Minutes of the 26th GST Council Meeting held on 10 March, 2018

The twenty sixth Meeting of the GST Council (hereinafter referred to as 'the Council') was held on 10 March, 2018 in Vigyan Bhawan, New Delhi under the Chairpersonship of the Hon'ble Union Finance Minister, Shri Arun Jaitley (hereinafter referred to as the Chairperson). A list of the Hon'ble Members of the Council who attended the meeting is at **Annexure 1.** A list of officers of the Centre, the States, the GST Council and the Goods and Services Tax Network (GSTN) who attended the meeting is at **Annexure 2.**

2. The following agenda items were listed for discussion in the 26th Meeting of the Council: –

1. Confirmation of the Minutes of 25th GST Council Meeting held on 18th January, 2018

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

3. Decisions of the GST Implementation Committee (GIC) for information of the Council

4. Review of Revenue position for the month of January and February, 2018 under GST

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

6. Amendments to Anti-Profiteering Rules

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

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

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

10. Decision of date of reintroduction of e-Way Bill requirement

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

12. New System of Return Filing

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13. Applicability of Goods and Services Tax on Extra Neutral Alcohol (ENA)

14. Any other agenda item with the permission of the Chairperson

i. Consideration of representation dated 22.09.2017 by M/s Honda Siel Power Products as per the Directions of the Hon'ble High Court of Delhi

ii. Procedure to be followed for grant of *ad hoc* exemption on imports under Section 25 (2) of the Customs Act, 1962

iii. Appointment of Deputy Commissioner as member of Authority for Advance Ruling-Amendment in Rule 103 of the CGST Rules, 2017

iv. Minutes of meeting on GST on Liquor license fee convened on 20th February 2018

15. Date of the next meeting of the GST Council

3. The Hon'ble Chairperson welcomed the Hon'ble Members of the Council. Before taking up the Agenda items, the Hon'ble Chairperson placed on record the gratitude of the Council for the services rendered by its three outgoing Members, namely, Shri Zenith M. Sangma from Meghalaya; Shri T.R. Zeliang from Nagaland and Shri Bhanu Lal Saha from Tripura. He also welcomed Shri Conrad K. Sangma, the Hon'ble Chief Minister of Meghalaya as the new Member of the Council. He observed that nominations to the Council from the other two States, namely Tripura and Nagaland, should be expedited. After these preliminary comments, the Hon'ble Chairperson took up discussion on the Agenda items.

Discussion on Agenda items

Agenda item 1: Confirmation of the Minutes of the 25th GST Council meeting held on 18 January, 2018

4. Dr. Hasmukh Adhia, Union Finance Secretary and Secretary, GST Council (hereinafter referred to as 'the Secretary') informed that the Government of Gujarat had requested for a change in paragraph 14.12 of the Minutes relating to the version of the Commissioner of Commercial Tax (CCT), Gujarat. He requested Shri Shashank Priya, Joint Secretary, GST Council, to brief about the proposed change. The Joint Secretary, GST Council, informed that the recorded version of the CCT, Gujarat, was a brief summary of his intervention during the Council Meeting and that the CCT, Gujarat, had sent a revised draft suggesting incorporation of his version in greater detail. He added that the proposed revised draft for paragraph 14.12 could be suitably recorded as the version of the CCT, Gujarat, as follows:

'Dr. P.D. Vaghela, CCT, Gujarat, stated that two options were discussed by the Committee on Return. Option I supported by some of the States envisages uploading of supply and receipt details simultaneously by the taxpayer. Option II envisages only the details of supply to be uploaded by the supplier. In his option, there are two models, say, Model A which envisages grant of provisional credit to the recipients for missing supplies and Model B which envisages admissibility of input tax credit only if supplier uploads the invoices. The model proposed by

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Shri Nandan Nilekani is nothing but Model B of option II with a new feature that credit will be allowed even when tax is not paid by the supplier.

14.12.1. The CCT, Gujarat, further stated that the model proposed by Shri Nandan Nilekani was a harsher one, which was not earlier agreed to by the Law Committee. He stated that in this model, too much of power was being placed in the hands of the suppliers. He further stated that in the model proposed by Shri Nandan Nilekani (i.e. revised version of Model B), once an invoice was uploaded by the supplier and accepted by the buyer, the buyer would get credit automatically. However, the structure on which GST has been designed has two elements: (i) the seller uploads the invoices; (ii) the payment of tax against the invoice should have been made. If the proposed model was accepted, where the buyer would get credit on the basis of invoice uploaded by the seller without ascertaining payment of tax against the invoice, this would create a huge problem in IGST transfer as funds might be transferred from the State of the supplier to the State of the recipient, whereas the supplier might not have paid the tax. This would lead to a situation of tax administration of one State running after the defaulting suppliers located in another State, which would be very difficult.

14.12.2. He further stated that under Model A of Option II, input tax credit was being made available provisionally on the basis of missing invoices uploaded by the buyer subject to its acceptance later by the seller. He stated that this model could be acceptable to trade and chartered accountants, but Model B of option II would never be acceptable to the stakeholders. He added that for 98% of taxpayers, average number of invoices to be uploaded may be only 9, but a single chartered accountant or consultant handled returns of 100 to 150 taxpayers, both as a supplier and recipient. He gets all the details from taxpayers just 3-4 days before the due date of return filing, and he would need to verify how many invoices were uploaded and all this would lead to a lot of difficulties. The stakeholders would find it easier to receive a mismatch report and accept reversal of credit if mismatch persisted beyond a period of time, as may be approved by the Council. He stated that the best model would be where the buyer accepts invoices with a mechanism for provisional credit for missing invoices of the buyer. He stated that in the said Model, Departmental intervention would not be needed. He suggested to accept Model A of Option II with provisional credit for the buyer subject to payment of tax by the supplier.'

4.1. The Council agreed to replace the version of the CCT, Gujarat, recorded in paragraph 14.12 of the Minutes, with the one proposed above. The Secretary invited any other comments on the Minutes.

4.2. The Hon'ble Minister from Kerala stated that his version recorded in paragraph 6.5 of the Minutes ('The Hon'ble Minister from Kerala suggested that Rs.1 lakh crore could be taken out from the accumulated IGST account and distributed to the States on provisional basis.') should be replaced by the following version: 'The Hon'ble Minister from Kerala suggested that the amount in excess of Rs.1 lakh crore could be taken out from the accumulated IGST account and distributed to the States on *pro rata* basis. The criteria can be the proportionate rate of the total amount of the IGST credit hitherto distributed among the States.' The Council agreed to replace the version of the Hon'ble Minister from Kerala recorded in paragraph 6.5 of the Minutes, with the one proposed above.

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4.3. The Hon'ble Minister from Haryana stated that his version recorded as the first sentence in paragraph 24.5 of the Minutes ('The Hon'ble Minister from Haryana stated that similar exemption should be available for his State Government for supplies by Pollution Control Board and HSIDC (Haryana State Industrial Development Corporation') should be replaced with the following: 'The Hon'ble Minister from Haryana stated that the exemption of the share of profit petroleum paid to the Central Government from the purview of the levy of GST was similar to various contracts that the State Governments enter into with business entities and the same should also be exempted. The agencies of the State Government of Haryana like HSIIDC (Haryana State Industrial Infrastructural Development Corporation) and Pollution Control Board (PCB) have such contracts in place.' The Council agreed to replace the version of the Hon'ble Minister from Haryana recorded in paragraph 24.5 of the Minutes, with the one proposed above.

5. In view of the above, **for Agenda item 1,** the Council decided to adopt the Minutes of the 25th Meeting of the Council with the following changes:

5.1. To replace the version of the CCT, Gujarat, in paragraph 14.12 of the Minutes with the following:

> 'Dr. P.D. Vaghela, CCT, Gujarat, stated that two options were discussed by the Committee on Return. Option I supported by some of the States envisages uploading of supply and receipt details simultaneously by the taxpayer. Option II envisages only the details of supply to be uploaded by the supplier. In his option, there are two models, say, Model A which envisages grant of provisional credit to the recipients for missing supplies and Model B which envisages admissibility of input tax credit only if supplier uploads the invoices. The model proposed by Shri Nandan Nilekani is nothing but Model B of option II with a new feature that credit will be allowed even when tax is not paid by the supplier.
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> 14.12.1. The CCT, Gujarat, further stated that the model proposed by Shri Nandan Nilekani was a harsher one, which was not earlier agreed to by the Law Committee. He stated that in this model, too much of power was being placed in the hands of the suppliers. He further stated that in the model proposed by Shri Nandan Nilekani (i.e. revised version of Model B), once an invoice was uploaded by the supplier and accepted by the buyer, the buyer would get credit automatically. However, the structure on which GST has been designed has two elements: (i) the seller uploads the invoices; (ii) the payment of tax against the invoice should have been made. If the proposed model was accepted, where the buyer would get credit on the basis of invoice uploaded by the seller without ascertaining payment of tax against the invoice, this would create a huge problem in IGST transfer as funds might be transferred from the State of the supplier to the State of the recipient, whereas the supplier might not have paid the tax. This would lead to a situation of tax administration of one State running after the defaulting suppliers located in another State which would be very difficult.
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> 14.12.2. He further stated that under Model A of Option II, input tax credit was being made available provisionally on the basis of missing invoices uploaded by the buyer subject to its acceptance later by the seller. He stated that this model could be

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acceptable to trade and chartered accountants, but Model B of option II would never be acceptable to the stakeholders. He added that for 98% of taxpayers, average number of invoices to be uploaded may be only 9, but a single chartered accountant or consultant handled returns of 100 to 150 taxpayers, both as a supplier and recipient. He gets all the details from taxpayers just 3-4 days before the due date of return filing, and he would need to verify how many invoices were uploaded and all this would lead to a lot of difficulties. The stakeholders would find it easier to receive a mismatch report and accept reversal of credit if mismatch persisted beyond a period of time, as may be approved by the Council. He stated that the best model would be where the buyer accepts invoices with a mechanism for provisional credit for missing invoices of the buyer. He stated that in the said Model, Departmental intervention would not be needed. He suggested to accept Model A of Option II with provisional credit for the buyer subject to payment of tax by the supplier.'

5.2. To replace the version of the Hon'ble Minister from Kerala recorded in paragraph 6.5 of the Minutes with the following version: 'The Hon'ble Minister from Kerala suggested that the amount in excess of Rs.1 lakh crore could be taken out from the accumulated IGST account and distributed to the States on *pro rata* basis. The criteria can be the proportionate rate of the total amount of the IGST credit hitherto distributed among the States.'

5.3. To replace the version of the Hon'ble Minister from Haryana recorded in the first sentence in paragraph 24.5 of the Minutes with the following version. 'The Hon'ble Minister from Haryana stated that the exemption of the share of profit petroleum paid to the Central Government from the purview of the levy of GST was similar to various contracts that the State Governments enter into the business entities and the same should also be exempted. The agencies of the State Government of Haryana like HSIIDC (Haryana State Industrial Infrastructural Development Corporation) and Pollution Control Board (PCB) have such contracts in place.'

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

6. The Secretary invited Shri Upender Gupta, Commissioner (GST Policy Wing), CBEC, to make a presentation on this Agenda item. The Commissioner (GST Policy Wing), CBEC, stated that the Notifications No. 02 to 13 of 2018 of Central Tax; Notifications No. 01 to 09 of 2018-Central Tax (Rates); Notification No.01 of 2018 of Integrated Tax; Notifications No. 01 to 10 of 2018 of Integrated Tax (Rate); Notifications No.02 to 09 of 2018 of UT Tax (Rate); and Notification No.01 of 2018 of Compensation Cess (Rate) have been placed before the Council for deemed ratification. Similarly, Circulars No. 29 to 31 and 33 of 2018 issued under the CGST Act have been placed before the Council for deemed ratification. Presentation on this as well as other law related Agenda items is attached as **Annexure 3** of the Minutes.

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

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7. **For Agenda item 2**, the Council approved deemed ratification of the notifications and circulars mentioned at paragraph 6 above which are available on the CBEC website, www.cbec.gov.in.

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

8. The Commissioner (GST Policy Wing), CBEC, made a brief presentation summarising the decisions of the GIC (attached as **Annexure 3** of the Minutes). He stated that GIC took a decision by circulation to extend the time limit to file Form GSTR-3B for December, 2017 by two days, i.e. up to 22-01-2018 (implemented by Notification No.02/2018-Central Tax dated 20 January, 2018) and to postpone the implementation of e-Way bill Rules for both inter-State and intra-State movement of goods due to technical glitches as reported by GSTN and it was decided that the rules would come into force from a date to be notified later (implemented by Notification No.11/2018-Central Tax dated 02 February, 2018). He further stated that during the 12th GIC meeting a proposal, to set up a Grievance Redressal Mechanism to address technical glitches in GSTN, was discussed in view of the orders of the Hon'ble High Courts of Allahabad and Mumbai. However, only a limited decision was taken on the issue and Member (GST), CBEC, was authorised to take appropriate decision to comply with the orders of the Hon'ble High Courts of Allahabad and Mumbai relating to delay in filing of various returns and TRAN-1 due to glitches in GSTN and to keep penalty and fine in abeyance. He stated that this issue was before the Council as a separate Agenda item No.7.

8.1. The Commissioner (GST Policy Wing), CBEC, further informed that during the 13th meeting of GIC, the most important decision taken was the approval of revised e-Way bill Rules based on the feedback received from the stakeholders as well as the States. The important changes were highlighted in the presentation. He informed that e-Way bill Rules were notified vide Notification No.12/2018-Central Tax dated 7 March, 2018, and the Council would need to decide the date of its implementation. He further informed that Rule 138(7) of the e-Way bill Rules (providing for mandatory generation of e-Way bills by the transporter for inter-State transport of goods by road where the aggregate consignment value of goods carried in a conveyance is more than Rs. 50,000) was not proposed to be notified immediately. He informed that during the officers meeting held on 9 March, 2018, an amendment was proposed to the e-Way bill Rules that facility extended to Railways (of not generating e-Way bills before commencement of movement of goods by rails and that the same should be produced at the time of giving delivery of the goods) should not be extended to the goods transported by rail by persons other than Railways, such as goods sent by leasing parcel space. In order to implement this decision, the following explanation was proposed to be inserted in Rule 138(2A): Explanation – For the purposes of this Chapter, the expression 'railways or rail' does not include 'leasing of parcel space by railways'. The Council approved the insertion of the proposed explanation in Rule 138(2A) of e-Way Bill Rules.

8.2. The Commissioner (GST Policy Wing), CBEC, stated that the other decisions taken during the 13th GIC meeting were: (i) amendment in relation to transitional credit in Central Goods and Services Tax Rules, 2017, to specify the last date for furnishing FORM GST TRAN-2 as 31 March, 2018 or such period as extended by the Commissioner, on the recommendations of the Council; (ii) change in declaration form to be submitted in FORM

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GST RFD-01A; (iii) rescinding Notification No.06/2018-Central Tax dated 23 January, 2018 as the IGST Act gave no power to levy late fee on late filing of FORM GSTR-5A(supplier of OIDAR services). The Council took note of the decisions of the GIC.

