · N o.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations
	<p>of alleged deemed supplies could also be clarified as nil.</p> <ul style="list-style-type: none"> <li>The exemption notification could also be supported by decision from GST Council to conclude all investigations in the matter.</li> <li>Once the amendments in the Schedule I of the CGST Act are completed, exemption notification may be rescinded. The process may be completed within next three months.</li> </ul>	<p>Indian customer are likewise, of the overseas entities;</p> <ul style="list-style-type: none"> <li>For a transaction to be taxed under GST, the same needs to qualify as supply of goods and services. Further Indian registration would either have to qualify as a natural person or a juridical person for the tax to be levied. In the instant case, the Indian registration neither qualifies as a natural person or a juridical person.</li> <li>It is a well settled in law that a legal entity cannot contract with itself. The FSL cannot therefore contract with its registration. There can be no transaction of supply.</li> <li>Entry 2 and 4 of the Schedule I cannot apply in this case.</li> <li>Head office of the foreign shipping lines have obtained Indian GST registration to simplify the process of discharge of tax and to avoid payment under Reverse Charge Mechanism by its customers.</li> <li>The remittances from Indian customers under the said contracts after payment of expenses in India belong to overseas client. Such remittances cannot be equated as consideration for presumed supply.</li> <li>It has been requested that correct position thus is to amend Schedule I of the CGST Act to declare that there is no supply by Head Office of foreign shipping lines to its Indian GST registration or their agents with</li> </ul>	<p>tax under RCM as recipient of services from their Head office located outside India.</p> <ul style="list-style-type: none"> <li>Indian National Shipowners' Association (INSA) has requested for parity in the treatment in respect of GST for Indian shipping industry similar to exemptions proposed to be granted to foreign shipping lines.</li> <li>Currently, transport of goods in vessel is taxed at 5% GST provided that ITC on the goods (other than on ships, vessels) used in supplying the service has not been taken.</li> <li><b>Fitment Committee deliberated on the issue and recommended that the issue may be deferred for more comprehensive examination and collection of data in view of the fact that the issue is resolved for these foreign shipping line after issuance of Circular No. 210/4/2024-GST dated 26.06.2024</b> which provides that <i>“where the foreign affiliate is providing certain services to the related domestic entity, and where full input tax credit is available to the said related domestic entity, the value of such supply of services declared in the invoice by the said related domestic entity may be deemed as open market value in terms of second proviso to rule 28(1) of CGST Rules. Further, in cases where full input tax credit is available to the recipient, if the invoice is not issued by the related domestic entity with respect to any service provided by the foreign affiliate to it, the value of such services may be deemed to be declared as Nil, and may be deemed as open market value in terms of second proviso to rule 28(1) of CGST Rules”.</i></li> </ul>

Sl · N o.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations
		<p>retrospective effect from 01.07.2017.</p> <ul style="list-style-type: none"> <li>• DGGI has initiated investigations against the shipping lines on the ground that they are liable to pay GST under RCM as recipient of services from their head offices located outside India.</li> </ul>	

**Agenda Item 4 (g): Issuance of circular clarifying the scope of the phrase 'as is where is basis'**

1. The GST Council has been recommending regularisation of the past period on 'as is where is' basis. This has been done mainly in situations, such as, where genuine doubts have arisen due to ambiguity in the language of notification or there are two competing entries with different rates in the notifications or issues have arisen due to diverse interpretation resulting in a situation where some suppliers have paid a lower rate of GST (including nil rate on account of an exemption entry) and some suppliers have paid a higher rate of GST.
2. The intention of the Council behind regularization of payments is that the payment of GST, even if made at the lower rate of GST (or nil rate in case of exemption entry), shall be treated as tax fully paid. Taxpayers who had paid at the higher GST rate shall not be eligible for any refund.
3. Instances have been brought to the notice of the Board pertaining to the prevailing doubts among the field formations/trade as regards the scope of regularization of GST payments on "as is / as is, where is". To avoid disputes, the Fitment Committee has recommended to issue a Circular to clarify the intent of the Council behind such regularization.

**Agenda Item 4 (h): Report of Committee of Officers on Taxation of Extra-Neutral Alcohol under GST for the past period (from 1.7.2017 to 20.10.2023)**

1. A Committee of Officers (CoO) was constituted as per directions of the GST Council in its 52<sup>nd</sup> Meeting held on 7.10.2023 with Joint Secretary (TRU) as Convenor and with States of Andhra Pradesh, Karnataka, Madhya Pradesh, Maharashtra, Punjab, Rajasthan, Uttar Pradesh and West Bengal as members to study the taxation of Extra-Neutral Alcohol (ENA) under GST for the past period i.e from 1.7.2017 to 20.10.2023. This was against the backdrop of the recommendation of the GST Council in its 52<sup>nd</sup> meeting to keep ENA for use in manufacture of alcoholic liquor for human consumption outside the ambit of GST.
2. The requisite changes in GST law have been carried out in section 9 (1) of the CGST Act vide section 114 of the Finance (No.2) Act 2024. The provision will come into effect from a date to be notified based on the recommendation of the GST Council.
3. The Committee held three meetings on 3<sup>rd</sup> November, 2023, 11<sup>th</sup> January, 2024 and 21<sup>st</sup> August, 2024.
4. There is no dispute regarding ENA for industrial purposes which always attracted 18%. Thus, the examination by the Committee is confined to only taxation of ENA that is used for manufacture of alcoholic liquor for human consumption.
5. The Committee examined the data collected from States/UTs and CGST formations including protective demands raised under GST/VAT on ENA and GST/VAT revenue collected on ENA /Rectified Spirit /Undenatured Ethyl Alcohol used for alcoholic liquor for human consumption. One of the solutions discussed in the meetings was whether to regularise the past on “as is where is basis”. The power of States to levy VAT on ENA under Entry 8 of List II is currently sub-judice before the Hon’ble Supreme Court on an appeal filed by State of UP against Allahabad HC judgement in the case of M/s Jain distillery holding that States does not have the power to levy VAT ENA that is used for manufacture of alcoholic liquor for human consumption. State of UP informed the Committee that the matter is likely to be decided soon. Members of the Committee raised the apprehension that in the event the Hon’ble Apex Court upholds the HC decision then all States would have to refund the VAT collected. Therefore, Committee of Officers has recommended take a view after the decision of the Hon’ble Supreme Court.
6. The report of the Committee of Officers is proposed to be placed before the GST Council.

