

Minutes of the 50th Meeting of the GST Council held on 11th July, 2023

The 50th meeting of the GST Council was held on 11th July, 2023 under the Chairpersonship of the Hon'ble Union Finance Minister, Smt. Nirmala Sitharaman at Vigyan Bhawan, New Delhi. The list of Hon'ble Members of the Council who attended the meeting is at **Annexure-1**. The list of the officers of the Centre, States, Union Territories with legislature, GST Council Secretariat and GSTN who attended the meeting is at **Annexure-2**.

1.2 The following agenda items were listed for discussion in the 50th meeting of the GST Council:

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9.	Report of 3rd Meeting of the Group of Ministers (GoM) on GST System Reforms
10.	Proposal for creation of State Co-ordination Committee comprising of the GST authorities from the State and the Central Tax Administrations
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12.	Performance Report of Competition Commission of India (CCI) for month of December, 2022 and 4th quarter of the F.Y 2022-23 along with Performance Reports of State Level Screening Committee (SLSC), Standing Committee (SC) and Directorate General of Anti-Profitteering (DGAP) for 3rd quarter and 4th quarter of the F.Y 2022-23.
13	Request for extension of due dates for filing GSTR-7, GSTR-1 & GSTR-3B for the months of April, May and June 2023 and extension of Amnesty Schemes in the State of Manipur
14.	Review of revenue position under Goods and Services Tax
15.	Any other agenda with the permission of the Chair

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1.3 The Secretary to the GST Council, welcomed all the Hon'ble Members of the Council and participating officers to the landmark 50th meeting of the GST Council.

1.4 The Secretary on behalf of the Council welcomed the following incoming Hon'ble Members to the 50th Meeting of the GST Council-

- a. **Ms. Atishi Marlena, Finance Minister, Delhi**
- b. **Shri Krishna Byre Gowda, Minister for Revenue Department, Karnataka**
- c. **Sh. Sudhir Mungantiwar, Hon'ble Minister of Forests, Maharashtra**
- d. **Shri A. T. Mondal, Cabinet Minister, Community and Rural Development, Power and Taxation Departments, Meghalaya**
- e. **Shri K. G. Kenye, Minister for Power and Parliament Affairs, Nagaland**
- f. **Shri Bikram Keshari Arukha, Minister for Finance, Odisha**
- g. **Shri Thangam Thennarasu, Minister for Finance and Human Resource Management, Tamil Nadu**

1.5 The Secretary informed the Council that a short film titled 'GST Council: 50 steps towards a journey' has been prepared by GST Council Secretariat in collaboration with Directorate General of Taxpayer Services, CBIC. The film was screened with the permission



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of the Hon'ble Chairperson. The Secretary informed that the film has been prepared in Hindi, English and various regional languages.

1.6 Further, the first set of a special postal cover and customized my stamp designed by the GST Council Secretariat through Department of Posts was presented by Smt. Manju Kumar, Chief Post Master General (CPMG), Delhi to the Hon'ble Chairperson of the GST Council to mark the occasion. All Hon'ble Members joined the release ceremony. The Secretary thanked the CPMG, Delhi and her team.

1.7 The Secretary stated that a GoM on Casinos, Race Courses and Online Gaming was formed to examine the issue of valuation of services and related aspects with Sh. Conrad Sangma, Hon'ble Chief Minister, Meghalaya as Convenor and Hon'ble Members from Maharashtra, West Bengal, Gujarat, Goa, Tamil Nadu, Uttar Pradesh and Telangana as Members. The GoM had submitted its 2nd report which was being placed before the Council for deliberations. He thanked all the Hon'ble Members of this GoM for their valuable recommendations.

1.8 The Secretary further stated that the GoM on GST System Reforms had submitted the report of its third meeting which was being placed before the Council for deliberations. He thanked the Hon'ble Convenor of this GoM from Maharashtra and other Hon'ble Members of this GoM from Haryana, Delhi, Assam, Andhra Pradesh, Odisha, Tamil Nadu and Chhattisgarh.

1.9 The Secretary informed the Council that a National Coordination Meeting was held on 24th April, 2023 with the officers from Center, States, Union Territories, GST Council Secretariat and GSTN wherein various issues on greater coordination on GST administration and sharing of best practices by both Center and states were discussed. The agenda of this meeting involved greater use of technology for GST compliance and tackling tax evasion. One of the outcomes of this meeting was All India drive against fake registrations from 16th May, 2023 to 15th July, 2023. The coordinated effort from both Central and State GST administrations had yielded excellent results. He appreciated the outstanding efforts and excellent performance of both the State and Central GST officers.

1.10 The Secretary also appreciated the efforts of the State and Central GST administrations in revenue augmentation as the revenue in first quarter of 2023-24 was 12 % higher than the revenue in same period for 2022-23.



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1.11 The Secretary informed that the agenda for the 50th meeting of the GST Council was discussed in detail during the Officers Meeting a day before which would help immensely in steering the agenda today.

1.12 The Secretary sought the permission of the chair to begin deliberations on each agenda item.

2. Agenda Item 1: Confirmation of the Minutes of the 49th Meeting of the GST Council

2.1 The first agenda item pertained to confirmation of the minutes of the 49th Meeting of the GST Council which was held on 18th February, 2023 at New Delhi. The Secretary stated that the minutes were circulated to all Hon'ble Members and suggestions were received from States of Haryana and Tamil Nadu. The minutes of the 49th meeting of the GST Council after incorporating the changes suggested by the States were placed before the Council for confirmation.

2.2 The Hon'ble Member from Tamil Nadu stated that the suggestions made by the former Finance Minister of Tamil Nadu during the last meeting have not been incorporated. In regard to selection of Technical Members for GSTAT Benches, the States should be taken into account keeping in view the spirit of federalism. The State Search-cum-Selection Committee should be empowered to select both the Judicial Members and Technical Members of the State Bench. The present system will pose a herculean task for the Centre. The Secretary clarified that the agenda item was discussed in detail, and it was agreed that a draft would be prepared by the Secretariat and circulated. The Chairperson was authorized to take a final view. The minutes have been recorded accordingly. Action was also taken accordingly – a draft law was prepared, it was circulated, comments received and incorporated and then approval of the Chairperson taken. The final draft Act has also been circulated to States, based on which they have taken actions such as passing the State Act. The Hon'ble Member from the State of Tamil Nadu reiterated that the State Search-cum-Selection Committee should be empowered for selection of both the Judicial Members and Technical Members of the State Bench. The Secretary stated that the same would be recorded. He requested that minutes be approved

Decision: The Council adopted the Minutes of the 49th meeting of the GST Council.



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

3.1 The Secretary took up the next agenda pertaining to the Ratification of the Notifications, Circulars and Orders issued by the GST Council and decisions of GST Implementation Committee for the information of the Council (Page 92-104 of the agenda). He stated that this agenda was discussed in the officers meeting held yesterday and there was consensus. He requested the Council to ratify the Notifications, Circulars and Orders issued by the GST Council and take note of the decisions of the GST Implementation Committee (GIC).

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

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

4.1 The Secretary took up the next Agenda for the consideration of the GST Council. He informed that these agendas were discussed in the Officers' Meeting held on 10th July, 2023 and there was an agreement among the all officers on most of the issues. Then, the Principal Commissioner, GST Policy Wing made the detailed presentation (attached as **Annexure-3**) giving overview of the recommendations made by the Law Committee, as well as the gist of the discussions held in the Officers' meeting on 10th July 2023.

Agenda Item 3(i): Rules Amendment in accordance with the recommendations made by Group of Ministers (GoM) on implementation of E-way bill requirement for movement of Gold/ Precious stones under Chapter 71

4.2 Pr. Commissioner, GST Policy informed that the as per the recommendation of GoM regarding amendment in Rules for implementation of E-Way Bill requirement for movement of Gold/Precious stones, Law Committee has recommended insertion of Rule 138F in the CGST Rules 2017 as well as in SGST Rules, 2017 for those States who want to mandate the requirement of e-way bill for intra-state Movement of gold and precious stones under Chapter 71 as specified at Sl. No. 4 and 5 of the Annexure appended to sub rule 14 of Rule 138. He also mentioned that this was agreed to in the Officers' meeting.



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Decision: The Council agreed with the recommendations of the Law Committee along with the proposed amendments in CGST Rules, 2017 and in concerned SGST Rules, 2017.

Agenda Item 3(ii): Capacity based taxation and Special Composition Scheme in certain Sectors in GST

4.3 Pr. Commissioner, GST Policy informed that for implementation of the recommendations made by GoM on Capacity based taxation and Special Composition Scheme in certain Sectors, Law Committee has proposed to notify special procedure under section 148 of the CGST Act, 2017 to be followed by the manufacturers of commodities recommended by GoM for registration of the machines, maintenance of records of inputs and production, and submission of special monthly statement. Law Committee has also recommended insertion of Section 122A in CGST Act, 2017 to provide for penalty for non-declaration of machines by such manufacturers.

4.4 Law Committee further recommended that the amendment made to Section 16 of IGST Act, 2017 through the Section 123 of the Finance Act, 2021 may be notified for restricting the IGST Refund route in respect of certain supplies or suppliers for exports. Further, tobacco, pan masala and similar items (as recommended by GoM) and mentha oil may be notified under section 16(4) of IGST Act, 2017 as the goods, on the export of which IGST refund route will not be available.

4.5 He also mentioned that this was discussed in Officers' meeting and was agreed to. Officers also suggested 01.10.2023 as the date from which the provisions of Section 123 of the Finance Act, 2021 may be brought into effect.

Decision: The Council agreed with the recommendations of the Law Committee detailed along with the proposed notification and amendments in CGST Act, 2017 and IGST Act, 2017 and recommended to bring the provisions of Section 123 of the Finance Act, 2021 into effect from 01.10.2023.

Agenda Item 3(iii) Clarification on charging of interest under section 50(3) of the CGST Act, 2017, in cases of wrong availment of IGST credit and reversal thereof

4.6 Pr. Commissioner, GST Policy informed that Law Committee has proposed a circular to clarify that in the cases where IGST credit has been wrongly availed and subsequently reversed on a certain date, there will not be any interest liability under Section 50(3) of the



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CGST Act, if during the time period starting from such availment and upto such reversal, the balance Input Tax Credit in the electronic credit ledger of IGST, CGST and SGST taken together, has not fallen below the amount of such wrongly availed credit. However, if the balance of the electronic credit ledger in IGST, SGST and CGST taken together falls below such wrongly availed IGST credit, then it would amount to utilisation of the wrongly availed IGST credit and will attract interest as per section 50(3) of the CGST Act read with Section 20 of the IGST Act and Rule 88B(3) of the CGST Rules. Law Committee has proposed to clarify the same through a circular.

Decision: The Council agreed with the recommendations of the Law Committee as detailed in the agenda along with the proposed Circular.

Agenda Item 3(iv) issues pertaining to interpretation of Section 10 of IGST Act, 2017

4.7 Pr. Commissioner, GST Policy informed that agenda pertains to clarification regarding the interpretation of Section 10 of the IGST Act for determining the Place of Supply (PoS) in case of goods purchased Over-the-Counter in one State and thereafter transported to another State by the recipient. The issue was discussed in the 37th GST Council Meeting but it was referred back to Law Committee for further deliberation. The Law Committee, after obtaining the opinion of the States, has proposed an amendment in Section 10 of IGST Act for supplies made to unregistered persons, broadly considering the destination-based principle. The recommendation was agreed to in the officer's meeting.

4.8 The Hon'ble Member from Tamil Nadu suggested that place of supply should be place of supplier citing examples of migrant workers and others who come to the State to purchase something and if they mention the address from where they are coming, then revenue will go to that State where these migrant workers and tourists come from, and hence their State would be deprived of the Revenue.

4.9 The Secretary mentioned that decision has to be taken by the Council. Migration happens either way and people travel in and out of the States. There are disputes about PoS in such over-the-counter supplies. He also informed that the issue came up especially with regard to automobile sector in which residents of a State may travel to another State to take advantage of lower registration charges and road tax, which vary from State to State. To resolve this issue, Law Committee has recommended a new formulation where the unregistered consumers could declare their address on the tax invoice, which would determine the PoS for the said supply. In cases of in-migration, the State may gain but in out-



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migration it would lose. It is a zero-sum gain. Other than for major goods like automobiles, consumers will not mention their address. So, overall, the losses and gains would not be substantial.

4.10 The Hon'ble Member from Himachal Pradesh thanked the Chairperson stating that the said amendment would benefit smaller States which have very limited resources and that consumer State would get the revenue as per the principle of destination-based taxation.

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

Agenda Item 3(v) Clarification with respect to applicability of e-invoice w.r.t supplies made by a registered person to Government Departments or establishment/ Government agencies / local authorities/ PSUs registered solely for the purpose of TDS.

4.11 Pr. Commissioner, GST Policy informed that Law Committee has recommended to clarify through a circular that e-invoicing would be required in all such supplies made by the registered persons, whose turnover exceeds the prescribed threshold for generating e-invoices under Rule 48(4) of the CGST Rules, to the Government Departments or establishment/ Government agencies / local authorities/ PSUs who are registered solely for the purpose of tax deduction at Source under section 51 of the CGST Act, 2017. He added that this was agreed to in the Officers' meeting.

Decision: The Council agreed with the recommendations of the Law Committee along with proposed circular for clarification.

Agenda Item 3(vi) Clarification on refund related issues

4.12 Pr. Commissioner, GST Policy further stated that the next agenda is regarding clarification on various refund related issues.

4.13 **Issue no 1:** Refund of accumulated input tax credit (ITC) under Section 54(3) on the basis of that available as per FORM GSTR 2B.

4.14 Pr. Commissioner, GST Policy informed that since the availment of ITC has now been linked with FORM GSTR-2B w.e.f. 01.01.2022, Law Committee has recommended that the availability of refund under Section 54(3) of the CGST Act also needs to be restricted to those invoices which are reflected in FORM GSTR-2B for the concerned or earlier tax periods and on which ITC is available to the applicant. Corresponding amendments have



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been proposed in the Circular No 135/05/2020-GST dated 31.03.2020 and Circular No.139/09/2020-GST dated 10.06.2020 which would be applicable for refund claims for the tax period January, 2022 onwards.

Decision: The Council agreed with the recommendations of the Law Committee for issuing the said clarification.

4.15 **Issue No 2:** Requirement of the undertaking in FORM RFD 01 inserted vide Circular No. 125/44/2019- GST dated 18.11.2019

4.16 Pr. Commissioner, GST Policy informed that Law Committee has recommended that in view of the omission of Section 42 of the CGST Act, amendment in Section 41 of the CGST Act and omission of Form GSTR-2 and GSTR-3 from the CGST Rules, 2017, para 7 of the Circular No 125/44/2019 dated 18.11.2019 and its Annexure A are required to be modified to omit the references to the said Section and Rules.

Decision: The Council agreed with the recommendations of the Law Committee for making necessary modifications in the above circular and the Annexure A to the said circular.

4.17 **Issue No3:** Clarification regarding determination of value of adjusted total turnover in the formula under Rule 89(4)-

4.18 Pr. Commissioner, GST Policy informed that Law Committee has recommended to clarify through the circular that consequent to the Explanation having been inserted in sub - rule (4) of rule 89 of the CGST Rules vide Notification No. 14/2022-CT dated 5.7.2022, the value of goods exports to be included in the calculation of the adjusted Total turnover shall be the same as per the said explanation.

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

4.19 **Issue No 4:** Clarification on the scope and computation of the refund on account of inverted duty structure as provided in sub-section (3) of section 54 and in rule 89 (5) of the CGST Rules, 2017:

4.20 Pr. Commissioner, GST Policy informed that Law Committee has recommended that clarification be given regarding refund of accumulated input tax credit in cases of inverted duty structure in respect of items like fertilizers, where subsidy is given by the government.

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Law Committee has recommended that refund will be available in all such cases as long as there is some inversion of tax rate irrespective of the fact that accumulation of input tax credit may also be on account of taxable value of output supply being lower than the value of inputs because of subsidy. Law Committee also recommended that refund be calculated as per the formula prescribed under rule 89(5) of CGST Rules, 2017.

4.21 The Hon'ble Member from Karnataka stated that he had reservations on the recommendation of Law Committee on account of Law and adverse Revenue implications in the State. He further informed that matter is under litigation between their State and concerned companies. He insisted that since the matter is sub-judice, it would not be advisable to take the decision at this stage. He therefore suggested that Council may await the order of the Court on the issue as it would have huge revenue implication of around Rs 300-500 Crore for the State. However, if the Council strongly felt that a decision needs to be taken on the issue, then the law could be required to be amended and it may not be clarified by issuance of a circular.

4.22 The Secretary suggested that the Council may either refer the matter back to Law Committee or it could be approved so that all authorities actually take a uniform view. He reiterated that it is only a recommendation for the Council to decide but things should not be kept pending for clarification.

4.23 The Hon'ble Chairperson, sought the opinion of the house on the suggestions made by Revenue Secretary

4.24 The Hon'ble Minister of Karnataka agreed to the proposition suggested by the Revenue Secretary.

4.25 The Hon'ble Member from Uttar Pradesh questioned the wisdom of taking a decision on a matter that is already sub-judice. Revenue Secretary informed that though the matter is sub-judice but since it is not stayed, the issue could be decided.

4.26 The Hon'ble Member from Goa mentioned that if the Council waits for the Court orders, then the matter would remain pending. He requested that the issue needs to be clarified at the earliest and therefore, may be referred back to the Law Committee.

4.27 The Hon'ble Member from Chhattisgarh did not agree to the recommendation of Law Committee and stressed that Law Committee should be advised to follow the spirit of legislature and not recommend anything contrary to the provisions of the Act.

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4.28 The Hon'ble Member from Meghalaya stated that the reason of litigation is due to lack of clarity in the Law and therefore, Council should not wait for the decision of the Court. He added that the Council should interpret the law and if needed, the Act should be amended for bringing more clarity. He further agreed to the concern raised by Hon'ble Member from Goa.

4.29 The Hon'ble Chairperson directed that in all such cases, where there is lack of clarity in the law, the Law Committee should come up with clarificatory note in time to avoid matter going to the Courts.

Decision: The Council agreed that the issue may be referred back to the Law Committee for re-examination of the same based on the provisions of the law, and after taking inputs from State of Karnataka also.

4.30 **Issue No 5:** Clarification in respect of admissibility of refund where an exporter applies for refund subsequent to compliance of the provisions of sub-rule (1) of rule 96A.

4.31 Pr. Commissioner, GST Policy explained that the issue pertains to giving the benefit of zero rating in cases where the goods are actually exported or the payment is realised in case of export of services, even if it is beyond the time frame prescribed under rule 96A(1) (a) or 96A(1)(b) of CGST Rules. Law Committee has recommended to clarify through the circular that in such cases, subsequent to the export of goods or realisation of payment in case of export of services, as the case may be, the said exporters would be entitled to refund of the tax paid earlier. The refund may be claimed under "excess payment of tax" and till that functionality is available on the portal, it may be under the category "Any Other". However, no refund of interest would be given in such cases.

Decision: The Council agreed with the recommendations of the Law Committee along with proposed circular as detailed in the agenda.

Agenda Item 3(vii): Clarification to deal with difference in Input Tax Credit (ITC) availed in FORM GSTR-3B as compared to that detailed in FORM GSTR-2A for the period 01.04.2019 to 31.12.2022.

4.32 Pr. Commissioner, GST Policy informed that guidelines were issued on manner of reconciliation of the difference in ITC availed in FORM GSTR-3B as compared to that detailed in FORM GSTR-2A for the period 2017-18 and 2018-2019 consequent to the decision of the Council in the 48th GST Council Meeting. However, after that, representations

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have been received for clarification to deal with the difference in ITC availed in FORM GSTR-3B as compared to that detailed in FORM GSTR-2A for the period 01.04.2019 to 31.12.2021. Since rule 36(4) of the CGST rules allowed additional credit to the tune of 20%, 10% and 5% of the eligible credit available in GSTR-2A during the period 9.10.19 to 31.12.19, 1.1.20 to 31.12.20 and 1.1.21 to 31.12.21 respectively, subject to payment of tax by the supplier, therefore, the guidelines are proposed by the Law Committee to be issued for manner of verification and reconciliation of the difference in ITC for the period 01.04.2019 to 31.12.2021 also. The guidelines recommended by the Law Committee in form of a circular were agreed to in the Officers' Meeting.

Decision: The Council agreed with the recommendations of the Law Committee along with proposed circular as detailed in the agenda.

Agenda Item 3(viii): Mechanism to deal with differences in ITC between GSTR-2B and GSTR-3B, along with draft rules and proposed FORM DRC-01C for implementing the same.

4.33 Pr. Commissioner, GST Policy informed that a mechanism is being devised which would allow system-based intimation to the taxpayer about the excess availment of ITC in FORM GSTR-3B vis-a-vis that reported in FORM GSTR-2B, above a particular threshold and with provision for self-compliance on the portal by the said taxpayer. Accordingly, certain amendments in Rules and Forms are required for devising such mechanism. He further, informed that Law Committee has recommended that Rule 88D may be inserted in the CGST Rules to give a system-based intimation to the registered person in those case where difference between the ITC availed as per Form GSTR-3B and that available as per Form GSTR-2B exceeds such amount and such percentage as may be recommended by the Council. In such cases, the registered person shall be directed to pay an amount equal to the said excess amount of ITC availed along with interest or to give a reasonable explanation and if neither of these is done, then the amount can be demanded under Section 73 or section 74. Further, a new clause (e) has been recommended to be inserted in sub-rule 59(6) of CGST Rules to block subsequent GSTR-1 or IFF, unless the said amount has been paid or the requisite explanation has been furnished.

4.34 Law Committee has also recommended to insert a new FORM GST DRC-01C in CGST Rules as required under sub-rule (1) of the proposed rule 88D.



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4.35 Law Committee further recommended that to begin with, such intimation may be given in those cases to the concerned registered person under proposed rule 88D where the difference between the input tax credit availed in FORM GSTR-3B & that available as per FORM GSTR-2B is more than 20% as well as more than Rs. 25 lakhs.

4.36 Pr. Commissioner added that this was discussed in Officers' meeting and was agreed to.

4.37 The Hon'ble Member from Tamil Nadu suggested that only one criteria of more than Rs 25 lakh should be adopted. Revenue Secretary clarified that it is only the beginning and based on the experience, the threshold could be changed or reduced at later stage. Otherwise, it may cause massive disruption in the business.