9. **For Agenda item 3,** the Council took note of the above decisions of the GIC and approved to insert the following explanation in Rule 138(2A) of e-Way bill Rules: "Explanation – For the purposes of this Chapter, the expression 'railways or rail' does not include the 'leasing of parcel space by railways'."

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

10. The Secretary invited Shri Udai Singh Kumawat, Joint Secretary, Department of Revenue [JS (DOR)] to make a presentation on this Agenda item. The JS (DOR) made a presentation, which is attached as **Annexure 4** to the Minutes. In the presentation, the JS (DOR) stated that the total revenue collection for the month of January, 2018 was Rs. 88,929 crore and for the month of February, 2018, was Rs. 88,047 crore. He stated that the revenue shortfall for all the States for the month of January was lowest so far (Rs. 6,671 crore). He mentioned that the revenue collection during the month of February, 2018 was less as compared to the month of January, 2018 as the total SGST settlement was lesser during the month of February, 2018 (Rs. 13,479 crore) as compared to that during the month of January, 2018 (Rs. 15,068 crore). The total shortfall for the month of February, 2018 has gone up to Rs. 9,079 crore which was more than the Compensation Cess that was collected every month. He pointed that the States with the maximum revenue shortfall for the month of February, 2018 were Himachal Pradesh, Puducherry and Uttarakhand, with a revenue shortfall of 50.2, 48.1, and 44.6 percent respectively. He mentioned that shortfall for Jammu & Kashmir, which had gone down to 28.5 percent in January, 2018 had gone upto 40.8 percent again in February, 2018. He further pointed out that among the category of States with least revenue shortfall, the revenue shortfall of Maharashtra, Delhi and Tamil Nadu in percentage terms during February, 2018 had increased significantly *vis-à-vis* the revenue shortfall during January, 2018. He stated that this was worrying and the States may want to look into it. He stated that the States with the least shortfall in revenue included Uttar Pradesh, Kerala, Sikkim, Rajasthan, Assam, Meghalaya and Goa. He further stated that the top six States in terms of improvement in revenue collection up to February, 2018 were North-Eastern States of Mizoram, Manipur, Nagaland, Arunachal Pradesh, Tripura and Meghalaya. In fact, the States of Mizoram, Manipur, Nagaland and Arunachal Pradesh had gone into surplus during February, 2018. He stated that the revenue gain was on account of increase in settlement amount of IGST going to these States and it showed that the goods consigned to these States were now being accounted for properly as compared to pre-GST days. He further stated that the other States, which had shown net improvement in revenue collection during February, 2018 included Jammu & Kashmir, Andhra Pradesh, Haryana, Assam, Chhattisgarh, Telangana and Gujarat.

10.1. The JS (DOR) stated that better enforcement and compliance could be contributory reasons for improvement. The States of Telangana and Uttar Pradesh had put in detailed monitoring mechanism and they were monitoring the top taxpayers regularly. He also referred to the analysis of the figures of value of goods coming into the States of Maharashtra, Madhya Pradesh and West Bengal on the basis of 'C' Form in the year 2016-17 in comparison

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with value of goods entering into the States after GST was rolled out and this was done by using the figures of IGST used by taxpayers for payment of SGST with some extrapolation and analysis of those figures. The analysis showed that for the State of West Bengal, the value of goods appears to be under reported as shown entering the State for the period of July, 2017 to March, 2018 (with extrapolation) was approximately to the tune of Rs. 50,000 crore; in Madhya Pradesh, it was around Rs. 60,000 crore and in Maharashtra, it was around Rs.1,50,000 crore. He stated that these were huge amounts and that the other States could carry out a similar exercise to examine taxpayer-wise under reporting of goods coming into their States during pre and post-GST regime. He stated that this analysis showed the need for enhanced enforcement activity.

10.2. The Hon'ble Minister from Jammu & Kashmir stated that States were not able to do a detailed analysis as they were only getting dumped data. The maximum improvement as shown in the presentation is depicted by the North Eastern States which is most counter-intuitive result in terms of what was happening in the past. Earlier number was given in absolute terms but now it was being given in percentage. Therefore, the broad point is established that consumer States are getting benefited. He added that one broad macro-economic reason for sudden drop of revenue especially for Jammu & Kashmir and States like Sikkim and others can be attributed to the fact that the imports into the States had decreased by approximately 30 per cent. He stated that in his State, large Central Sector projects like Konkan Railways paid Rs.14 crore as tax revenue in the month of January, 2018 whereas in the month of February, 2018, it paid only Rs. 27,000 to the State exchequer. The large projects such as Konkan Railways, IRCON and Ambuja Cement had some issues. He added that the shortfall was not necessarily on account of lack of efforts by the State Governments or compliance issue but due to specific reasons such as revenues from Konkan Railways dropping from Rs.14 crore to Rs. 27,000 and revenue from IRCON dropping from Rs.20 crore to Rs.4 crore and reduction in cash deposits as well. He stated that it would be more beneficial to see a macro picture of revenue and then evaluate performance of the States. The Hon'ble Minister from Kerala supported this suggestion and stated that no macro picture could be seen by giving month-to-month data of revenue collection. The JS (DOR) stated that the Agenda notes had indicated revenue shortfall since the month of August, 2017. The Hon'ble Minister from Kerala stated that it was, therefore, needed to have a kind of moving average graph for States and at national level. He further emphasised that if enforcement had to take place, data must be shared with the States to have some check and intervention. He added that only after receiving the data, meaningful intervention by State administrations was possible and it was not advisable to let loose the officers on the taxpayers without proper justification.

10.3. The Secretary stated that the issue of data sharing was discussed during the officers meeting held on 9 March, 2018 and the GSTN had indicated that it would provide GSTR-2 data for every State for data analysis at State level. The Hon'ble Minister from Jammu & Kashmir suggested to set up a research and analysis wing in GST Council to do a proper data analysis and that its results should be brought before the Council to formulate policies. The Secretary informed that GSTN and CBEC had started detailed data analytics across a number of data sets available with them. The outcome of preliminary data analysis had given some interesting insights like variance between the amount of IGST and Compensation Cess paid by importers at Customs ports and input tax credit of the same claimed in GSTR-3B; and major data gaps between self-declared liability in FORMGSTR-1 and FORM GSTR-3B. The Secretary further stated that an Analytic and Research Management Wing had been created in

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CBEC and they would be making regular presentations to him on specific issues and statistics. The Hon'ble Minister from Kerala also emphasised the importance of data analytics and research and stated that the Economic Survey had given a lot of insights through data analytics. The Hon'ble Chairperson observed that all relevant data must be shared with the States.

10.4. Shri Tuhin Kanta Pandey, Principal Secretary (Finance), Odisha, stated that the way the analysis had been presented appeared to indicate that shortfall was equal to enforcement or lack of it, but it is not how the things are. In GST, structural changes are happening, certain origin-based taxes have gone, entry tax has gone, certain rate changes are happening across the board and these are not impacting the States uniformly. He pointed out that the Service Tax was also not coming uniformly to all States. Further, the tax on minerals had been reduced in GST regime; there was also tax reduction on several other commodities and all these factors could also be responsible for lower revenue collection. He observed that there was need for a better analysis than equating better revenue collection with enforcement.

10.5. Shri J. Syamala Rao, Chief Commissioner (Commercial Tax) (CCCT), Andhra Pradesh, stated that the advance settlement of IGST was added to the States' revenue whereas their understanding was that they would get compensation over and above the advance settlement.

10.6. The Hon'ble Minister from Jammu & Kashmir stated that the requirement to adjust the advance settlement on a future date in equal instalments made it appear as if this IGST amount was the Centre's money. The Secretary stated that the IGST amount not settled with States was part of the Consolidated Fund of India. He stated that the IGST amount left with the Centre in the Consolidated Fund of India would be devolved to the States. The Hon'ble Minister from Jammu & Kashmir stated that the provision for devolution presumed that it was Centre's tax. The Secretary stated that the money for settlement to the States was not part of the Consolidated Fund of India, but the remaining money was part of the Consolidated Fund of India.

10.7. The Hon'ble Minister from Kerala stated that the financial year was coming to an end in March, 2018 and two more compensation instalments had to be given. He observed that States had been advanced a part of money from Rs. 35,000 crore (money lying with Centre in IGST for settlement above Rs. 1 lakh crore) and there was no rationale to withhold the compensation to States. The Secretary stated that all money transferred to States through settlement would be counted as States' revenue and the remaining shortfall shall be met through compensation fund. He observed that the amount paid by way of provisional settlement would be recovered from the final settlement. He observed that the States could not be compensated beyond the assured growth rate of 14%. The JS(DOR) stated that in the case of State of Kerala for the months of November and December, 2017, the amount which was settled provisionally was greater than the States' compensation requirement and that is why no compensation was released for those months and there were other such States as well. The Hon'ble Minister from Kerala stated that during the last meeting of the Council, discussion was held only with regard to provisional release of IGST amount and it was not clear how it got linked to compensation. The JS(DOR) stated that the money provisionally released goes in the form of SGST, hence it is calculated as State revenue for purpose of release of compensation. The Hon'ble Minister from Jammu & Kashmir stated that in such a

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situation, the Centre should not collect this IGST in instalments next year. The Hon'ble Deputy Chief Minister of Delhi stated that his State would lose revenue if IGST was taken as part of the Consolidated Fund of India and devolved to States because they were not covered under the 42% devolution formula. He added that the distribution of the IGST amount must be settled separately for Delhi. The Secretary stated that the amount lying as balance in IGST would need to be settled next year and this may happen from the inflow of next year or balance of current year, and if it was not done, then all States would suffer financially.

10.8. The Hon'ble Deputy Chief Minister of Delhi stated that the IGST devolution involved component of State tax and it could not be arbitrarily distributed among States under 42% devolution formula without considering the State of Delhi. He suggested not to take the IGST money to the Consolidated Fund of India and to distribute the entire Rs.1.35 lakh crore among all the States if it could not be settled provisionally for Delhi like other States. The Hon'ble Minister from Kerala stated that the Centre had recovered the entire amount in one month by saying that this was more than the compensation and this was not fair. The money given as provisional settlement should not be taken back from the States. The Secretary stated that in the month of February, 2018, the States have got Rs. 34,100 crore both by way of SGST and by way of settlement. There was a gap in revenue collection by States of almost Rs. 10,000 crore every month and the compensation being collected was in the range of about Rs. 7,500 crore. The collection on account of VAT arrears was also slowly drying up. While keeping the future in mind, it should not happen that the Cess kitty went completely into minus. The Hon'ble Minister from Kerala stated that part of the IGST amount should be distributed in advance. He further stated that the reasoning that since for the month of November and December, 2017, compensation was less than the money devolved, and therefore, no compensation would be given, virtually implied that the advance given was being taken back. The Secretary stated that compensation was payable only if there was a shortfall in revenue and the provisional settlement should not be treated as an extra bonus beyond the assured rate of growth of 14%. If there was any shortfall after distribution of provisional settlement, it could be given from the Cess kitty. If anything was left in the Cess kitty, this would also be divided between the Centre and the States.

10.9. The Hon'ble Minister from Haryana stated the compensation was to be paid after every two months. The provisional settlement was a kind of revenue to States. The States having no shortfall would not be getting compensation. He stated that this amount should either be treated as revenue of States or compensation should be given. The Secretary stated that the Union Controller General of Accounts (CGA) had suggested to do adjustment in the next financial year against the final settlement. The Hon'ble Minister from Haryana advised that one should stick to the provisions of the Compensation Act, which provides that compensation should be paid after every two months. He stated that provisional settlement should be done after the payment of compensation, otherwise there would be a violation of law. The Secretary stated that there would be no violation of law as the question of giving compensation would arise only if there was a shortfall in revenue of States after taking into account the 14% assured rate of revenue growth.

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10.10. The Hon'ble Minister from Haryana stated that in the next financial year, there would be need for additional compensation as additional 14% growth would be added and this would have to be paid after every two months. The Hon'ble Chairperson stated that it was, therefore, necessary to keep something in compensation kitty to cover up the deficit, if any, in the

coming year. The Hon'ble Minister from Haryana remarked that at least the compensation due during this financial year should be released as it also affects the State finances. The Hon'ble Chairperson stated that if States got revenue, which was equal to the assured growth rate of 14%, then no compensation was payable. The Hon'ble Minister from Jammu & Kashmir stated that in such a situation, there was no need to make any recovery from the States for the amount paid as settlement. The Secretary stated that after recovery of this amount, the Centre would compensate for any shortfall. The Hon'ble Minister from Kerala stated that the idea was that after payment of compensation, some amount lying in IGST account should be given to the States. The Hon'ble Minister from Tamil Nadu stated that Article 270(1) of the Constitution excluded duties and taxes referred to in Article 269A of the Constitution. Hence instead of devolution, the balance of the IGST should be settled between the Centre and the State, as is being done so far, before 31 March, 2018.

10.11. The Hon'ble Minister from Kerala stated that the compensation paid was not the full compensation for the simple reason that the IGST was paid where goods were sold and compensation was being paid on the basis of GSTR-3B in which many items may be left out, which would be subsequently settled in favour of States or the Centre. Hence, this amount of Rs.1.35 lakh crore would need to be eventually devolved. However, it would take a long time; so, it could be distributed provisionally. Now virtually taking it back after devolving funds as provisional settlement from IGST and denying the compensation to States was not right and if this be the case, then this exercise need not have been done in the first place. The Secretary stated that even if this was deducted from regular compensation, it would be subsequently paid as compensation in the event of revenue shortfall but this could not be given as bonus over and above the 14% assured revenue growth rate. The Hon'ble Minister from Jammu & Kashmir stated that if the IGST amount was part of the Consolidated Fund of India and it reduced fiscal deficit, then it was part of central receipts. In such case, the IGST amount should be in the Public Account and not in Consolidated Fund of India. The Secretary stated that all money received by Government of India would form part of the Consolidated Fund of India unless it is specifically excluded by the Constitution. The Constitution provides that the part of IGST which is used for settlement of SGST will not form part of Government of India's kitty. By implication, the rest of the money would remain in the Consolidated Fund of India.