#### **Agenda Item 4 (i): Status update on Group of Ministers (GoM) on Rate Rationalisation**

The GST Council, during its 45th Meeting held on 17th September, 2021, decided that a Group of Ministers may be constituted to look into matters related to rate rationalization and correction of inverted duty structure. Accordingly, the Group of Ministers on Rate Rationalization (GoM) was constituted with Hon'ble Chief Minister, Karnataka as convenor. Vide order dated 24<sup>th</sup> September 2021. Thereafter the GoM was reconstituted on four occasions vide orders dated 22 Nov, 2021, 22 Sep, 2022, 1 Nov, 2023 and 02 July 2024.

2. Currently, Hon'ble Deputy Chief Minister, Bihar is the Convener of the GoM and Hon'ble Ministers of the State Governments of Karnataka, Uttar Pradesh, Rajasthan, West Bengal and Kerala as its members. Fitment Committee is to assist the GoM and JS(TRU-I) is to provide secretarial assistance.

3. The terms of reference (ToR) of the GoM are as follows:

*(i) review the supply of goods and services exempt under GST with an objective to expand the tax base and eliminate breaking of ITC chain;*

*(ii) review the instances of inverted duty structure other than where Council has already taken a decision to correct the inverted structure and recommend suitable rates to eliminate inverted duty structure as far as possible so as to minimize instances of refund due to inverted duty structure;*

*(iii) review the current tax slab rates and recommend changes in the same as may be needed to garner required resources; and*

*(iv) review the current rate slab structure of GST, including special rates, and recommend rationalization measures, including merger of tax rate slabs, required for a simpler rate structure in GST.*

4. In 47<sup>th</sup> GST Council meeting held on 28<sup>th</sup>- 29<sup>th</sup> June, 2021, the GoM submitted its interim Report containing recommendations on corrections in inverted duty structure and review of exemptions on supply of goods and services in the GST rate structure. The GoM also requested 3 months' time for the GoM to come up with final report. The interim report was accepted by the GST Council and 3 months' extension was also provided to submit a final report.

5. In the 53<sup>rd</sup> GST Council held on 22<sup>nd</sup> June, 2024, it was directed that a status update may be placed before the GST Council on the work done by the GoM on Rate Rationalisation.

6. The 4<sup>th</sup> meeting of GoM was held on 22<sup>nd</sup> July 2024 in Delhi and the next meeting of the GoM has been scheduled on 25<sup>th</sup> September 2024.

7. A status update on Group of Ministers (GoM) on Rate Rationalisation is proposed to be presented before the GST Council.

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## STATUS UPDATE REPORT ON GoM on RATE RATIONALISATION

### I. Context

1. A Group of Ministers (GoM) on Rate Rationalization was set up based on the recommendations of the GST Council in its 45th Meeting held on 17th September, 2021.
2. The GoM was constituted with the Hon'ble Chief Minister of Karnataka, as the convenor, and Hon'ble Ministers from State Governments of Bihar, Goa, Kerala, Rajasthan, Uttar Pradesh and West Bengal as members. Subsequently, the GoM was reconstituted on 22 Nov, 2021, 22 Sep, 2022, 1 Nov, 2023 and 02 July 2024.
3. Currently, the GoM is reconstituted with Hon'ble Deputy Chief Minister, Bihar as Convener and Hon'ble Ministers of the State Governments of Karnataka, Uttar Pradesh, Rajasthan, West Bengal and Kerala as its members. Fitment Committee was directed to assist the GoM and JS(TRU-I) shall provide the secretarial assistance.
4. The terms of reference of the GoM on Rate Rationalization are as under:
  - (i) *review the supply of goods and services exempt under GST with an objective to expand the tax base and eliminate breaking of ITC chain;*
  - (ii) *review the instances of inverted duty structure other than where Council has already taken a decision to correct the inverted structure and recommend suitable rates to eliminate inverted duty structure as far as possible so as to minimize instances of refund due to inverted duty structure;*
  - (iii) *review the current tax slab rates and recommend changes in the same as may be needed to garner required resources; and*
  - (iv) *review the current rate slab structure of GST, including special rates, and recommend rationalization measures, including merger of tax rate slabs, required for a simpler rate structure in GST.*
5. In addition, in subsequent meetings following issues were also referred to GoM in order to carry out a holistic and comprehensive examination of the issues.
  - i. Correction of Inverted Duty structure in Textile Sector
  - ii. Rationalisation of rates of inputs in Fertiliser sector
  - iii. Reduction of GST rate on silk and silk weaving material
  - iv. Reduction of GST rate on handloom weavers
  - v. GST on Flying Training Organisations (FTO) approved by DGCA
6. In 47<sup>th</sup> GST Council meeting held on 28<sup>th</sup>-29<sup>th</sup> June, 2021, the GoM submitted recommendations on corrections in inverted duty structure and review of exemptions on supply of goods and services in the GST rate structure, in its interim report. Furthermore, GoM requested 3 months' time for the GoM to come up with final report. The interim report was accepted by the GST Council and 3 months' extension was also provided to submit a final report.
7. GoM discussed the issues and decided to hold the next meeting of GoM on 25<sup>th</sup> September 2024. The recommendations of the GoM on the Terms of Reference and the issues will be incorporated in the Final Report and placed before the GST Council in due course.