The Council agreed with the recommendations of the Law Committee along with proposed rule and proposed FORM DRC-01C.

Agenda Item 3(ix): Procedure for Recovery of Tax and Interest in terms of Rule 88C(3).

4.38 Pr. Commissioner, GST Policy informed that in cases where the output tax liability reported in Form GSTR-1 exceeds the output tax liability reported in GSTR-3B and has been communicated to the taxpayer but the amount has either not been paid fully/partially or satisfactory explanation of the difference has not been given by the taxpayer, or where interest has not been paid by the taxpayer, then, a procedure has been recommended by the Law Committee in those cases for creation of the liability in Electronic Liability Ledger and for recovery of this differential amount by insertion of new rule 142B and a new Form DRC-01D. He added that in the Officers' meeting, officer from the State of Gujarat proposed that words "or interest" may be inserted in proposed sub-rule (3) of rule 142B after the words "tax", which was agreed to by the Officers.

Decision: The Council agreed with the recommendations of the Law Committee, with the amendment proposed by the State of Gujarat, along with proposed rules.

Agenda Item 3(x): Annual Returns for FY 2022-23

4.39 Pr. Commissioner, GST Policy informed that for filing Annual Return for FY 2022-23, last date of filing is 31.12.2023 and accordingly, FORM GSTR-9 and FORM GSTR-9C for FY 2022-23 need to be notified. Law Committee recommended that the relaxations provided in FY 2021-22 in respect of various tables of FORM GSTR-9 and FORM GSTR-9C

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may be continued for FY 2022-23. Law Committee also recommended to insert separate rows for the newly introduced tax rate of 6% (for brick kilns) in table 9, 11 and Pt. V of FORM GSTR-9C. Law Committee further recommended that the filing of annual return (in FORM GSTR-9/9A) for the FY 2022-23 may be exempted for taxpayers having aggregate annual turnover upto two crore rupees, as per the relaxation extended in previous FYs.

Decision: The Council agreed with the recommendations of the Law Committee, along with draft notification detailed in the agenda note.

Agenda 3 (xi)- Amendment in CGST Rules, 2017 regarding registration

4.40 Pr. Commissioner, GST Policy informed that the next agenda 3(xi) is regarding the amendments in CGST Rules 2017 pertaining to registration. He stated that a significant number of cases have been detected where unscrupulous elements have misutilized the facility of registration to take fake registration. He mentioned that Law Committee deliberated on the issue and has recommend amendments in various provisions of CGST Rules to strengthen the registration process in GST.

4.41 **Amendment in rule 10A:** Law Committee has proposed that rule 10A of CGST Rules may be amended to provide that the details of bank account may be required to be furnished within 30 days of the grant of the registration or before filing of statement of outwards supply under section 37 of CGST Act in FORM GSTR-1/ IFF, whichever is earlier.

4.42 **Amendment to sub-rule (2A) of rule 21A:** Further, Law Committee has proposed that amendment be made in Rule 21A(2A) to provide for system based suspension of the registration in respect of such registered persons who do not furnish details of valid bank account under rule 10A of CGST Rules within the time period prescribed in the said rule. It has also been recommended to provide for automatic revocation of suspension in such cases upon compliance with provisions of rule 10A.

4.43 **Amendment to sub-rule (6) of rule 59:** Law Committee has further recommended that clause (e) may be inserted in sub-rule (6) of rule 59 to provide that in cases where a registered person has not furnished details of a valid bank account under rule 10A as per provisions of rule 10A, the said registered person may not be allowed to furnish the details of outward supplies in FORM GSTR-1 or using IFF.

4.44 **Amendment in CGST Rules regarding physical verification of business premises:**
The Law Committee also deliberated that the physical verification of business premises needs

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strengthening in high risk cases. The Law Committee recommended that the requirement of the presence of the applicant for physical verification of business premises may be done away with Further, Law Committee also recommended to make a provision in rule 25 for physical verification in high-risk cases even where Aadhaar has been authenticated. For this purpose, Rule 9(1) and Rule 25 may be amended as proposed in the Agenda.

4.45 Pr. Commissioner added that this was discussed in Officers' meeting and was agreed to.

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

Agenda 3 xi(a)- Pilot Project for biometric-based Aadhaar authentication of registration applicants in Puducherry.

4.46 Pr. Commissioner, GST Policy informed that the agenda 3 xi(a) is also related to agenda 3(xi) pertaining to registration. He stated that Council had already agreed to have a biometric based Aadhaar authentication in high risk cases and pilot was approved for State of Gujarat. Puducherry has also requested to have a pilot for the same implemented in Puducherry. In this regard, approval is needed for issuing the following notifications:

- i. The State of Puducherry will need to substitute rule 8(4A) of Puducherry SGST Rules on the lines of corresponding substitution of Rule 8(4A) of CGST Rules vide notification no. 04/2023-Central Tax dated 31.03.2023;
- ii. Further, the State of Puducherry will also need to amend rule 8(5) and rule 9 of Puducherry SGST Rules on the lines of corresponding amendments in CGST rules notified vide notification no. 26/2022- CT dated 26.12.2022;
- iii. The Central government will be required to further amend Notification No. 27/2022-CT dated 26.12.2022 for specifying that the proviso to rule 8(4A) will apply to the State of Puducherry as well.

4.47 Further, it was proposed that the Council may authorize the Chairperson to extend the said pilot project, if required, in other States and/ or Union territories which may be willing to conduct pilot for biometric authentication of Aadhaar for high-risk registration applicants.

4.48 The Hon'ble Member from Andhra Pradesh stated that they are also interested in taking up this pilot project, which was agreed. The Revenue Secretary agreed to the same.

4.49 Pr. Commissioner, GST Policy stated that amendments in rule 8(5), rule 9(1) and rule 9(2) of CGST Rules 2017 have been notified by the Centre and State of Gujarat, but other States are also required to notify the same so that mandatory physical verification can be



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conducted in high-risk category identified by the Common portal, despite having Aadhaar authenticated.

4.50 He added that this was discussed in Officers' meeting and was agreed to.

Decision: The Council agreed with the said recommendations made in the agenda as also to the request of Andhra Pradesh to include it in the pilot for biometric Aadhar based authentication.

Agenda 3 (xii)- Clarification on TCS liability under Sec 52 of the CGST Act, 2017, in case of multiple E-commerce Operators (ECOs) in one transaction

4.51 Pr. Commissioner, GST Policy informed that the agenda 3(xii) is a circular for clarification regarding TCS liability in the cases involving multiple electronic commerce operator, especially in the case of Open Network Digital Commerce platform. The Law Committee recommended that it may be clarified through a circular that in a situation where multiple ECOs are involved in a single transaction through ECO platform, the compliances under section 52 of CGST Act, including collection of TCS, is to be done by the supplier-side ECO who finally releases the payment to the supplier for a particular supply made by the said supplier through him.

4.52 He also added that an in-principle approval was granted by GST Council in 47th meeting inter alia for waiver of requirement of mandatory registration under section 24(ix) of CGST Act for person making intra-state taxable supply of goods through ECOs, subject to certain conditions. In order to implement the same, issuance of notifications under section 23(2) and section 148 of CGST Act, 2017 has also been recommended by the Council in its 48th meeting. As per the recommendations of the Council, the same is to be implemented w.e.f. 01.10.2023. However, it is felt that the said draft notification also needs to cover the situations involving model of multiple ECOs in a single supply of goods through ECO platform. Law Committee recommended that the said draft notification, as approved by the Council, may be amended further to provide for situations involving multiple ECOs, as suggested in Annexure B to the agenda.

Decision: The Council agreed with the said recommendations of the Law Committee, along with the circular and notification.

Agenda 3 (xiii)- Clarification on availability of ITC in respect of warranty replacement of parts and repair services during warranty period.

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4.53 Pr. Commissioner, GST Policy informed that the agenda is regarding a clarification in respect of those cases where the manufacturer provides warranty replacement or repair services for some items during the warranty period without any additional consideration. Issues were raised whether in these cases, the supply of replacement parts is liable to tax or not or whether ITC is required to be reversed or not. Therefore, a clarification has been recommended by the Law Committee in form of a circular to cover various scenarios.

Decision: The Council agreed with the recommendation of the Law Committee to issue the clarificatory circular.

Agenda 3 (xiv)- Amendments in CGST Rules consequent to amendment in CGST Act vide Finance Act 2023

4.54 Pr. Commissioner, GST Policy Wing informed that this agenda is regarding amendment to CGST Rules subsequent to amendment in CGST Act carried out through Finance Act, 2023.

4.55 **Rule corresponding to the Explanation to section 17(3) of CGST Act, 2017:** The Law Committee recommended that the activities or transactions of paragraph 8(a) of Schedule III of CGST Act, the value of which shall not be excluded from exempt supply as per amended Explanation to sub-section (3) of section 17 of CGST Act, 2017, need to be prescribed by amending CGST Rules, 2017 by way of Insertion of Explanation 3 to rule 43 of the CGST rules.

4.56 **Amendment to rule 162 of CGST Rules 2017:** Subsection (2) of section 138 of CGST Act, 2017 provides for prescribing the amount for compounding various offences under CGST Act through CGST Rules, 2017. Therefore, Law Committee has recommended that sub-rule 3A may be inserted in rule 162 of CGST Rules to prescribe compounding amount for various offences.

Consent Based Sharing of Information

4.57 To implement the provisions of the newly inserted section 158A of CGST Act, rules need to be framed and implemented. The Law Committee has recommended insertion of new Rule 163 in CGST Rules, 2017 for the purpose of consent-based sharing of data available on the common portal with other systems.



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4.58 The Law Committee has also recommended that account aggregators may be notified as the systems with which information may be shared by the common portal based on consent under Section 158A of the CGST Act, 2017. The draft notification under section 158A of CGST Act in this regard is enclosed as Annexure-II with the agenda note.

4.59 Pr. Commissioner, GST Policy further mentioned that Council needs to fix the date on which provisions of Finance Act, 2023 pertaining to GST will come into effect. He informed that the issue was deliberated in the Officers' meeting and it was suggested that 01.08.2023 may be fixed as the date on which provisions of the Finance Act, 2023 pertaining to GST Appellate Tribunal may be notified by the Centre at least, so that the work for setting up of Tribunals can be initiated at the earliest. Further, it was suggested in Officers' meeting that all other provisions of the Finance Act, 2023 may be notified with effect from 01.10.2023.

Decision: The Council agreed with the said recommendation of the Law Committee, along with the suggestions made in Officers' meeting regarding date from which provisions of Finance Act, 2023 will come into effect.

Agenda 3 (xv)- Goods and Services Tax Appellate Tribunal (Appointment and Conditions of Service of President and Members) Rules, 2019.

4.60 Pr. Commissioner, GST Policy informed that Agenda 3 (xv) is regarding Goods and Services Tax Appellate Tribunal (Appointment and Conditions of Service of President and Members) Rules, 2019. He informed that the draft rules as recommended by Law Committee are detailed in the agenda. He added that the issue was deliberated in detail in Officers' meeting, wherein officer from State of Maharashtra suggested that in sub rule 5 of proposed rule 3 of the said Rules, the word "as well as adjudicating" may be replaced by the word "and" and that Sr. No. 9 of Annexure-I of the said Rules may be deleted. The same was agreed by the Officers.

Decision: The Council agreed with the said recommendation of the Law Committee, along with the amendments suggested in the Officers' meeting.

Agenda 3 (xvi)- Seeking clarity on taxability of share capital held in subsidiary company by the parent company.

4.61 Pr. Commissioner, GST Policy stated that the Agenda is about clarity on the issue of taxability of share capital held in subsidiary company by the parent company. but the Law committee deliberated on the issue and has recommended to clarify through a circular that

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mere holding of the shares of subsidiary company by the holding company cannot be treated as supply of services by the holding company to the subsidiary company and cannot be taxed under GST accordingly.

4.62 The Hon'ble Members from Karnataka and Chhattisgarh requested to explain the proposal in greater detail.

4.63 Pr. Commissioner, GST Policy informed that the issue is regarding clarification as to whether holding of shares in a subsidiary company by the parent companies to be treated as supply of service under GST or not. Field formation are raising demand that the share capital held in subsidiary companies are covered under SAC code 997171 and accordingly leviable to GST. As securities are neither treated as goods nor treated as services, mere holding of shares of subsidiary company by the holding company cannot be treated as supply of services. However, there may be independent supply of other services by holding company to subsidiary company like providing a bank guarantee, etc.

4.64 The Hon'ble Member from Karnataka agreed to the recommendation. However, he felt that Law Committee should examine the issue of taxability of other activities/ services by holding company for subsidiary company. He further suggested that the circular may mention that 'other advantages or services will be looked into separately'.

4.65 The Hon'ble Members from Meghalaya and Uttar Pradesh stated that the proposal of the Law Committee is only clarifying that the mere holding of securities of a subsidiary company by holding company cannot be treated as supply of services and there is no ambiguity in it, and therefore, there is no need for any amendment in the said proposed circular.

4.66 The Hon'ble Chairperson concluded the discussion by advising that while the issue of other advantages and services may be looked into separately, mentioning the same in the circular may lead to further litigation.

Decision: The Council agreed with the said recommendation of the Law Committee along with the circular. Law Committee will further examine the issue w.r.t. other advantages and services provided by companies to its subsidiaries.

Agenda 3 (xvii)- Amendment in CGST Rules, 2017



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4.67 Pr. Commissioner, GST Policy stated that the Agenda is about various amendments in CGST Rules. He added that a number of these amendments are just procedural in nature for alignment with various provisions requiring change or omission.

4.68 Following amendments in CGST Rules have been proposed as detailed in the Agenda:

1. **Omission of clause (c) of Explanation (1) to Rule 43:** This is an amendment consequential to lapsing of an exemption.
2. **Amendment in proviso to rule 46(f):** Law Committee has recommended that proviso to rule 46(f) of CGST Rules may be amended to provide that the tax invoice may contain the name of the State of the recipient only and the name and address of the recipient along with its PIN code may not be mandatory to be declared on the tax invoice.
3. **Amendment in Rule 64 and FORM GSTR-5A:** Law Committee has recommended amendment in rule 64 and in FORM GSTR-5A so as to also include details of supplies made by the OIDAR service provider located outside India to registered persons other than non-taxable online recipient in India in his return for tracking of payment of tax on RCM basis by registered taxpayers.
4. **Amendment in rule 89(1):** Law Committee recommended to align the wording of the third proviso of rule 89(1) with the Section 49(6) so that the casual taxpayer can file his refund claim for the balance remaining out of the advance tax paid which is in the nature of excess balance in electronic cash ledger only and which can be claimed as refund after filing of the last return.
5. **Amendment in Rule 89(2)(k)** to include refund of interest and other amounts as per the Section 54(8) in case of refund of excess payment of tax.
6. **Omission of 1st and 2nd proviso to sub-rule (2) of rule 96** as they do not serve any purpose after the amendments in CGST Act.
7. **Amendment in rule 108 and rule 109 of CGST Rules** to provide a facility for filing appeal manually in certain specified circumstances.
8. **Amendment in FORM GSTR-3A** for providing for notice for non-filing of Annual Return in FORM GSTR-9 or FORM GSTR9A.

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4.69 Pr. Commissioner mentioned that the issue was deliberated in detail in Officers' meeting, wherein officer from State of Maharashtra suggested that in respect of amendment in rule 108 and 109 of CGST Rules, the words "or due to non-availability of the facility" may be deleted from the proposed provisos to rule 108(1) and 109(1). The same was agreed by the Officers.

4.70 The Hon'ble Member from Telangana mentioned that after the bifurcation of the State, because of wrong mention of place of supply, tax has been credited to other States. He gave the example of ICICI, in which Maharashtra has been wrongly credited Rs. 80 Crore. Therefore, some mechanism needs to be built to correct it. In 47th GST Council meeting, assurance was given to constitute a Committee of officers to resolve the issue and the same may be done. He also suggested that on wrong credit, adjustment should be made subsequently.

4.71 The Hon'ble Chairperson stated that because there was a decision taken in the 47th council meeting on the concern raised by Telangana, the officer's committee must table a report to the Council in the next meeting, highlighting challenges, possibility or impossibility of the implementation of the issue raised by Telangana.

Decision: The Council agreed with the said recommendation of the Law Committee, along with the amendment suggested in the Officers' meeting. Moreover, the issue raised by the Member, Telangana regarding wrong credit may be looked into as decided in the 47th GST Council meeting.

Agenda 3 (xviii)-Proposal to provide a special procedure to file appeal against the orders passed in accordance with the Circular No. 182/14/2022-GST, dated 10.11.2022, pursuant to the directions issued by the Hon'ble Supreme Court in the Union of India v/s Filco Trade Centre Pvt. Ltd.

4.72 Pr. Commissioner, GST Policy stated that the agenda is regarding a special procedure to be provided in cases where Tran-1 and Tran 2 claims were filed in pursuance of direction given by Hon'ble Supreme Court during two months' window of 01.10.2022 to 30.11.2022. The Law Committee recommended to provide a special procedure under Section 148 of CGST Act for filing of appeals manually against the orders passed in accordance with Circular No. 182/14/2022-GST. A draft notification providing the special procedure to be followed by a person desirous of filing an appeal against an order passed by the proper officer in accordance with Circular No. 182/14/2022-GST which was issued pursuant to the

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directions issued by the Hon'ble Supreme Court in the Union of India v/s Filco Trade Centre Pvt. Ltd., SLP(C) No.32709-32710/2018 has been formulated by the Law Committee and is detailed in the agenda.

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

Agenda 3 (xix)- Issues pertaining to ISD mechanism and taxability of services provided by one distinct person to another distinct person.

4.73 Pr. Commissioner, GST Policy stated the agenda concerns the ISD mechanism and taxability of services between distinct persons. This issue was earlier deliberated by the GST Council and was referred back to the Law Committee for further examination.

4.74 He informed that there are two aspects for consideration- regarding the common input services procured from third parties and the internally generated services. The Law Committee proposed to issue a circular to clarify the issue in respect of both of such cases.

4.75 The Law Committee took a view that there is no intent in the present provision of CGST Act to make ISD mechanism mandatory, and accordingly, it may be clarified through a circular that it is not mandatory to follow ISD procedure laid down in Section 20 of CGST Act read with rule 39 of the Central Goods and Services Tax Rules, 2017 for distribution of ITC in respect of input services procured by HO from a third party but attributable to both HO and BO or exclusively to one or more BOs and that such credit can also be passed on by HO by issuing tax invoices under section 31 of CGST Act to the concerned BOs. In cases, where HO wants to distribute credit through ISD mechanism, it shall be required to get itself registered mandatorily as per provisions of section 24(viii) of CGST Act. Further, it may also be clarified that HO can distribute the ITC to a BO through ISD mechanism or can issue invoice under section 31 to a BO in respect of an input services received from a third party only if the said services are being supplied to the concerned BO.

4.76 **For prospective periods:** Law Committee took a view that ISD procedure, as laid down in Section 20 of CGST Act read with rule 39 of the CGST Rules, may be made mandatory prospectively for distribution of ITC in respect of input services procured by Head Office (HO) from a third party but attributable to both HO and Branch Office (BO) or exclusively to one or more BOs. Further, ITC on account of input services received from a

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third party, where such input services are liable to tax on reverse charge basis, should also be required to be distributed through ISD route. This will require amendment in law which the Law Committee may formulate in due course.

4.77 **For internally generated services:** Law Committee recommended to clarify through the Circular that in cases where full input tax credit is available to the recipient, the value of such supply of services declared in the invoice by HO to BOs may be deemed as open market value, irrespective of the fact whether cost of any particular component of such services, like employee cost etc., has not been included in the value of the services in the invoice, or not. It may be further clarified that in cases where full input tax credit is available to the recipient if the invoice is not issued with respect to any internally generated services by the HO to the BO, the value of such services may be deemed to be declared as Nil by HO to BO, and may be deemed as open market value in terms of second proviso to rule 28 of CGST Rules.

4.78 Pr. Commissioner, GST Policy also stated that the Law Committee could not make any recommendation for taxability and valuation of internally generated services in cases where full input tax credit is not available to the recipient.

4.79 He mentioned that the issue was deliberated in detail in the Officers' meeting. The officers agreed with all the recommendations made by the Law Committee. However, in the Officers' meeting, discussions were also held on the issue of taxability of internally generated services in cases where full input tax credit was not available to the recipient. He mentioned that it was broadly discussed in the Officers' meeting to clarify in the circular that in respect of internally generated services, the cost of salary of employees involved in providing the said services, may not be required to be mandatorily included while computing the taxable value of the supply of such services, in cases where full input tax credit is not available to the recipient. He sought approval of the Council for incorporation of the suggestion made in Officers' meeting in the draft circular recommended by the Law Committee.

4.80 The Hon'ble Member from Karnataka suggested that Law Committee may also consider the possibility of allowing taxpayers to apportion costs of supplies according to their discretion without making it overly burdensome. The aim is to facilitate compliance and avoid the need for meticulous breakdown and apportionment of every cost. He also added that there is a need for caution as this is liable for different interpretations and may give rise to disputes.



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Decision: The Council agreed with the said recommendation of the Law Committee, along with the suggestion made in the Officers' meeting regarding taxability of internally generated services in cases where full input tax credit was not available to the recipient.

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

5.1 The Secretary introduced the agenda item relating to the recommendations of the Fitment Committee. These recommendations had been given in six (06) Annexures, the first three related to Goods and the other three related to Services. The first Annexure listed issues relating to goods where tax rate changes or clarifications were recommended; the second Annexure listed items related to Goods where no tax rate changes were recommended and the third Annexure listed items related to Goods where the issues were deferred by the Fitment Committee for further examination. The fourth Annexure listed the recommendations for making changes in GST rates or for issuing clarifications in relation to Services; the fifth Annexure listed the services where no tax rate changes were being recommended and the sixth Annexure where the issues were deferred by the Fitment Committee for further examination in relation to services.

5.2 The Secretary then asked the Joint Secretary, TRU, DoR to take the Council through the brief presentation on the recommendations of the Fitment Committee.

5.3 JS, TRU stated that a total of 35 issues in respect of goods were examined. Out of these, on 14 issues, recommendations were made for tax rate changes or issuance of clarifications, on 17 issues no tax rate change or status-quo was recommended and on 4 issues, the Fitment Committee has recommended deferring the issues for further examination. She further stated that a total of 16 issues in respect of services were examined, out of which, on 7 issues recommendations were made for tax rate changes or clarifications, on 3 issues, no tax rate changes or status-quo was recommended and on 6 issues the Fitment Committee had recommended deferring the issues for further examination. The presentation made by JS, TRU is attached as **Annexure-4**.