10.12. The Hon'ble Deputy Chief Minister of Bihar invited officers from the Council to visit the State of Bihar and analyse the reasons for shortfall in revenue. The Secretary informed that during the officers meeting held on 9 March, 2018, the Chief Economic Advisor had offered to do a diagnostic for Bihar and for a few other States. Shri Rajendra Kumar Tiwari, ACS, Uttar Pradesh, stated that the amount of shortfall in revenue shall increase and he stressed that data should be made available to the States at the earliest. The Secretary stated that he proposed to set up a group of officers to examine why the IGST settlement was not taking place. The ACS, Uttar Pradesh stated that if the amount received as advance had to be repaid, then that may not be treated as revenue of the States. Ms. Smaraki Mahapatra, CCT, West Bengal, stated that the law provided that the IGST amount lying in the Consolidated Fund of India for which the place of supply could not be determined or for which taxable person making the supply was not identifiable, was to be apportioned at the end of the year [Section 17(2) of the IGST Act, 2017]. The Secretary stated that this was yet to happen and that the provisional amount paid from the IGST fund was a temporary devolution and the amount was just parked in the Consolidated Fund of India. He stated that this matter would

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be further clarified when the issue under Agenda item 5 was discussed after getting clarification from the CGA and the Comptroller & Auditor General (C&AG). The Hon'ble Minister from Jammu & Kashmir stated that the concept of parking of funds in the Consolidated Fund of India was confusing. Instead, it was better to keep it in the Public Account. The Secretary stated that if the amount was kept in the Public Account, then the Union's fiscal deficit would go up by Rs.1.5 lakh crore and this would also affect devolution to the States.

11. **For Agenda item 4,** the Council took note of the revenue position for the months of January and February, 2018.

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

12. The Secretary stated that the issue covered under this Agenda item was discussed during the officers meeting held on 9 March, 2018 and it was informed that this matter was still under consideration in consultation with the CGA and the C&AG. He further informed that during the officers meeting, it was decided to defer consideration of this Agenda item. He suggested that the Council could agree to the same. The Council agreed to the same.

13. **For Agenda item 5,** the Council approved to defer consideration of this Agenda item to a future date.

Agenda item 6: Amendments to Anti-Profiteering Rules

14. The Commissioner (GST Policy Wing), CBEC, made a presentation (attached as **Annexure 3** of the Minutes) on the proposed changes in the Anti-Profiteering Rules. He informed that changes were being proposed on the suggestions of the National Anti-Profiteering Authority (NAA). He further informed that the Committee of Officers had agreed to the proposed changes during its meeting held on 9 March, 2018, with a slight modification in respect of formulation for 'Explanation to Rule 134, which, after amendment, reads as follows: "Explanation - any other person ~~organisation or entity~~ alleging, under sub-rule (1) of Rule 128, that a registered person has not passed on the benefit to be treated as 'interested party' to file application before NAA". The Council agreed to the amendments to the Anti-Profiteering Rules as proposed in the Agenda notes along with modification as indicated above.

15. **For Agenda item 6,** the Council approved the changes in the Anti-Profiteering Rules, as proposed in the Agenda notes, with the following further modification in 'Explanation' to Rule 134: "Explanation – any other person alleging, under sub-rule (1) of Rule 128, that a registered person has not passed on the benefit to be treated as 'interested party' to file application before NAA".

Agenda item 7: Grievance Redressal Mechanism in GST Regime in light of recent judgments of Hon'ble High Courts of Allahabad and Mumbai

16. The Secretary informed that this Agenda item was discussed in detail during the officers meeting held on 9 March, 2018. He recalled that this Agenda item was introduced in light of the recent judgments of the Hon'ble High Courts of Allahabad and Mumbai in the

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case of M/s Continental India (P) Ltd and M/s Abicor Binzel Technoweld respectively regarding TRAN-1s, which could not be filed by taxpayers due to glitches in GSTN. He informed that during the officers meeting held on 9 March, 2018, there was a broad agreement to set up the proposed Information Technology (IT) Grievance Redressal Mechanism, as set out in Annexure A and Annexure B to the Agenda notes for Agenda item 7, with the change that instead of setting up a new Grievance Redressal Committee, the GIC shall act as the IT Grievance Redressal Committee. In GIC meetings convened to address IT issues or IT glitches, the CEO, GSTN, and the DG (Systems), CBEC, shall invariably be called as special invitees. He suggested that the Council may approve the proposal. The Council approved the same.

17. **For Agenda item 7**, the Council approved the setting up of a Grievance Redressal Mechanism proposed under Annexure A and Annexure B of this Agenda item, with the modification that GIC shall act as the IT Grievance Redressal Committee and that in GIC meetings convened to address IT issues or IT glitches, the CEO, GSTN, and the DG (Systems), CBEC, shall invariably be called as special invitees. The CBEC shall issue a detailed circular in this regard with the approval of GIC.

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

18. The Secretary informed that this Agenda item was discussed during the officers meeting held on 9 March, 2018 and generally, there was an agreement to extend by two months the provisions of Section 51 (TDS), Section 52 (TCS) and Reverse Charge Mechanism under Section 9(4) of the CGST Act, 2017, Section 5(4) of the IGST Act, 2017 and Section 7(4) of the UTGST Act, 2017. However, one point of decision before the Council was regarding extension of suspension of reverse charge mechanism for composition taxpayers. He stated that the general view during the officers meeting was to bring reverse charge mechanism for composition dealers from 1 April, 2018 and to extend it by two months for other situations.

18.1. The Hon'ble Minister from Kerala stated that the reverse charge mechanism was meant to be an anti-evasion tool to prevent leakages and it should not be postponed indefinitely. He added that the reverse charge mechanism also existed under VAT and there must be a definite time frame for introducing reverse charge mechanism in GST. He suggested that reverse charge mechanism for composition taxpayers should not be postponed and for other categories of taxpayers, it should be introduced at the earliest possible and two months' extension seemed fair.

18.2. The Hon'ble Minister from Rajasthan stated that for the composition taxpayers, there was a decision by the Council to increase the threshold of annual turnover to Rs.1.5 crore but it had not been implemented as yet. The Secretary stated that this change would be done along with other changes to be carried out in the GST law, including the changes relating to return filing. He pointed out that the experience indicated that majority of composition taxpayers had declared an average turnover of Rs.5 lakh per quarter, which amounted to an annual turnover of Rs.20 lakh, and in this light, there appeared to be no point at this stage to increase the annual turnover threshold for composition taxpayers to Rs.1.5 crore.

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18.3. The Hon'ble Minister from Jammu & Kashmir stated that the reverse charge mechanism should be introduced from 1 April, 2018 except if it had implications on the IT system. It was important to take a view whether it would further complicate the IT system or cause glitches. The Hon'ble Deputy Chief Minister of Bihar stated that implementation of reverse charge mechanism could be extended by two months for composition taxpayers and at the same time, one should also explore methods other than reverse charge mechanism to curb the ways in which these small taxpayers were concealing their turnovers. He further stated that the provision for TDS should be implemented immediately. The Secretary stated that for operationalising the provisions of TDS, electronic linkage was required between the Government accounting system and the GSTN accounting system to enable transfer of funds deducted at source by the deductor to the cash ledger of the taxpayer (deductee). About two months' time was needed to achieve this linkage. He further stated that traders were presently showing very low turnover and he was not very confident that the situation would improve with the introduction of reverse charge mechanism because the taxpayer himself was required to declare purchases under reverse charge mechanism. The Hon'ble Deputy Chief Minister of Bihar stated that reverse charge mechanism for composition taxpayers should also be extended by two months.

18.4. The Secretary suggested that TDS, TCS and reverse charge mechanism for composition taxpayers could be introduced from 1 June, 2018. Reverse charge mechanism for other categories of taxpayers could be introduced from a later date. The Hon'ble Minister from Jammu & Kashmir suggested that instead of 1 June, 2018, it could be introduced from the end of first quarter i.e. 1 July, 2018. The Secretary stated that this was a good suggestion and that the Council could agree to introduce TDS, TCS and reverse charge mechanism on composition taxpayers from 1 July, 2018. The Hon'ble Chairperson stated that extension of time could be linked with the timeline for implementation of the e-Way bill system as this was also part of the anti-evasion measure. The Secretary stated that since e-Way Bill system was being implemented from 1st of April, 2018, a staggered roll out of reverse charge mechanism could be worked out for composition taxpayers 1st of July, 2018. He further stated that as far as IT system was concerned, even under the present system, there was full mechanism available for inputting of invoices related to reverse charge, so no difficulty was foreseen with regard to IT system. He added that the reverse charge mechanism was not proposed to be started for non-composition taxpayers at this juncture. He also stated that under VAT, reverse charge mechanism was meant only for composition taxpayers in most of the State Laws. The Hon'ble Minister from Kerala stated that in all States, reverse charge mechanism was applied in the form of purchase tax. Shri Ritvik Pandey, Finance Secretary, Karnataka, stated that there was no purchase tax in the State of Karnataka. Shri Sanjeev Kaushal, Additional Chief Secretary, Haryana, stated that in Punjab and Haryana, the entire purchase tax was under reverse charge including that on purchase of cotton.

18.5. The Secretary stated that there was some criticism that reverse charge mechanism was against informal sector as due to this provision, people would refrain from buying from unregistered sellers. In view of this, he wondered whether the reverse charge mechanism should be applied on all items. The Hon'ble Minister from Uttar Pradesh stated that if small dealers in composition scheme could pay under reverse charge mechanism, then why the bigger dealers could not do so as well and they should also be included. The CCT, West Bengal, suggested that a staggered approach should be adopted in applying the reverse charge mechanism.

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18.6. The Hon'ble Minister from Chhattisgarh stated that if purchases were made by non-composition taxpayers from unregistered sellers, tax would be paid by the buyer on his final output. He further stated that if reverse charge mechanism was introduced, then the threshold exemption and composition scheme would have no meaning. He recalled that no input tax credit was available to composition taxpayers. The Hon'ble Deputy Chief Minister of Bihar suggested that during the next meeting of the Council, there should be a detailed agenda item on reverse charge mechanism and it should be presently extended by three months. The Hon'ble Chairperson observed that evasion level was high among the taxpayers availing composition scheme and a solution needed to be found in this regard. He observed that while the Hon'ble Minister from Rajasthan wanted the annual turnover threshold for composition taxpayers to be increased to Rs.1.5 crore, as per the present data, the average annual turnover of composition taxpayers was only in the range of Rs.17 lakh to Rs.18 lakh. Therefore, increasing the threshold of annual turnover to Rs.1.5 crore for composition taxpayers might be meaningless.

18.7. The Hon'ble Minister from Chhattisgarh reiterated that there would be no logic left for composition scheme and for exemption threshold if the tax already gets paid under reverse charge mechanism and embedded taxes get added to the cost of composition taxpayer. He added that in all States, neither reverse charge mechanism nor the composition scheme was applicable to taxpayers with annual turnover above Rs.40 lakh and that the idea of having an annual turnover threshold of Rs.1.5 crore for composition taxpayers came on account of Central Excise exemption available to small scale industries up to this turnover limit. The composition scheme and exemptions given under Central Excise were two different issues but now if reverse charge mechanism was brought on all, then indirectly, one would be bringing to an end the composition scheme and the exemption threshold limit. Therefore, some other mechanism needed to be worked out.

18.8. The Principal Secretary (Finance), Odisha, stated that if a composition taxpayer purchased from an unregistered seller, he would pay full tax under reverse charge mechanism as would have been the case as if he was buying from a registered seller. However, on his own value addition, he would pay only 1% of the value of his turnover. The Secretary observed that under VAT, composition scheme was only for traders whereas in the GST regime, it was proposed to be brought in for manufacturers as well as traders and also some service providers. The only additional benefit available to composition taxpayers under the GST regime was procedural simplification. He observed that offering composition scheme to medium and small-scale taxpayers up to annual turnover of Rs.1.5 crore on the lines of the exemption under Central Excise might not be very effective and some other way would need to be found out to give tax benefit to small scale enterprises. The Hon'ble Deputy Chief Minister of Bihar observed that if tax evasion by composition taxpayers was plugged, the likely additional revenue to accrue was about Rs. 2,000 crore. He observed that compared to the total revenue collection, this was a small amount and it might not be prudent to invest so much of time and energy on small taxpayers. He suggested to defer implementation of reverse charge mechanism by two months. The Hon'ble Minister from Kerala stated that the aim was not to pursue small dealers but to only make them to pay tax under reverse charge mechanism.

18.9. Shri T.V. Somanathan, CCT, Tamil Nadu, suggested that reverse charge mechanism should be started for all types of taxpayers from 1 July, 2018, and if not for all, then at least

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for composition taxpayers from 1 July 2018. The Secretary suggested that this issue could be deferred by three months, and in the meanwhile, a committee could be constituted to look into various aspects of reverse charge mechanism for purchase of goods by composition dealers and others. The Hon'ble Minister from Goa stated that the reverse charge mechanism was a means to arrest tax evasion and a very clear and strong signal should go out and not implementing it immediately might lead to evasion of tax. The Hon'ble Minister from Punjab suggested to look into the macro data as, according to his assessment, total sourcing by composition taxpayers from registered taxpayers would be less than 1%. The Secretary suggested to defer the introduction of reverse charge mechanism by three months. The Hon'ble Chairperson stated that during this period, a Group of Ministers (GoM) could be constituted to examine this issue. The Hon'ble Minister from Jammu & Kashmir stated that there was a general sense that we were floundering with GST and making frequent changes in laws. He observed that there was an opportunity to change the optics by announcing that on 1 July, 2018, reverse charge mechanism would be introduced for composition taxpayers and introduction of reverse charge mechanism for other categories of taxpayers could be examined by a committee to be constituted for the purpose. The Hon'ble Chairperson stated that a Group of Ministers (GoM) from five States could look into this issue and then a decision could be taken before 1 July, 2018. The Hon'ble Ministers from Kerala, Chhattisgarh, Punjab, Uttar Pradesh and Bihar volunteered to be the members of the GoM. The Secretary stated that in view of this discussion, the Council may approve to defer the introduction of reverse charge mechanism by three months and a GoM consisting of the five Hon'ble Ministers would examine the issue in detail.

18.10. Shri Prakash Kumar, Chief Executive Officer (CEO), GSTN, stated that for TCS, it was envisaged that data would go from GSTR-1 to the taxpayer's return and since GSTR-2 was on hold, the date for TCS implementation should be decided only after the new return module was finalised. The Secretary stated that TDS could be implemented from 1st July, 2018 and for TCS, the issue could be reviewed further.

18.11. The Hon'ble Minister from Tamil Nadu in his written speech suggested that the Council may consider granting a one-time amnesty to the taxpayers whose registration had been cancelled for failure to migrate to GST within the given time frame. This would facilitate them to file GST returns and pay tax or the period during which their provisional registration was in force. He also suggested to enable the taxpayers to file GST TRAN-1 as a onetime measure.

19. **For Agenda item 8,** the Council approved the following: -

(i) to extend the date for implementation of tax deduction at source (TDS), tax collection at source (TCS) and reverse charge mechanism under Section 9(4) of CGST/ 5(4) of SGST Act/ 7(4) of UTGST Act to 1 July, 2018;

(ii) to constitute a Group of Ministers consisting of the Hon'ble Deputy Chief Minister of Bihar and the Hon'ble Ministers from Kerala, Chhattisgarh, Punjab and Uttar Pradesh to study the issues relating to reverse charge mechanism. A group of officers shall also be associated with the GoM to assist the Hon'ble Ministers and also present their view points. The GoM shall present its recommendation to the Council well before 1 July, 2018.