**Agenda Item 4 (j): Status update on Group of Ministers (GoM) on boosting real estate sector under GST regime**

The GST Council in its 32<sup>nd</sup> meeting held on 10<sup>th</sup> January 2019 recommended to constitute a Group of Ministers for boosting Real Estate sector under GST regime. Seven-member Group of Ministers for boosting Real Estate sector was constituted with Shri Nitin Patel, Hon'ble Dy. Chief Minister of Gujarat, as the Convenor of the GoM. After its constitution, the GoM convened two meetings on 8<sup>th</sup> February, 2019 and 21<sup>st</sup> November, 2019. Third meeting of GoM has been held on 22.08.2024.

2. Currently, Dr. Pramod Sawant, Hon'ble Chief Minister, Goa is the Convenor of the GoM and Hon'ble Ministers of the States of Bihar, Uttar Pradesh, Kerala, Maharashtra, Punjab and Gujarat are its members.

3. The Terms of Reference (ToR) of the GoM are as below:

- i. Analyse tax rate of GST, including inter alia issues/challenges in view of proposal for boosting real estate sector under GST regime by providing a composition scheme for residential construction units referred to GoM in its 32<sup>nd</sup> GST meeting of GST Council held on 10<sup>th</sup> January, 2019;
- ii. Examine and suggest ways for composition scheme or any other scheme, for boosting real estate sector and suggest scheme for transition vis-à-vis introduction of suggested scheme;
- iii. Examine various aspect of levy of GST on Transfer of Developmental Rights (TDR) and Developmental Rights in a Joint Development Agreement and suitable model;
- iv. Examine legality of inclusion/exclusion of land or any other ingredient, in composition and suggest valuation mechanism;
- v. Examine and suggest any other aspect relevant to boost Real Estate Sector, which may be brought to the notice of GoM.

4. The third meeting of the GoM held on 22.08.2024 under the chairmanship of Dr. Pramod P. Sawant, Hon'ble Chief Minister of Goa and convener of the GoM at North Block, New Delhi was attended in person by Sh. Samrat Choudhary, Hon'ble Deputy Chief Minister of Bihar; Sh. Suresh Kumar Khanna, Hon'ble Minister for Finance, Uttar Pradesh; Sh. K.N. Balagopal, Hon'ble Minister for Finance, Kerala and Smt. Aditi Tatkare, Hon'ble Minister for Women & Child Development, Maharashtra. Shri Harpal Singh Cheema, Hon'ble Minister for Finance, Punjab attended the meeting through Video Conferencing. The state of Gujarat was represented by the Commissioner, State Tax, Gujarat.

5. The issues under consideration of the GoM and various decisions taken on them are as below:

- i. To exempt GST on long term lease of land (thirty years, or more) of industrial plots or plots for development of infrastructure for financial business, provided by a private person or entity, or an entity having less than 20% ownership of the Government (**Request from the state of Punjab**).
- ii. To exempt GST on the services provided by Central Government or State Government or Governmental Authority by way of granting of long-term lease (exceeding 30 years)

**(Request from state of Punjab).**

- iii. To exempt GST payable on the premium amount for long-term leases of 30 years and above executed by Government owned Institutions/ Industrial Development Corporations/ Undertakings for industry, financial or other businesses **(Request from state of Madhya Pradesh).**
- iv. To exempt GST on supply of construction services provided by the Co-operative Housing Society to its members at cost-to-cost basis on any plot which has been allotted by any state government or the central government or any union territory or any other governmental authority or governmental entity to such co-operative housing societies may be exempted. **(Request from the state of West Bengal).**
- v. To exempt GST on the redevelopment of buildings in own cooperative housing society on ownership basis in Abhyuday Nagar, Mumbai **(Request from the state of Maharashtra).**
- vi. To provide preferential tax treatment to free houses provided to slum dwellers in a slum rehabilitation/ redevelopment project and mechanism of taxing TDR handed over to builder by Government thereof **(Request from the state of Maharashtra).**
- vii. To review the value limit of Rs. 45 lakhs in the definition of affordable residential apartment for a metropolitan region, if necessary **(Request from the state of Maharashtra).**

#### **6. Discussion on agenda item No. i & ii:**

- To exempt GST on long term lease of land (thirty years, or more) of industrial plots or plots for development of infrastructure for financial business, provided by a private person or entity, or an entity having less than 20% ownership of the Government.
- To exempt GST on the services provided by Central Government or State Government or Governmental Authority by way of granting of long-term lease (exceeding 30 years).

**6.1** The above requests were sponsored by the state of Punjab. However, Hon'ble Finance Minister from Punjab requested to defer the discussion on both these issues on grounds that the issues need to be studied in detail and data needs to be collated before taking any decision in this regard.

**6.2** Hon'ble Convenor recommended to form a committee of the Commissioners of Commercial State Taxes to obtain the data on the issue in a month's time and examine the same before presenting to the GoM. The GoM recommended to defer the decision on the matter till the next meeting.

#### **7. Discussion on agenda item No. iii**

- To exempt GST payable on the premium amount for long-term leases of 30 years and above executed by Government owned Institutions/ Industrial Development Corporations/ Undertakings for industry, financial or other businesses.

**7.1** The states were of the view that for inclusion of 'other businesses' in the existing exemption entry will widen the scope of exemption to unintended businesses also. Hence, there should be clarity on what activity/business are to be included to avoid any misuse of this exemption. This proposal was received from the state of Madhya Pradesh as they would like to provide the exemption if the long-

term lease is meant for tourism sector. It is observed that in certain states such long term lease is covered by the existing exemption as they have granted the status of industry to tourism sector. Accordingly, it was suggested to seek reports from states who have given the status of industry to other sectors (including tourism sector) along with revenue implications to such sectors with a view to examine the issue comprehensively before taking any decision.

**7.2** Hon'ble Convenor accordingly recommended to defer the matter till next meeting. Hon'ble Convenor also recommended that the proposed committee of the Commissioners of Commercial State Taxes shall obtain the data on the issue in a month's time and examine the same before presenting to the GoM.

## **8. Discussion on agenda item No. iv**

- To exempt GST on supply of construction services provided by the Co-operative Housing Society to its members at cost-to-cost basis on any plot which has been allotted by any state government or the central government or any union territory or any other governmental authority or governmental entity to such co-operative housing societies.