5.4 JS, TRU started with the agenda items pertaining to goods where change in rates or issuance of clarification (14 issues) had been recommended by the Fitment Committee (**Annexure-I**).



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5.5 The first issue pertained to tax rate change on uncooked/unfried snack pellets manufactured through extrusion process where the Fitment Committee recommended to reduce GST to 5% on uncooked/unfried extruded products by whatever name called. Fitment Committee also recommended to regularize for past period on 'as is where is' basis due to genuine doubts. She further informed that the said issue was also discussed in detail in the Officer's Meeting on 10.07.2023 and no objections were raised.

Decision: The Council agreed with the recommendation of the Fitment Committee to reduce the tax rate on uncooked/unfried snack pellets manufactured through extrusion process by whatever name called from 18% to 5% and regularize the issue for the past period on 'as is where is' basis.

5.6 The Hon'ble Member from Delhi thanked the Council for the decision.

5.7 JS, TRU then presented the second issue pertaining to Fish Soluble Paste where Fitment Committee recommended that since the final product fish meal attracts 5%, there appears to be merit in the argument that by waste generated as a by-product during the process of manufacture of fishmeal should not attract 18% and recommended to reduce GST rate on Fish Soluble Paste (2309) to 5%. Fitment Committee also recommended to regularize the matter for the past period on "as is basis" in view of genuine interpretational issues.

5.8 The Hon'ble Member from Goa thanked the Council for reducing the tax rate on Fish Soluble Paste. He further cited the judgment of Hon'ble High Court of Madras in the case of Jenefa India vs GOI and informed that only the taxpayers of State of Tamil Nadu are getting benefit of exemption on Fish meal while the taxpayers of rest of the States are paying 18%. He added that the exchequer is incurring substantial loss of revenue because of this anomaly and requested GST Council to ensure a uniform levy. He also requested that the practice in the State of Karnataka may also be rechecked in this regard.

5.9 The Hon'ble Member from Tamil Nadu stated that if there is something by which exchequer is incurring loss of revenue then the State of Tamil Nadu will collect all the information about it and definitely act accordingly.

5.10 It was informed by JS, TRU that an appeal has been preferred against the said judgement. Hon'ble Member from Chattisgarh enquired whether a stay has been obtained and if not, then whether the option of exemption was still being exercised.

5.11 The Hon'ble Chairperson sought a report on the entire issue within a week's time.



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5.12 The Hon'ble Member from Goa thanked the Council for considering this issue.

Decision: The Council agreed with the recommendation of the Fitment Committee to reduce the tax rate on Fish Soluble Paste from 18% to 5% and regularize the issue for the past period on 'as is where is' basis.

5.13 JS, TRU then presented the third issue pertaining to IGST exemption on the cancer medicine Dinutuximab (Quarziba) used for treatment of Neuroblastoma when imported for personal use. She stated that during the officers' meeting on 10.07.2023, one of the suggestions was to check from the Ministry of Health and Family Welfare whether the said medicine is manufactured in India and that it has been informed by the Ministry of Health and Family Welfare that it is not approved for manufacture in India and the country's needs are met by import.

Decision: The Council agreed with the recommendation of the Fitment Committee to exempt IGST on Dinutuximab (Quarziba) when imported for personal use.

5.14 JS, TRU then presented the fourth issue pertaining to medicines and Food for Special Medical Purposes (FSMP) used in the treatment of rare diseases and informed that the Fitment Committee recommended to exempt IGST on such medicines used in the treatment of rare diseases enlisted under the National Policy for Rare Diseases (NPRD), 2021 which are imported for personal use subject to the existing conditions and when imported by Centre of Excellence or any person or institution on recommendation of any of the listed Centre of Excellence. She also informed the Council that post Budget 2023-24, Basic Customs Duty (BCD) exemption has been given to drugs and Food for Special Medical Purposes (FSMP) when imported for personal use for treatment of rare diseases enlisted in the National Policy for Rare Diseases, 2021. The BCD exemption currently available for drugs used in treatment of rare diseases imported by Centres of Excellence for Rare Diseases or any person or institution on recommendation of any of the listed Centre of Excellence was also expanded to include Food for Special Medical Purposes (FSMP)

Decision: The Council agreed with the recommendation of the Fitment Committee to exempt the IGST on medicines and Food for Special Medical Purposes (FSMP) used in the treatment of rare diseases enlisted under the National Policy for Rare Diseases (NPRD), 2021 which are imported for personal use subject to existing conditions and



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when imported by Centres of Excellence or any person or institution on recommendation of any of the listed Centre of Excellence.

5.15 JS, TRU then presented the fifth agenda pertaining to issuance of clarification about GST rate on Trauma, Spine and Arthroplasty implants falling under heading 9021, for the period prior to the 18.07.2022. She informed that earlier there were two entries @ 5% and 12% for similar goods under 9021, which was causing confusion. On the recommendations of 47th meeting of the GST Council, a GST rate of 5% was fixed on all goods falling under heading 9021 w.e.f. 18.07.2022.

5.16 Fitment Committee recommended to regularize the matter for the period prior to 18.07.2022 on "as is basis" provided tax had been paid @5% or 12% in view of genuine interpretational issues.

Decision: The Council agreed with the recommendation of the Fitment Committee w.r.t. rate on Trauma, Spine and Arthroplasty implants.

5.17 JS, TRU presented the sixth issue pertaining to request for clarification on raw cotton supplied by agriculturists to cooperatives. Fitment Committee recommended to clarify that supply of raw cotton, including kala cotton, from agriculturists to cooperatives is a taxable supply and attracts 5% GST under reverse charge mechanism since cooperatives are registered persons, and also recommended to regularize for the past periods on "as is basis" in view of genuine doubts regarding taxability. She also informed the Council that in the officers' meeting no objections were raised on the recommendations of the Fitment Committee on this issue.

Decision: The Council agreed with the recommendations of the Fitment Committee w.r.t. raw cotton.

5.18 JS, TRU then presented the seventh issue pertaining to consequential changes after the new Foreign Trade Policy coming into force. She stated that the Foreign Trade Policy 2023 came into force with effect from 1st April, 2023 and that the changes mostly involved updating the references of relevant paragraphs in various Customs and IGST notifications. Fitment Committee recommended for consequential changes to be carried out in notifications which would be mostly technical in nature.



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Decision: The Council agreed with the recommendation of the Fitment Committee w.r.t changes in view of the new FTP.

5.19 JS, TRU then presented the eighth issue pertaining to the issue clarification of applicable GST rate - on imitation zari thread to avoid ambiguity prevailing on the applicable rate of GST on such goods. Fitment Committee recommended to reduce GST rate to 5% on imitation zari thread or yarn known by any name in trade parlance and further recommended that the issue may regularized for the past period on "as is where is" basis.

Decision: The Council agreed with the recommendation of the Fitment Committee w.r.t. imitation zari thread or yarn known by any name in trade parlance.

5.20 JS, TRU then presented the ninth issue pertaining to LD Slag where Fitment Committee recommended to reduce the tax rate from 18% to 5% considering that consumption of LD slag needs to be encouraged for better utilization of this waste and protection of environment and to bring parity with Blast Furnace Slag (BFS) and Fly Ash. JS, TRU stated that LD slag is a by- product of steel industry. She further informed that in the Officers meeting, officers from Orissa and Punjab had pointed out that the issue had also been discussed in 48th meeting of the GST Council wherein the recommendation for reduction of rate was not agreed to since ITC would be available to cement manufacturers. It was explained that LD slag is not preferred by the cement industry due to excess lime content and for uptake in cement industry they have to do further processing. Karnataka had also clarified that other by products of steel already attract 5% and therefore on grounds of parity the rate might be considered for reduction. On other by products too the rate was reduced on grounds of environmental concerns.

5. 21 Hon'ble Member from Maharashtra pointed out that if there is no offtake, the issue of taxing at 18% has no meaning.

5.22 The Hon'ble Member from Orissa stated that the pre-GST incidence of tax on LD slag was 17.5% (12.5% central excise and 5% VAT). Present rate of 18% in line with pre GST tax incidence. He stated that the Fitment Committee had recommended status quo earlier which is in line with the decision taken by the Council to tax essential commodities at 5% and that other for other items the tax rate should be kept at 18%, and therefore this recommendation of the Fitment Committee is at variance with that adopted in 45th GSTCM. The Hon'ble



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Member from Odisha requested that the issue be referred back to the Fitment Committee and Odisha may be invited to give its views on the same.

5.23 The Hon'ble Member from Delhi enquired about the quantum of LD slag produced in the country versus the offtake, because the decision would be taken on that basis.

5.24 JS TRU stated that for 10 MT of steel production, 1.8 MT LD slag is produced, and since the National Steel Policy envisages 300 million tonnes of steel production by 2030, India will produce 99 million tonnes of BF slag and 54 MT of LD slag, that while steel industry will consume significant amount of BF slag, there would be few takers for LD slag at high GST rate, and dumping of LD slag will result in environmental hazard. She stated that the offtake is now 25%.

5.25 The Hon'ble Member from Karnataka stated that dis-incentivizing the usage of LD slag by keeping the GST rate at 18% would not be in the interest of the environment. He stated that if cement manufacturers use LD slag, whether the tax rate was 5% or 18%, benefit of ITC would be available to them and hence there would be no loss to the exchequer. Now, since the rate is at 18%, the road making industry is dis-incentivized from using LD slag. By lowering the rate to 5% if we can encourage some end usage of this product, it would be in the larger social and environmental interest.

5.26 The Hon'ble Member from Kerala stated that while there is a revenue angle, for example Odisha was producing LD slag and therefore their revenues might be affected, the environmental angle was equally an issue. So if the usage was in the cement industry, it might be okay but while promoting usage of LD slag in roads, environmental issue needs to be kept in mind. He further stated that in Kerala LD slag was not being used in construction of roads as they do not have steel industry but considering the fact that 100 MT of LD slag was going to be produced in the future, whether it will create some other environmental issue if used in roads needs to be kept in mind.

5.27 The Hon'ble Chairperson stated that argument was to reduce the rate to incentivize the use of LD slag which would result in collateral benefits of be reducing the harmful effects of dumping this waste product.

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5.28 The Hon'ble Member from Telangana stated that they were able to use 100% of fly ash produced in their State for bricks and for use in highway construction and no hazards were reported.

5.29 The Hon'ble Member from UP agreed to the levy of 5% GST on LD slag. Based on discussions, Hon'ble Member from Odisha also agreed to the levy of 5% GST on LD slag.

Decision: The Council agreed with the recommendation of the Fitment Committee w.r.t. LD slag.

5.30 JS, TRU presented the tenth issue pertaining to amend the exemption notification No.50/2017- Customs dated 30.06.2017. Fitment Committee recommended to update list 34 in Notification 50/2017- Customs so as to include RBL Bank and ICBC Bank and update list 34 as per the updated Appendix 4B of FTP-2023 subject to confirmation from DGEP and DGFT.

Decision: The Council agreed with the recommendation of the Fitment Committee to include RBL Bank and ICBC Bank.

5.31 JS, TRU presented the eleventh issue pertaining to applicability of compensation cess on utility vehicles such as MUV/XUV /MPV with length more than 4000 mm, engine capacity more than 1500 cc and ground clearance of 170 mm and above. She stated that during the discussion in the 48th meeting of GST Council held in December, 2022 on agenda item relating to issuance of clarification on compensation cess leviable on SUVs, Hon'ble Member from Haryana had suggested that compensation cess on other utility vehicles such as MUV might also be deliberated upon. The Council directed the Fitment Committee to examine the same. She stated that earlier, based on the recommendation of the 21st GST Council, a higher rate of compensation cess of 22% was notified on "Sports Utility Vehicles (SUVs) (of length more than 4-metre, engine capacity more than 1500 cc and ground clearance 170 mm)". Fitment Committee has now recommended to amend the entry to include all utility vehicles by whatever name called provided they met the parameters of length greater than 4000 mm, engine capacity more than 1500 cc and ground clearance of 170 mm& above and further recommended to insert an explanation to clarify for the purposes of the said notification entry that "Ground Clearance" in entry 52B means Ground Clearance in un-laden condition.



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5.32 Secretary, Haryana stated that around 40% of the SUVs are still falling under the 20% Cess slab and due to laden height condition, 2% Cess is being lost which amounts to a great loss of the revenue. He further added that there is a difference in the way the ground clearance is being calculated as per BIS standard and Fitment Committee recommendation and suggested to fix the cess at 22% for all SUVs.

5.33 JS, TRU informed that the State of Haryana had raised the issue in the meeting of the Fitment Committee. She stated that the suggestion to merge the entries 52A and 52B of Notification No.1/2017-Compensation Cess (rate) into one category to make Compensation Cess rate uniform at 22% would be taken up in the next Fitment Committee. She stated that this particular clarification as recommended by the Fitment Committee would cover some models of vehicles. More data is required to analyze the revenue impact of merging 20% and 22% cess slabs, as suggested by the State of Haryana.

5.34 The Hon'ble Chairperson requested Haryana to provide additional data to the Fitment Committee and for now the recommendation of the Fitment Committee may be accepted.

Decision: The Council agreed with the recommendation of the Fitment Committee and accordingly agreed to amend the entry 52B in the compensation cess notification to include all utility vehicles by whatever name called provided they meet the parameters of length exceeding 4000 mm, engine capacity exceeding 1500 cc and having ground clearance of 170 mm & above and to clarify by way of inserting an explanation that 'ground clearance' means ground clearance in unladen condition.

5.35 JS, TRU then presented the twelfth issue pertaining to Compensation Cess rate on Pan Masala chewing tobacco etc. JS, TRU informed that the levy of compensation cess on these products was converted from ad valorem tax to specific tax based levy linked to retail sale price (RSP) on such products to implement the recommendations made by the GST Council in its 49th meeting. She stated that they have been receiving representations about the challenges in determining the rate of compensation cess in cases where it is not legally required to declare the RSP. The Fitment Committee has therefore recommended to notify that the earlier ad valorem rate as was applicable on 31st March, 2023 for such goods by amending the said Notification in cases where it is not legally required to declare RSP.



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5.36 The Hon'ble Chairperson asked Hon'ble Member from Uttar Pradesh if he is in agreement with the recommendations of the Fitment Committee as the particular issue was raised by State of Uttar Pradesh.

5.37 The Hon'ble Member from Uttar Pradesh stated in the affirmative.

5.38 The Hon'ble Member from Karnataka inquired about the value difference between the calculation of ad-valorem rate and a weighted average of the RSP.

5.39 JS, TRU informed that there is no difference in the rate as the ad valorem rates were converted to specific rates based the recommendations of the GoM.

5.40 Hon'ble Member from Karnataka expressed his apprehension that if there was a significant rate difference, it might create an arbitrage and provide an incentive to move from RSP based levy to an ad valorem rate.

5.41 The Secretary mentioned that there may be a difference and that is why in order to plug revenue leakages, the GoM had recommended the levy of cess on pan masala, chewing tobacco etc. be based on RSP instead of the earlier ad valorem based levy. He stated that there was a possibility that the whole value chain may not be captured for revenue purposes if we revert to the earlier system, but where there is no legal requirement to have a RSP, there is no other option other than go for ad valorem rate.

5.42 He stated that the concerns raised by Hon'ble Member from Karnataka could only be addressed by enforcement measures. The Hon'ble Member from Karnataka suggested that the *ad-valorem* levy could be made equal to the weighted RSP to prevent arbitrage.

Decision: The Council agreed with the above recommendation of the Fitment Committee w.r.t. compensation cess rate on tobacco products.

5.43 JS, TRU presented the thirteenth issue pertaining to desiccated coconut for the period 01.07.2017 to 27.07.2017. She stated that prior to 27.07.17 there was no specific entry for Desiccated Coconut and the taxpayers assumed that it was exempt. Representations had been received requesting to regularize the intervening period between issue of original notification and issue of corrigendum to notification 1/2017-CT(R) dated 27.7.2017 prescribing 12%

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GST rate. Fitment Committee recommended to regularize the period 01.07.2017 to 27.07.2017 on "as is where is" basis on account of genuine interpretational issues.

Decision: The Council agreed with the recommendation of the Fitment Committee w.r.t. desiccated coconut.

5.44 JS, TRU presented the fourteenth issue pertaining to Areca Leaf plates and cups. She stated cups and plates made of areca leaf are already exempt. Fitment Committee had examined it and suggested that no action is required on the representation received but during the officers' meeting it was clarified that the request was not for exemption but for regularizing the period prior to the exemption i.e. prior to 1.10.2019, on "as is basis" and the same was discussed in the officers' meeting and therefore, recommended for its regularization.

Decision: The Council agreed with the recommendation w.r.t. areca leaf plates and cups.

5.45 JS, TRU then presented the agenda pertaining to goods (17 issues) where no changes or status quo had been recommended by the Fitment Committee (**Annexure-II**).

5.46 She presented the first issue i.e, reduction of GST rate on Agro-based biomass pellets from 5% to Nil. She informed that Ministry of Power has requested for reduction of GST rate to Nil on solid bio-fuel pellets / Biomass briquettes or pellets on the basis that they have a mandate to use 5% for coal firing and also promote its uptake. She further stated that Fitment Committee had recommended status quo which was placed before the GST Council in 37th and 47th GST Council Meeting, and the GST Council did not recommend further reduction in rate to Nil. She said that Gujarat had suggested regularizing the issue relating to GST on biomass briquettes for the period from 1.7.2017 to 12.10.2017.

5.47 The Hon'ble Member from Punjab suggested that GST rate on Agro based biomass pellets may be reduced to Nil keeping in mind the environment issues as pollution is a huge problem in north India and many NGOs and Courts are also involved.

5.48 The Secretary noted that only Punjab appeared to be in favour of reducing the rate to Nil.



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5.49 The Hon'ble Member from Uttar Pradesh informed that this issue is already discussed in earlier GST Council Meeting and Fitment Committee has also not recommended the same.

5.50 The Secretary informed that this product goes into the exempt sector that is production of electricity and therefore, exempting this would mean a loss of revenue to the government.

5.51 The Hon'ble Member from Delhi inquired about the quantum involved.

5.52 JS, TRU informed that as per Ministry of Power, demand of Agro-based biomass pellets has increased upto 1 lakh MT per day. However, the present capacity is 7000 to 8000 MT, so the request is to increase its uptake. She further informed that since this product is primarily used in the electricity sector, it will amount to zero rating supply which is usually for export.

5.53 The Hon'ble Member of Delhi said that issue is similar to the LD slag issue and it is an environmental issue and suggested reducing the tax rate from 5% to Nil to increase the off take.

5.54 JS, TRU informed that there is a difference between LD slag and Agro-based biomass pellets where the first one is part of the GST chain while the latter one becomes a zero rated supply and goes out of the GST chain.

5.55 The Hon'ble Chairperson appreciated the point about environmental concerns but stated that zero rating is meant for exports as taxes are not exported. She stated that rate for LD slag was not being brought to zero and the recommendation was to tax it at 5%. Here also the tax rate suggested is 5%.

5.56 The Hon'ble Member from Punjab requested that issue may be referred back the issue to Fitment Committee.

5.57 The Hon'ble Chairperson appreciated the view of Member from Delhi and reiterated that zero rating supply is for exports. She informed that Fitment Committee suggested for 5% GST Rate for LD slag not Zero. Here too environment concerns a taken into account and the tax rate is being recommended to be fixed at 5%.



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5.58 The Hon'ble Member from Uttar Pradesh stated that there has been no change in circumstances since the decision of the GST Council and therefore, the issue should not have been reopened.

5.59 JS TRU explained that based on VIP references/Ministry reference issues get reopened.

5.60 The Secretary suggested that an issue which is approved in the recent past should not be brought back to the Council until there are new facts or changed circumstances. He sought permission of the Chair and the approval of the Council to reply to such references about the decision taken and not bring the issue over and over again before the Council unless the material change in circumstances is brought on record. Chairperson agreed to the same.

Decision: The Council agreed with the recommendation of the Fitment Committee to maintain status quo on the rate and regularize the issue relating to biomass briquettes for the period 1.7.2017 to 12.10.2017 on "as is basis".

5.61 JS, TRU then presented the second issue regarding request for increase in GST rate of De-Oiled Rice Bran from Nil to 5%. She informed that recommendation had been received from the Department of Food and Public Distribution to impose 5% GST Rate on DORB. She informed that prior to the 25th Council Meeting Rice Bran (HS 2302) for use as feed was at Nil and for other uses was at 5%. The GST Council in its 25th Meeting held on 18.01.2018, decided to levy 5% GST on Rice Bran, irrespective of end use, and Nil GST on De-Oiled Rice Bran. This was notified w.e.f. 25.01.2018. The interim report of GoM on rate rationalization also did not recommend bringing all goods under chapter 23 to 5% GST Rate and hence Fitment Committee recommended for status-quo.

Decision: The Council agreed with the recommendation of the Fitment Committee to maintain status quo w.r.t. De-Oiled Rice Bran.

5.62 JS, TRU then presented the third issue pertaining to products falling under any chapter, prepared or manufactured by the inmates of Kerala Prison and Correctional Services Department. She informed that recommendation was received for Nil GST Rate. Fitment Committee recommended for status-quo.

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5.63 The Hon'ble Member from Andhra Pradesh suggested that Council needs to look at the issue from different perspective and at such correctional facilities instead of hard labour now training on vocational skills is being imparted. Mostly three kinds of products are being supplied: cloth, bakery products and furniture/steel products and the amount in question is also very little. He stated that the request has been turned down on the apprehension that there might be revenue leakages. He requested that the exemption might be considered that the sale happens only through a few central prisons, each State having 4-5 such prisons. He requested to exclude such products from GST bearing in mind that these products need to be competitive in the market and that the inmates need to be imparted some skill so as to enable them to eke out their livelihood after leaving prison and keep themselves occupied while serving their time in jail.

5.64 State of Kerala supported the view of Andhra Pradesh.

5.65 The Hon'ble Member from Maharashtra was of the view that there were other ways to support such goods such as making mandatory procurement of such goods by Government departments and did not support tax concession.

Decision: The Council agreed with the recommendation of the Fitment Committee to maintain status quo w.r.t. proposal pertaining to Kerala Prison and correctional Services Department.