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

20. This Agenda item involved discussion on the minutes of 6th and 7th meetings of the Group of Ministers on IT Challenges in GST Implementation held on 7 January, 2018 and 24 February, 2018 respectively. The minutes of these meetings were placed before the Council under Agenda item 9. The Council took note of the minutes of the two meetings, but due to paucity of time, no discussion took place on this Agenda item.

21. **For Agenda item 9,** the Council took note of the minutes of 6th and 7th meetings of the Group of Ministers on IT Challenges in GST Implementation held on 7 January, 2018 and 24 February, 2018 respectively.

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

22. The Secretary informed that this Agenda item was discussed during the officers meeting held on 9 March, 2018 and during this meeting, the National Informatics Centre (NIC) had informed that final round of load testing was being done and it was expected to migrate the e-Way bill generation to Central server by 15 or 16 March, 2018. NIC was ready to start e-Way bill system for inter-State movement of goods from 1 April, 2018. For intra-State movement, they sought some more time and suggested its staggered implementation. He stated that for introduction of intra-State e-Way bill system, the Agenda note had suggested its implementation in a staggered manner where the first lot of States could commence intra-State e-Way bill from 15 April, 2018. The second lot could implement from 20 April, 2018, the third lot from 25 April, 2018 and the remaining States from 30 April 2018. He suggested that the GIC could be delegated the responsibility to tweak dates for introduction of intra-State e-Way bill system, if so required.

22.1. The Secretary further informed that during the officers meeting held on 9 March, 2018, it was agreed that the States falling in the first lot would be Andhra Pradesh, Kerala, Uttar Pradesh, Telangana and Gujarat. He stated that the CCT, Karnataka, had informed that his State had implemented the e-Way bill system from September, 2017 and would like to continue with the same. He added that during the officers meeting held on 9 March, 2018, the States of Telangana and Uttar Pradesh had also expressed that they would like to continue their system of e-Way bill under their State law until the national e-Way bill Rules were brought into force. The Secretary stated that in the second lot, the States that would implement the e-Way bill system are Bihar, Haryana, Jharkhand, Uttarakhand and Madhya Pradesh. He added that during the officers meeting held on 9 March, 2018, the CCT, Tamil Nadu, had informed that instead of being part of the second lot as mentioned in the agenda item, they would like to be part of the fourth lot. The Secretary further stated that in the third lot, the States of Arunachal Pradesh, Madhya Pradesh, Meghalaya, Sikkim and the Union Territory of Puducherry would introduce intra-State e-Way bill. The remaining States would introduce intra-State e-Way bill in the fourth lot. The Commissioner (GST Policy Wing), CBEC, stated that the States would need to issue a notification, in consultation with the Chief Commissioner of Central Tax under Rule 138(14)(d) of the SGST Rules of their State to exempt the application of e-Way bill for intra-State movement of goods for the time period during which the same was not implemented by them. The said notification would be

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withdrawn from the date from which e-Way bill for intra-State movement of goods is to be started. The Council agreed to the above proposals.

22.2. The Hon'ble Minister from Kerala raised the issue of making e-Way bill system applicable to movement of gold and enquired as to what decision was taken on this issue. The Commissioner (GST Policy Wing), CBEC, stated that the Law Committee had deliberated on this issue and the view taken was that due to security related concerns, movement of gold should be exempted from the provisions of e-Way bill Rules. The Hon'ble Minister from Kerala stated that the traders of gold were bringing gold to the State and carrying on trading activities but this could not be intercepted due to absence of e-Way bill system. The Secretary stated that the e-Way bill system might not be effective for transport of gold as gold could also be transported in a bag. The Hon'ble Minister from Kerala stated that such mode would be an issue of tax evasion but otherwise gold requires a system of precious cargo movement. The CCT, West Bengal, stated that in her State, gold was kept out of the e-Way bill Rules due to security considerations. Ms. Sujata Chaturvedi, Principal Secretary (Finance & Commercial Tax), Bihar stated that in Bihar, movement of gold was also out of the purview of e-Way bill Rules due to security reasons. The Secretary stated that all these States did not have a system of precious cargo movement and requested to drop the suggestion to bring movement of gold under the e-Way bill system.

22.3. The Hon'ble Chairperson stated that India's demand for gold was about 1,200 tonnes every year and its import was charged to Customs duty at the rate of 10%. If Customs duty was increased, smuggling would start in a big way. He stated that it was better to allow import of gold through formal method instead of through informal method. The Hon'ble Minister from Kerala stated that in his State, the annual revenue from gold had been reduced from Rs.650 crore to Rs.200 crore. He stated that his State would prepare a note on this issue after full data on supplies under GST was made available.

22.4. The Hon'ble Minister from Tamil Nadu in his written speech expressed the hope that GSTN would put in place a robust IT infrastructure before the actual implementation of the e-Way Bill system.

23. **For Agenda item 10,** the Council approved the following:

(i) to start e-Way bill system for inter-State movement of goods on all-India basis from 1 April, 2018;

(ii) to introduce intra-State e-Way bill system in a staggered manner and the States shall implement it as per the following time schedule:

(a) first lot of States consisting of Andhra Pradesh, Kerala, Uttar Pradesh, Telangana and Gujarat from 15 April, 2018;
(b) second lot of States consisting of Bihar, Haryana, Jharkhand, Uttarakhand and Himachal Pradesh from 20 April, 2018;
(c) third lot of States consisting of Arunachal Pradesh, Madhya Pradesh, Meghalaya, Sikkim and the Union Territory of Puducherry from 25 April, 2018;
(d) fourth lot consisting of remaining States from 30 April, 2018;

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(e) the States of Karnataka (already running on NIC system), Telangana and Uttar Pradesh to continue with their intra-State e-Way Bill System under the State law till they introduce the national intra-State e-Way bill system;

(iii) GIC shall be delegated the responsibility to tweak the dates for introduction of intra-State e-Way bill system, if so required; and

(iv) States shall issue a notification, in consultation with the Chief Commissioner of Central Tax, under Rule 138(14)(d) of the respective SGST Rules to exempt the application of e-Way bill for intra-State movement of goods for the time period during which the same was not implemented by them. The said notification would be withdrawn from the date from which e-Way bill for intra-State movement of goods is to be started.

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

24. The Secretary informed that this Agenda item was discussed during the officers meeting held on 9 March, 2018. During the officers meeting, it was noted that some preparatory work had been done, but more was needed to be done to address a large number of identified technical, legal and administrative issues. In this view it was agreed to defer implementation of e-Wallet scheme by six months i.e. up to 1 October, 2018 and to extend the present dispensation in terms of exemptions etc. for a further period of six months, which is currently available till 31 March, 2018. He suggested that the Council could also agree to this proposal. The Council agreed to the proposal.

24.1. The Secretary informed that during the officers meeting held on 9 March, 2018, progress in the grant of refunds to exports of both IGST and input tax credit was reviewed and it was noted that the pace of grant of IGST refund had picked up. It was also decided that GSTN would expeditiously forward the balance refund claims to the Customs/Central GST/ State GST authorities, as the case may be, for their immediate sanction and disbursal. The Council appreciated these developments.

25. **For Agenda item 11,** the Council approved the following:

(i) To defer the implementation of e-Wallet scheme by six months i.e. up to 1 October, 2018;

(ii) To extend the present dispensation in terms of exemptions etc., which is currently available till 31 March, 2018 for a further period of six months i.e. up to 1 October, 2018.

Agenda item 12: New System of Return Filing

26. The Secretary invited the Chairman, GSTN, to make opening remarks to be followed by a presentation by Shri Manish Sinha, Commissioner (Central Excise), CBEC. The Chairman, GSTN in his opening remarks, stated that the new return design had been finalised after detailed and extensive meetings, several rounds of discussion including discussion with the team of Shri Nandan Nilekani, Co-founder and Non-Executive Chairman of the Board of

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Directors of Infosys Ltd. He stated that the design was then discussed with the GoM on IT related Challenges and subsequently during the officers meeting held on 9 March, 2018. He pointed out that the major differences in the model proposed by Shri Nandan Nilekani and that by the Committee on Return related to availment of provisional input tax credit by recipient; linkage between availment of input tax credit by recipient and tax payment by supplier and auto reversal of input tax credit. He stated that there was a detailed discussion on this issue during the officers meeting held on 9 March, 2018 and from the discussions, it was clear that both the models had something in common. He suggested to introduce the common features of the two models and to see later how the differences in the two models could be addressed. He stated that the broad agreement related to the following issues: (i) to have only one monthly return, which would substantially reduce the number of returns filed in a year; (ii) for sellers, to have an option to continuously upload the invoices, which could be seen by the corresponding buyers; (iii) the buyers would be shown the tax paid status of the invoices so that the buyer knows that the tax has been paid by his supplier; (iv) buyer to be shown the difference between the input tax credit claimed and the likely input tax credit eligible on the basis of the invoices uploaded by his seller and the tax paid thereon but there would be no auto reversal of input tax credit till one gains experience of the new system; (v) for the difference between the input tax credit claimed and the likely eligible input tax credit, the taxpayer would be advised through the GSTN system to file a reconciliation statement and explain the difference and pay taxes; (v) if no reconciliation statement was filed beyond a certain prescribed time period, and the difference was more than the prescribed threshold, such cases could be taken up for audit or investigation.

26.1. After these preliminary comments, the Commissioner (Central Excise), CBEC, made a presentation, which is attached as **Annexure 5** of the Minutes. He stated that the return was proposed to be filed monthly by all taxpayers, except for those under the composition scheme. The monthly return was to consist of a summary return like the present GSTR-3B and have as its annexure, invoices for outward supplies and such inward supplies which attracted tax on reverse charge basis. No system-based matching was proposed and instead matching would be done offline by the taxpayers. He stated that online matching by the system could lead to mismatches to the tune of 30% to 40% (based on the information received from Karnataka) which would be humanly impossible to reconcile. On this account, matching was proposed to be done offline.

26.2. The Hon'ble Minister from Kerala stated that the supply details filed in GSTR-1 could be auto-populated in GSTR-2 and samples could be taken to see whether the two matched. The CEO, GSTN, stated that since GSTR-2A was being auto-populated from GSTR-1, the same would match. He explained that the Commissioner (Central Excise), CBEC was referring to a system of return filing where buyer uploaded details of both sales and purchases and it was matched by the system. In such cases, the percentage of mismatch was 30% to 40% based on the experience of four States (Karnataka, Andhra Pradesh, Gujarat and Maharashtra) who had adopted this system of return filing. The Chairman, GSTN, stated that there was agreement with respect to the suggestion by Shri Nandan Nilekani that there should be only one-way traffic for invoice upload i.e. by the supplier. There was convergence that only the seller would upload the invoices. The recipient would be able to continuously view the invoices uploaded by the supplier and its tax payment status and an invoice locking facility could be made available as an IT facilitation measure. An offline tool would be provided to the buyer to assist in return filing and down-loading supplier's invoices.

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26.3. Continuing the presentation, the Commissioner (Central Excise), CBEC stated that return filing was proposed to be staggered wherein taxpayers with annual turnover above Rs.1.5 crore shall file their return by 10th of the next month and taxpayers with annual turnover below Rs.1.5 crore shall file their return by 20th of the next month, except some categories like composition taxpayers. He added that for nil return filers, there would be a separate button, and with one click of the button, the return would be filed automatically. The seller would have the facility to continuously add any missing invoices of the past period and pay the tax thereon. The input tax credit shall be provisionally taken on the basis of receipt of goods covered under the invoices. The credit would be finalised upon the seller paying the tax due. Facility of partial payment of tax on self-assessment basis shall be allowed and the buyer would be shown the tax payment status. He stated that for partial payment of tax, credit would be allowed to the extent of tax payment and the seller would need to identify as to on which invoices tax was not paid. While return would be filed in one stage, the credit reconciliation would take place in three steps: (a) Input tax credit would be availed on self-declaration basis upon filing of return; (b) An IT platform would provide facility to continuously add missing invoices, credit notes and debit notes for the past period and pay tax liability thereon; (c) On expiry of the rectification period, excess credit taken shall be self-assessed and reversed by the buyer. GST Council could extend the rectification period. He added that a liberal timeframe was being suggested for rectification as it was a new idea and the taxpayer should get used to it. At a later stage, time period could be considered to be reduced. Credit so reversed can be taken again by the buyer if the seller pays the tax due later. Cases of large difference between input tax credit taken by the buyer and the tax paid by the seller could be taken up for audit/scrutiny. A system of auto reversal of input tax credit would be introduced only if it was programmable in the IT system and the mismatches between the sale and purchase details were within acceptable limits.

26.4. The Commissioner (Central Excise), CBEC, further stated that it was important to maintain a linkage between tax payment and input tax credit availment and, therefore, the concept of provisional credit was very important. He stated that as per the present data, tax payment by a taxpayer was in the ratio of 3:1 for input tax credit and cash. This meant that a taxpayer if required to pay tax of four rupees, was paying the same by utilising three rupees as input tax credit and one rupee in cash. He stated that if 20% of invoices were not uploaded, this would lead to an extra requirement of Rs.50, 000 crore in cash for tax payment, which would be a very big burden on the economy. He informed that during the meeting of the officers held on 9 March, 2018, a discussion took place regarding a provision to block the facility of invoice uploading for those sellers who had defaulted in payment of tax. He stated that this approach could be more problematic and could lead to penalising multiple buyers of the concerned seller. He added that it was proposed to continue with GSTR-3B and GSTR-1 returns for a period of three months after 1 April, 2018.

26.5. Summarising the presentation, the Secretary stated that the model proposed during the presentation was a modified version of that mentioned in the Agenda note based on the discussion during the officers meeting held on 9 March 2018. It was proposed that only one GSTR return would be filed in a month and it would be a combination of the present GSTR-3B (Summary return) and GSTR-1 (Details of sales invoices) returns. The sales invoices would form an annexure to this return. Invoices could be uploaded on daily basis and these would automatically form part of the annexure of the return, thus helping to unclog the system. Further, he stated that the buyer and seller would know the amount of gap between

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the input tax credit claimed by the buyer and the invoices uploaded by the seller. It was also expected that the buyer would ensure that the seller uploaded the missing invoices. A period of three months was proposed to be given to the buyer to explain the mismatch in the credit taken *vis-à-vis* the invoices uploaded by the seller. The difference in the amount of input tax credit claimed would be explained by the buyer through a rectification statement and where the differences remained, he would be expected to pay the difference between the amount of tax paid on uploaded invoices and the input tax credit taken. In the initial phase, the GST Council could allow longer than three months to file the rectification statement. He added that auto reversal of excess input tax credit had many challenges and it would need to be explored whether suitable IT system could be created for auto reversal. However, data regarding the gap between the tax paid by the seller and the input tax credit availed by the buyer could be used for conducting annual return assessment and audit. He stated that such a provision would make the buyer aware that he needed to make the seller to pay the tax. He stated that an element of self-policing was important as the tax administration had limited manpower to audit and assess each and every case of mismatch between the tax paid and the input tax credit taken.