**8.1** The GoM recommended that members from Maharashtra, Goa and UP to collect details of the issues/ various practices being followed in the states. The Hon'ble Convenor stated that proposed committee of officers to obtain such details of practices being followed in their respective states in respect of construction and supply of flats by the CHS to its members along with the suggestions on the issue on the given agenda in next 30 days. The Commissioner of State Tax, Goa is required to submit a note regarding the practice followed in the state of Goa about the old CHS. It has also been recommended that above Committee of Commissioners constituted will examine all the practices received.

## **9. Discussion on agenda item no. v & vi**

- To exempt GST on the redevelopment of buildings in own cooperative housing society on ownership basis in Abhyuday Nagar, Mumbai.
- To provide preferential tax treatment to free houses provided to slum dwellers in a slum rehabilitation/ redevelopment project and mechanism of taxing TDR handed over to builder by Government thereof

**9.1** With respect to issue of redevelopment of buildings in own co-operative society, Hon'ble Convenor requested Maharashtra that a fresh request may be sent again for examination as the issue and request of the state of Maharashtra is not clear. The state of Maharashtra was requested to submit a detailed proposal on both the issues.

## **10. Discussion on agenda item no. vii**

- To review the value limit of Rs. 45 lakhs in the definition of affordable residential apartment for a metropolitan region, if necessary.

**10.1** Hon'ble Minister from the state of Maharashtra informed that value fixed for affordable residential apartments needs to be revised as the prevailing rates in one state may substantially vary from other states. The Commissioner of Commercial Taxes, Maharashtra stated that the ceiling limit of 45 lakhs for affordable housing for metro cities like Mumbai will only cover less than 15% of overall flats constructed.

**10.2** Hon'ble Convenor stated that the value of residential apartments significantly vary in different states and for the states of state of Maharashtra was requested to do detailed study and propose different ceiling limits for examination in the GoM with appropriate justification. Further, the convenor stated that the formulation should encourage the industry with no adverse revenue implication.

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## **Agenda Item 8 (d): GST Appellate Tribunal - Issues for approval**

The present Agenda Note is to seek approval of the GST Council on 3 different issues related to the GST Appellate Tribunal (GSTAT in short), as detailed below:

### **2. Notification of amendments in sections 109 and 171 of the CGST Act, as amended vide Finance (No. 2) Act, 2024**

2.1. The Finance (No. 2) Act, 2024 was notified on 16.08.2024. Vide the said Act, various amendments have been carried out to the CGST Act, 2017, including amendments to sections 171 and 109 of the CGST Act [extract of *relevant sections placed as Annexure-I*]. The said amendments *inter alia* deal with empowering the Principal Bench of GSTAT to undertake examination of the Anti-Profitteering measures under GST. Also, amendment further provides for introducing a sunset clause for Anti-Profitteering measures.

2.2. Therefore, it is proposed that amendments to the Finance Act 2024 in sections 109 and 171 of the CGST Act may be notified with effect from 15.09.2024. In this regard, a notification is required to be issued [*Draft Notification placed as Annexure-II*]. Accordingly, ***approval of the GST Council is sought to notify provisions of sections 109 and 171 of the CGST Act with effect from 15.09.2024.***

### **3. Notification regarding jurisdiction of the various benches of the GSTAT**

3.1. As per the provisions of sub-section 4 of section 109 of CGST Act, 2017,

*“...on the request of the State, the Government may, by notification, constitute such number of State Benches **at such places and with such jurisdiction as may be recommended by the Council.**”*

3.2. Accordingly, it may be seen that the jurisdiction of the State Benches (and the additional Sittings associated with the State Benches) is required to be notified as per the said provisions.

3.3. In this regard, the States were requested in the last Council meeting to intimate the locations of the Benches / Additional Sittings district-wise. The jurisdiction has been received from majority of the States (except Gujarat and Haryana). Based on the details received from the States, a draft notification has been prepared.

3.4. ***Approval of the GST Council is sought for notifying the jurisdictions of the State Benches as per draft notification placed at Annexure III.***

### **4. Representations received from Kerala, Uttar Pradesh and Punjab in respect of location of the State Bench of GSTAT**

4.1. Post approval of the GST Council in its 53<sup>rd</sup> meeting held on 22.06.2024, requests were received from the States of Kerala, Punjab and Uttar Pradesh for changing the locations of the Bench / Additional Sittings. The request of Kerala has already been incorporated in notification **No. S.O. 3048(E) dated 31.07.2024** notifying, under section 109 (4), the location of the State Benches of GSTAT and the sitting/circuit associated with the said Bench. ***The said request is hereby placed before the GST Council for post-facto approval and records.***

4.2. The proposal of Government of Uttar Pradesh is for notifying Prayagraj as location of the Bench and Varanasi as the additional sitting of Prayagraj because the Principal Bench of High Court of Uttar Pradesh is also situated in Prayagraj.

4.3 The State of Punjab has requested that that the location of Bench be changed from Jalandhar to Chandigarh and notify Jalandhar as the additional sitting of Chandigarh.

4.4 ***It is proposed to accept the above requests of Uttar Pradesh and Punjab and amend the notification No. S.O. 3048(E) dated 31.07.2024 as per draft notification placed at Annexure III.***

5. To summarise, the following proposals are placed before the GST Council for its approval:

- i. Notifying the provisions of sections 109 and 171 of the CGST Act, 2017 with effect from 15<sup>th</sup> September 2024 [*as detailed in para 2.2 above*];
- ii. Notifying the jurisdiction of the State Benches and Additional Sitzings of GSTAT [*as detailed in para 3.4 above*];
- iii. Proposal of Kerala for changing location of Sitting for post-facto approvals [*as detailed in para 4.1 above*]; and
- iv. Proposals of Governments of Uttar Pradesh and Punjab to change in the location of the bench and additional sitting [*as detailed in para 4.2 to 4.4 above*].