5.66 JS, TRU stated that the next issue pertained to bio-fertilizers and other such organic inputs and the issue of rate reduction on the same had already been examined in the 31st, 39th, 45th and 47th Council meetings but the Council did not recommend any change in the rates of bio-fertilizers and other such organic inputs. The Fitment Committee recommended maintaining status quo. The Secretary then requested for the comments of the Hon'ble Members of the Council on the recommendations put forth by the Fitment Committee on the issues pertaining to GST rate reduction on Sungudi Saree; upfront exemption from payment of IGST and refund mechanism to be done away with for IAEA; GST rate reduction for Av gas; machinery used in Sericulture Industry and automatic reeling machinery; all Sports goods & fitness products and Mega Power Projects. All agreed to the same.

Decision: The Council agreed with the recommendations of the Fitment Committee to maintain status quo w.r.t. agenda as detailed in para 5.65 above.



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5.67 The Secretary then requested for the comments of the Hon'ble Members of the Council on the recommendations put forth by the Fitment Committee on the issues of Apple Carton Boxes. The Hon'ble Member from Himachal Pradesh requested that corrugated boxes of specified dimensions can be put in the lower tax bracket. He informed that 90% of the apple carton boxes used in the State of Himachal Pradesh have capacity from 10 Kg to 20 Kg which have specific dimensions different from the industrial packages and requested to reconsider the issue as the growers are being affected in small horticulture States like Himachal Pradesh and reduce the GST rate from 18% to 12%. He informed that in the last Council meeting, Maharashtra had come out in support of the issue.

5.68 Jammu and Kashmir informed that mostly corrugated boxes are being used in Jammu and Kashmir which was earlier taxed at 12% but for the sake of uniformity the tax rate was increased to 18%. He requested to reduce the GST rate on corrugated boxes to 12%.

5.69 The Secretary noted that this item had been deliberated earlier multiple times and had come up for discussion in the last meeting and stated that this will be difficult to administer as the same boxes could be put to multiple uses. The Hon'ble Member from Maharashtra stated that the boxes were going to be used for various items and therefore, if tax rate is to be reduced, the reduction has to be given irrespective of end use. Therefore, it is not feasible to reduce the tax rate in this case.

5.70 Hon'ble Member from Gujarat stated that industrial products could also be packed in such boxes.

5.71 Hon'ble Member from Himachal Pradesh requested to reduce the GST rate on carton boxes from 18% to 12%.

5.72 The Hon'ble Member from Uttar Pradesh suggested to maintain the status quo on this issue.

5.73 Considering the aspect of usage of such boxes in agro-industry, the Hon'ble Chairperson referred it back to the Fitment Committee for re-examination after obtaining the views of the States of Jammu Kashmir and Himachal Pradesh.

Decision: The Council referred back the issue of GST on carton boxes to the Fitment Committee for re-examination.

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5.74 The Secretary then presented the issue of GST rate and compensation cess rate reduction for two wheelers and four wheeler Flexi Fuel Vehicles and sought the comments of the Hon'ble Members of the Council, if any.

Decision: The Council agreed with the recommendations of the Fitment Committee w.r.t. flexi fuel vehicles to maintain status quo.

5.75 The Secretary then presented the issues pertaining to GST rate reduction in agricultural products; utensils made of brass; Heavy feedstock, Vacuum Gas Oil, reformates, etc.; all bakery products manufactured and sold by MSME and sought the comments of the Hon'ble Members of the Council, if any.

Decision: The Council agreed with the recommendations of the Fitment Committee w.r.t. agenda as detailed in para 5.74 above to maintain status quo.

5.76 The Secretary then presented the agenda pertaining to the goods (4 issues) where fitment has deferred the issues for further examination (**Annexure-III**).

5.77 On the issue of Millet based products, the Hon'ble Member from Delhi suggested that the decision on the Millet based products may be taken at an early date as this is the International year of Millets as declared by the Government of India and secondly, increasingly it is part of nutrition supplied by most of the Anganwadis and thirdly, it is a very healthy food option.

5.78 The Secretary assured that a decision on this would be taken as early as possible.

5.79 The Hon'ble Member from Karnataka supported the view of Delhi and informed that lifestyle diseases are on the rise due to imbalanced diets and millets are a healthier alternative also they use little water and consume very little chemical fertilizers so their environmental footprint is very minimal too. Millets are climate resilient crops and highly nutritious as they are naturally fortified. He requested for a positive and early decision on this as this was the International Year of Millets and Government of India has already taken other decisions to promote the use of millets.

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5.80 The Secretary directed the Fitment Committee to come up with their recommendations expeditiously.

5.81 The Hon'ble Member from Uttar Pradesh stated that the tax rate related to steel scrap and Millet based products needs to be decided on an urgent basis. JS, TRU informed the Council that a sub-committee has been constituted by the Fitment Committee to deliberate upon the issue pertaining to steel scrap. JS, TRU further informed that the agenda related to steel scrap and millet based products would be taken up in the upcoming Council meeting. The Secretary informed that the issue pertaining to steel scrap and millets would be taken up and brought before the Council in the upcoming meeting.

5.82 JS, TRU introduced the next Agenda item 4(d) where recommendations were made by the Fitment Committee for making changes in GST rates or for issuing clarifications in relation to services (Annexure IV). She stated that the first issue was related to exempting GST on satellite launch services provided by private organizations and that satellite launch services by ISRO, Antrix Corporation Ltd. and New Space India Limited are already exempt from GST. The Fitment Committee recommended that exemption may be extended to satellite launch services provided by private organizations with a view to provide level playing field and encourage start-ups.

Decision: The Council agreed with the recommendations of the Fitment Committee to exempt GST on satellite launch services provided by private organizations.

5.83 Joint Secretary, TRU informed that the second issue listed at Sr. No. 2 of Annexure IV related to rectification in item at Sl. No. 3(ie) of notification No. 11/2017-CTR which continued to have reference to some of the housing schemes etc. figuring under erstwhile sl. No. 3(iv), (v) and (vi) of the said notification in order to take care of the real estate projects which commenced prior to 01.04.2019. The items at sl. No. 3(iv), (v) and (vi) of the above notification were omitted vide notification No. 03/2022-CTR dated 13.07.2022. The Fitment Committee recommended that the anomaly be rectified by inserting suitable explanation to effect that the item at sl. No. 3(ie) of the said notification refers to sub-items of the item (iv),(v) and (vi) of the notification as they existed in notification prior to their omission vide notification No. 03/2022-CTR dated 13.07.2022.

Decision: The Council agreed with the recommendations of the Fitment Committee w.r.t. insertion of an explanation at Sl. No. 3(ie) of notification No. 11/2017-CTR



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5.84 The Secretary informed the Council that the third issue listed at Sr. No. 3 of Annexure IV related to omission of clause (h) of explanation to the entry at Sl. No. 24 (i) of the notification No. 11/2017 CTR. On the recommendation of GST Council in its 47th meeting, exemption entry at sl. No. 53A of the notification No. 12/2017 CTR dated 28.06.2017 which covered "*services by way of fumigation in a warehouse of agricultural produce*" was omitted vide notification No. 04/2022-CTR dated 13.07. 2022. However, a parallel entry at clause (h) of explanation to the entry at Sl. No. 24 (i) of the notification No. 11/2017 CTR dated 28.06.2017 for the same service had not been omitted. Fitment Committee recommended that the same may be omitted.

Decision: The Council agreed with the recommendations of the Fitment Committee w.r.t. omission of an entry at clause (h) of explanation to the entry at Sl. No. 24 (i) of the notification No. 11/2017 CTR dated 28.06.2017.

5.85 The Secretary informed the Council that agenda Item listed at Sr. No. (4)(a) of Annexure IV related to exercise of option by Goods Transport Agencies (GTAs) to pay GST under Forward Charge Mechanism (FCM). Fitment Committee recommended that the requirement to exercise option to pay GST under forward charge every year may be done away with and it may be provided in the notification that GTAs who have exercised option to be under FCM during a particular Financial Year shall be deemed to have exercised it for the next and future Financial Years unless they file a declaration that they want to revert to Reverse Charge Mechanism (RCM).

5.86 The Secretary further informed the Council that for agenda Item listed at Sr. No. (4)(b) of Annexure IV, GSTN has requested that a start date for filing of option by GTA may be provided for subsequent Financial Years; otherwise the default date for exercise of option for a Financial Year shall be 1st April of the preceding Financial Year. Having start date for exercise of option for a Financial Year as 1st April of the preceding Financial Year is not desirable as this may give rise to false impression to the GTAs that they have exercised option for the current financial year. Fitment Committee recommended that the start date may be prescribed as 1st January of the preceding Financial Year. Fitment Committee also recommended that the last date for filing the option may be changed from 15th March to 31st March of preceding Financial Year.



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5.87 JS, TRU stated that agenda Item listed at Sr. No. (5) of Annexure IV related to amendment to be made to notification No. 8/2017-ITR and notification No. 10/2017-ITR to remove redundant provisions pursuant to amendments in Finance Act, 2023 subsequent to Hon'ble Supreme Court judgement in Mohit Minerals case in 2022. Fitment Committee recommended that the provisions which were introduced to provide level playing field to Indian Shipping Lines have lost relevance and thus needs to be amended/deleted. The proposed amendments/deletions shall be synchronized with Section 162 of Finance Act, 2023 which is to come into effect from a date to be notified.

5.88 JS TRU stated that agenda Item listed at (6) of Annexure IV pertained to clarification for the services supplied by a director of a company/body corporate to the company/body corporate in his private or personal capacity. Fitment Committee recommended to clarify by way of the circular that the services supplied by a director of a company or body corporate in private or personal capacity such as services by way of renting of immovable property to the said company or body corporate are not taxable under Reverse Charge Mechanism (RCM) under notification No. 13/2017-CTR (Sl. No. 6) dated 28.06.2017. The said entry covers only those services supplied by a director of company or body corporate, which are supplied by him as or in the capacity of director of that company or body corporate and shall be taxable under RCM in the hands of the company or body corporate.

Decision: The Council agreed with the recommendations of the Fitment Committee as detailed in agenda items listed at Sr. No. (4)(a), (4)(b), (5) and (6) of Annexure IV.

5.89 The Secretary stated that the last issue listed at Sr. No. 7 of Annexure IV pertains to issuance of clarification that supply of food and beverages in cinema halls is taxable as restaurant service and leviable to GST at 5%. Fitment Committee recommended that a clarification may be issued by way of a circular that food or beverages served in a cinema hall is taxable as restaurant service as long as (a) they are supplied by way of or as part of a service and (b) supplied independently of the cinema exhibition service. Where the sale of cinema ticket and supply of food and beverages are clubbed together, and such bundled supply satisfies the test of composite supply, the entire supply will attract GST at the rate applicable to service of exhibition of cinema, the principal supply.

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Decision: The Council agreed with the recommendations of the Fitment Committee for issuance of clarification with respect to supply of food and beverages in cinema halls.

5.90 The Secretary informed the Council that on 3 issues, no changes have been proposed by the Fitment Committee in relation to services (Annexure V): IGST exemption on purchase of aircraft and aircraft lease payment, GST exemption on services by the way of granting affiliation to schools by Central Board of Secondary Education (CBSE) for conduct of secondary stage examinations in schools and on digital news subscription.

Decision: The Council agreed with the recommendations of the Fitment Committee as detailed in Annexure-V of agenda.

5.91 The Secretary informed the Council that the Fitment Committee deferred following 6 issues (Annexure VI) related to clarification on

- i. whether the service by way of hostel accommodation, service apartments/ hotels booked for longer period were service of renting of residential dwelling for use as residence and exempted as per entry number 12 of the notification no. 12/2017-CT(R) dated 28.06.2017
- ii. exemption from GST to services provided by District Mineral Foundations,
- iii. whether reimbursement of electricity charges received by the Real estate companies, malls, airport operators etc. from their lessees/occupants were exempt from GST,
- iv. whether ITC of other business verticals could be used to discharge GST on outward liability in respect of restaurant service,
- v. whether job work activity towards processing of "Barley" into "Malted Barley" attracts GST @ 5% and in case it was held that GST @18% is leviable, to regularize for past on 'as is basis', and
- vi. whether uniform GST rate of 5% was to be applied on Business Correspondent services provided in both rural/urban areas.

5.92 The Secretary called upon the Fitment Committee to bring the deferred agenda items to the Council for a decision in the next meeting.

5.93 The Secretary then introduced the agenda item on positive list of services to be specified in Sl. No. 3/3A of Notification No. 12/2017-CT (R) dated 28.06.2017 which was deferred in the 48th Council Meeting held on 17.12.2022. The Secretary informed the Council that the agenda item was deliberated in the officers meeting and it was suggested by one of the States that this agenda item should be taken up. Officers from the States of Punjab and Bihar had requested to defer this agenda item. The Secretary stated that the Council could take a call on whether to discuss or defer the agenda item. He further stated that there exists an ambiguity around the phrase 'in relation to' and one of the suggestions

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received was to delete this phrase from the entries in notification no. 12/2017 related to pure services and Composite supplies provided to Central Government, State Government or Local Authority. The Hon'ble Chairperson opened the floor for discussion in case the States wished to deliberate upon the agenda or the States might put forth their views during the Fitment Committee meetings in case of deferment.

5.94 The Hon'ble Member from Delhi expressed her desire to discuss the agenda and the issues emanating from it as Delhi had some concerns regarding the same. The Hon'ble member from Karnataka seconded it and stated that the proposition to remove the phrase "in relation to" put forth by the Secretary to the Council might be deliberated upon to see if any consensus could be built on striking out the phrase "in relation to" from Entry Nos 3 and 3A and the agenda item passed in the meeting itself in case there were no other issues.

5.95 The Hon'ble member from Karnataka stated that in cities like Bangalore and Delhi, there were specialized agencies which delivered municipal services. Therefore, services like garbage collection, water supply, etc. attract GST @ 18% which was not in public interest at all. Therefore, if the Council agreed to remove the phrase "in relation to" from Entry No. 3 and 3A that would resolve the issue for the State of Karnataka. Any other issue, if pointed out by any other State may be deliberated upon in Fitment Committee meetings post deferment of the agenda item.

5.96 The Hon'ble Chairperson sought the opinion of other Hon'ble Members on the suggestion of Hon'ble Member from Karnataka. In case, the issue related to removal of phrase "in relation to" was the only issue and consensus was built in the Council, the Council might agree to pass the agenda by incorporating the decision of the Council. In case of any substantial issues, the agenda item might be deferred.

5.97 The Hon'ble Chairperson sought comments from Hon'ble Members of the Council whether they agreed to the proposition of Hon'ble Member from Karnataka. The Hon'ble Member from Tamil Nadu concurred with the views of Hon'ble Member from Karnataka suggesting for removal of the phrase "in relation to" from the relevant entry. However, he objected to the actions of pruning of the list for which tax exemption was available by giving a positive list. He cited that it leads to extra financial burden for local bodies and State Government. Further, the Hon'ble Member from Punjab sought some more time to study the list comprehensively and once again requested the Chair to defer the agenda item to be taken up in the next Council Meeting.

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5.98 Considering the views of the States of Punjab and Bihar, the Chairperson proposed to defer the agenda item. The Secretary stated that it would be brought before the Council for a decision in the next meeting of the Council.

Decision: The Council agreed to defer the agenda item.

6. Agenda Item 5: Second Report of the Group of Ministers (GoM) on Casinos, Race Courses and Online Gaming

6.1 Joint Secretary, TRU presented a Factsheet on Horseracing, Online Gaming and Casino which has been annexed as **Annexure-5**. The Factsheet encapsulates the factual status, revenue, legal position, present practice and the issues for information and decision of the GST Council.

6.2 Sh. Conrad Sangma, the Honorable Chief Minister from Meghalaya and the Convener of the Group of Ministers (GoM) on Casinos, Race Courses and Online Gaming, apprised the Council that two reports had been submitted so far. However, in the second and final report the views remained inconclusive due to complexity of issue and the different views expressed by the participating States and hence stated that the GoM has recommended Council to take the decision.

6.3 In his address, he provided a contextual background of both reports and threw light on the initial understanding of actionable claim except lottery, betting, and gambling, which were exempted from Goods and Services Tax (GST). It was assumed that these activities which were under the purview of discussion of GoM fell within the domain of lottery, betting, or gambling. Nonetheless, after engaging with stakeholders, further clarity was gained, leading to the submission of the second report. It became apparent during the discussions that a lack of clarity persists regarding the differentiation between games of skill and games of chance. Games of chance fall under the category of betting and gambling, whereas games of skill do not. The absence of clear legislative provisions pertaining to the classification of games based on skill or chance compounds this issue and therefore depends on different Court judgements to define game of skill or game of chance. Moreover, he highlighted that the Ministry of Information Technology (MEITY) is actively working on



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formulating rules and classification of online gaming. Until such classification is established and comprehensive rules are framed, it was suggested that the Council may consider deferring any decision in this regard, as premature actions may adversely affect stakeholders turning the attention to the matter of casinos. The Honorable Minister expressed his opinion that a highest tax rate of 28% should be levied on the Gross Gaming Revenue (GGR), calculated at the table level rather than on individual transactions. This approach is in line with international practices, as tracking each and every transaction of an individual may prove to be arduous. Sikkim and Goa are the only two States having these casinos and both suggested that rate of 28% should be levied on the Gross Gaming Revenue (GGR).

6.4 Furthermore, he added that the GoM engaged in an extensive discussion on whether Horse racing classifies as game of skill or chance and should be treated as a separate category or encompassed within the realm of betting and gambling. It was opined that there is no distinct classification for games of skill, and they should be considered as part of the broader betting and gambling category. The Hon'ble Supreme Court in Dr. K.R. Lakshmanan case held that Horse Racing is a game of skill however, there is no legislative provision for mandating it as game of skill. There are also many cases which were bought out by West Bengal during the GoM meeting and these cases are related to lottery but horse racing was mentioned in those cases. Accordingly, a tax rate of 28% on the full face value was recommended by GoM for such games.

6.5 The Convenor of the GoM acknowledged that despite multiple deliberations and expert opinions, the main challenge lies in the fact that the GoM addresses three different games compounded by the inherent ambiguity in existing legislation regarding whether these are games of skill or chance. Hence, ambiguity has been left to be resolved by the Courts which complicate the matter more. Moreover, the report highlights the dual nature of this issue, where economic growth and job creation stand in contrast to the adverse social impact on the youth. Achieving a delicate balance between these competing interests necessitates a phased approach to tackle this issue.

6.6 He stated that in conclusion, the GoM Report underscores the complexity of the subject matter, urging careful consideration and a comprehensive approach by all the States to address the concerns and interests of all stakeholders.

6.7 The Hon'ble Member from Gujarat concurred with the viewpoint of convenor and acknowledged that the decision at hand on Casinos predominantly affects two States. The

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Minister highlighted that a team from the Group of Ministers (GoM) had visited the affected areas and in their opinion, the value should be calculated on the Gross Gaming Revenue (GGR).

6.8 The Hon'ble Member from Tamil Nadu expressed the view that the State had already issued a notification prohibiting online gambling and online games of chance. The Minister suggested that the same could be true for some other States also. As online gambling and online games of chances are banned in Tamil Nadu, any decision by GST Council should conform with such State legislation. Regarding horse racing, the Minister proposed that if it is deemed a game of skill, a tax of 28% should be levied on the GGR value. Conversely, if it is classified as a game of chance, the full value at a tax rate of 28% should be considered. There should be a mechanism to receive and segregate the money. The receipt money should be directly deposited into operator account and an escrow separate account should be there to hold the prize money for eventual payout.

6.9 The Hon'ble Member from Maharashtra adopted a resolute stance, emphasizing the urgent need to reach a long-awaited decision on the meeting day. The Minister recommended that online gaming, casinos, and horse racing be incorporated into entry 6 of Schedule III of the Central Goods and Services Tax (CGST) Act, 2017 alongside lottery, gambling, and betting as taxable actionable claim. The Minister stated that delving into the specifics of what constitutes a game of skill or chance is unnecessary as the law should be straightforward, easy and simple. The interpretation of games of skill and chance is subjective within the realm of law which would create confusion on tax point of view. In addition, the Minister asserted that activities detrimental to social well-being should not be encouraged or promoted.

6.10 The Hon'ble Member representing Uttar Pradesh expressed the urgency of taking the decision. He conveyed that two reports have been compiled so far. First report was submitted with the consensus of all States. However, after submission of first report in the Council Meeting, the perspective on the matter changed. Uttar Pradesh maintained a steadfast view that a tax of 28% should be levied on the full-face value. The Minister also highlighted the absence of a mechanism for calculating Gross Gaming Revenue (GGR) and that it would generate negligible tax revenue. He also asserted that any game involving monetary transactions should be categorized as a game of chance rather than a game of skill. Moreover, he informed the Council that international jurisdictions also impose multiple taxes in addition


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to GGR. Furthermore, he expressed his belief that Horse Racing is not a game of skill, but rather a game of chance, given that individuals predominantly place bets on it without adequate knowledge or through guesswork. Consequently, he advocated for taxing all such games at the highest tax rate based on their full-face value.

6.11 The Hon'ble Member from Goa disagreed with the views of the other States and emphasized the significance of the matter for their State. He likened the evaluation of different categories of games to the act of comparing apples and oranges. He apprised the Council of the necessity to follow internationally accepted best practices that would prevent the closure of industry. He suggested that the Goods and Services Tax (GST) should be imposed based on GGR. He added that during the preparation of the second report, experts evaluated the matter from various perspectives and varied opinions from stakeholders were also sought which is the main reason for the lack of a firm recommendation from the Group of Ministers (GoM) and the report remaining inconclusive. Furthermore, he asserted that this subject is still evolving over time. He further proposed that the cardinal principle of GST is to align the pre-GST tax regime with the present one. He informed the Council that Goa previously levied a maximum entertainment tax of 15% on Casino industry and it was never 28% or not even 18%.

6.12 The Hon'ble Member from Goa highlighted the heavy dependence of Goa's economy on tourism sector, particularly the Casino industry. He raised the issue of the revenue implications for the State if the decision led to the closure of the Casino industry strongly emphasizing the financial impact of such closure of casinos on the State. He also requested that if the consensus could not be reached on taxing the Casino industry based on GGR, a new Group of Ministers should be constituted including stakeholders as members. He cautioned that without proper regulation, the industry would not cease to exist but rather shift to a grey platform resulting in more adverse consequences. He further added that there is a new norm coming for 30% TDS apart from 28% of GST and resulting in 58% of total tax in case of winner. Lastly, he appealed for the tax rate to align with the pre-GST regime and be set at 28% based on GGR and requested the Council to decide in favour of Goa and Sikkim due to their dependency on Casino industry.