26.6. The Hon'ble Deputy Chief Minister of Delhi stated that two issues may arise from this model. The first was that if input tax credit was being reversed at the buyer's end due to wrong doing at the seller's end as the tax was to be paid at the seller's end, it would lead to double taxation at the buyer's end. Secondly, the requirement of filing monthly return would be a problem for small traders. The Secretary stated that currently small traders were filing GSTR-1 return quarterly and GSTR-3B return on monthly basis and 30% of GSTR-3B returns were nil returns. The nil return filers could file their returns by a simple click of a button. He stated that if small taxpayers were given three months' time to file returns, then monthly matching of input tax credit would not be possible. Further, the data of settlement of tax for States also came from returns and if returns for small taxpayers was filed on quarterly basis, settlement of funds to the States would also suffer. It was, therefore, desirable that every taxpayer should file one monthly return.

26.7. The Hon'ble Minister from Jammu & Kashmir stated that given the track record of implementation of the IT system, he was reluctant to go along with the proposal. He added that Shri Nandan Nilekani had a track record, he had presented his view through a model and that model was further changed by people whom he did not know and trust. Either Shri Nandan Nilekani should have been given a chance to defend himself or an independent group should have been formed to assess it and put it up before the Council. Now invoice matching was proposed to be done by a reconciliation statement. He suggested that an independent group of persons with domain knowledge should look into the proposal and be assured that this was a workable model. The Hon'ble Minister from Punjab agreed to this suggestion. He observed that the proposed system would punish honest taxpayers and that it appeared that the law was being made for errant taxpayers. He further stated that such a provision was not to be found anywhere in the world. The Advisor (Finance), Punjab, stated that the Commissioner (Central Excise), CBEC, had given a figure of 20% of credits not being made available. He observed that if the tax payment is Rs.90, 000 crore and the credits are about Rs.2,70,000 crore, then one also needs to know as to how the present system is working. The GST law has introduced the concept of distinct entity where IGST has to be paid by the same company having branches in two or more States while transferring goods from one State to another. He stated that it needed to be ascertained as to how much credit was being used within the same

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entity. He stated that in his estimation, non-availability of credit to the tune of 20% was a highly alarming figure. He added that there was a likelihood of more revenue leakage in this model as compared to the model suggested by Shri Nandan Nilekani. He further stated that the buyer was being made responsible for reversal of input tax credit for non-payment of tax by the seller but there could be a situation where the supplier might pay tax after a long drawn legal battle and by then, the buyer might not exist. In such cases, there would be double taxation. He added that due to the proposed provision, the buyer might stop dealing with new start-ups. He observed that the proposed system of return was not conducive to trade and advised that buyers should not be made responsible for reversal of input tax credit.

26.8. The Hon'ble Minister from Karnataka stated that as part of the GoM on IT Related Issues, he had seen both the models. The tax authorities were of the opinion that the interest of revenue might not be protected in the model proposed by Shri Nandan Nilekani. He proposed that some safety mechanism could be adopted in the model proposed by Shri Nandan Nilekani. For instance, if a seller kept on uploading invoices and not paying taxes, he should be blocked from further uploading invoices. He stated that some such other interventions could also be considered. He further observed that the scheme of provisional credit could also be abused and undoing such abuse could be a time-consuming process. He stated that some caveat regarding uploading of invoices could be introduced for buyers.

26.9. The Secretary raised a question whether payment of tax should be delinked from availment of input tax credit, as suggested in the model of Shri Nandan Nilekani. Another issue to be considered was whether the buyer should be completely absolved of the responsibility from any wrong availment of input tax credit due to non-payment of tax by the seller. He stated that if the tax system was so designed that the tax administration would hold only the sellers accountable, it could lead to reckless trading. Buyers would have no stake in the entire scheme and they would only procure invoices and take input tax credit on this basis. He observed that trade would be taking place across the State borders and IGST would be flowing accordingly. Without a self-policing mechanism, it would be very difficult for tax administration to monitor all cases. He stated that only the Government should not take responsibility to allow input tax credit where the buyer and the seller were indulging in collusive behaviour. The Hon'ble Minister from Karnataka stated that in the currently proposed model too, availment of input tax credit would go on without any hindrance for three months whereas with some modifications in Nandan Nilekani's model, one could stop the seller from uploading invoices if tax was not paid for one month and thereafter, there would be no chance of ineligible input tax credit being availed.

26.10. The Advisor (Finance), Punjab, stated that frauds could be of two types. The first was where input tax credit was taken on the basis of fictitious invoices through collusive behaviour. The second was where fraud was not on account of collusive behaviour of the buyer. He stated that, as brought out in the Economic Survey of 2018, in 95% of trade, at one end of the chain was a large and medium supplier. He observed that it would not be desirable to make law keeping in view 1% or 2% of errant taxpayers. He added that even a buyer could be errant and could avail input tax credit and then vanish. Therefore, risk to revenue was there in both the models. He suggested to start with the model proposed by Shri Nandan Nilekani. The Commissioner (Central Excise), CBEC, stated that the model proposed by Shri Nandan Nilekani did not seek to block invoices uploaded by the seller.

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26.11. The Hon'ble Chairperson enquired from the Commissioner (Central Excise), CBEC, as to why revenue administration was apprehensive of the model proposed by Shri Nandan Nilekani. The Commissioner (Central Excise), CBEC, responded that there were several reasons for apprehension. The first and the main reason of apprehension was that there would be no control regarding default in payment of tax on which input tax credit was taken. Secondly, the proposed concept of blockage of uploading of invoices by supplier was an unchartered legal territory. The Central Excise law tried to introduce this provision and the courts quashed it. Thirdly, blocking of invoice upload by a supplier could hurt multiple buyers. If a supplier made supplies to a buyer A in the month of April and defaulted in paying tax for his May return, and made supplies to a buyer B in the month of May, the input tax credit to B would also be blocked due to default in tax payment in respect of supplies made to buyer A. The fourth issue related to limitation in the number of tax officers who could take up audit and scrutiny. He stated that in one year, the Central tax administration was able to do audit of about 40,000 units, return scrutiny of about 30,000 units and anti-evasion cases of about 10,000 units. He stated that the maximum intervention possible by the Central administration would be about 1, 00,000 cases. States could possibly make about 2,00,000 interventions in a year as they have similar number of assessing officers but double the number of support staff. This implied that the Central and the State administrations put together could intervene in only about 3, 00,000 cases in a year against a taxpayer base of close to one crore. It was in this context that a mechanism of self-policing was very important. The fifth issue was in respect of IGST settlement. If there was a default, then the Centre would lose the entire amount already transferred to the State. He suggested that instead of the Centre losing the entire amount, 50% of such losses should also be borne by the States. The sixth issue was that the system of locking of invoices, as proposed in the model of Shri Nandan Nilekani, could involve compliance load.

26.12. The Chairman, GSTN, pointed out that the linkage between tax payment and availment of input tax credit was not new. This feature existed in many VAT laws. This provision was challenged in the Hon'ble High Court of Mumbai in the case of M/s Mahalaxmi Cotton Ginning where the Hon'ble Court gave a detailed justification for upholding this provision and the Hon'ble Supreme Court upheld this judgment. Similarly, the Hon'ble High Court of Gujarat in the case of M/s Madhav Steel had upheld the linkage between payment of tax and availment of input tax credit and the Hon'ble Supreme had upheld this judgment. Only recently, the Hon'ble High Court of Delhi in the case of M/s Quest Merchandising had passed an order taking a different view on this issue. He pointed out that Section 16(2)(c) was part of the CGST and SGST Acts, which linked payment of tax with availment of input tax credit. In view of this, there was sufficient legal justification to retain the linkage between payment of tax and availment of input tax credit. This mechanism along with that of self-policing would be useful as the buyer would be careful in doing business with the seller and without such self-policing, the consequences could be quite difficult. He further stated that the system of auto reversal of wrongly taken input tax credit could be postponed and mismatch of input tax credit could be addressed through audit. The Hon'ble Chairperson observed that the model of Shri Nandan Nilekani was easy and simple but possibly more suited to a society with a good track record of compliance and a fully trust based tax model in the Indian context could lead to several adverse consequences.

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26.13. The Hon'ble Minister from Jammu & Kashmir stated that the proposed model was difficult to understand. He recalled that the earlier model had got stuck because of IT related

issues. The Hon'ble Chairperson stated that Shri Nandan Nilekani also had a meeting with the members of the GoM as well as the officers of the Centre and the States. He observed that broadly, the political executive found the model of Shri Nandan Nilekani to be simpler but the tax bureaucracy considered it to be a risk to revenue. The Hon'ble Minister from Punjab observed that the tenor of discussion reminded him of a quotation from a dictator in Pakistan: "Democracy only works in cold countries and not in hot countries!". The Hon'ble Minister from Karnataka stated that this was a very important Agenda item and before taking a final decision, both the models could be looked into more deeply and further simplified. He stated that the final outcome should satisfy the concerns of trade as well as the tax administration. The Hon'ble Deputy Chief Minister of Bihar observed that the GoM on IT Challenges could not arrive at any conclusion on the issue and the Council could take a decision.

26.14. The Secretary stated that once the model is finalised, GSTN would also need to be given a timeframe of three months to develop the requisite software. He suggested that the return model could be finalised during the next meeting of the Council and in the meantime, the GoM on IT Challenges in GST Implementation could further work on this issue. He suggested that officers from other States could also join in the discussions of the GoM. The Hon'ble Chairperson observed that GoM could invite more officers and persons having expert knowledge on the subject. He also suggested to take four to five persons with domain knowledge on this issue. The Secretary suggested that for the Meeting of GoM on this issue, the officers from all the States could be invited along with Shri Nandan Nilekani to suggest and reflect their concerns on the issue. The Hon'ble Minister from Jammu & Kashmir suggested that two retired Chairmen of CBEC could also be invited for the deliberations. The Hon'ble Deputy Chief Minister of Bihar suggested to invite a few tax law experts as well. The Council noted that the GoM would further discuss this issue to find a balanced solution. During its discussion, it would invite all interested State Government and Central Government officers, some domain experts and other persons as deemed relevant by the GOM as well as Shri Nandan Nilekani for further discussion and present its proposal in the next meeting of the Council.

26.14. The Hon'ble Minister from Tamil Nadu mentioned in his written speech that his State was in favour of allowing provisional credit to taxpayers for a shorter period. At the same time, the design of the GST return should ensure that all the taxes i.e., SGST, CGST and IGST due to the States and the Centre are captured based on the consumption principle.

27. **For Agenda item 12,** the Council approved that the system of GST return filing would be further discussed in the GoM on IT Challenges in GST Implementation to find a balanced solution and its proposal shall be presented in the next meeting of the Council. During its discussions on this issue, the GoM shall invite all interested State Government and Central Government officers, some domain experts, Shri Nandan Nilekani and other persons as deemed relevant by the GoM.

Agenda item 13: Applicability of Goods and Services Tax on Extra Neutral Alcohol (ENA)

28. The Secretary suggested that due to paucity of time, this Agenda item could be deferred for consideration in the next meeting. The Council agreed to the suggestion.

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29. **For Agenda item 13,** the Council approved to defer consideration of this item to its next meeting.

Agenda item 14: Any other agenda item with the permission of the Chairperson

Agenda item 14(i): Consideration of representation dated 22.09.2017 by M/s Honda Siel Power Products as per the directions of the Hon'ble High Court of Delhi

30. The Secretary stated that the proposal in this Agenda item had arisen on account of the Writ Petition filed before the Hon'ble High Court of Delhi where the Hon'ble Court had directed that the GST Council could appropriately consider the Petitioner's pending representation on the differential GST rates between its products, i.e. petrol/kerosene engines and fixed speed diesel engines below 15 HP. The Petitioner, M/s Honda Siel Power Products Ltd., in its representation dated 22 September, 2017 addressed to the Secretary, Department of Revenue, Union Ministry of Finance, had stated that differential rates of tax between petrol/kerosene engines and fixed speed diesel engines not exceeding 15 HP at the rate of 28% and 12% respectively was arbitrary and founded on erroneous logic. The Secretary informed that views of the members of the Fitment Committee were sought on this issue and they did not favour equalisation of the rate of tax on these two products. The recommendation of the Fitment Committee was that there was no case for reduction in the rate of tax on petrol/kerosene engines up to 15 HP from the present rate of 28% to 12% to bring it at par with the applicable rate of tax on fixed speed diesel engines not exceeding 15HP. He informed that this issue was discussed during the officers meeting held on 9 March, 2018 and the officers also recommended that the representation of M/s Honda Siel Power Products Ltd. did not merit acceptance. He stated that in view of the order of the Hon'ble High Court of Delhi, the issue was placed before the Council for consideration in the light of the recommendations of the Fitment Committee and the officers meeting held on 9 March, 2018. The Council agreed, that the representation dated 22 September, 2017 of M/s Honda Siel Power Products Ltd. seeking to equalise the GST rate on petrol/kerosene engines not exceeding 15HP and fixed speed diesel engines not exceeding 15 HP did not merit consideration.

31. **For Agenda item 14(i),** the Council did not accept the representation dated 22 September, 2017 of M/s Honda Siel Power Products Ltd. seeking to equalise the GST rate on petrol/kerosene engines not exceeding 15HP with that on fixed speed diesel engines not exceeding 15 HP.

Agenda item 14 (ii): Procedure to be followed for grant of *ad hoc* exemption on imports under Section 25 (2) of the Customs Act, 1962

32. Introducing this Agenda item, the Secretary stated that under Section 25(2) of the Customs Act, 1962, there is a provision to grant *ad hoc* exemption to import of specific consignments, which are extremely urgent in nature, such as in cases of import of goods for relief and rehabilitation, in cases of natural disasters, treatment of life threatening diseases, etc. It was proposed that the GST Council might allow grant of *ad hoc* exemption from IGST payable on such imported goods upon the approval of the Hon'ble Union Finance Minister as per the guidelines laid down in Circular No.09/2014-Customs dated 19 August, 2014, as was

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the case prior to the introduction of GST. All such *ad hoc* exemption orders, after their issue, shall be placed before the Council for information. The Council agreed to this proposal.

33. For **Agenda item 14(ii),** the Council approved that the Hon'ble Union Finance Minister shall approve grant of *ad hoc* exemption from IGST payable on imported goods as per the guidelines laid down in Circular No.09/2014-Customs dated 19 August, 2014, as was the case prior to the introduction of GST. All such *ad hoc* exemption orders, after their issue, shall be placed before the Council for information.