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**Amended Section 109 of the Central Goods and Services Tax Act (amendments made by Finance Act 2024 in red):**

**109. Constitution of Appellate Tribunal and Benches thereof.**

(1) The Government shall, on the recommendations of the Council, by notification, establish 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, **or for conducting an examination or adjudicating the cases referred to in sub-section (2) of section 171, if so notified under the said section.**

**...**

(5) The Principal Bench and the State Bench shall hear appeals against the orders passed by the Appellate Authority or the Revisional Authority:

Provided that the cases in which any one of the issues involved relates to the place of supply, shall be heard only by the Principal Bench:

**Provided further that the matters referred to in sub-section (2) of section 171 shall be examined or adjudicated only by the Principal Bench:**

**Provided also that the Government may, on the recommendations of the Council, notify other cases or class of cases which shall be heard only by the Principal Bench.**

(6) **Subject to the provisions of sub-section (5),** the President shall, from time to time, by a general or special order, distribute the business of the Appellate Tribunal among the Benches and may transfer cases from one Bench to another.

-

**Amended Section 171 of the Central Goods and Services Tax Act (amendments made by Finance Act 2024 in red)**

**171. Antiprofitereering measure. —**

(1) Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices.

(2) The Central Government may, on recommendations of the Council, by notification, constitute an Authority, or empower an existing Authority constituted under any law for the time being in force, to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.

**Provided that the Government may by notification, on the recommendations of the Council, specify the date from which the said Authority shall not accept any request for examination as to whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.**

Explanation.— For the purposes of this sub-section, “request for examination” shall mean the written application filed by an applicant requesting for examination as to whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.’;

(3) The Authority referred to in sub-section (2) shall exercise such powers and discharge such functions as may be prescribed.

(3A) Where the Authority referred to in sub-section (2), after holding examination as required under the said sub-section comes to the conclusion that any registered person has profiteered under sub-section (1), such person shall be liable to pay penalty equivalent to ten per cent. of the amount so profiteered: Provided that no penalty shall be leviable if the profiteered amount is deposited within thirty days of the date of passing of the order by the Authority.

Explanation (1).— For the purposes of this section, the expression “profiteered” shall mean the amount determined on account of not passing the benefit of reduction in rate of tax on supply of goods or services or both or the benefit of input tax credit to the recipient by way of commensurate reduction in the price of the goods or services or both.

Explanation 2.—For the purposes of this section, the expression “Authority” shall include the “Appellate Tribunal”

**ANNEXURE-II**

**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II,  
SECTION 3, SUB-SECTION(ii)]**

**GOVERNMENT OF INDIA**

**MINISTRY OF FINANCE (DEPARTMENT OF REVENUE)**

**NOTIFICATION No. xx/2024–Central Tax**

New Delhi, dated the September, 2024

S.O. ....(E).—In exercise of the powers conferred by clause (b) of sub-section (2) of section 1 of the Finance (No. 2) Act, 2024 (15 of 2024), the Central Government hereby appoints the 15<sup>th</sup> day of September, 2024, as the date on which the provisions of sections 142 and 148 of the said Act shall come into force.

[F.No. XXX]

( )

Jt Secretary

**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II,  
SECTION 3, SUB-SECTION (ii)]**

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

**New Delhi, dated September, 2024**

**S.O. (E).** — In exercise of the powers conferred by the sub-sections (1), (3) and (4) of section 109 of the Central Goods and Services Tax Act, 2017 (12 of 2017), in the notification No. S.O.3048(E), of Department of Revenue, Ministry of Finance, published in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (ii), the Central Government, on the recommendation of the Goods and Services Tax Council, hereby makes the following amendments, namely:-

(i) in clause (iii), in the Table given in the said notification,

- a. against serial number 25 of column (1), in column (4), the word “Varanasi” shall be replaced by “Prayaragraj” and in column (5), the word “Prayaragraj” shall be replaced by “Varanasi”;
- b. against serial number 19 of column (1), in column (4), the word “Jalandhar” shall be replaced by “Chandigarh” and in column (5), the word “Jalandhar” shall be replaced by “Chandigarh”;

(ii) after clause (iii) in the said notification, clause (iv) shall be inserted as follows, namely:—

“(iv) notifies the jurisdiction of the State Benches of the Goods and Services Tax Appellate Tribunal in column (4) of the table below for the locations of the benches specified in corresponding entry in column (3), and in column (6) for the Sitting / Circuit specified in corresponding entry in column (5) thereof, with effect from the date of publication of this notification in the Gazette of India (Extraordinary), namely:—

Sl. No.	State Name	Location	Jurisdiction (Districts)	Sitting / Circuit	Jurisdiction (District)
(1)	(2)	(3)	(4)	(5)	(6)
1	Andhra Pradesh	Vijayawada	Krishna, NTR, Guntur, Palnadu Bapatla Prakasam, Sri Potti Sriramulu Nellore, Kurnool, Nandyal, Ananthapuramu, Sri Sathya Sai, YSR Kadapa,	Vishakhapatnam	Srikakulam, Vizianagaram, Manyam, Alluri Sitharama Raju, Visakhapatnam Anakapalli Kakinada, Dr. B. R. Ambedkar Konaseema East Godavari West Godavari Eluru

			Annamayya, Tirupati and Chittoor		
2	Bihar	Patna	All districts in the State of Bihar		
3	Chhattisgarh	Raipur	All districts in the State of Chhattisgarh		
4	Delhi	Delhi	All districts in the Union Territory of NCT of Delhi		
5	Gujarat	Ahmedabad			
6	Dadra and Nagar Haveli and Daman and Diu	Surat		Rajkot	
7	Haryana	Gurugram		Hissar	
8	Himachal Pradesh	Shimla	All districts in the State of Himachal Pradesh		
9	Jammu and Kashmir	Jammu	Jammu	Srinagar	Anantnag
10	Ladakh		Samba Kathua Rajouri Poonch Reasi Udhampur Ramban Doda Kishtwar		Kulgam Pulwama Shopian Srinagar Budgam Ganderbal Baramulla Bandipora Kupwara Leh Kargil
11	Jharkhand	Ranchi	All districts in the State of Jharkhand		
12	Karnataka	Bengaluru	All districts in the State of Karnataka		
13	Kerala	Ernakulam	Ernakulam (Including	Thiruvananthapuram	Thiruvananthapuram
14	Lakshadweep		Aluva) Idukki Thrissur Palakkad Malappuram Kozhikode Wayanad Kannur Kasaragod UT of Lakshadweep		Kollam Alappuzha Pathanamthitta Kottayam
15	Madhya	Bhopal	All districts in the State		