6.13 The Hon'ble Member from West Bengal expressed agreement with the stance of Minister of Uttar Pradesh and proposed that the tax rate should be set at the highest level on



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the full-face value. She further recommended for amending the Schedule to include Online Gaming, Casinos, and Horse Racing in the entry of actionable claim.

6.14 The Hon'ble Convenor of GoM stated that there is no dispute regarding the tax slab, as all States agree to tax it at the highest rate of 28%. The only point of contention revolves around the valuation. Furthermore, he explained that the change in perspective from the 1st report occurred due to a major dispute regarding the definition of an actionable claim. Initially, the stance was that all games had a genesis in betting or gambling. However, it later became apparent that these games also involve an element of skill, which became a subject of legal controversy and this is the reason that the definition must be amended.

6.15 The Hon'ble Union Finance Minister responded that the Hon'ble Courts can decide them to be a game of skill or chance. However, the key question is whether the government can impose taxes on unregulated activities. She provided an example of crypto assets which are not regulated but are still subject to taxation and no Court has challenged this. She further added that these games involve value creation, whether with or without skill. She also stated that the governments have the right to tax that value and there is no legal conflict in doing so. It may be game of skill or game of chance and debate may be going on but tax should be imposed on these activities. She clarified that the Ministry of Electronics and Information Technology (MEITY) is in the process of formulating technical regulations related to online gaming. MEITY is working on regulatory framework in that domain. These types of regulations do not affect the GST Council and do not infringe upon its sovereign right to impose tax.

6.16 The Hon'ble Member from Uttar Pradesh reiterated his earlier views and stated that the main purpose of going to Goa is tourism for beaches, environment and only few tourists go to casino. If a person is ready to lose money in casino, he must be ready to pay taxes for the welfare schemes.

6.17 The Hon'ble Member from Maharashtra expressed the opinion that tax should be charged on the full- face value and it is up to the Council to decide whether it should be set at 18% or 28%. Before calculating tax, a suitable abatement in face value may be given. Secondly, he firmly stated that online gaming and racecourse are not games of skill on the part of person betting, and they should be taxed on their full value. He further added that the operators who are engaged in these activities are of high economic status and they should be treated accordingly.



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6.18 The Hon'ble Member from Karnataka supported the views of Uttar Pradesh and Maharashtra. He argued against delving into the question of whether a game is based on skill or chance and stated that there are many court judgments deciding whether an activity is a game of skill or chance. The sovereign has the power to tax regardless of the nature of game. He highlighted that while the GST Council is primarily a body to take decisions on tax, it has also kept in mind the moral and social factors since its inception like imposing environmental cess, cess on sin goods and luxury goods based on moral principles. The tax on tobacco, luxury cars, and other items had sometimes exceeded their manufacturing value taking into account social principles. He suggested that gambling and betting have always been considered undesirable activities in our country and our taxation should be aligned with these social policies. He stated that all these three activities fall under the same legal category and granting the casino an exception tax on gross gaming revenue (GGR) based mechanism could lead to legal disputes in future. He advocated for maintaining a uniform law for all three activities. In addition, he supported views of Tamil Nadu and pointed out that online gaming has had a negative impact on the youth, becoming an addiction for them. He expressed the view that no concession should be given to these activities and these should be taxed at the highest rate. He stated that he did not oppose the idea of treating casinos separately, but uniformity would be preferable. He also mentioned that the Karnataka Government has been taxing race courses based on their gross value under the respective Acts since the beginning and litigation had only arisen in recent years even though tax was previously paid on the gross value only.

6.19 The Hon'ble Member from Kerala raised concerns about the impact of taxing on the basis of GGR mechanism on lotteries as it could lead to litigation. He stated that this approach may affect the taxation of other actionable claims.

6.20 The Hon'ble Member from Gujarat noted that the initial consensus in the Group of Ministers (GoM) was to impose the highest tax rate of 28% on all three activities. He expressed the need for a conclusive decision in the meeting as the matter has been dragged on without reaching a resolution.

6.21 The Hon'ble Member from Uttarakhand agreed with the proposal to tax all activities at the highest rate of 28%.

6.22 The Hon'ble Member from Delhi suggested that all three activities should be addressed separately. Since the States of Goa and Sikkim are the only ones directly affected



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by casinos, their situation should not hinder a decision on other sectors. She emphasized that the online gaming sector is rapidly growing and requires a decision. Furthermore, she stated that in the case of casinos, all States had a strong opinion but the affected States should have a greater say. She recommended that taxation based on the GGR mechanism would involve complex calculations and proposed that the full-face value should be taxed.

6.23 The Hon'ble Member from Nagaland stated that the Goods and Services Tax (GST) should not be considered as a form of charity but rather as a means to generate tax revenue for the nation. The Hon'ble member drew attention to the fact that gambling which encompasses these activities are bet based on either skill or chance, with the ultimate intention of earning money. It was suggested that tax should be levied on the full value of these activities without any exemptions as they are profit-oriented sectors.

6.24 The Hon'ble Member from Sikkim expressed agreement with the comprehensive and informative report presented by the Convenor, Group of Ministers (GoM). The Hon'ble Member informed the Council that the State of Sikkim aligns itself with the view put forward by Goa as documented in annexure on page 16 of Agenda No. 5. It was proposed that a GST rate of 28% be imposed based on the Gross Gaming Revenue (GGR) mechanism as this was tried and tested valuation method. Then he apprised the Council that prior to the implementation of GST, Sikkim taxed Casinos at the rate of 10% on the GGR value. Furthermore, he stated that presently, 28% GST rate is being charged and if the valuation method is altered, it would have a severe blow to the casino industry.

6.25 The Hon'ble Member then highlighted the distinction between these three activities despite their apparent similarities as mentioned in 2nd report of GoM. Specifically, the Hon'ble Member underscored that the unique feature of a casino is that each chip purchased by a player does not represent an actionable claim. It was opined that imposing GST on the full-face value of all chips purchased in a casino would be unjustifiable. The Council was informed that the annual revenue generated by the State of Sikkim from these activities amounts to approximately Rs. 20 crores which is a substantial sum for a small State like Sikkim where option of generating revenue is very limited. Casino industry is not bound to any season and it brings people throughout the year. He further requested the Council for separate rule for casino to levy of GST at the rate of 28 % on GGR. Regarding online gaming, it was suggested that an effective method for computing the value of the supply of online gaming may be determined by an inter-ministerial task force dedicated to this matter.



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6.26 The Hon'ble Member from Chhattisgarh expressed agreement with the views presented by Uttar Pradesh. He highlighted the adverse impact of these activities on our society. He further emphasized the urgency of resolving this matter. It was recommended that a 28% GST rate be levied on the full value of these activities regardless of whether they involve game of chance or skill.

6.27 The Hon'ble Member from Arunachal Pradesh seconded the views of Uttar Pradesh and Meghalaya. He quoted example of Las Vegas and Macau which have no other attraction and where people go to play casino only whereas Goa is not only meant for casino and therefore, the rate of tax does not affect tourism sector of Goa.

6.28 The Hon'ble Member from Andhra Pradesh stressed the importance of considering the specific issues related to each State, keeping in mind the federal nature of the country and one nation one tax. It was stated that larger States have ample resources to generate revenue whereas smaller States are often at a disadvantage. The Hon'ble Member agreed with the views of Delhi and suggested that States like Goa and Sikkim should have some degree of flexibility in raising revenue in absence of other source of revenue.

6.29 The Hon'ble Member from Meghalaya reiterated that the procedures involved in each game are distinct therefore they should be taxed based on their individual intricacies. It was proposed that a single formula for calculation, could not be justified for every game. Additionally, the Hon'ble Member recommended making appropriate amendments to the law in accordance with the decisions reached in the Council to avoid any legal disputes.

6.30 The Revenue Secretary clarified that an amendment to the law is necessary as online gaming companies have argued in various courts that online gaming is an actionable claim but is not a taxable actionable claim in Schedule III of the Central Goods and Services Tax (CGST) Act. They contend that it is a game of skill and does not involve any element of gambling or betting. The Council was informed that the GGR is typically only 10-15% resulting in an effective tax rate of 1-3%. The Secretary strongly put across that even food items are taxed at a rate of 5% which is the lowest slab rate. Therefore, clarity must be brought through legislative amendments. It was mentioned that the draft amendments have been prepared carefully in consultation with the Additional Solicitor General of India. Furthermore, it was stated that the law should not be subject to interpretation regarding whether the activities are games of skill or chance. With regards to the issue of retrospectivity, the Secretary stated that claims for retrospective tax would continue but there



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would be no matter of dispute with regard to prospective implementation. Finally, it was emphasized that the Council is a taxing body and not a regulatory authority. So, Council should not be concerned with whether these activities are prohibited or regulated.

6.31 It was observed that all States are in agreement regarding the necessity of amending the law to provide clarity on these issues. The decision on whether this amendment should be addressed in the Law and Fitment Committee or brought back to the Council was left to the Council's discretion with the aim of expediting the process. The Secretary suggested that the amendment may be brought through ordinance or through legislature in next session so that Revenue could be collected on these activities as soon as possible.

6.32 Thereafter, the Hon'ble Chairperson sought confirmation of the Council members on all three issues (i) the issue of amending the law to include Casino, Race Course, and Online Gaming in Entry 6 of Schedule III of the CGST Act, 2017 alongside Lottery, Betting, and Gambling. This inclusion would help avoid any interpretational confusion. She clarified that the exemption previously granted for GST on actionable claims except for Lottery, Betting, and Gambling in Entry 6, would now be amended so as to remove any confusion, to exclude Online Gaming and Horse Racing from exemption which would be subject to GST without any exemption, (ii) the rate of tax and (iii) the value for supply.

6.33 The Hon'ble Member from Meghalaya expressed his agreement for the amendment deeming it necessary and suggesting that the first report of the GoM (Group of Ministers) would suffice after such amendments. The Revenue Secretary then informed the Council that a few more amendments would be worked out by the Law Committee and circulated to the respective States for amendments in their State GST Act subject to the Council's approval.

6.34 The Hon'ble Member from Karnataka proposed to include an explanation in Entry 6 to incorporate these games rather than amending the entire entry. Similarly, the Hon'ble Member from Tamil Nadu suggested that the final draft of the amendment should be shared with all States. In response, the Revenue Secretary stated that States like Tamil Nadu and Karnataka who wished to be involved, could be included in the Law Committee to ensure a concurrent decision.

6.35 Taking into consideration the concern raised by Tamil Nadu, the Hon'ble Chairperson sought the Council's wisdom on whether if any State has a law banning certain activities like Online Gaming and the Council deems fit to tax that activity then would the amendment contradict the State Law. The Revenue Secretary clarified that even currently, the Council



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imposes taxes on Gambling and Betting, despite them being banned in certain States. He explained that the Council could only decide the taxability of activity and the States regulate these activities. The Hon'ble Member from Karnataka and Kerala agreed with the explanation given by Revenue Secretary.

6.36 The Revenue Secretary then requested the Council to decide the tax rate and valuation method for these activities. He stated that uniformity in taxation for these activities was preferred, however during consultations with the ASG (Additional Solicitor General), he indicated that differential treatment could also be considered. He further mentioned that there was consensus among all States to tax Online Gaming and Race Courses at 28% GST on their full value. The only remaining issue was that of Casinos to be decided upon.

6.37 The Hon'ble Chairperson urged the Council to focus on executing and implementing the law on these activities requesting practical and executable solutions rather than idealistic opinions.

6.38 Hon'ble Member from Goa and Sikkim strongly advocated for differential taxation of Casinos based on the Gross Gaming Revenue (GGR) mechanism.

6.39 However, the Hon'ble Chairperson informed the Council that a consensus had been reached among the States to tax Online Gaming and Race Courses at 28% on the full-face value. She requested the Council to decide on the request made by the States of Goa and Sikkim to treat Casinos differently and tax them based on the GGR mechanism.

6.40 The Hon'ble Member from Chhattisgarh, Kerala, and Karnataka expressed their opinion that the principle of law should not be different for Casinos compared to other activities as it could have far-reaching effects on other services. The Hon'ble Member from Karnataka suggested that the principle of law should be the same for all activities and taxed on face value while the tax rate could vary. The Hon'ble Member from Maharashtra also agreed with this view and proposed taxing Casinos at 28% initially with the possibility of providing an abatement.

6.41 The Hon'ble Member from Nagaland stated that if casino was pan India and same rate would not prevail, then it could have repercussion. As casino is specific to only two States i.e. Goa and Sikkim thus exceptions could be made. Casino is lifeline for these two States and it would have huge impact on their revenue.

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6.42 The Hon'ble Member from Andhra Pradesh expressed the belief that only the States of Goa and Sikkim would be affected by this taxation policy and it would benefit them in some way. He suggested that there would be no harm in treating Casinos differently or applying a different tax rate compared to other activities.

6.43 The Hon'ble Member from Meghalaya suggested that since Betting and Gambling were already included in Entry 6 giving different treatment to Casinos would create confusion. He proposed that either the two States could tax Casinos outside the GST regime or the definition of full face-value could be worked upon to suit the affected States.

6.44 The Hon'ble Member from Goa requested that Casinos can be taxed based on the GGR mechanism and suggested that the Council could review this decision if it does not work out as expected.

6.45 Addressing the concerns raised by the Hon'ble Member from Goa, the Hon'ble Chairperson requested to have trust in the Council and its functioning, highlighting that the Council is taking a rigorous approach to find a solution that benefits every industry and State.

6.46 In light of the urgency to resolve this long-standing issue, the Hon'ble Chairperson urged the Council to come to a final decision. The Hon'ble Chairperson stressed that the solution should not be too burdensome which may lead to the closure of any industry while also maintaining moral correctness.

6.47 The Hon'ble Member from Goa requested that Casinos should be taxed at an abatement of 60% resulting in an effective tax rate of 11.2% which is around 12% and then casino industry would survive.

6.48 The Hon'ble Member from Uttar Pradesh then expressed that it is neither socially nor morally right to support any State in the name of Casino and it will give wrong message to the public. He further added that Goa may be facilitated by other means but not through the measure as suggested.

6.49 Considering the viewpoints expressed by the majority of States, the Hon'ble Chairperson stated that since the proposal of the Hon'ble Member from Goa was not acceptable to the Council, the decision was to tax Casinos at the rate of 28% on their full-face value.



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Decision: The Council decided to clarify that actionable claims supplied in Casinos, Race course and Online gaming are also under the purview of GST to be taxed at the rate of 28% on full face value irrespective of whether the activities are a game of skill or chance. Accordingly, the law may be amended to provide clarity on the matter.

7. Agenda Item 6: Recommendations of the 18th and 19th IT Grievance Redressal Committee for approval/decision of the GST Council

7.1 The Secretary requested JS, GST Council Secretariat to present the agenda item regarding recommendations of the 18th and 19th meetings of the IT Grievance Redressal Committee (ITGRC) before the Council.

7.2 JS, GST Council Secretariat then presented the recommendations of the 18th and 19th meetings of the IT Grievance Redressal Committee (ITGRC) on the data fixes carried out by GSTN as per the Standard Operating Procedure approved by the Council, as detailed in the agenda notes.

7.3 The Secretary then sought the comments of the Hon'ble Members of the Council on the recommendations of ITGRC and the Council approved the same.

Decision: The GST Council approved the recommendations made by the ITGRC during its 18th and 19th meetings.

8. Agenda Item 7: Scheme of budgetary support under GST regime in lieu of earlier excise duty exemption schemes to eligible manufacturing units under different Industrial Promotion Schemes of the Government of India

8.1 The Secretary introduced the agenda regarding scheme of budgetary support under GST regime in lieu of earlier excise duty exemption schemes. The Secretary informed the Council that the issue arose because of the Hon'ble Supreme Court's judgement dated 17.10.2022 in the case of M/s Hero Motocorp Ltd. and Sun Pharma Laboratories Ltd. Vs Union of India & Ors. wherein the Hon'ble Court held that the appellant's claim based on promissory estoppel was without substance, however, their claim deserved due consideration and allowed the appellants to represent before the concerned State Governments and the GST Council. The Hon'ble Court directed the Council and the State Governments to consider representations made by the appellants on the subject. The Secretary informed the Council



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that the issue had been discussed in an earlier meeting and it had been decided that the decision to continue with any incentive given to specific industries in existing industrial policies of States or through any schemes of the Central Government, shall be with the concerned State or Central Government.

8.2 The Secretary stated that there appeared to be no need to revisit the decision and that the Council may reject the representations so received in this regard. In the officers' meeting, the States had expressed their inability to devise such a scheme as they were already implementing other incentive schemes.

Decision: The Council agreed to continue with the existing scheme of budgetary support whereby reimbursement of 58% of the net CGST and 29% of net IGST was granted to the eligible manufacturing units in specified States and rejected the representations received for the balance 42% of the net CGST and 21% of net IGST.

9. Agenda Item 8: Ad-hoc Exemptions Order(s) issued under Section 25(2) of Customs Act, 1962 to be placed before the GST Council for information.

9.1 In the 26th GST Council meeting held on 10th March, 2018, it was decided that all ad hoc exemption orders issued with the approval of Hon'ble Finance Minister as per the guidelines contained in Circular No. 09/2014-Customs dated 19th August, 2014, as was the case prior to the implementation of GST, shall be placed before the GST Council for information.

9.2 Accordingly, the ad hoc exemption orders issued on 28th March, 2023 on request from Shri Maneesh P.M. for exemption from payment of IGST under sub- section (7) of section 3 of the Customs Tariff Act, 1975 on import of drug Injection Qarziba for baby Niharika G.M. was placed before the Council.

Decision: The Council took note of the ad hoc exemption order.

10. Agenda Item 9: Report of Group of Ministers (GoM) on GST System Reforms

10.1 The Secretary requested the Hon'ble Member from State of Maharashtra to present Agenda Item 9 i.e. the Report of Group of Ministers (GoM) on GST System Reforms. The



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Member stated that the Commissioner of State taxes would be making the presentation on the report.

10.2 The Commissioner of State taxes, Maharashtra made a presentation (**Annexure -6**). He informed the Council that the GoM on GST System Reforms was formed on 18th September, 2021 and the main Terms of Reference were to suggest changes in the business processes and IT Systems to plug revenue leakages, suggest better measure for compliance and revenue augmentation and to co-ordinate between different tax authorities. The GoM comprises Members from the States of Maharashtra, Haryana, Delhi, Assam, Andhra Pradesh, Odisha, Tamil Nadu, and Chhattisgarh. He further stated that this GoM is a Standing GoM and submits its report periodically as and when meetings are held. He informed that the GoM has held three meetings to date and that the report of the 2nd Meeting held on 10th February, 2022 was tabled and accepted by the Council in its 47th Meeting.

10.3 He further informed the Council that the 3rd Meeting of the GoM was held on 13th February, 2023 and that the recommendations of this third meeting are being tabled before the Council. He stated that the GoM in its third meeting considered 6 agenda items and that they would be taken up individually.

10.4 The first agenda item that was considered by the GoM was regarding the hard locking of Table-4 of GSTR-3B and it is basically about the credit that is being claimed in FORM GSTR-3B to be locked with the credit that is available in the FORM GSTR-2A. He informed the Council that the GoM after due deliberations has concluded that the hard locking of Table-4 of GSTR-3B is not feasible as of now as there are many corner situations that would cause inconvenience to the taxpayers if hard locking is done. The GoM as a first step has recommended that a rule based on gap in ITC utilization can be implemented in a phased manner on similar lines as mismatch between GSTR-1/3B system which is already under implementation.

10.5 The second agenda item that was considered by the GoM was regarding the tracking and identification of Non-Existent Tax Payers (NETP). He stated that with respect to fake entities detected there is a need to have a national database as it will help in the tracking and recovery of fake ITC flow credit. Having a computerized system will help in tracking these fake entities spread across different States. He also stated that many commonalities are observed in these fake entities such as they use the same mobile number, PAN number, Aadhar etc. and having a common repository will enable sharing of these data across various

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States. The major recommendations made by the GoM with respect to this agenda item are the need to formulate an SoP for handling these NETPs, a uniform policy of ab-initio cancellation of these NETPs across State/CBIC zones and to develop a System driven solution to facilitate the declaration of NETPs by the tax administrations and to develop a System based communication regarding recipients of ITC from NETP, among the various States tax administrations for smooth coordination of follow-up investigations.

10.6. The third agenda item that was considered by the GoM was regarding the Reporting of transactions by payment gateways & banks. He stated that the monitoring of B2C transactions is at present weak and that at present GSTN is unable to validate these transactions. It was recommended by the GoM that the data available from NPCI, RuPay, and VISA/Master Card can be compiled and this can be checked against the details provided by the registered person regarding turnover. He further informed the Council that this recommendation is in its initial stage and that the details need to be worked out. The GoM has recommended forming a committee to develop a detailed methodology and to hold detailed consultations with NPCI and RBI to implement this recommendation.

10.7 The fourth agenda item that was considered by the GoM was regarding the HSN-level reporting in GSTR-1. Commissioner Maharashtra informed the Council that in the initial phases, the dealers are not disclosing the full turnover commodity wise and therefore, it is proposed to make this compulsory in a phased manner. The GoM has recommended a phase-wise and time-bound approach to be adopted for action against non-compliant taxpayers with nudging messages and e-mails in the initial phase and blocking of GSTR-1 to be considered for failure to fill HSN details in the later phase.

10.8 The fifth agenda item that was considered by the GoM was regarding the proposal for integration of Income Tax, ICEGATE and other data points to address underreporting of supplies and to address the issue of under-reporting of Import of Services. On integration with Income Tax and ICEGATE the GoM suggested that DoR may coordinate the same. The benefit to GST on matching with these data points are quite obvious. In this regard, the Hon'ble Member from Karnataka suggested the committee could also explore the possibility of integrating the data that is available with the Ministry of Corporate Affairs.