Agenda item 14(iii): Appointment of Deputy Commissioner as member of Authority for Advance Ruling - Amendment in Rule 103 of the CGST Rules, 2017

34. The Secretary informed that this Agenda item proposed to amend Rule 103 of the CGST Rules, 2017 to permit appointment of officers up to the rank of Deputy Commissioner as members of the Authority for Advance Ruling. This was proposed because the State of Manipur and the Union Territory of Puducherry had represented that they had no post of Joint Commissioner in their State/UT. The Secretary informed that this proposal was discussed during the meeting of the officers held on 9 March, 2018 wherein it was recognised that making a change in the Rule would not solve the problem of these two administrations as the CGST and the SGST Acts had several other provisions such as issuing authorisation of search and seizure under Section 67 and authorising access to business premises under Section 71, where the power was vested in an officer not below the rank of Joint Commissioner. He added that during the officers meeting held on 9 March, 2018, the State of Manipur informed that they had already created the post of two Additional Commissioners and the Union Territory of Puducherry indicated that they would re-designate the post of Deputy Commissioner as Joint Commissioner. He further informed that the Union Territory of Chandigarh had also raised the issue of only having an Assistant Commissioner in their Administration and during the officers meeting of 9 March, 2018, it was decided that for all Union Territories, there would be only one Authority for Advance Ruling. He stated that in view of these administrative decisions, no change in Rules was required and that this Agenda item need not be pursued further. The Council agreed to this suggestion.

35. **For Agenda item 14(iii),** the Council approved not to amend Rule 103 of the CGST Rules, 2017.

Agenda item 14(iv): Minutes of meeting on GST on Liquor license fee convened on 20th February, 2018

36. Introducing this Agenda item, the Secretary stated that during the earlier meetings of GST Council, it was decided to further examine the issue of levying GST on licence fee for alcoholic liquor for human consumption. He stated that he had chaired a meeting on this issue on 20 February, 2018 wherein officers from Punjab, Haryana, Himachal Pradesh, Telangana and Uttar Pradesh presented their views and suggestions. In view of the discussions, it was recommended that GST was not leviable on licence fee for alcoholic liquor for human consumption and that this would also apply *mutatis mutandis* to the demand raised by Service Tax/Excise authorities on licence fee for alcoholic liquor for human consumption in the pre-GST era i.e. for the period from 1 April, 2016 to 30 June, 2017. Dr. Sambasiva Rao, Special Chief Secretary (Revenue), Andhra Pradesh, suggested to suitably incorporate in the Minutes,

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the phrase 'licence fee and application fee by whatever name it is called'. The Council agreed to the suggestion of the Secretary as also the addition proposed by the Special Chief Secretary (Revenue), Andhra Pradesh.

37. For **Agenda item 14 (iv),** the Council approved that GST was not leviable on licence fee and application fee by whatever name it is called for alcoholic liquor for human consumption and that this would also apply *mutatis mutandis* to the demand raised by Service Tax/Excise authorities on licence fee for alcoholic liquor for human consumption in the pre-GST era i.e. for the period from 1 April, 2016 to 30 June, 2017;

Other issues:

38. The Hon'ble Minister from Kerala raised the issue regarding making available State specific data up to the end of the financial year. The CEO, GSTN, stated that they had available with them invoice level data by way of GSTR-1 as well as data of GSTR-3B. These were automatically going to Model 1 States, which also included the State of Kerala. He added that GSTR-2A was generated on the basis of GSTR-1 and that two weeks back, they had made this data available through API (Application Programming Interface). He informed that Kerala officers could now see supplies received by buyers located in Kerala from sellers located anywhere in India.

39. The Hon'ble Deputy Chief Minister of Gujarat stated that the stakeholders had reported that the exporters were facing difficulty in obtaining tax refund on exports. The Secretary informed that the refund situation with respect to both IGST and input tax credit was reviewed during the officers meeting held on 9 March, 2018. He added that he had requested the States to expedite the refund of input tax credit. The Hon'ble Deputy Chief Minister of Gujarat stated that according to his information, the State officers were paying refund but the Central tax officers were not giving refund. The Secretary stated that officers of the Central Government as well as the State Governments would need to make all out efforts to pay refund expeditiously.

40. The Hon'ble Minister from Tamil Nadu circulated a written speech during the meeting of the Council and the same was taken on record. He emphasised that the outstanding request of his State with regard to exemption and reduction in rates of tax on goods and services made by various stakeholders, including trade and industry from Tamil Nadu, should be favourably considered at the earliest.

Agenda item 15: Date of the next meeting of the GST Council

41. The Hon'ble Chairperson stated that the date for the next meeting of the Council shall be informed in due course.

42. The Meeting ended with a vote of thanks to the Chair.

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(Arun Jaitley)
Chairperson, GST Council

Annexure 1

List of Hon'ble Ministers who attended the 26th GST Council Meeting on 10 March, 2018

Sl No	State/Centre	Name of Hon'ble Minister	Charge
1	Govt of India	Shri Arun Jaitley	Union Finance Minister
2	Govt of India	Shri S.P. Shukla	Minister of State (Finance)
3	Bihar	Shri Sushil Kumar Modi	Deputy Chief Minister
4	Chhattisgarh	Shri Amar Agrawal	Minister of Commercial taxes
5	Delhi	Shri Manish Sisodia	Deputy Chief Minister
6	Goa	Shri Mauvin Godinho	Minister for Panchayat
7	Gujarat	Shri Nitinbhai Patel	Deputy Chief Minister
8	Haryana	Capt. Abhimanyu	Excise & Taxation Minister
9	Jammu & Kashmir	Shri Haseeb. A. Drabu	Finance Minister
10	Jharkhand	Shri C.P. Singh	Minister - Department of Urban Development, Housing and Transport
11	Karnataka	Shri Krishna Byre Gowda	Minister - Agriculture
12	Kerala	Dr. T. M. Thomas Isaac	Minister for Finance
13	Madhya Pradesh	Shri Jayant Malaiya	Minister of Finance & CT
14	Manipur	Shri Yumnam Joykumar	Deputy Chief Minister
15	Meghalaya	Shri Conrad K. Sangma	Chief Minister
16	Odisha	Shri Shashi Bhusan Behera	Finance Minister
17	Punjab	Shri Manpreet Singh Badal	Finance Minister
18	Rajasthan	Shri Rajpal Singh Shekhawat	Minister - Industries
19	Tamil Nadu	Shri D. Jayakumar	Minister for Fisheries and Personnel & Administrative Reforms
20	Uttar Pradesh	Shri Rajesh Agrawal	Finance Minister

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Annexure 2

List of Officials who attended the 26th GST Council Meeting on 10 March, 2018

Sl No	State/Centre	Name of the Officer	Charge
1	Govt. of India	Dr. Hasmukh Adhia	Finance Secretary
2	Govt. of India	Ms Vanaja N. Sarna	Chairman, CBEC
3	Govt. of India	Shri Mahender Singh	Member (GST), CBEC
4	Govt. of India	Dr. John Joseph	Member (Budget), CBEC
5	Govt of India	Dr. A B Pandey	Chairman, GSTN
6	Govt. of India	Shri S.C. Garg	Secretary (EA)
7	GST Council	Shri Arun Goyal	Special Secretary
8	Govt. of India	Shri G. C. Murmu	Additional Secretary, DoR
9	Govt. of India	Shri P.K. Mohanty	Advisor (GST), CBEC
10	Govt. of India	Shri P.K. Jain	DG, DG-Audit, CBEC
11	Govt. of India	Shri Sandeep M. Bhatnagar	DG, DG-Safeguards, CBEC
12	Govt. of India	Shri Alok Shukla	Joint Secretary (TRU I), DoR
13	Govt. of India	Shri Amitabh Kumar	Joint Secretary (TRU II), DoR
14	Govt. of India	Shri Upender Gupta	Commissioner (GST), CBEC
15	Govt. of India	Shri Udai Singh Kumawat	Joint Secretary, DoR
16	Govt. of India	Shri Manish Kumar Sinha	Commissioner (Ce.Ex), CBEC
17	Govt. of India	Shri G.D. Lohani	OSD, TRU I
18	Govt. of India	Shri Yogendra Garg	ADG, DGGST, CBEC
19	Govt. of India	Shri S.K. Rehman	ADG, DGGST, CBEC
20	Govt. of India	Shri Sandip Kumar	Commissioner (Customs), CBEC
21	Govt. of India	Shri S. K. Rai	Director, MHA
22	Govt. of India	Shri D.S. Malik	DG (M&C)
23	Govt. of India	Ms Rajesh Malhotra	ADG (M&C)
24	Govt. of India	Shri Saurabh Singh	Deputy Director, PIB
25	Govt. of India	Nagesh Shastri	DDG, NIC
26	Govt. of India	Shri Nagendra Goel	Advisor to CBEC
27	Govt. of India	Shri Parmod Kumar	OSD, TRU-II, DoR
28	Govt. of India	Shri Pramod Kumar	Deputy Secretary, TRU-II, DoR

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29	Govt. of India	Shri Gaurav Singh	Deputy Secretary, TRU-I, DoR
30	Govt. of India	Shri N Gandhi Kumar	Deputy Secretary, DoR
31	Govt. of India	Ms Temsunaro Jamir	Joint Comm., Customs, CBEC
32	Govt. of India	Shri Ravneet Singh Khurana	Joint Comm., GST Policy Wing
33	Govt. of India	Ms Himani Bhayana	Joint Comm., GST Policy Wing
34	Govt. of India	Shri Mohit Tewari	Under Secretary, TRU-I, DoR
35	Govt. of India	Shri Geelani Basha K.S.M	Technical Officer, TRU-I, DoR
36	Govt. of India	Shri Siddharth Jain	Asst. Comm., GST Policy Wing
37	Govt. of India	Shri Sumit Bhatia	Asst. Comm., GST Policy Wing
38	Govt. of India	Ms Deepika	Asst. Comm., GST Policy Wing
39	Govt. of India	Ms Megha Gupta	Asst. Comm., GST Policy Wing
40	Govt. of India	Shri Paras Sankhla	OSD to Union Finance Minister
41	Govt. of India	Shri Nikhil Varma	OSD to MoS (Finance)
42	Govt. of India	Shri Mahesh Tiwari	PS to MoS
43	Govt. of India	Shri Debashis Chakraborty	OSD to Finance Secretary
44	Govt. of India	Shri J S Kandhari	OSD to Chairman, CBEC
45	Govt. of India	Ms. Rose Mary K Abraham	Jt. Director (SM), DEA
46	Govt. of India	Shri Neeraj Kumar	Asstt. Director, DEA
47	GST Council	Shri Shashank Priya	Joint Secretary
48	GST Council	Shri Dheeraj Rastogi	Joint Secretary
49	GST Council	Shri Rajesh Kumar Agarwal	Addl. Commissioner
50	GST Council	Shri G.S. Sinha	Joint Commissioner
51	GST Council	Shri Jagmohan	Joint Commissioner
52	GST Council	Shri Rakesh Agarwal	Under Secretary
53	GST Council	Shri Rahul Raja	Under Secretary
54	GST Council	Shri Mahesh Kumar	Under Secretary
55	GST Council	Shri Sandeep Bhutani	Superintendent
56	GST Council	Shri Mukesh Gaur	Superintendent
57	GST Council	Shri Vipul Sharma	Superintendent
58	GST Council	Shri Amit Soni	Inspector

CHAIRMAN'S INITIALS

59	GST Council	Shri Anis Alam	Inspector
60	GSTN	Shri Prakash Kumar	CEO
61	GSTN	Ms Kajal Singh	EVP (Services)
62	GSTN	Shri Vashistha Chaudhary	SVP (Services)
63	GSTN	Shri Jagmal Singh	VP (Services)
64	Govt of India, CBEC, (Zones)	Shri Kishori Lal	Commissioner, Chandigarh
65	Govt of India, CBEC, (Zones)	Shri Pradeep Kumar Goel	Commissioner, Meerut
66	Govt of India, CBEC, (Zones)	Shri Neerav Kumar Mallick	Commissioner, Bhopal
67	Govt of India, CBEC, (Zones)	Shri Pramod Kumar	Commissioner, Delhi
68	Govt of India, CBEC, (Zones)	Shri Javed Akhtar Khan	Commissioner, Ahmedabad
69	Govt of India, CBEC, (Zones)	Shri G. V. Krishna Rao	Pr. Commissioner, Bengaluru
70	Govt of India, CBEC, (Zones)	Shri Vijay Mohan Jain	Commissioner, Rohtak
71	Govt of India, CBEC, (Zones)	Shri Virender Choudhary	Commissioner, Vadodara
72	Govt of India, CBEC, (Zones)	Shri B.K. Mallick	Commissioner, Kolkata
73	Govt of India, CBEC, (Zones)	Shri Milind Gawai	Commissioner, Pune
74	Govt of India, CBEC, (Zones)	Shri B. Hareram	Pr. Commissioner, Vishakhapatnam
75	Govt of India, CBEC, (Zones)	Shri Sanjay Mahendru	Commissioner, Mumbai
76	Govt of India, CBEC, (Zones)	Shri Deep Shekhar	Commissioner, Bhubaneshwar
77	Govt of India, CBEC, (Zones)	Dr. V. Santhosh Kumar	Commissioner, Thiruvananthapuram
78	Govt of India, CBEC, (Zones)	Shri Nitin Anand	Commissioner, Ranchi

CHAIRMAN'S INITIALS

79	Andhra Pradesh	Dr D.Sambasiva Rao	Special Chief Secretary, Revenue
80	Andhra Pradesh	Shri J.Syamala Rao	Chief Commissioner, CT
81	Andhra Pradesh	Shri T.Ramesh Babu	Additional Commissioner, CT
82	Andhra Pradesh	Shri D. Venkateswara Rao	OSD (Rev), CT
83	Assam	Dr. Ravi Kota	Principal Secretary
84	Assam	Shri Anurag Goel	Commissioner, CT
85	Bihar	Smt. Sujata Chaturvedi	Principal Secretary, Finance and CT
86	Bihar	Shri Arun Kumar Mishra	Additional Secretary, CTD
87	Bihar	Shri Ajitabh Mishra	Deputy Commissioner, CTD
88	Chandigarh	Shri Parimal Rai	Advisor to Administrator
89	Chandigarh	Shri Sanjeev Madaan	ETO
90	Chhattisgarh	Shri Amitabh Jain	Principal Secretary finance & CT
91	Chhattisgarh	Smt Sangeetha P	Commissioner, CT
92	Dadra &Nagar Haveli	Shri Rajat Saxena	Dy. Commissioner
93	Delhi	Shri H. Rajesh Prasad	Commissioner, State Tax
94	Delhi	Shri Anand Kumar Tiwari	Addl. Commissioner, GST
95	Goa	Shri Dipak Bandekar	Commissioner, CT
96	Gujarat	Shri V.K. Advani	OSD (GST)
97	Gujarat	Shri C.J. Mecwan	Joint Secretary [Tax]
98	Gujarat	Shri Ajay Kumar	Special Commissioner of State Tax
99	Gujarat	Shri Dinesh Patel	Supdt. of Stamp
100	Gujarat	Shri Ridhdhesh Rawal	Dy. Commissioner, CT
101	Haryana	Shri Sanjeev Kaushal	Addl. Chief Secretary
102	Haryana	Smt Ashima Brar	E&T Commissioner
103	Haryana	Shri Vijay Kumar Singh	Addl. E&T Commissioner
104	Haryana	Shri Rajeev Chaudhary	Jt. Excise & Taxation Commissioner
105	Himachal Pradesh	Shri R. Selvam	Commissioner of State Tax and Excise
106	Himachal Pradesh	Shri Sanjay Bhardwaj	Additional Commissioner Grade-1
107	Himachal Pradesh	Shri Rakesh Sharma	Joint Commissioner