	Pradesh		of Madhya Pradesh		
16	Goa Maharashtra	Mumbai	Mumbai, Mumbai-suburban	Panaji (Circuit)	All districts in the State of Goa
17		Pune	Pune Kolhapur Satara Sangli Ratnagiri Sindhudurg Solapur Dharashiv	Thane	Thane Palghar Raigad
		Nagpur	Nagpur Chandrapur Bhandara Gondia Gadchiroli Wardha Amravati Yavatmal Akola Washim Buldhana	Chhatrapati Sambhajinagar	Chhatrapati- Sambhajinagar Beed Jalna Nashik Ahmednagar Nanded Latur Parbhani Hingoli Jalgaon Dhule Nandurbar
18	Odisha	Cuttack	All districts in the State of Odisha		
19	Punjab	Chandigarh	Mohali	Jalandhar	Jalandhar
20	Chandigarh		Ropar Fatehgarh Sahib Patiala Sangrur Barnala Bathinda Fazilka Sri Muktsar Sahib Malerkotla Mansa		Hoshiarpur Nawan Shahar Kapurthala Amritsar Tarn Taran Gurdaspur Pathankot Ludhiana Moga Ferozepur Faridkot
21	Rajasthan	Jaipur	Alwar Bhilwara Tonk Baran Bundi Jhalawar Kota Bharatpur Dholpur Karuali Sawai Madhopur		

			Jaipur Alwar Jhunjhunu Sikar Dausa Beawar Kekri Shahpura Khairthal-Tijara Gangapur City Deeg Jaipur(Rural) Kotputli-Behrod Neem Ka Thana Dudu		
		Jodhpur	Bikaner Churu Hanumangarh Shri Ganganagar Banswara Chittorgarh Dungarpur Udaipur Rajsamand Pratapgarh Barmer Jaisalmer Jalore Jodhpur Pali Sirohi Nagaur Anoopgarh Salumber Jodhpur(Rural) Falodi Balotra Sanchor Deedwana-Kuchaman	-	-
22	Tamil Nadu	Chennai	Chennai (North), Chennai (Central), Chennai (South), Tiruvallur, Chengalpattu, Cuddalore, Kancheepuram, Vellore	Puducherry (Circuit)	All districts in the Union Territory of Puducherry

23	Puducherry	Madurai	Thiruvapur, Trichy, Madurai, Virudhunagar, Tirunelvi	Coimbatore	Coimbatore, Tiruppur, Erode, Salem, Hosur
24	Telangana	Hyderabad	All districts in the State of Telangana	-	-
25	Uttar Pradesh	Lucknow	Lucknow Hardoi Raebareli Sitapur Lakhimpur Unnao Kanpur Nagar Kanpur Dehat Bareilly Badaun Shahjahanpur Pilibhit		
		Prayagraj	Prayagraj Pratapgarh Fatehpur Kaushambi Ayodhya Barabanki Gonda Bahraich Balarampur Amethi Sultanpur Shravasti	Varanasi	Varanasi Ghazipur Chandauli Jaunpur Azamgarh Ballia Mau Mirzapur Sonbhadra Bhadohi Gorakhpur Basti Siddharth Nagar Sant Kabir Nagar Deoria Maharajganj Kushinagar
		Ghaziabad	Ghaziabad Hapur Bulandshahar Gautam Buddha- Nagar Meerut Baghpat Saharanpur Shamli Muzaffarnagar Moradabad	Agra	Agra Farrukhabad (Fatehgarh) Auraiya Kannauj Mainpuri Firozabad Aligarh Etah Kasganj Mathura

			Amroha Sambhal Rampur Bijnor		Hathras Jhansi Lalitpur Jalaun Banda Chitrakoot Hamirpur Mahoba
26	Uttarakhand	Dehradun	All districts in the State of Uttarakhand	-	-
27	Andaman and Nicobar Islands Sikkim West Bengal	Kolkata	All districts in the State of Sikkim and West Bengal and the Union Territory of Andaman and Nicobar Islands	-	-
28					
29					
30	Arunachal Pradesh	Guwahati	All districts in the state of Arunachal Pradesh, Assam, Manipur and Meghalaya	Aizawal (Circuit)	All districts in the state of Mizoram
31	Assam				
32	Manipur				
33	Meghalaya				
34	Mizoram				
35	Nagaland			Kohima (Circuit)	All districts in the state of Nagaland
36	Tripura			Agartala (Circuit)	All districts in the state of Tripura

[F. No. A-50050/99/2024-GSTAT-DOR]

Balasubramanian Krishnamurthy, Jt. Secy.

**Agenda Item 8 (e): Sharing of personally Identifiable Information of Taxpayers with other Ministries/Departments.**

This Agenda note is regarding the GST data sharing with Ministries and Departments. In this regard, it may be noted that the GST Council in its 48<sup>th</sup> meeting had approved an Agenda regarding the format and procedure to be followed while sharing of data when requested by various other Government Departments / Ministries / Agencies at the Central / State level.

2. The GST data sharing with Ministries and Departments request for data can be broadly classified into the following categories:

- (i) **Category A:** Validating GSTIN using GSTN validation API with the following data field;
- (ii) **Category B:** Aggregated GST data which does not involve disclosure of any personally identifiable information of a taxpayer etc.;
- (iii) **Category C:** Dis-aggregated data which does not disclose the identity of the taxpayer; and
- (iv) **Category D:** Any data sharing request that does not fall under the above category, including data of individual taxpayers.