10.9 The Commissioner of State Taxes Maharashtra further stated that at present all supplier data on goods and services are triangulated on the domestic side, but for the import of services, there is no triangulation of data as it is an independent field reported by the



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taxpayer. It was also informed to the Council that data is available with RBI for foreign remittance and the proposal was to explore the possibility of triangulating foreign remittance data with RBI with the import of services data reported by the registered person. He further informed the Council that this recommendation is in its initial stage and that the GoM has recommended forming a committee of Officers from TPRU-1, GSTN, Centre, Maharashtra, and RBI to make a detailed report on this proposal.

10.10 The sixth agenda item that was considered by the GoM was regarding the development of MIS. He also informed the Council that two requests were received from State of Tamil Nadu and Odisha for the development of MIS. The first request was from Odisha for the development of MIS for commodities liable for GST under RCM and the second request was from Tamil Nadu for the development of MIS for auto-populated interest on account of late payment of tax in cases where GSTR 3B is filed late. He informed the Council that the GoM has approved the development of MIS.

10.11 He further informed the Council that the GoM has felt that the entire GST network and system should move towards strengthening the registration process by using biometric validations and premises verification, controlling the flow of fake ITC at both ends, i.e. the recipient and the supplier of a supply and also expanding the use of third-party data for better forecasting of turnover and other verifications of taxpayers.

10.12 The Secretary proposed that the Council could accept the report of the GoM and that the recommendations made by the GoM can be implemented by GSTN in consultation with the Law committee.

Decision: The Council accepted the recommendations made by the GoM on System Reforms.

11. Agenda Item 10: Proposal for creation of State Co-ordination Committee comprising of GST authorities from the State and Central Tax Administration

11.1 The Secretary presented the Agenda No. 10 regarding creation of State Level Co-ordination Committee comprising GST authorities from the State and Central Tax



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Administration. He informed the Council that the proposal had come up during the National Coordination Committee meeting that was held in April, 2023 with the tax authorities from both Centre and State.

11.2 The Secretary informed the Council that the Committee would be co-chaired by the Chief Commissioner/ Commissioner of CGST/SGST and that they shall be co-conveners on rotational basis for one year each. He further stated that the Committee shall meet at least once every quarter or as the co-Chairs decide. He further informed that the committee will deliberate on co-ordination issues relation to enforcement, investigation, audit, grievances and any other matter as agreed to by co-Chairs. He also informed that the agenda was discussed in detail in the Officers' Meeting.

11.3 The Hon'ble Member from Uttar Pradesh welcomed the proposal and stated that Committee would be a welcome step towards co-ordination between tax authorities.

11.4 The Secretary further requested the Council that, once orders are issued for constitution of Committee, to ensure that the Committee meets regularly so that concerted and coordinated efforts can be made towards coordination at State level.

Decision: The Council approved the proposal for creation of State Co-ordination Committee comprising of GST authorities from the State and Central Tax Administration.

12. Agenda 11: Implementation of GSTAT consequent to passing of Finance Act, 2023

12.1 The following issues under the agenda were placed for consideration of the GST Council:

- a. The GST Council may recommend a suitable date for notifying the amendments to CGST Act, 2017 made vide Finance Act, 2023. Accordingly, the States/UTs with legislature may also notify the corresponding amendments in their respective Acts. The GSTAT would be constituted after these amendments are notified.
- b. As per Section 110(4)(b)(iii), the Chief Secretary of a State is to be nominated by the GST Council as a Member of the Search Cum Selection Committee for all other cases than the Technical Member (State) of the State Tribunal.
- c. For States having a common Bench but separate High Court, it may be clarified that the appeal arising out of GSTAT order in such cases will fall within the jurisdiction of the High Court of the State where the taxpayer is located.


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- d. The proposed Number of Benches along with their jurisdiction in States /UTs with legislature.

12.2 The Secretary presented the agenda and made a brief presentation. The presentation (attached as **Annexure-7**) summarized the State-wise Benches requested (sorted in descending order of the number of taxpayers in each State) along with domestic GST collection figures from each State i.e. collections net of IGST on imports. He brought to the notice of the Council that each Bench comprises 4 Members and, thus, each Bench effectively means two functional Benches.

12.3 The Hon'ble Member from Uttar Pradesh stated that Uttar Pradesh has the highest number of taxpayers and the highest population in the country with a wide geographical expanse. He informed the Council that for these reasons they have proposed five Benches at Lucknow, Agra, Prayagraj, Varanasi and Ghaziabad. This had been cleared by the State Cabinet earlier as also discussed by the Council in its 39th and 40th meetings. This may be cleared without reduction.

12.4 The Hon'ble Member from Maharashtra stated that Maharashtra has 20% share in the GST revenue and appealed that as proposed seven Tribunals in their State should be recommended.

12.5 The Hon'ble Member from Tamil Nadu requested for three Tribunal Benches at Chennai, Madurai and either at Coimbatore or Salem considering their population. While the request from the State Government had not been sent earlier, their suggestion may be taken now.

12.6 The Hon'ble Member from Punjab stated that they propose to form two Tribunal Benches. They have communicated for only for one Bench at Chandigarh/Mohali and will be deciding on the location of the second Bench soon and communicate the same.

12.7 The Hon'ble Member from Andhra Pradesh stated that considering the geographical diversity in the State and poor road connectivity in certain areas, they have proposed three Benches.

12.8 The Secretary brought out the total number of Benches suggested by the States is coming to around 50. This means selection of nearly 200 Members. In the initial days, the workload with the Benches may not justify this high number. Accordingly, in the Officers' meeting, States were requested to begin with few Benches. It needs to be kept in mind that

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one Bench in effect means two functional Benches. If we were to proceed in one go to do these many recruitments, there may be some compromise on the quality. It will be a better idea to proceed in a staggered manner while agreeing to the suggestions from the States.

12.9 The Secretary suggested that initially, all the State Capitals may have one Bench (other than North-Eastern States and Sikkim). In addition, there may be Benches at location of High Court Benches. For instance, U.P. has High Court Benches at Lucknow and Allahabad. They can have two Benches, which will mean four functional Benches. Similarly, Maharashtra and Rajasthan can have two Benches. This is only in first phase and as they are filled up and made operational, we can proceed to higher numbers. The requests received can be approved, subject to the condition that in the initial phase, the process is started with Benches at State Capitals and places where High Court Benches are located.

12.10 The Hon'ble Member from Uttar Pradesh stated that at least three Benches should be recommended in the first phase and the request made should not be cancelled.

12.11 The Hon'ble Chairperson clarified that the Benches as proposed by the States were not being reduced but the idea was to start with fewer Benches in the initial phase. The other Benches may be set up subsequently.

12.12 The Hon'ble Member from Kerala stated that the proposal of Kerala is to set up 3 State Benches with locations at Thiruvananthapuram, Ernakulam and Kozhikode. In the initial phase, as suggested in this meeting, due to lesser pendency of cases, two benches even with half the members may be made functional at Thiruvananthapuram and Ernakulam. Since the other areas in the state are quite far from these two locations, there may be provisions for these benches to conduct sittings in other locations such as Kozhikkode also to hear the cases belonging to those locations. Agreeing with the suggestion, the Revenue Secretary clarified that the same can be done at their level by setting up sitting/ circuit Benches. The same can be enabled so that more cities can be covered by one State Bench. He stated that State Bench and sitting/circuit Bench could be located in different cities for wider geographical representations with two Members each.

12.13 The Hon'ble Member from Chhattisgarh stated they were in agreement with this arrangement and would have two Benches starting with Raipur and then at Bilaspur.

12.14 The Secretary summed up that post discussions the final consensus is to have limited number of Benches to begin in first phase. On the issues of jurisdiction of the Benches, the



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Secretary informed that the information would be collected from the States which may need to provide the details of jurisdiction of proposed Benches and with the approval of the Hon'ble Chairperson, the same would be placed before the Council for ratification.

12.15 The Secretary further suggested that the Chief Secretary of Uttar Pradesh or Maharashtra may be nominated as a Member of the Search cum Selection Committee. He stated that these two States have the highest number of taxpayers. The Hon'ble Member from Karnataka suggested that Chief Secretary Karnataka may be nominated as a Member of the Search cum Selection Committee. The Secretary stated that if it was agreeable to all, the Chief Secretary of Maharashtra may be nominated as a Member of the Search cum Selection Committee as Maharashtra had the largest share in GST revenue and the second largest number of GST taxpayers in the country. He also suggested that this nomination may be for one year and be made on a rotation basis for subsequent years. He brought out that selections will be required to be done every year due to constitution of new Benches, turnover of members due to resignations, retirements etc.

Decisions:

- a. **The Council recommended that provisions of the Finance Act, 2023 pertaining to the GST Appellate Tribunal may be notified by the Centre with effect from 01.08.2023. This will pave the way for the early setting up of the Benches of the GST Appellate Tribunal.**
- b. **Further, the Council recommended that the Chief Secretary of Maharashtra be nominated as one of the Member of the Search cum Selection committee in terms of Section 110(4)(b)(iii) of the CGST Act 2017 for a period of one year.**
- c. **It was clarified that for states having a common Bench but separate High Court, an appeal arising out of GSTAT order will fall within the jurisdiction of the High Court of the State where the taxpayer is located.**
- d. **Regarding the number of State Benches, the Council recommended constituting the Benches as per proposal of the States. However, they may be operationalized in a phased manner based on the case load. The Council recommended to initially operationalize one Bench each in the major States. However, for States having High Court Benches at two or more places in the State, or large number of tax payers, it recommended to initially operationalize more than one Bench also. Moreover, a Bench may have sitting at more than one location (with two members at each location) which will enable more cities to be covered by the State Benches.**
- e. **The jurisdiction of the Benches may be decided in consultation with the States concerned, with the approval of the Hon'ble Chairperson, and placed before the Council for ratification.**



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13. Agenda Item 12: Performance Report of Competition Commission of India (CCI) for month of December, 2022 and 4th quarter of the F.Y 2022-23 along with the Performance Report of State Level Screening Committee (SLSC), Standing Committee (SC) and Directorate General of Anti- Profiteering (DGAP) for 3rd quarter and 4th quarter of the F.Y 2022-23

13.1 The Secretary presented the Agenda No. 12 regarding Performance Report of Competition Commission of India (CCI) for month of December, 2022 and 4th quarter of the F.Y 2022-23 along with the Performance Report of State Level Screening Committee (SLSC), Standing Committee (SC) and Directorate General of Anti- Profiteering (DGAP) for 3rd quarter and 4th quarter of the F.Y 2022-23 for the information of the Council.

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

14. Agenda 13- Request for extension of due dates for filing GSTR-7, GSTR-1 & GSTR-3B for the month of April, May and June 2023 and extension of Amnesty Schemes in the State of Manipur.

14.1 The Pr. Commissioner, GST Policy stated that a request has been received from State of Manipur for extension of due dates for filing of FORM GSTR 7, FORM GSTR-1 and FORM GSTR-3B for the months of April, May and June 2023 till 31.07.2023 for taxpayers of Manipur, due to prevailing law-and-order situation in the State. He informed that already, extension of due dates for filing of FORM GSTR 7, FORM GSTR-1 and FORM GSTR-3B for the months of April 2023 and May 2023 has been granted till 30th June 2023.

14.2 He also informed that State of Manipur has also requested for extension of the Amnesty schemes announced in the last Council meeting till 31st July 2023 in State of Manipur. He mentioned that these amnesty schemes were notified through notifications dated 31st March, 2023, on basis of the recommendations of GST Council made in 49th meeting, and the compliances as per the said amnesty schemes were to be done by 30th June, 2023. The details of amnesty schemes are as under:

- (i) Amnesty to GSTR-4 non-filers was provided vide Notification No. 02/2023-CT;
- (ii) time limit for application for revocation of cancellation of registration was conditionally extended vide Notification No. 03/2023-CT;

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(iii) Amnesty scheme for deemed withdrawal of assessment orders issued under Section 62 was provided vide Notification No. 06/2023-CT;

(iv) Amnesty to GSTR-9 non-filers was provided vide Notification No. 07/2023-CT;

(v) Amnesty to GSTR-10 non-filers was provided vide Notification No. 08/2023-CT;

14.3 He also added that similar representations for extension of date of amnesty schemes have also been received from various other trade associations from other parts of the countries also.

14.4 He informed that the feasibility of implementing these requests was got examined through GSTN (Goods and Services Tax Network). GSTN has informed that while they can quickly make changes on an all-India basis for the extension of Amnesty schemes, implementing it specifically for a particular State would require more time due to coding requirements.

14.5 The issue was deliberated in Officers' meeting held on 10th July 2023 and it was recommended by the Officers to extend the due dates for filing of FORM GSTR 7, FORM GSTR-1 and FORM GSTR-3B for the months of April, May and June 2023 till 31.07.2023 for the taxpayers of State of Manipur. The Officers further recommended that the Amnesty schemes notified vide notifications dated 31.03.2023, as detailed in the Agenda, may be extended till 31st August, 2023 for all taxpayers across the country.

Decision: The Council agreed with the said recommendation made by the Officers in the Officers' meeting.

15. Agenda Item 14: Review of the Revenue position under Goods and Service Tax

15.1 The Secretary presented the agenda on review of revenue position under GST and informed the Council that there were press releases from time to time indicating the revenue position. The Secretary to the Council informed that there is growth in the revenue of about 12% annually.

15.2 The Director (State Taxes), DoR stated that the average monthly collection of GST comes to about Rs. 1.70 Lakh Crore. Regarding unsettled IGST, the Director (State Taxes), DoR informed that compared to last year this year the balance is negative. However, the situation was improving. The Compensation Account was also in negative.



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15.3 The Secretary informed the Council that the Compensation amount to all the States who had submitted AG Certificate had been released and there was no pendency. The Secretary requested the other States who had not submitted their AG Certificates to submit it on priority so that their payments could also be released in time.

15.4 The Hon'ble Member from Telangana stated that their IGST settlement and Compensation payment were still pending. To this, the Director (State Taxes), DoR informed that the amount as per the original AG Certificate submitted by the State had been released. The amount as per revised AG Certificate would be released in due course as and when revised Certificate was received in DoR. Further, regarding IGST Settlement, the Director (State Taxes), DoR informed that they were facing certain accounting issues. Those issues were discussed with Pr. CCA, CBIC. The amount due under IGST Settlement would be released after resolution of the accounting issues.

15.5 The Hon'ble Member from Andhra Pradesh also pointed out similar issue for the Financial Year 2018-19 and 2019-20. The Director (State Taxes), DoR informed that CAG had certified the amount but the Certificate was yet to be received by DoR. The due amount would be released after receipt of the Certificate.

16. Agenda 15: Any other agenda with the permission of the Chairperson

16.1 The Hon'ble Member from Delhi brought to attention concerns over recent notification including Goods and Services Tax Network (GSTN) under the purview of the Prevention of Money-laundering Act (PMLA) without any formal discussion in the GST Council. The Hon'ble Member requested the Chairperson to take up the matter for discussion.

16.2 The Hon'ble Member of Tamil Nadu objected the notification issued by Union Government on PMLA that it is against the interests of traders and against the basic objective of decriminalizing violations under the Goods and services Tax Act. This will affect traders across the country. Tamil Nadu is opposed to this.

16.3 The Hon'ble Member from Punjab also requested the Council to discuss the matter and address the apprehensions of the trade regarding the Notification.



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16.4 The Hon'ble Member from the West Bengal enquired about the necessity of publishing the notification. She stated that law enforcing agencies could have shared the data related to any fraud detection without even having any notification brought to that effect. Therefore, this matter should have necessarily been discussed in the Council before notifying anything that affects GST agencies.

16.5 The Hon'ble Member from Rajasthan also requested the Council to take up the matter for discussion on an urgent basis. Any defaults in tax payments were already being investigated by GST authorities and bringing enforcement of laws like PMLA in taxation matters would further create fear among traders.

16.6 The Hon'ble Member from Telangana informed the Council that there were many apprehensions among the industry members about the notification. These apprehensions should be addressed by way of an Agenda or a GoM might be constituted for deeper analysis. The matter may then be taken up in the next Council meeting and the implementation of the notification be deferred till that time.

16.7 The Hon'ble Member from Karnataka stated that since the issue involved sharing of data with GSTN, it was incumbent upon the Council to discuss the matter.

16.8 The Secretary to the Council clarified that the Notification under scrutiny is under Prevention of Money Laundering Act and is not under GST law. Secondly, the purpose of the notification was to equip and empower tax administration. As per the notification, Director, Financial Intelligence Unit would share information with GSTN regarding suspicious transactions filed by financial institutions. He read out the provisions of section 66, PMLA under which notification was issued and clarified that under these provisions of the Act, GSTN would only get information and the said reaction does not mandate GSTN to share any information. Such information shared by FIU would be further shared with concerned State and Central GST authorities and that information would empower the authorities to decide further course of action depending on merits of the case. Thirdly, this information was not circulated by Directorate of Enforcement but Director, FIU whose duty was to collect information regarding suspicious persons and suspicious transactions and communicate it to law enforcing agencies including ED, CBI, State Police, income tax and GSTN. This information was already being shared with about 30 other law enforcing agencies and the facility of sharing was being extended to GSTN so that the information could be shared with

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State and Central authorities too. Instead of sharing this information with each State or Central zone separately, the information would be shared with GSTN which was a common node for all tax agencies. In light of the discussions, it might be concluded that the notification does not give extraordinary powers to the tax authorities.

16.9 The Hon'ble Member from Maharashtra apprised the Council that no representations raising objections against the notification were received from any association in the State of Maharashtra. The Hon'ble Member highlighted that since the inception of the law, 5000 cases had been registered for the period 2005 to 2023. 2200 cases were registered between 2005 and 2014 while 2800 cases were registered between 2014 and 2023. Further, the total number of registrations in GST are 1 Crore 40 lakh approximately and the number of cases of violation were 5000 only.

16.10 The Hon'ble Member from Chhattisgarh pointed out that when PML Act was brought into effect, its preamble quoted the obligation of the country under United Nation Convention under which it was adopted. So, it was not foreseen at that time that such laws had something to do with tax regimes like GST. The aim was to target illicit drug trafficking, destabilization of the country, etc.

16.10 The Secretary to the Council reiterated that the provisions in the notification were not meant for empowering any Central tax agency with extraordinary powers. The information would be shared by FIU with GSTN electronically. The information would, further, be shared with Central and State GST authorities and it would be upon them to decide if any action was to be initiated.

17. In the end, the Secretary thanked the Union Finance Minister, the MoS, all the Members of the Council, and all the officers who had come from States, Centre, GSTN and the officers from Secretariat.



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Annexure- 1**List of Hon'ble Ministers from States/Uts who participated in the 50th Meeting of the GST Council held on 11th July, 2023**

S. No.	Centre/States/Uts	Name of Hon'ble Minister	Charge
1	GOI	Smt. Nirmala Sitharaman	Union Finance Minister
2	GOI	Shri. Pankaj Chaudhary	Minister of State for Finance
3	Andhra Pradesh	Shri Buggana Rajendranath	Minister for Finance, Planning, Legislative Affairs, Commercial Taxes and Skill Development & Training
4	Arunachal Pradesh	Shri Chowna Mein	Hon'ble Deputy Chief Minister-cum-Finance Minister
5	Assam	Smt. Ajanta Neog	Finance Minister
6	Chhattisgarh	Shri T.S.Singh Deo	Deputy Chief Minister
7	Delhi	Smt. Atishi Marlena	Finance Minister
8	Goa	Shri Mauvin Godinho	Minister for Industries, Transport, Panchayati Raj and Protocol
9	Gujarat	Shri Kanubhai Desai	Minister for Finance
10	Himachal Pradesh	Shri Harshwardhan Chauhan	Industries Minister
11	Jammu and Kashmir	Shri Rajeev Rai Bhatnagar	Advisor to Hon'ble Lieutenant Governor, UT of J&K
12	Jharkhand	Dr. Rameshwar Oraon	Minister for Finance, Commercial Taxes and Food, Public Distribution and Consumer Affairs
13	Karnataka	Shri Krishna Byre Gowda	Minister for Revenue Department
14	Kerala	Shri K. N. Balagopal	Finance Minister
15	Maharashtra	Shri Sudhir Mungantiwar	Minister for Forest and Cultural Affairs
16	Manipur	Dr. Sapam Ranjan Singh	Minister for Medical, Health & Family Welfare Department and Publicity & Information


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			Department
17	Meghalaya	Shri Conrad K. Sangma	Chief Minister
18	Meghalaya	Shri.A.T. Mondal	Cabinet Minister, Community & Rural Development, Power Department, Taxation Department
19	Nagaland	Shri K.G Kenye	Minister for Power and Parliament Affairs
20	Odisha	Shri Bikram Keshari Arukha	Minister for Finance
21	Punjab	Shri Harpal Singh Cheema	Finance Minister
22	Puducherry	Shri K. Lakshminarayanan	Minister for Public Works
23	Rajasthan	Shri Shanti Kumar Dhariwal	Minister of Local Self-Government, Urban Development and Housing, Law and Legal Affairs, Legal Consultancy Office, Parliamentary Affairs, Elections
24	Sikkim	Shri B. S. Panth	Minister of Tourism & Civil Aviation and Commerce & Industries
25	Tamil Nadu	Shri Thangam Thennarasu	Minister for Finance and Human Resources Management
26	Telangana	Shri T. Harish Rao	Minister for Finance, Health, Medical & Family Welfare
27	Uttar Pradesh	Shri Suresh Kumar Khanna	Minister of Finance, Parliamentary Affairs
28	Uttarakhand	Shri Premchand Aggarwal	Minister of Finance, Urban Development, Housing, Legislative and Parliamentary Affairs, Reorganisation and Census
29	West Bengal	Smt. Chandrima Bhattacharya	Minister of State for Finance



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Annexure-2.List of Officers from Centre and the States/UTs who participated in the 50th Meeting of the GST Council held on 11th July, 2023

S.No.	Centre/States/UTs	Name of the Officer	Designation/Charge
1	Government of India	Shri Sanjay Malhotra	Revenue Secretary
2	Government of India	Shri Vivek Johri	Chairman, CBIC
3	Government of India	Shri Sanjay Kumar Agarwal	Member(Compliance Management),CBIC
4	Government of India	Shri Shashank Priya	Member (GST),CBIC
5	Government of India	Shri Vivek Ranjan	Member (Tax Policy)
6	Government of India	Shri Pankaj Kumar Singh	Additional Secretary (GST Council Secretariat)
7	Government of India	Shri Sanjay Mangal	Principal Commissioner
8	GSTN	Shri Manish Kumar Sinha	CEO
9	GSTN	Shri Dheeraj Rastogi	EVP
10	Government of India	Ms. Limatula Yaden	Joint Secretrary
11	Government of India	Ms. Ashima Bansal	Joint Secretary
12	Government of India	Ms. B.Sumidaa Devi	Joint Secretary
13	Government of India	Shri Surjit Bhujabal	Principal Director General, DGGI
14	Government of India	Shri Nitish Kumar Sinha	Principal Additional Director General, DGGI (Hqrs.)
15	Government of India	Shri S.S. Nakul	PS to FM
16	Government of India	Shri Sernya Bhutia	1ST PA TO FM
17	Government of India	Shri Kumar Ravikant Singh	PS to MoS Finance
18	Government of India	Shri Dhruv Narayan Srivastav	1st PA to MoS Finance
19	Government of India	Shri Deepak Kapoor	OSD to Revenue Secretary