CHAIRMAN'S INITIALS

108	Jammu & Kashmir	Ms. Anoo Malhotra	Commissioner, CT
109	Jharkhand	Shri K.K. Khandelwal	Principal Secretary-Cum-Commissioner, CT
110	Jharkhand	Shri Ajay Kumar Sinha	Addl. Commissioner of State Taxes
111	Jharkhand	Shri Brajesh Kumar	State Tax officer
112	Karnataka	Shri Ritvik Pandey	Finance Secretary (Budget & Resources)
113	Karnataka	Shri Srikar M.S.	Commissioner, CT
114	Kerala	Dr. Rajan Khobragade	Commissioner, State GST Dept.
115	Madhya Pradesh	Shri Raghwendra Kumar Singh	Commissioner, CT
116	Madhya Pradesh	Shri Sudip Gupta	Dy. Commissioner, CT
117	Maharashtra	Shri Rajiv Jalota	State Tax Commissioner
118	Maharashtra	Shri Dhananjay Akhade	Jt. Commissioner, State Tax
119	Manipur	Shri Hrisheekesh Modak	Commissioner, CT
120	Meghalaya	Shri L Khongsit	Jt. Commissioner
121	Meghalaya	Shri K. War	Asstt. Commissioner
122	Mizoram	Shri Vanlalchhuanga	Secretary, State Tax
123	Mizoram	Shri R. Zosiamliana	Joint Commissioner
124	Mizoram	Shri C. Vanlalchhuana	Deputy Commissioner
125	Odisha	Shri Tuhin Kanta Pandey	Principal Secretary Finance
126	Odisha	Shri Saswat Mishra	Commissioner, CT
127	Odisha	Shri Sahadev Sahoo	Addl. Commissioner, CT
128	Puducherry	Shri G. Srinivas	Commissioner (ST)
129	Punjab	Shri V.K Garg	Advisor (Finance)
130	Rajasthan	Shri Praveen Gupta	Secretary Finance (Revenue)
131	Rajasthan	Shri Alok Gupta	Commissioner, CT
132	Rajasthan	Ms Meenal Bhosle	OSD, Finance
133	Rajasthan	Shri Ketan Sharma	Jt. Commissioner (GST)
134	Sikkim	Smt. Dipa Basnet	Secretary, CT
135	Sikkim	Shri Manoj Rai	Jt. Commissioner, CT
136	Tamil Nadu	Shri T.V Somanathan	Pr. Secretary, CCT

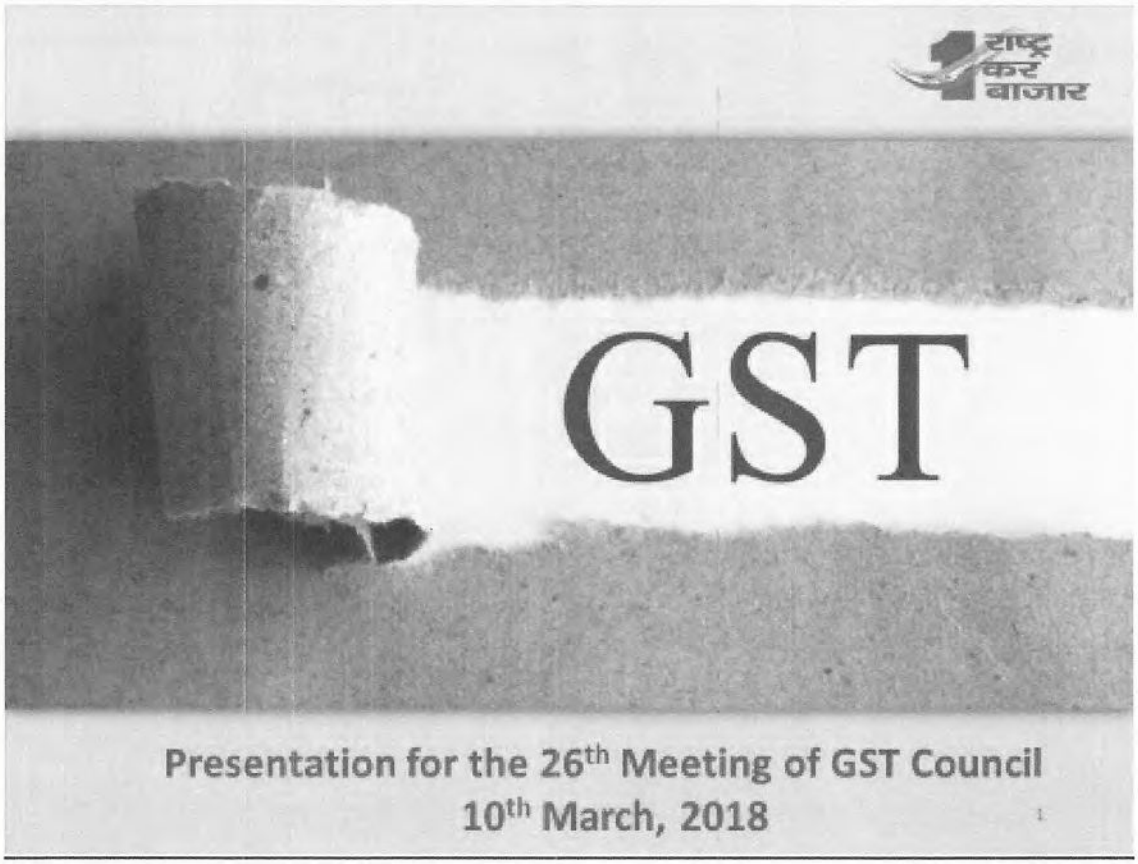
CHAIRMAN'S INITIALS

137	Tamil Nadu	Shri C. Palani	Joint Commissioner (Taxation)
138	Telangana	Shri Somesh Kumar	Principal Secretary (Revenue)
139	Telangana	Shri Anil Kumar	Commissioner (CT)
140	Tripura	Shri Pravin Srivastava	Chief Resident Commissioner, Tripura Bhavan
141	Uttar Pradesh	Shri Rajendra Kumar Tiwari	Addl. Chief Secretary
142	Uttar Pradesh	Ms Kamini Chauhan Ratan	Commissioner, CT
143	Uttar Pradesh	Shri Vivek Kumar	Addl. Commissioner, CT
144	Uttar Pradesh	Shri M.N. Verma	Joint Secretary
145	Uttar Pradesh	Shri Sanjay Pathak	Joint Commissioner
146	Uttar Pradesh	Shri Niraj Kumar Maurya	Asst. Commissioner, CT
147	Uttarakhand	Smt. Sowjanya	Commissioner, State Tax
148	Uttarakhand	Shri Piyush Kumar	Additional Commissioner of State Tax
149	Uttarakhand	Shri Rakesh Verma	Joint Commissioner
150	West Bengal	Smt. Smaraki Mahapatra	Commissioner, CT
151	West Bengal	Shri Khalid A Anwar	Senior Joint Commissioner

CHAIRMAN'S INITIALS

Annexure 3

Presentation of Commissioner (GST Policy Wing), CBEC



Agenda

NATION TAX MARKET

- Deemed Ratification of Notifications, etc.
- Decisions made by GIC
- Amendments to Anti- profiteering Rules
- Extension of suspension of certain provisions
- Advance Ruling Authority

CHAIRMAN'S INITIALS

Agenda Note No. 2 : Deemed Ratification

The following notifications and circulars issued after 18th January, 2018 (date of the 25th GST Council Meeting) are placed before the Council for information and ratification:-

Act/Rules	Type	Notification Nos.
CGST Act/CGST Rules	Central Tax	02 to 13 of 2018
	Central Tax (Rate)	01 to 09 of 2018
IGST Act	Integrated Tax	01 of 2018
	Integrated Tax (Rate)	01 to 10 of 2018
UTGST Act	Union territory Tax (Rate)	01 to 09 of 2018
GST (Compensation to the States) Act	Compensation Cess (Rate)	01 of 2018
Circulars	Under the CGST Act	29 to 31 and 33 of 2018

Decisions of GIC by circulation

- Extension of time limit to file FORM GST 3B for December, 2017 by two days i.e. upto 22.01.2018
  - **Notification No 02/2018 – Central Tax dated 20th January 2018 was issued**

- Postponing the implementation of E-Way Bill Rules for both inter-Sate and intra-State movement of Goods due to technical glitches as reported by GSTN. It was decided that the rules will come in force from a date notified later.
  - ✓ **Notification No 11/2018 – Central Tax dated 02nd February 2018 was issued**

CHAIRMAN'S INITIALS

Decisions of the 12th GIC Meeting

- It was proposal to set up a Grievance Redressal Mechanism to address technical glitches in GSTN.
- In view of the orders of the Hon'ble High Courts of Allahabad & Mumbai and specific direction of the Hon'ble High Court of Mumbai that a grievance redressal mechanism be put in place to address the problems faced by the taxpayers due to glitches in GSTN.
  - ✓ **Member (GST), CBEC was authorised to take appropriate decision to comply with the orders of the Hon'ble High Courts of Allahabad & Mumbai relating to delay in filing of various returns and TRAN-1 due to glitches in GSTN and to keep penalty and fine in abeyance**
  - ✓ **Issue is before Council as separate Agenda No. 7**

Decisions of the 13th GIC Meeting (1/4)

Amendments in the e-Way bill rules (Effective date to be notified – Rule 138(7) not proposed to be notfied immediately)

- Transporters, e-commerce companies & courier agencies may fill **PART-A** of **FORM EWB-01** after getting an authorisation for doing so from the registered person.
- Value of exempt supply has been excluded from the consignment value.
- Mandatory e-way bill in case of movement of goods by public transport.
- In case of movement of goods by railway, air or vessel, the e-way bill can be generated even after commencement of movement.
- Railways have been exempted from e-way bill with the condition that without the production of e-way bill, railway will not deliver the goods to the recipient.
- Distance from the place of consignor to the place of transporter for which **PART-B** of **FORM EWB-01** may not be filled has been increased to 50 km from 10 km to handle practical issues and to facilitate express delivery industry.
- Transporter can extend validity period in case of transshipment also.

CHAIRMAN'S INITIALS

Decisions of the 13th GIC Meeting (2/4)

Amendments in the e-Way bill rules (Effective date to be notified – Rule 138(7) not proposed to be notfied immediately)

- Consignor/consignee or the transporter now have 15 days (as compared to 72 hours) to fill the information in **PART-B** of **FORM EWB-01**.
- Recipient to communicate acceptance or rejection within 72 hours or time of delivery whichever is earlier.
- Carrying e-way bill in physical form is no longer mandatory and may be carried in electronic form.
- Over Dimensional Cargo (ODC) to have a separate validity period of e-Way bill for movement of ODC (20 km per day).
- In addition to regular vehicle numbers in **PART-B** of **FORM EWB-01**, entries can also be made for vehicle numbers of Defence forces, Temporary Registration Numbers and Vehicle numbers from Bhutan and Nepal.
- Exemption form e-way bill granted in few more cases.
  - ✓ **Notification No 12/2018 – Central Tax dated 07th March 2018 was issued**

Change proposed in Officer's Meeting held on 09.03.2018

Amendments in the e-Way bill rules proposed in Officer's meeting held on 09.03.2018

- Facility extended to Railways should not be extended to the goods transported by persons other than railways – Explanation may be inserted below Rule 138(2A):
  - ✓ *Explanation.*- For the purposes of this chapter, the expression 'railways or rail' does not include the 'leasing of parcel space by railways'.

CHAIRMAN'S INITIALS

Decisions of the 13th GIC Meeting (3/4)

Amendments in CGST Rules

Amendment	Reason for Amendment	Action
Date of filing FORM GST TRAN-2 is 31st March, 2018	• There is no last date for furnishing FORM GST TRAN-2 in the CGST Rules. • FORM was made available on the common portal only from 11th December, 2017.	• Rule 117(4)(b)(iii) amended •Notification No 12/2018 – Central Tax dated 07th March, 2018 was issued
Change in the declaration form to be submitted in FORM GST RFD-01A	• Declaration was only to disallow refund if drawback of central tax, central excise or service tax or integrated tax was availed. • Existing language was not clear.	•Amended Declaration in FORM GST RFD-01A & FORM GST RFD-01 •Notification No 12/2018 – Central Tax dated 07th March, 2018 was issued

Decisions of the 13th GIC Meeting (4/4)

Amendments in CGST Rules

Amendment	Reason for Amendment	Action
Rescinding notification No. 06/2018 – Central Tax dated 23rd January, 2018	• No power under IGST Act to levy late fee on late filing of FORM GSTR-5A (OIDAR). • Suitable provision will have to be made in the IGST Act.	• Rescind Notification No. 6/2018-Central Tax dated 23rd January, 2018 • Notification No. 13/2018 – Central Tax dated 07th March 2018 was issued

CHAIRMAN'S INITIALS

Agenda No. 6 : Changes in Anti-profiteering Rules

- Rule 125 – Officer not below the rank of Additional Commissioner (instead of ADG) posted in the Office of DG (Safeguards) to work as Secretary to NAA
- Rule 129 – NAA (instead of Standing Committee) to grant extension of time for completion of investigation
- Rule 133 – Power to NAA to refer the matter back to DG (Safeguards) for further investigations
- Rule 134 – Two changes
  - ✓ Three members of NAA to be quorum for meetings of NAA
  - ✓ Decision to be by majority of members present & voting and in case of equality, chairman to have second / casting vote
- Explanation – any other person, ~~organisation or entity~~ alleging, under sub-rule (1) of rule 128, that a registered person has not passed on the benefit to be treated as "interested party" to file application before NAA

Agenda No. 8 : Extension of certain provisions (1/2)

Extension of suspension of reverse charge mechanism under section 9 (4) of the CGST Act, 2017, section 5(4) of the IGST Act, 2017 and section 7 (4) of the UTGST Act, 2017

- The GST Council had in its 22nd meeting held on 06.10.2017 recommended that the reverse charge mechanism (RCM) under section 9(4) of the CGST Act, 2017, section 5(4) of the IGST Act, 2017 and section 7(4) of the UTGST Act, 2017 shall remain suspended till 31.03.2018.
- The operation of the provisions was suspended till 31.03.2018 vide notification No. 38/2017-Central Tax (Rate), dated 13.10.2017, No. 32/2017-Integrated Tax (Rate), dated 13.10.2017 & notification No. 38/2017- Union Territory Tax (Rate), dated 13.10.2017 respectively.
- The provisions of section 9(4) of the CGST Act, 2017, section 5(4) of the IGST Act, 2017 and section 7(4) of the UTGST Act, 2017 may remain suspended till 30.09.2018 as proposed amendments to GST Laws are yet to be finalised.