3. GST Council in its 48<sup>th</sup> meeting had approved the agenda along with the procedure to process the request and the defined format for GST data sharing. As per the procedure, it was decided that the requests would be placed before the GST Implementation Committee (GIC) for a decision on sharing of the data.

4. As per the above residual category (D), *any data sharing request that does not fall under the above category should only be done with specific approval of the GST Council/GST Implementation Committee on a case-to-case basis.* Thus, any such cases falling in the residual category would also include personally identifiable data, but it would require to be approved by Council or GIC on a case-to-case basis. The merits of each case should fall within the requirements of section 158 (3).

5. Section 158 (3) of the CGST Act lists down the instances where GST data can be shared. Clauses (h), (k) and (l) of sub-section 3 of section 158 specifies that there is no bar on disclosure of

*"(h) any particulars when such disclosure is occasioned by the lawful exercise by a public servant or any other statutory authority, of his or its powers under any law for the time being in force; or*

*...*

*(k) any particulars to an officer of the Government as may be necessary for the purposes of any other law for the time being in force; or*

*(l) any information relating to any class of taxable persons or class of transactions for publication, if, in the opinion of the Commissioner, it is desirable in the public interest, to publish such information."*

6. In this regard, certain proposals were received from Departments/Ministries where sharing of personally identifiable individual tax-payer data has been requested. There was no consensus in GIC for some of these proposals. The following proposals are placed before GST Council for approval.

### **6.1 Request from M/o Labour and Employment:**

- (a) M/o Labour and Employment has requested GST data related to e-commerce sector for FY 2022-23 and 2023-24. Requested data includes supplier's name, GSTIN, annual turnover, HSN Code.
- (b) The said data is required for identification of digital platforms / aggregators, to assess the implementation of schemes for social security coverage of platform workers out of contribution received from digital platforms / aggregators (such as Ola, Uber, Zomato etc.).

### **6.2 Request from Directorate General of Commercial Intelligence & Statistics, M/o Commerce & Industry:**

- (a) The request is for Sharing of GSTN data for units engaged in export of services to develop a comprehensive Business Directory of Service Exporting Units of India.
- (b) The data requested inter alia includes Mobile number and Email address of suppliers.
- (c) The data is required for better compilation of services export values.

### **6.3 Request from Gujarat Infrastructure Development Board (GIDB)**

- (a) The request is for providing GST and e-way bill data to Gujarat Infrastructure Development Board (GIDB) for the "Preparation of Integrated Logistics Master Plan for the State of Gujarat".
- (b) In this case, data of "From Address" and "To Address" has been requested.
- (c) The said data has been requested to plot the movement of goods by quantum and commodity type along with the connectivity network through rail, road, pipeline, Inland waterway and Coastal shipping to identify the infrastructure bottlenecks. Further, it has been informed that Gujarat is implementing Gujarat Logistics Resource Centre to regularly monitor the logistics cost along the key routes and commodities.

### **6.4 Request from National Industrial Corridor Development Corporation Limited (NICDC), New Delhi:**

- (a) The request is to provide Bulk Data of E-way Bill numbers along with vehicle number of carriage.
- (b) The data is required for analysing commodity-wise origin and consumption points mapping and preferred mode of transportation, to identify bottlenecks in the logistics sector.

7. It may be seen that the requests are being received from various Ministries / Departments / Agencies for study / developing new services and / or improving public services. Request from M/o Labour and Employment is for the purposes implementation of its obligations under the Labour Laws and hence covered by the exception in clause (k) of section 158(3). Other requests are covered by the public interest exception provided in clauses (h) and (l) of section 158(3).

8. Based on the above, it is felt that there is no bar in the GST law on sharing of personally identifiable data also (*as there is no bar in publishing of the same*); however, the same may only be done in public interest or if it is required for the purposes of any other law. The above proposals would fall within these exceptions. ***Accordingly, the proposals as listed in para 6 above may be approved, by the Council***

9. It is further proposed that the sharing of data should be subject to following general conditions:

- (i) *The user agency should ensure safety and security of the data received from GST system and put in place proper IT and administrative mechanisms to ensure safety of data shared.*
- (ii) *The user agency should use the data only for the purpose it was shared and not disseminate the data further to other agencies.*
- (iii) *The user agency should not use the raw data for commercial benefits since this data has been acquired from the compliances furnished by taxpayers. Agencies can, however, charge for value added services made available based on the data shared.*
- (iv) *For data shared on recurring basis, right to access may be revoked at any time if it is found that it is not in public interest or it does not meet the requirements of section 158.*

10. **Accordingly, the agenda is placed before Council for approval of the specific proposals listed in para 6 above subject to the conditions listed in para 9 above.**

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**Agenda Item 9: Ad-hoc Exemptions Order(s) issued under Section 25(2) of Customs Act, 1962 to be placed before the GST Council for information**

In the 26<sup>th</sup> GST Council meeting held on 10<sup>th</sup> 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 19<sup>th</sup> 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. 4 of 2024	27.06.2024	Ad-hoc exemption under section 25(2) of the Customs Act 1962 from payment of Customs Duty on import of reading eye glasses by M/s Supreme Task India donated by Restoring Vision, USA
AEO No. 5 of 2024	23.07.2024	Ad-hoc exemption under section 25(2) of the Customs Act 1962 from payment of Customs Duty on re-importation of one unit of Liebherr Heavy Lift Crawler Crane (Model: LR 1350/1, Sl. No. 074113) by Bharat Heavy Electricals Limited (BHEL)

3. This is placed for the information of GST Council.

**F. No. 460/01/2024-Cus V**  
**Ad-hoc Exemption Order No. 4 of 2024**  
**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 27<sup>th</sup> June 2024

To,

The Chief Commissioner of Customs (Kolkata Zone)  
Customs House, 15/1,  
Strand Road, Kolkata-700001

Sir,

**Subject: Ad-hoc exemption under section 25(2) of the Customs Act 1962 from payment of Customs Duty on import of reading eye glasses by M/s Supreme Task India donated by Restoring Vision, USA- reg.**

The undersigned is directed to refer to the letter dated 04.01.2024 received from M/s Supreme Task India (hereinafter referred to as the "applicant institution") requesting for duty exemption under section 25(2) of the Customs Act 1962 for import of reading eye glasses.