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20	Government of India	Shri D. P. Misra	OSD to Chairman, CBIC
21	Government of India	Dr N Gandhi Kumar	Director (State Taxes)
22	Government of India	Shri Alok Kumar	Additional Commissioner
23	Government of India	Shri Raghavendra Pal Singh	Additional Commissioner
24	Government of India	Dr. Gurbaz Sandhu	Additional Commissioner
25	Government of India	Shri Pramod Kumar	OSD Commissioner in-situ
26	Government of India	Ms Puneeta Bedi	OSD
27	Government of India	Shri Rakesh Dahiya	Deputy Secretary
28	Government of India	Ms. Amreeta Titus	Deputy Secretary
29	Government of India	Shri Nitesh Gupta	Deputy Commissioner
30	Government of India	Shri Amit Samdariya	Deputy Commissioner
31	Government of India	Ms. Neha Yadav	Deputy Commissioner
32	Government of India	Ms. Soumya	Deputy Commissioner
33	Government of India	Shri Manish Deo Mishra	Deputy Commissioner
34	Government of India	Shri Raushan Kumar	Deputy Commissioner
35	Government of India	Shri Sunil Kumar	Under Secretary
36	Government of India	Shri Vikram Wanere	Under Secretary
37	Government of India	Shri Rahul Kumar	Under Secretary
38	Government of India	Ms. Smita Roy	Technical Officer
39	Government of India	Ms. Anna Sosa Thomas	Technical Officer
40	Government of India	Shri Nitin Gupta	Technical Officer
41	Government of India	Shri Sameer Shivajirao Patil	Technical Officer
42	Government of India	Dr. Sorabh Badaye	Deputy Director

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43	Government of India	Shri Ashok Kumar	Inspector
44	Government of India	Shri Anil Bhandari	Inspector
45	GSTN	Shri Naveen Agarwal	Deputy Commissioner
46	Government of India	Dr. Pragya Paliwal Gaur	Additional Director General
47	Government of India	Shri Kush Mohan Nahar	Media & Communication Officer
48	Government of India	Ms. Manju Kumar	Chief Postmaster General
49	Government of India	Ms. Binti Choudhury	Director (Headquarter & Operations)
50	Government of India	Shri Amit Kumar	ADM (PLI & Philately)
51	Government of India	Shri Sachin Kashyap	Inspector of Posts (Philately)
52	Government of India	Shri Rakesh Kumar	Inspector of Posts (Philately)
53	Government of India	Shri Aman Prakash Gaurav	PRO
54	Government of India	Shri Rajeev Ranjan Bharti	Postal Assistant
55	GST Council Secretariat	Shri Kshitendra Verma	Director
56	GST Council Secretariat	Shri S.S.Shardool	Director
57	GST Council Secretariat	Shri Joginder Singh Mor	Under Secretary
58	GST Council Secretariat	Ms. Reshma R. Kurup	Under Secretary
59	GST Council Secretariat	Ms. Priya Sethi	Superintendent
60	GST Council Secretariat	Shri Dharambir	Superintendent
61	GST Council Secretariat	Shri Irfan Zakir	Superintendent
62	GST Council Secretariat	Shri Naveen Kumar	Superintendent



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63	GST Council Secretariat	Shri Sachin Goel	Superintendent
64	GST Council Secretariat	Ms. Ambika Rani	Superintendent
65	GST Council Secretariat	Shri Niranjana Kishore	Superintendent
66	GST Council Secretariat	Shri Rakesh Joshi	Superintendent
67	GST Council Secretariat	Shri Vijay Malik	Inspector
68	GST Council Secretariat	Shri Padam Singh	Inspector
69	GST Council Secretariat	Shri Rohit Sharma	Inspector
70	GST Council Secretariat	Shri Ashwani Sharma	ASO
71	GST Council Secretariat	Shri Karan Arora	ASO
72	GST Council Secretariat	Shri Pankaj Dhaka	Tax Assistant
73	GST Council Secretariat	Shri Paresh Garg	Tax Assistant
74	GST Council Secretariat	Shri Shyam Bihari Meena	Tax Assistant
75	GST Council Secretariat	Shri Vikas Kumar	Tax Assistant
76	Andhra Pradesh	Shri N. Gulzar	Secretary Finance(CT)
76	Andhra Pradesh	Shri N. Gulzar	Secretary Finance(CT)
77	Andhra Pradesh	Shri M. Girija Sankar	Chief Commissioner(ST)
78	Andhra Pradesh	Shri J. V. M. Sarma	Additional Commissioner(ST) Policy
79	Arunachal Pradesh	Ms. Y. W. Ringu	Secretary (Tax & Excise)
80	Arunachal Pradesh	Shri Lobsang Tsering	Commissioner (Tax & Excise)

(Signature)

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81	Arunachal Pradesh	Shri Tapas Dutta	Deputy Commissioner-cum-SNO (GST)
82	Assam	Shri Rakesh Agarwalla	Principal Commissioner of State Tax
83	Bihar	Dr. Pratima	Commissioner cum Secretary Commercial Taxes
84	Bihar	Shri Arun Kumar Mishra	Tax Expert Commercial Taxes
85	Bihar	Ms. Ruby	Joint Secretary Commercial Taxes
86	Bihar	Shri Binod Kumar Jha	Additional Commissioner State Tax
87	Chandigarh	Shri Vijay Namdeorao Zade	Finance Secretary-cum-Secretary Excise & Taxation
88	Chandigarh	Shri Alok Passi	Assistant Excise and Taxation Commissioner
89	Chhattisgarh	Shri Himshikhar Gupta	Secretary, Commercial Tax (State Tax)
90	Chhattisgarh	Shri Ritesh Kumar Agrawal	Commissioner of State Tax
91	Chhattisgarh	Shri Tarun Kumar Kiran	Deputy Commissioner
92	Chhattisgarh	Shri Anand Sagar Singh	PA to Hon'ble Minister
93	Delhi	Shri A Anbarasu	Principal Commissioner (State Tax)
94	Delhi	Shri Awanish Kumar	Special Commissioner (State Tax)
95	Delhi	Shri Atish Kumar	Joint Commissioner (State Tax)
96	Goa	Shri S.S.Gill	Commissioner of State Tax
97	Goa	Shri Vishant S.N. Gaunekar	Additional Commissioner of State Tax
98	Gujarat	Shri J.P. Gupta	Additional Chief Secretary, Finance Department
99	Gujarat	Shri Samir Vakil	Chief Commissioner of State Tax (I/c)
100	Gujarat	Shri Riddhesh Raval	Joint Commissioner of State Tax
101	Haryana	Shri Devinder Singh Kalyan	Principal Secretary to Government Haryana, Excise and



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			Taxation Department.
102	Haryana	Shri Siddharth Jain	Additional Commissioner, GST, Excise and taxation Department
103	Himachal Pradesh	Shri Yunus	Commissioner State Taxes and Excise
104	Himachal Pradesh	Shri Rakesh Sharma	Additional Commissioner State Taxes and Excise
105	Jammu and Kashmir	Shri Santosh D. Vaidya	Principal Secretary, Finance Department
106	Jammu and Kashmir	Shri Shakeel Maqbool	Additional Commissioner
107	Jharkhand	Ms. Vipra Bhal	Secretary, Commercial Taxes
108	Jharkhand	Shri Santosh Kumar Vatsa	Commissioner, Commercial Taxes
109	Karnataka	Ms. C. Shikha	Commissioner Commercial Tax
110	Karnataka	Dr. Ravi Prasad	Additional Commissioner CT
111	Kerala	Shri Ajit Patil	Commissioner, State GST Department
112	Kerala	Shri Abraham Renn S	Additional Commissioner-1
113	Kerala	Dr. Shyjan D	PS to Hon'ble Minister for Finance
114	Madhya Pradesh	Shri Lokesh Kumar Jatav	Commissioner of Commercial Tax
115	Madhya Pradesh	Shri Manoj Kumar Choubey	Additional Commissioner, State Tax
116	Maharashtra	Ms Shaila A.	Principal Secretary (Financial Reforms)
117	Maharashtra	Shri Rajeev Mital	Commissioner of State Tax
118	Maharashtra	Shri Manoj Kumar Narayanwal	Deputy Commissioner
119	Maharashtra	Shri Sudhir Rathod	OSD to the Hon'ble Minister
120	Maharashtra	Shri Rahul Gangurde	OSD to the Hon'ble Minister
121	Maharashtra	Shri Babasaheb Gore	OSD to the Commissioner of State Tax

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122	Maharashtra	Anju Nimsarkar	Information Officer
123	Manipur	Ms. Mercina R. Panmei	Commissioner of Taxes
124	Manipur	Shri Y. Indrakumar Singh	Assistant Commissioner of Taxes
125	Meghalaya	Shri Ramakrishna Chitturi	Commissioner of Taxes
126	Meghalaya	Shri L Khongsit	Additional Commissioner of Taxes
127	Meghalaya	Shri V R Challam	Deputy Commissioner of Taxes
128	Meghalaya	Shri Sanjay Goyal	Commissioner & Secretary ERTS
129	Meghalaya	Shri Shanborlang Warjri	Deputy Secretary CM Office
130	Meghalaya	Shri Mukesh Kumar	OSD to CM
131	Meghalaya	Shri Saidul Khan	OSD to CM
132	Mizoram	Shri R. Zosiamliana	Commissioner of State Tax
133	Mizoram	Shri Hrangthanmawia	Assistant Commissioner of State Taxes
134	Nagaland	Shri C Lima Imsong	Additional Commissioner of State Taxes
135	Odisha	Shri Nihar Ranjan Nayak	Additional Commissioner of CT & GST
136	Odisha	Shri Saumyajit Rout	Joint Secretary, Finance Department
137	Odisha	Shri Dinakrushna Kar	PS to Hon'ble Minister
138	Punjab	Shri Vikas Partap	Financial Commissioner (Taxation)
139	Punjab	Shri Kamal Kishor Yadav	Commissioner of State Tax
140	Punjab	Shri Ravneet Khurana	Additional Commissioner of State Taxes (Audit)
141	Puducherry	Shri P. Jawahar	Commissioner -cum- Secretary to Govt. (Finance)
142	Puducherry	Shri L. Mohamed Mansoor	Commissioner of State Tax
143	Rajasthan	Dr Ravi Kumar Surpur	Chief Commissioner, State Tax
144	Rajasthan	Shri Arvind Mishra	Additional Commissioner, State Tax

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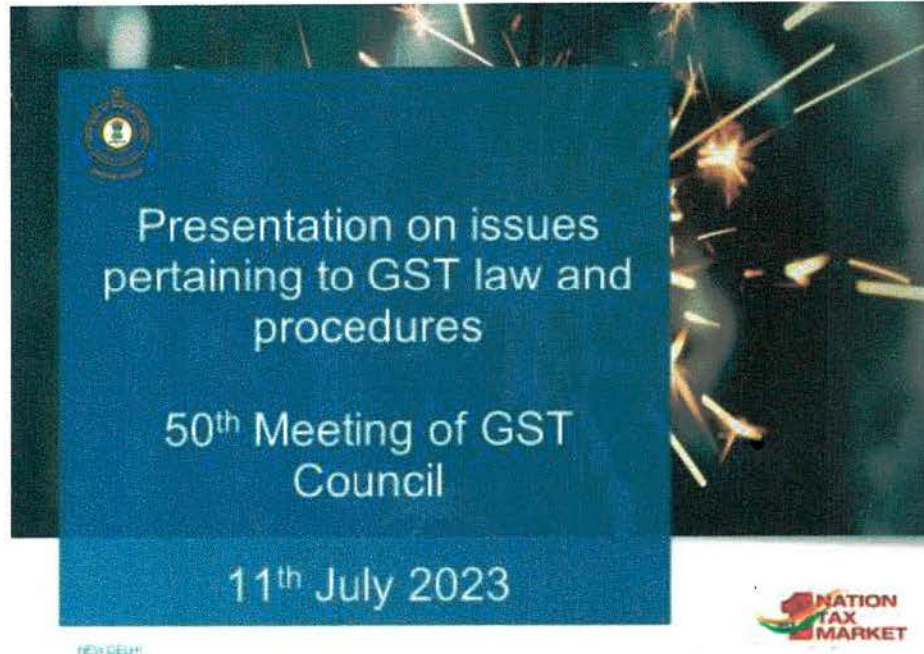
Shipra

145	Sikkim	Shri Manoj Rai	Commissioner (Commercial Taxes)
146	Tamil Nadu	Shri T.Udhayachandran	Principal Secretary, Finance
147	Tamil Nadu	Shri Dheeraj Kumar	Principal Secretary/Commissioner of Commercial Taxes
148	Tamil Nadu	Shri S. Subash Chandra Bose	Joint Commissioner (Policy & Planning)
149	Telangana	Ms. Neetu Prasad	Commissioner of Commercial Taxes
150	Telangana	Shri N Sai Kishore	Additional Commissioner (ST)(Legal)
151	Telangana	Ms. K Rupa Sowmya	Deputy Commissioner (ST) EIU
152	Tripura	Ms. Rakhi Biswas	Chief Commissioner of State Tax
153	Tripura	Shri Ashin Barman	GST Nodal Officer
154	Uttarakhand	Shri Dilip Javalkar	Secretary Finance
155	Uttarakhand	Dr. Ahmad Iqbal	Commissioner of State Tax
156	Uttarakhand	Shri B. S. Nagnyal	Additional Commissioner
157	Uttarakhand	Shri Anurag Mishra	Joint Commissioner
158	Uttar Pradesh	Shri Nitin Ramesh Gokarn	Additional Chief Secretary, State Tax
159	Uttar Pradesh	Ms. Ministhy S	Commissioner, State Tax
160	Uttar Pradesh	Shri Paritosh Kumar Mishra	Deputy Commissioner, State Tax
161	Uttar Pradesh	Shri Amit Pandey	P.S. to Hon'ble Finance Minister, UP
162	West Bengal	Dr. Manoj Pant	Additional Chief Secretary, Finance Department
163	West Bengal	Shri Khalid Aizaz Anwar	Commissioner of State Tax
164	West Bengal	Shri Rajib Sankar Sengupta	Senior Joint Commissioner of Revenue
165	West Bengal	Shri Shantanu Naha	OSD to Hon'ble Minister

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Annexure-3



**Summary of discussions in Officers'
Meeting held on
10th July 2023**

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Agenda No	Issue/Proposal	Status during Officers Meeting
3(i) [Vol 1- Pg. 105-108]	Rules Amendment in accordance with the recommendations made by Group of Ministers (GoM) on implementation of E-way bill requirement for movement of Gold/ Precious stones under chapter 71 <ul style="list-style-type: none"> a separate rule 138F may be inserted in CGST Rules, 2017, as well as in SGST Rules, 2017 of the States who want to mandate the requirement of generation of e-way bills for intra-State movement of gold and precious stones under Chapter 71, for implementing the said recommendations of GoM. 	Agreed
3(ii) [Vol 1- Pg. 109-129]	Capacity based taxation and Special Composition Scheme in certain Sectors in GST <ul style="list-style-type: none"> issuance of a notification under section 148 of CGST Act prescribing the special procedure in respect of registration of machines used in manufacturing of tobacco, pan masala and similar items and special monthly returns to be filed by manufacturers of these items. insertion of a new section 122A in CGST Act to provide for penalty for non-declaration of machines by such manufacturers. 	Agreed

Agenda No	Issue/Proposal	Status during Officers Meeting
3(ii) [Vol 1- Pg. 109-129]	<ul style="list-style-type: none"> Special registration of machines and filing of special monthly returns to be done on the common portal. Notifying amendment in Section 16 of IGST Act through section 123 of Finance Act 2021 with effect from 01.10.2023 and notifying the above mentioned commodities as well as mentha oil under the proposed section 16(4) of IGST Act as goods on whose supply IGST refund route shall not be available. 	
3(iii) [Vol 1- Pg. 130-138]	Clarification on charging of interest under section 50(3) of the CGST Act, 2017, in cases of wrong availment of IGST credit and reversal thereof <ul style="list-style-type: none"> in cases of wrong availment of IGST credit, the balance of input tax credit (ITC) in electronic credit ledger, under the heads of IGST, CGST and SGST taken together (and not of IGST head only), has to be taken in consideration while calculating the interest liability under section 50(3) of CGST Act, read with rule 88B of CGST Rules. credit of compensation cess in electronic credit ledger cannot be taken into consideration for calculation of interest under rule 88B(3) of CGST Rules in respect of wrongly availed and utilized IGST, CGST or SGST credit. 	Agreed



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Agenda No	Issue/Proposal	Status during Officers Meeting
3(iv) [Vol 1- Pg. 139- 142]	Issues pertaining to interpretation of Section 10 of IGST Act, 2017 <ul style="list-style-type: none"> No need for amendment in section 10 of IGST Act for the supplies made to registered persons. For the supplies made to unregistered persons, insertion of a new clause (ca) after clause (c) of sub-section (1) of section 10 of the IGST Act providing that PoS be: <ul style="list-style-type: none"> the location as per the address of the said person recorded in the invoice issued in respect of the said supply; and the location of the supplier, where the address of the said person is not recorded in the invoice. 	Agreed
3(v) [Vol 1- Pg. 143- 146]	Clarification with respect to applicability of e-invoice w.r.t supplies made by a registered person to Government Departments or establishment/ Government agencies / local authorities/ PSUs registered solely for the purpose of <ul style="list-style-type: none"> the registered person, whose turnover exceeds the prescribed threshold for generation of e-invoicing, are required to issue e-invoices for the supplies made to such Government Departments or establishments / Government agencies / local authorities / PSUs, etc under rule 48(4) of CGST Rules. 	Agreed

Agenda No	Issue/Proposal	Status during Officers Meeting
3(vi) [Vol 1- Pg. 147- 162]	Clarification on refund related issues <ul style="list-style-type: none"> Issue 1: Clarification on Refund of accumulated input tax credit under Section 54(3) on the basis of ITC available as per FORM GSTR 2B <ul style="list-style-type: none"> w.e.f. 01.01.2022, availment of refund of the accumulated ITC under section 54(3) for a tax period may be restricted to the ITC on inward supplies as reflected in FORM GSTR-2B of the said tax period or of any previous tax period. Issue 2: Requirement of the undertaking in FORM RFD-01 inserted vide para 7 of Circular No. 125/44/2019-GST dated 18.11.2019 <ul style="list-style-type: none"> Para 7 of Circular No. 125/44/2019-GST dated 18.11.2019 & undertaking in FORM GST RFD-01 may be amended to delete the references to the omitted provisions i.e. Section 42, FORM GSTR-2 & GSTR-3 and amendment in Section 41. Consequently, Annexure-A to Circular No. 125/44/2019-GST dated 18.11.2019 may be amended to the effect that. Issue 3: Determination of value of adjusted total turnover in the formula under Rule 89(4) <ul style="list-style-type: none"> Consequent to Explanation having been inserted in rule 89(4) of CGST Rules vide Notification No. 14/2022- CT dated 05.07.2022, the value of export goods to be included while calculating "adjusted total turnover" in the formula under rule 89(4) will be determined as per the said explanation. 	Agreed



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Agenda No	Issue/Proposal	Status during Officers Meeting
3(vi) [Vol 1- Pg. 147- 162]	<ul style="list-style-type: none"> Issue 4: Clarification on the scope and computation of the refund on account of inverted duty structure as provided in sub-section (3) of section 54 and in rule 89 (5) of the CGST Rules, 2017 <ul style="list-style-type: none"> the term "Net ITC" covers the ITC availed on all inputs in the relevant period, irrespective of their rate of tax, as long as there are some inputs on which the rate of tax is higher than the rate of tax on outputs; the taxable value of the outwards supplies has no implication on the calculation of the refund amount of accumulated input tax credit as per the formula provided under rule 89(5) of CGST Rules, 2017; ITC attributable to the subsidy cannot be removed from the calculation of 'Net ITC', or a notional amount cannot be added while calculating the 'tax payable on inverted rated supply' in the said formula under rule 89(5). Issue 5: admissibility of refund where an exporter applies for refund subsequent to compliance of the provisions of sub-rule (1) of rule 96A <ul style="list-style-type: none"> substantive benefits of refund accruing on account of zero-rated supply cannot be denied due to delayed export or delayed receipt of payment for export, as the case may be; refund of IGST paid in compliance of the provisions of sub-rule (1) of rule 96A of CGST Rules may also be given, but no refund of interest paid can be given in such cases. 	Agreed

Agenda No	Issue/Proposal	Status during Officers Meeting
3(vii) [Vol 1- Pg. 163- 169]	<p>Clarification to deal with difference in Input Tax Credit (ITC) availed in FORM GSTR-3B as compared to that detailed in FORM GSTR-2A for the period 01.04.2019 to 31.12.2021</p> <ul style="list-style-type: none"> Since rule 36(4) of CGST Rules providing for restriction in availment of ITC vis a vis that available in FORM GSTR-2A came into effect from 09.10.2019 only, the guidelines provided by Circular No. 183/15/2022-GST dated 27th December, 2022 shall be applicable, in toto, for the period from 01.04.2019 to 08.10.2019; For the period from 09.10.2019 till 31.12.2021, guidelines vide Circular No. 183/15/2022-GST dated 27.12.2022 shall be applicable for verification of the condition of Section 16(2)(c) of CGST Act, subject to the condition that availment of ITC shall not exceed the limit prescribed vide rule 36(4), as applicable during the said period. 	Agreed
3(viii) [Vol 1- Pg. 170- 174]	<p>Mechanism to deal with differences in ITC between GSTR-2B and GSTR-3B, along with draft rules and proposed FORM DRC-01C for implementing the same</p> <ul style="list-style-type: none"> Insertion of new rule 88D in CGST Rules for system based intimation to the registered person about the difference between the input tax credit availed as per FORM GSTR-3B and that available as per FORM GSTR-2B and to direct payment of the differential amount or explain the difference. 	Agreed



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Agenda No	Issue/Proposal	Status during Officers Meeting
3(viii) [Vol 1- Pg. 170- 174]	<ul style="list-style-type: none"> Insertion of a new clause (c) in sub-rule (6) of rule 59 of CGST Rules to enable blocking of FORM GSTR-1/ IFF for a subsequent tax period unless the taxpayer has reversed the amount specified in the intimation or has furnished a reply explaining the reasons for any amount remaining to be reversed. Insertion of FORM GST DRC-01C in CGST Rules as required under sub-rule (1) of the proposed rule 88D. To begin with, system based intimation under proposed rule 88D to the concerned registered person may be given in those cases where difference between the input tax credit availed in FORM GSTR-3B & that available as per FORM GSTR-2B is more than 20% as well as more than Rs. 25 lakhs. 	Agreed
3(ix) [Vol 1- Pg. 175- 177]	<p>Procedure for Recovery of Tax and Interest in terms of Rule 88C(3)</p> <ul style="list-style-type: none"> insertion of a new Rule 142B in the CGST Rules and insertion of a new FORM GST DRC-01D to provide for creation of liability in Electronic Liability Register by the proper officer in respect of- <ul style="list-style-type: none"> the amount intimated under rule 88C which is not paid by the registered person and for which no explanation has been furnished or the explanation furnished is not satisfactory; and the amount of interest 	Agreed . Officer from Gujarat proposed that words " or interest " may be inserted in proposed sub-rule(3) of rule 142B after the words " tax ", which was agreed by the officers.