CHAIRMAN'S INITIALS

Agenda No. 8 : Extension of certain provisions (2/2)

Extension of suspension of provisions relating to TDS/TCS

- Provisions relating to deduction/collection of tax at source (TDS/TCS) under sections 51 and 52 of the CGST Act, 2017 have not yet been notified.
- The GST Council, in its 22nd meeting held on 06.10.2017, recommended that the deduction/collection of tax shall commence from 01.04.2018.
- The Law Review Committee has in its report recommended that the provisions relating to TDS/TCS may be kept in abeyance till the system stabilises.
- TDS/TCS provisions may be kept in abeyance for a further period of six months, until 30.09.2018.

Agenda No. 14(iii) : Advance Ruling Authority

Appointment of Deputy Commissioner as member of Authority for Advance Ruling

- **Option-I:**

  The Government shall appoint officers not below the rank of Deputy Commissioner as member of the Authority for Advance Ruling.

- **Option-II:**

  The Government shall appoint officers not below the rank of Joint Commissioner; or an officer not below the rank of Deputy Commissioner, where the post of Joint Commissioner does not exist, as member of the Authority for Advance Ruling.

  Where Dy Commissioner is appointed by the State Government/ UT, the Centre shall also appoint officer of same rank.

CHAIRMAN'S INITIALS

Annexure 4

Presentation on Revenue Position

AGENDA NO. 4

REVIEW OF REVENUE POSITION FOR THE MONTH OF JANUARY AND FEBRUARY 2018 UNDER GST

26th GST Council Meeting
10th March, 2018

1

GST REVENUE FOR MONTH OF JANUARY, 2018

(Figures in Rs. Crore)

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

2

CHAIRMAN'S INITIALS

GST REVENUE FOR MONTH OF FEBRUARY, 2018

(Figures in Rs. Crore)

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

STATES WITH MAXIMUM REVENUE SHORTFALL

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

CHAIRMAN'S INITIALS

STATES WITH LEAST SHORTFALL IN REVENUE

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

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STATES WITH LEAST SHORTFALL IN REVENUE

Sl. No.	Name of the State	Percentage shortfall in January 2018 revenue	Percentage shortfall in February 2018 revenue
10.	Uttar Pradesh	13.1	18.7
11	Kerala	16.3	21.5
12.	West Bengal	16.5	15.8
13.	Sikkim	16.6	29.3
14.	Rajasthan	17.3	22.7
15.	Assam	17.9	20.6
16.	Meghalaya	18.8	26.2
17.	Goa	19.1	22.9

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CHAIRMAN'S INITIALS

STATES SHOWING MAXIMUM IMPROVEMENT UPTO FEBRUARY, 2018

Sl. No.	Name of the State	Percentage shortfall in revenue in August 2017	Percentage shortfall in revenue in February, 2018	Percentage reduction in shortfall in February, 2018 vis-à-vis- August 2017
1.	Mizoram	47.7	-51.1	98.8
2.	Manipur	46.6	-29.7	76.3
3.	Nagaland	50.5	-1.1	51.7
4.	Arunachal Pradesh	42.6	-6.4	49.0
5.	Tripura	59.4	24.3	35.1
6.	Meghalaya	52.2	26.2	26.0
7.	J & K	63.9	40.8	23.0

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STATES SHOWING MAXIMUM IMPROVEMENT UPTO FEBRUARY, 2018 - CONTD...

Sl. No.	Name of the State	Percentage shortfall in revenue in August 2017	Percentage shortfall in revenue in February, 2018	Percentage reduction in shortfall in February, 2018 vis-à-vis- August 2017
8.	Andhra Pradesh	27.9	5.5	22.4
9.	Haryana	40.3	18.5	21.8
10.	Assam	39.5	20.6	19.0
11.	Chattisgarh	48.8	29.9	18.9
12.	Telangana	27.8	9.1	18.7
13.	Gujarat	31.5	12.9	18.5

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CHAIRMAN'S INITIALS

[In crore Rs.]

		Revenue to be protected every month	January, 2018			February, 2018			Jan-Feb shortfall	% Shortfall (Revenue collected vs revenue to be protected)							% Improvement in Feb over Aug 2017
			SGST	Settlement	SGST Total	SGST	Settlement	SGST Total		August	Sept	Oct	Nov	Dec	Jan	Feb	
1	Mizoram	20	4	17	21	5	26	31	-11	47.7	33.0	24.3	8.0	-17.6	-2.8	-51.1	98.8
2	Manipur	38	8	29	37	8	41	49	-10	46.8	33.2	15.6	17.3	0.8	2.1	-28.7	76.3
3	Nagaland	28	6	26	32	5	23	28	-4	50.5	43.7	35.4	20.8	14.7	-14.5	-1.1	51.7
4	Arunachal Pradesh	28	9	35	43	7	23	30	-17	42.6	47.3	27.8	18.3	-0.9	-56.6	-6.4	49.0
5	Tripura	85	17	44	61	19	46	65	45	59.4	50.1	22.1	37.3	28.5	28.8	24.3	35.1
6	Meghalaya	69	21	35	56	18	32	51	31	52.2	47.6	39.6	39.6	39.9	18.8	26.2	26.0
7	J & K	516	145	225	369	125	180	305	358	63.9	45.9	40.1	36.2	35.9	28.5	40.8	23.0
8	Andhra Pradesh	1457	714	784	1478	581	795	1377	98	27.8	30.2	4.4	15.8	16.8	-1.4	5.8	22.4
9	Haryana	1649	966	552	1518	942	402	1345	656	40.3	39.5	16.5	26.3	18.1	20.1	28.5	21.8
10	Assam	648	222	310	532	203	312	515	250	39.5	35.6	26.8	25.4	25.4	17.9	20.6	19.0
11	Chattisgarh	797	367	195	562	389	169	558	473	48.8	42.0	43.3	38.2	37.2	29.5	29.9	18.9
12	Telangana	1745	855	801	1656	795	791	1585	248	27.8	15.6	6.5	11.2	13.4	5.1	9.1	18.7
13	Gujarat	3125	2060	762	2823	2031	690	2721	707	31.5	22.0	16.6	24.8	18.6	9.7	12.9	18.5
14	West Bengal	2176	991	827	1817	1183	648	1831	702	33.4	19.6	18.3	20.1	22.1	16.5	15.8	17.6
15	Goa*	236	117	74	191	127	55	182	99	39.9	33.4	33.0	27.6	24.0	19.1	22.9	17.0
16	Madhya Pradesh	1660	614	587	1201	578	607	1185	994	43.4	42.8	25.6	26.8	23.6	27.7	28.6	14.8
17	Odisha	1194	470	371	841	486	314	801	746	45.2	41.2	27.9	39.1	39.2	29.5	32.9	12.3
18	Rajasthan	1858	858	679	1537	764	673	1437	743	34.8	27.5	22.0	22.0	18.9	17.3	22.7	12.1
19	Bihar	1967	281	537	818	270	550	820	1096	52.1	55.6	41.5	40.5	39.3	40.2	40.0	12.1
20	Uttarakhand	537	269	80	349	274	23	298	428	54.5	46.8	50.0	37.7	43.8	35.1	44.6	9.9
21	Kerala	1822	698	827	1525	621	809	1430	689	31.3	14.0	14.4	22.4	22.7	16.9	21.5	9.8
22	Jharkhand	694	354	135	490	341	168	510	389	33.6	47.4	31.8	29.4	28.7	29.5	26.6	7.0
23	Puducherry	119	31	31	62	28	33	62	114	52.3	51.5	59.5	43.6	51.5	47.8	48.1	4.2
24	Karnataka	3914	1810	1176	2986	1734	1085	2799	2044	31.3	28.3	25.3	25.9	30.8	25.7	28.5	2.8
25	Punjab	1567	425	528	951	386	499	885	1258	46.4	35.9	39.0	40.8	45.3	39.3	43.5	3.9
26	Himachal Pradesh	394	125	106	231	107	89	196	360	49.9	48.3	46.8	42.6	48.8	41.4	50.2	-0.3
27	Maharashtra	6555	4440	1976	6426	4297	1477	5774	906	10.8	11.1	2.6	8.0	8.7	1.9	11.9	-1.5
28	Delhi	1818	1099	616	1716	930	510	1440	480	17.5	8.6	-0.2	8.4	14.3	5.6	20.8	-3.3
29	Uttar Pradesh	3615	1453	1687	3140	1357	1581	2939	1147	13.5	27.1	17.2	15.6	18.1	15.1	18.7	-5.1
30	Tamil Nadu	3226	1889	1130	3019	1901	733	2634	799	9.0	4.8	4.4	10.8	5.5	8.4	18.5	-9.4
31	Sikkim	27	11	11	22	9	10	19	12	-15.2	47.6	26.7	9.0	21.1	16.8	28.3	-42.5
	Total	42979	21274	14784	36057	20442	13285	33647	15717	28.3	24.0	17.5	20.9	20.7	16.1	21.7	
			Shortfall in revenue		6921			9332									

CHAIRMAN'S INITIALS

Annexure 5

Presentation on GST Return Filing

Steps of the proposed return design :

NATION TAX MARKET

- **Monthly return**: There shall be monthly return for all taxpayers except those who are composition dealers (quarterly returns). Total no of returns = 12.
- **Return design:** The proposed monthly return shall consist of summary return like present GSTR 3B and as its annexure invoices for outward supplies and inward supplies attracting reverse charge.
- **No system based matching**: Matching would be done offline by the taxpayer.
- **Continuous viewing of invoices:** Recipient would be able to continuously see the invoice uploaded by the supplier and its tax payment status. (Locking facility can be considered to be made available as an IT facilitation measure.)

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Contd:

- **Offline Utility** - An offline tool will be provided to the Buyer assist in return filing and downloading supplier's invoice.
- **Return filing shall be spread out**: Above Rs 1.5 Cr by 10th and Lower by 20th of the next month, except composition dealer etc.
- **Continuous facility to add invoice**: Seller would have continuous facility to add invoices for the past period and pay tax thereon.
- **Input tax credit**: Input tax credit shall be provisionally taken on the basis of receipt of goods and covering invoices. (Declaration at aggregated level). Finalisation of credit on seller paying the tax.
- **Partial payment of tax**: Partial payment of tax on self assessment basis shall be allowed. Buyer to be shown the tax payment status.

Return and reconciliation of credit - Return is one stage but credit reconciliation takes place in three steps.

(i) Main return: This would be a summary return with outward supply invoices and reverse charged inward supply invoices as annexure. Input tax credit would be availed on self declaration basis.

(ii) Rectification platform: This IT platform would provide facility to continuously add missing invoices, credit note and debit note for the past period and pay tax liability thereon.

(iii) Reversal of credit: On expiry of the rectification period, excess credit taken, shall be self assessed and reversed. Credit can be retaken by buyer if seller pays the tax later. Cases of large difference to be taken up for audit/scrutiny. (Auto-reversal only if programmable, within acceptable limits and approved by the Council.)

Note: GST Council may extend the rectification period or the date for the reversal of input tax credit.

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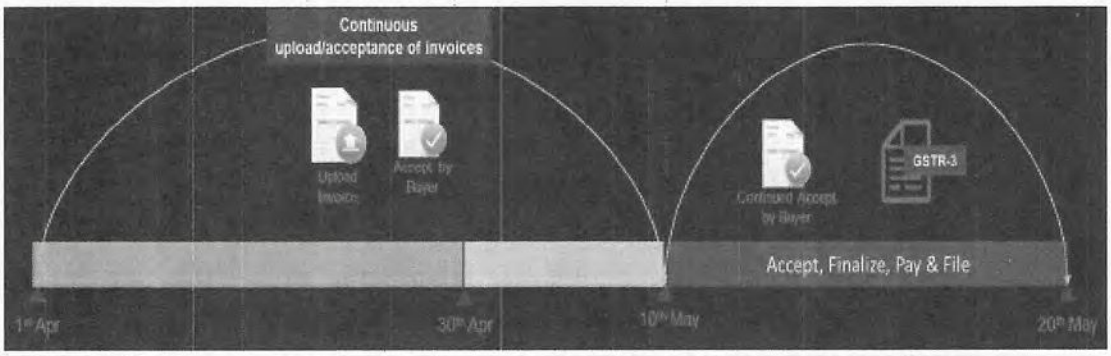
April	May	June	July	August	Sept	Oct
Continuous viewing of April invoices. PAY		Add missing /Pay for April invoices	Add missing /Pay for April invoices N1	Add missing /Pay for April invoices	Reconcil-iation Statement. ADD	
					CREDIT	
		Revenue gain due to addition of missing April invoices and tax payment (self policing mechanism).				Challenge is auto-reversal of input tax credit.



- **IT Model** : Continuous upload and acceptance as part of business cycle. No return.
- ITC available only on supplier uploaded invoices. No provisional credit to be given.
- ITC linked to admittance of liability and not on payment of tax by the supplier.
- Key benefits: Simplicity, incentive aligned and high quality data.
- Shifting control to the seller's side: Unchartered territory in law and for trade.

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No Credit-Tax payment linkage	Credit-Tax payment linked
Provisional Credit gets removed from the economy leading to cash requirement of 50,000 Crore.	System allows provisional credit initially and reconciliation with tax paid invoices happens later.
Default in tax payment grows the system is not self policing.	System is capable of self policing. Default in tax-credit linked systems are less than 10% in VAT.
Resources available with the tax administration may not be adequate to chase defaulters. Intrusive also.	Self policing ensures that tax administration has to intervene in lesser number of cases.
Refund of accumulated credit without tax payment.	Refund linked to actual tax payment.
Some IGST settlement without payment of tax. Centre's assurance to State of 14% growth would put stress on Centre's revenue.	No issues with tax payment settlement. Final settlement would be more realistic due to reversals.
Locking of each invoice on the system is a high compliance burden. Erroneous locking creates trouble.	Action on individual invoice happens offline. The reconciliation Statement portion of the design adds to the compliance burden.
Shifting control to the seller's side takes the design to the completely unknown territory for trade, in law and for revenue administration.	Trade has accepted the concept of input tax credit being linked to the tax payment.

Conclusion:

- GOM directed that the issue of **tax payment-credit linkage and availability of provisional credit** be decided in the GST Council. Officers view is in the affirmative for both.
- Buyer would be shown the difference between tax paid by sellers and input tax credit availed.
- Where the difference is high, reconciliation statement would be required to be filed. Excess credit to be self assessed and reversed. Non-filing to lead to audit.
- Auto-reversal to be taken up only after system experience.
- GSTR 3B and GSTR 1 **shall continue** for another three months after the 1st of April, 2018.

CHAIRMAN'S INITIALS