2. It has been informed by the applicant institution that their partner agency Restoring Vision, USA is donating 50,000 reading glasses free of charge to them for free distribution among people in India. Further, it is informed that the gift would be distributed through Supreme Task General Hospital and Netraniketan Eye care Centre, Balangir, Odisha. These gifts will be given free of cost under eye care program irrespective of caste, creed and religion.

3. Under the circumstances of exceptional nature as mentioned above and in exercise of the powers conferred by sub-section (2) of Section 25 of the Customs Act, 1962 (52 of 1962), the Central Government being satisfied that it is necessary in the public interest so to do, hereby exempts only the said goods under consideration, i.e. 50,000 reading eye glasses totally valued at USD 23,500 (USD Twenty Three Thousand and Five Hundred only) with details as per annexure enclosed, from the whole of the duty of customs leviable thereon which is specified in the First Schedule to the Customs Tariff Act, 1975, and, from whole of the Integrated Tax and Compensation Cess leviable thereon under section 3 of the Customs Tariff Act, 1975, subject to the conditions that the goods imported:

- a. shall be used for the purpose for which they are being imported;
- b. shall not be put to any commercial use;
- c. shall not be sold, gifted, disposed of or used in any manner other than that specified in this order, without prior permission of the Central Board of Indirect Taxes and Customs;
- d. shall be open for inspection by the Customs Officer;

4. An undertaking subjecting the applicant institution to the conditions mentioned in Para 3 above shall be given by the applicant institution before the jurisdictional Commissioner of Customs for claiming benefit of exemption under this order at the time of clearance along with copies of documents pertaining to the import, such as the Bills of Entry, Bills of Lading, Invoices, etc.

5. This ad-hoc exemption order (AEO) does not ipso facto exempt the goods from the requirements under other Acts to be fulfilled at the time of import.

6. Any infringement of conditions of the AEO should be brought to the immediate notice of the Commissioner of Customs of the port of import for taking necessary action such as realization of Customs duty on the subject goods, penal action for such violations, etc.

7. The importation of goods exempted by this order shall be completed within six months of the date of this order.

Yours faithfully,

Enclosures: Annexure in 66 pages

(Megha Bansal)

Under Secretary to the Government of India

Copy to:

1. Sh. Ajit Pal, National Director, M/s Supreme Task India, A-1/20, 2<sup>nd</sup> Floor, IDBI Bank Building, Vijay enclave, New Delhi-110045.
2. Principal Director (Customs), Central Receipt Audit Wing, Office of the Comptroller & Auditor General, 10, Bahadur Shah Zafar Marg, New Delhi-110 002.
3. Guard File.

Yours faithfully,

(Megha Bansal)

Under Secretary to the Government of India

**F. No. 462/03/2024-Cus V**  
**Ad-hoc Exemption Order No. 5 of 2024**  
**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 23<sup>rd</sup> July 2024

To,

The Chief Commissioner of Customs (Kolkata Zone)  
Customs House, 15/1,  
Strand Road, Kolkata-700001.

Sir,

**Subject: Ad-hoc exemption under section 25(2) of the Customs Act 1962 from payment of Customs Duty on re-importation of one unit of Liebherr Heavy Lift Crawler Crane (Model: LR 1350/1, Sl. No. 074113) by Bharat Heavy Electricals Limited (BHEL)- reg**

The undersigned is directed to refer to email dated 08.05.2024 from the Ministry of External Affairs forwarding thereby a request from Bharat Heavy Electricals Limited (BHEL) seeking exemption from payment of Customs Duty in terms of section 25 (2) of Customs Act, 1962 for re-importation of one unit of Liebherr Heavy Lift Crawler Crane (Model: LR 1350/1, Sl. No. 074113) (copies enclosed).

2. MEA vide aforesaid email dated 08.05.2024 has conveyed the recommendation of the Foreign Secretary in the Ministry of External Affairs for the duty waiver on the following grounds:

*"The Liebherr Heavy Duty Crawler Crane (Model: LR1350/1, S.No. 074113) was pivotal in significantly contributing to the completion of the Maitree Super Thermal Power Project, an India-Bangladesh Friendship Project of bilateral importance. This project not only supported infrastructure development in Bangladesh but also played a role in enhancing diplomatic ties and generating immense goodwill between the two nations, which are critical for furthering India's foreign relations."*

3. In exercise of the powers conferred by sub-section (2) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government being satisfied that it is necessary in the public interest so to do, hereby exempts the said goods, i.e. one unit of Liebherr Heavy Lift Crawler Crane (Model: LR 1350/1, Sl. No. 074113), from the whole of the duty of Customs leviable thereon which is specified in the First Schedule to the Customs Tariff Act, 1975, and, the whole of the Integrated Tax and Compensation Cess leviable thereon under section 3 of the Customs Tariff Act, 1975, subject to the provisions of the Customs Act,

1962.

4. This ad-hoc exemption order (AEO) does not ipso facto exempt the goods from the requirements under other Acts to be fulfilled at the time of import.

5. Any infringement of conditions of the AEO should be brought to the immediate notice of the Commissioner of Customs of the port of import for taking necessary action such as realization of Customs duty on the subject goods and penal action for such violations etc.

6. The importation of goods exempted by this order shall be completed within six months of the date of this order.

Yours faithfully,

Enclosures: Annexure in 26 pages

(Megha Bansal)

Under Secretary to the Government of India

Copy to:

1. Sh. Siddhartha Kumar Baraily, Under Secretary (Bangladesh-Myanmar), Ministry of External Affairs, Room 68B, South Block, New Delhi-110011.
2. Principal Director (Customs), Central Receipt Audit Wing, Office of the Comptroller & Auditor General, 10, Bahadur Shah Zafar Marg, New Delhi-110 002.
3. Guard File.

Yours faithfully,

(Megha Bansal)

Under Secretary to the Government of India