Agenda No	Issue/Proposal	Status during Officers Meeting
3(x) [Vol 1- Pg. 178- 189]	<p>Annual Returns for FY 2022-23</p> <ul style="list-style-type: none"> The relaxations provided in FY 2021-22 in respect of various tables of FORM GSTR-9 and FORM GSTR-9C may be continued for FY 2022-23. Separate rows to be provided for the new tax rate of 6% for brick kiln taxpayers in table 9, 11 and Pt. V of FORM GSTR-9C. The filing of annual return (in FORM GSTR-9/9A) for the FY 2022-23 may be exempted for taxpayers having aggregate annual turnover upto two crore rupees, as per the relaxation extended in previous FYs. 	Agreed
3(xi) [Vol 1- Pg. 190- 194]	<p>Amendment in CGST Rules, 2017 regarding registration</p> <ul style="list-style-type: none"> Amendment in rule 10A to provide that the details of bank account may be required to be furnished within 30 days of grant of registration, or before filing of statement of outwards supply under section 37 of CGST Act in FORM GSTR-1/ IFF, which ever is earlier. Amendment to sub-rule (2A) of rule 21A to provide for system based suspension of the registration in respect of such registered persons who either do not furnish details of valid bank account under rule 10A of CGST Rules within the time period prescribed in the said rule. Insertion of 3rd proviso in sub-rule (4) of rule 21A to provide for automatic revocation of suspension upon compliance with provisions of rule 10A. 	Agreed

[Signature]

CHAIRMAN'S INITIALS

Agenda No	Issue/Proposal	Status during Officers Meeting
3(xi) [Vol I- Pg. 190- 194]	<ul style="list-style-type: none"> Amendment to sub-rule (6) of rule 59 to provide that in cases where a registered person has not furnished details of a valid bank account under rule 10A, the said registered person may not be allowed to furnish the details of outward supplies in FORM GSTR-1 or using IFF. Amendment in rule 9(1) and rule 25 to do away with the requirement of physical verification of business premises in the presence of the applicant and to provide for physical verification in rule 25 in high risk cases even where Aadhaar has been authenticated. 	
3(xi(a)) [Vol III- Pg. 7-9]	<p>Pilot Project for biometric-based Aadhaar authentication of registration applicants in Puducherry</p> <ul style="list-style-type: none"> In order to implement the said biometric-based Aadhaar authentication for registration applicants in Puducherry, the following notifications may be required to be issued: <ul style="list-style-type: none"> The State of Puducherry to substitute rule 8(4A) and amendment of rule 8(5) & rule 9 of Puducherry SGST Rules on the lines of corresponding amendments in CGST Rules vide notification no. 26/2022-CT dated 26.12.2022 and notification no. 04/2023-Central Tax dated 31.03.2023; The Central Government to further amend Notification No. 27/2022-CT dated 26.12.2022 for specifying that the proviso to rule 8(4A) will apply to the State of Puducherry as well. 	Agreed

Agenda No	Issue/Proposal	Status during Officers Meeting
3(xi(a)) [Vol III- Pg. 7-9]	<ul style="list-style-type: none"> Council may authorize the Chairperson to extend the said pilot project, if required, in other States and/ or Union territories, who may be willing to conduct pilot for such biometric authentication of Aadhaar. Amendments made in rule 8(5), rule 9(1) and 9(2) of CGST Rules vide Notification No. 26/2022-CT dated 26.12.2022, may be notified by all States in their SGST Rules to provide for mandatory physical verification of registration applicants in high risk Aadhaar authenticated cases. 	
3(xii) [Vol I- Pg. 195- 201]	<p>Clarification on TCS liability under Sec 52 of the CGST Act, 2017, in case of multiple E-commerce Operators (ECOs) in one transaction</p> <ul style="list-style-type: none"> in a situation where multiple ECOs are involved in a single transaction through ECO platform, the compliances under section 52 of CGST Act, including collection of TCS, is to be done by the supplier-side ECO who finally releases the payment to the supplier for a particular supply made by the said supplier through him. where the Supplier-side ECO is himself the supplier of the said supply, the compliances under section 52 of CGST Act, including collection of TCS, is to be done by the Buyer-side ECO. 	Agreed



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Agenda No	Issue/Proposal	Status during Officers Meeting
3(xiii) [Vol 1- Pg. 202- 208]	<p>Clarification on availability of ITC in respect of warranty replacement of parts and repair services during warranty period</p> <ul style="list-style-type: none"> where the manufacturer provides replacement of parts and/ or repair services to the customer during the warranty period, without separately charging any consideration at the time of such replacement/ repair services, no GST is chargeable on such replacement of parts and/ or repair service and also, no reversal of input tax credit is required to be made by the manufacturer. Clarification regarding the taxability and requirement of availment/ reversal of ITC in situations where distributor provides replacement of parts and/or repair services to the customer, as part of warranty on behalf of the manufacturer. 	Agreed
3(xiv) [Vol 1- Pg. 209- 214]	<p>Amendments in CGST Rules consequent to amendment in CGST Act vide Finance Act 2023</p> <ul style="list-style-type: none"> insertion of Explanation 3 after rule 43 of CGST Rules <ul style="list-style-type: none"> to prescribe that the value of activities or transactions in respect of paragraph 8(a) of Schedule III of the CGST Act, which is required to be included in the value of exempt supplies in accordance with clause (b) of Explanation to sub-section (3) of section 17 of the Act, shall be the value of supply of goods from Duty Free Shops at arrival terminal in international airports to the incoming passengers. 	Agreed

Agenda No	Issue/Proposal	Status during Officers Meeting
3(xiv) [Vol 1- Pg. 209- 214]	<ul style="list-style-type: none"> Amendment in rule 162 <ul style="list-style-type: none"> insertion of a sub-rule (3A) in rule 162 of CGST Rules to prescribe the compounding amount for various offences under section 132 of CGST Act. amendment of sub-rule (3) of rule 162 to omit the condition that the applicant has cooperated in the proceedings. Insertion of rule 163 <ul style="list-style-type: none"> insertion of rule 163 in CGST Rules to implement the provisions of the newly inserted section 158A in CGST Act regarding consent based sharing of information of registered persons under GST. issuance of a notification under section 158A of CGST Act for notifying "Account Aggregators" as the systems with which information is to be shared by the common portal. 	<p>Agreed.</p> <p>The Council may like to fix 01.10.2023 as the date on which the provisions of Finance Act, 2023 pertaining to GST shall come into effect. However, the provisions of Finance Act 2023 pertaining to GST Appellate Tribunal may be notified by the Centre with effect from 01.08.2023.</p>
3(xv) [Vol III- Pg. 10-25]	<p>Goods and Services Tax Appellate Tribunal (Appointment and Conditions of Service of President and Members) Rules, 2023</p> <ul style="list-style-type: none"> rules for governing appointment and conditions of President and Members of the proposed GST Appellate Tribunal in form of GSTAT (Appointment and Conditions of Service of President and Members) Rules, 2023. the said rules may be notified after notification of the relevant provisions of the Finance Act, 2023. 	<p>Agreed. The officers after discussions recommended the following changes:</p> <p>(i) In sub-rule (5) of rule (3), the words "as well as adjudicating" may be replaced with "and".</p> <p>(ii) In the Annexure-I, S.No. 9 may be deleted.</p>



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Agenda No	Issue/Proposal	Status during Officers Meeting
3(xvi) [Vol III- Pg. 26-31]	Seeking clarity on taxability of share capital held in subsidiary company by the parent company <ul style="list-style-type: none">the issue may be clarified through a circular, specifying that mere holding of securities of a subsidiary company by a holding company, whether located in India or abroad, cannot be treated as a supply of services and therefore, cannot be taxed under GST.	Agreed
3(xvii) [Vol III- Pg. 32-44]	Proposal for amendments to CGST Rules, 2017	
	Rule/FO RM	Proposal
	Omission of clause (c) of Explanation (1) to Rule 43	Reversal of ITC in respect of supply of services by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India is not required w.e.f. 01.10.2022.
	Proviso to rule 46(f)	to provide that only name of the State of the recipient may be sufficient to be provided on the tax invoice for deeming as address on record, and that name, address and PIN code of the recipient may not be required to be declared on the tax invoice where any taxable services is supplied by or through an ECO or by a supplier of OIDAR services to an unregistered recipient.

Agenda No	Issue/Proposal	Status during Officers Meeting
3(xvii) [Vol III- Pg. 32-44]	Proposal for amendments to CGST Rules, 2017	
	Rule/FO RM	Proposal
	Rule 64 and FORM GSTR-5A	To also include details of supplies made by the OIDAR service provider located outside India to registered persons in India.
	Rule 89(1)	To provide that casual taxable person or a non-resident taxable person can claim refund of advance tax amount in the nature of excess balance in electronic cash ledger, after the last return required to be furnished by him has been so furnished.
	Rule 89(2)(k)	To allow the taxpayer to file a claim of refund of excess payment of tax which is not relatable to a particular return period or that of excess payment of interest, penalty or late fee under the category 'Excess Payment of Tax'
	Rule 96(2)	Omission of first and second proviso to Rule 96(2) of CGST Rules as they serve no purpose in light of the amendments in section 37 and 39 of CGST Act.
	Rule 108 & 109	To provide for filing of appeal manually under certain specified circumstances
	FORM GSTR-3A	Amendment in FORM GSTR-3A for issuance of notice to the registered taxpayers for their failure to furnish Annual Return in FORM GSTR-9 or FORM GSTR-9A

Agreed.

Officer from Maharashtra suggested that the words "or due to non-availability of the facility on the common portal" may be deleted from the proposed provisos in rule 108(1) and rule 109(1), which was agreed to by the officers.

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Agenda No	Issue/Proposal	Status during Officers Meeting
3(xviii) [Vol III- Pg. 45-49]	Proposal to provide a special procedure to file appeal against the orders passed in accordance with the Circular No. 182/14/2022-GST, dated 10.11.2022, pursuant to the directions issued by the Hon'ble Supreme Court in the Union of India v/s Filco Trade Centre Pvt. Ltd <ul style="list-style-type: none"> issuance of a notification to provide for a special procedure under section 148 of CGST Act for filing of manual appeals by the taxpayers and tax authorities against such orders, along with extension of time limit to file such appeals. 	<u>Agreed</u>
3(xix) [Vol III- Pg. 50-58]	Issues pertaining to ISD mechanism and taxability of services provided by one distinct person to another distinct person i) For common input services procured from third party: (a) To clarify through a circular that: <ul style="list-style-type: none"> ISD mechanism is not mandatory as per the present provision of GST law for passing ITC in respect of common input services procured by HO from a third party which are attributable to both HO and BO or exclusively to one or more BOs; Registration as ISD mandatory if ITC is to be distributed through ISD mechanism; Distribution of ITC to a BO through ISD mechanism or through issuance of invoice under section 31 only if the said services are actually being supplied to the concerned BO. 	<u>Agreed</u>

Agenda No	Issue/Proposal	Status during Officers Meeting
3(xix) [Vol III- Pg. 50-58]	Issues pertaining to ISD mechanism and taxability of services provided by one distinct person to another distinct person (b) For future, ISD mechanism may be made mandatory prospectively by amendment in the law for distribution of ITC in respect of input services procured by HO from a third party but attributable to both HO and BOs or exclusively to one or more BOs, including in cases, where such input services are liable to tax on reverse charge basis. Amendment in GST law for the same to be formulated by the Law Committee. ii) For internally generated services: (a) To clarify through a circular that in cases where full input tax credit is available to the recipient: <ul style="list-style-type: none"> the value of such supply of services declared in the invoice by HO to BOs may be deemed as open market value, irrespective of the fact whether cost of any particular component of such services, like employee cost etc., has not been included in the value of the services in the invoice, or not. if the invoice is not issued with respect to any internally generated services by HO to BO, the value of such services may be deemed to be declared as Nil by HO to BO, and may be deemed as open market value in terms of the said proviso. (b) Law Committee to further deliberate the issue of taxability and valuation of such internally generated services in cases, where full input tax credit is not available to the recipient.	<u>Agreed.</u> The issue of valuation of internally generated services, where full ITC is not available to the recipient, was also discussed in the Officers' meeting. It was broadly discussed to clarify that in respect of such internally generated services, cost of salary of employees may not be mandatorily required to be included in the taxable value of supply of such services.



CHAIRMAN'S INITIALS

Agenda No	Issue/Proposal	Status during Officers Meeting
13 [Vol III- Pg. 60-61]	<p>Request for extension of due dates for filing GSTR-7, GSTR-1 & GSTR-3B for the months of April, May and June 2023 and extension of Amnesty Schemes in the State of Manipur.</p> <ul style="list-style-type: none"> due date of filing of GSTR-7, GSTR-1 & GSTR-3B can be extended on the portal for taxpayers of Manipur; it may not be possible for immediate extension of dates of amnesty scheme on the portal only for taxpayers of one State, as it will require coding in each of the functionalities for amnesty scheme; such extension of dates for amnesty schemes can, however, be done easily on the portal on All India Basis. 	<p>The issues was deliberated in the Officers' meeting and the following suggestions were made by the officers in the meeting:</p> <p>(i) Due date of filing of GSTR-1, GSTR-3B and GSTR-7 for months of April, May and June 2023 for taxpayers of Manipur may be extended till 31.07.2023</p> <p>(ii) Amnesty schemes notified vide notifications dated 31.03.2023 may be extended till 31.08.2023 All over India.</p>

Ratification of Notifications and Circulars



CHAIRMAN'S
INITIALS

Agenda 2: Ratification of Notifications, Circulars etc. (1/3)

[Vol 1- Pg. 92-104]

Act/ Rules	Notifications/Circulars Nos.	Description/Remarks
CGST Act CGST Rules	Sixteen (16) Central Tax Notifications issued (No. 02/2023 to 17/2023) & Five (05) Central Tax (rate) Notifications issued (No. 01/2023 to 05/2023)	Amendments have been carried out in Rule 8 of CGST Rules and notifications have been issued to implement various decisions of GST Council taken in 49 th meeting. Some of the important notifications are: i. Extension of time limit for application for revocation of cancellation of registration. ii. Amnesty scheme for deemed withdrawal of assessment orders issued under Section 62. iii. Amnesty to GSTR-4, GSTR-9 and GSTR-10 non-filers. iv. Extension of limitation under Section 168A of CGST Act. v. to implement e-invoicing for the taxpayers having aggregate turnover exceeding Rs. 5 Crore from 1st August 2023. vi. Extension of due dates for furnishing FORM GSTR-1, FORM GSTR-3B and FORM GSTR-7 for April and May, 2023 for registered persons whose principal place of business is in the State of Manipur.
UTGST Act	Five (05) Union Territory Tax (rate) Notifications issued (No. 01/2023 to 05/2023)	Notifications to implement various decisions of GST Council taken in 49 th meeting

Agenda 2: Ratification of Notifications and Circulars (2/3)

[Vol 1- Pg. 92-104]

Act/ Rules	Notifications/Circulars Nos.	Description/Remarks
IGST Act	Five (05) Integrated Tax (rate) Notifications issued (No. 01/2023 to 05/2023)	Notifications to implement various decisions of GST Council taken in its 49 th meeting
Goods and Services Tax (Compensation to States) Act, 2017	One (01) Compensation Cess Notification issued (No. 01/2023) & Two (02) Compensation Cess (rate) Notifications issued (No. 01/2023 to 02/2023)	Notifications to implement various decisions of GST Council taken in its 49 th meeting
Circulars	One (01) Circular issued (No. 191/03/2023 dated 27.03.2023)	Clarification regarding GST rate and classification of 'Rab' based on the recommendation of the GST Council in its 49 th meeting.



CHAIRMAN'S INITIALS

Agenda 2: Ratification of notifications and circulars (3/3)

[Vol 1- Pg 92-104]

- ❖ Some of these notifications and circulars have been issued based of decisions of GST Implementation Committee (GIC) taken between 49th GST Council meeting and the upcoming 50th GST Council meeting.
- ❖ The important decisions taken by GIC are as below :
 - Roll out of sixth phase of e-invoicing for the taxpayers having aggregate turnover exceeding Rs. 5 Cr.
 - Extension of deadline for exercising of option by Goods Transport Agencies (GTAs) to pay GST under forward charge mechanism from 15th March, 2023 to 31st May, 2023.
 - Issue of seeking extension of due dates for filing of GSTR-1, GSTR-3B and GSTR-7 for month of April 2023 till 31st May, 2023 in the State of Manipur.
 - Issue of seeking extension of due dates in filing of GSTR-1, GSTR-3B and GSTR-7 for months of April 2023 and May 2023 till 30th June, 2023 in the State of Manipur.
 - Extension of due date for furnishing of FORM GSTR-3B for month of May 2023 for tax payers in certain Districts of Gujarat due to Biparjoy Cyclone.
 - GST Data sharing request received from Department of Telecommunications, M/o Communications.
 - Nomination of officers for All India Co-ordination Committee as per Model All India GST Audit Manual.
 - Proposal for integration of GSTN's E-way bill system with ULIP.

Recommendations of the Law Committee


CHAIRMAN'S
INITIALS

Law Committee Recommendations for Trade facilitation and Reducing litigation

Agenda 3(iii): Clarification on charging of interest under section 50(3) of the CGST Act, in cases of wrong availment of IGST credit and reversal thereof

[Vol 1- Pg. 130-138]

Issue:

- ❖ References received seeking clarification regarding charging of interest under section 50(3) of the CGST Act, 2017 in the cases where IGST credit has been wrongly availed by a registered person.
- ❖ Clarification sought as to whether such wrongly availed IGST credit would be considered to have been utilized for the purpose of charging of interest under section 50(3) of CGST Act, read with rule 88B of CGST Rules, 2017, in cases where though available balance of IGST credit in the electronic credit ledger of the said registered person falls below the amount of such wrongly availed IGST credit, however, the total balance in the electronic credit ledger under heads of IGST, CGST and SGST taken together remains more than such wrongly availed IGST credit, at all times, till the time of such reversal of the said wrongly availed IGST credit.

Proposal:

- ❖ LC has recommended to issue a circular clarifying that:
 - in cases of wrong availment of IGST credit, the balance of input tax credit (ITC) in electronic credit ledger, under the heads of IGST, CGST and SGST taken together (and not of IGST head only), has to be taken in consideration while calculating the interest liability under section 50(3) of CGST Act, read with rule 88B of CGST Rules.
 - credit of compensation cess in electronic credit ledger cannot be taken into consideration for calculation of interest under rule 88B(3) of CGST Rules in respect of wrongly availed and utilized IGST, CGST or SGST credit.
- This will help in bringing clarity and will reduce unnecessary litigation on the issue.



CHAIRMAN'S
INITIALS

Agenda 3(vii) : Clarification for dealing with differences in Input Tax Credit (ITC) availed in FORM GSTR-3B as compared to that detailed in FORM GSTR-2A for the period 01.04.2019 to 31.12.2021 (1/2)

[Vol 1- Pg. 163-169]

Issue:

- ❖ During the initial period of implementation of GST, many suppliers failed to furnish the correct details of outward supplies in their FORM GSTR-1.
- ❖ Because of such discrepancies, FORM GSTR-2A of their recipients remained incomplete.
- ❖ However, the concerned recipients may have availed input tax credit on the said supplies in their returns in FORM GSTR-3B, as restrictions in availment of ITC upto certain specified limit beyond the ITC available to the registered persons as per FORM GSTR-2A were provided under Rule 36(4) only with effect from 9th October 2019.
- ❖ Rule 36(4) was amended with effect from 1st January 2022 providing that ITC cannot be availed by the registered person in excess of the ITC made available in his FORM GSTR-2B.
- ❖ The procedure for verification of ITC availed by the registered persons in cases of difference in ITC availed in FORM GSTR-3B as compared to that detailed in FORM GSTR-2A has been clarified for FY 2017-18 and FY 2018-19 vide Circular No. 183/15/2022-GST dated 27th December, 2022.
- ❖ Various representations have been received from the trade as well as tax authorities seeking clarification regarding the manner of dealing with such discrepancies during the period from 01.04.2019 to 31.12.2021.

Agenda 3(vii) : Clarification for dealing with differences in Input Tax Credit (ITC) availed in FORM GSTR-3B as compared to that detailed in FORM GSTR-2A for the period 01.04.2019 to 31.12.2021 (2/2)

[Vol 1- Pg. 163-169]

Proposal:

- ❖ LC recommended to issue a circular detailing the procedure for verification of ITC availed by the registered persons in cases of such discrepancies during the period from 01.04.2019 to 31.12.2021, inter alia providing that:
 - Since rule 36(4) of CGST Rules providing for restriction in availment of ITC vis a vis that available in FORM GSTR-2A came into effect from 09.10.2019 only, the guidelines provided by Circular No. 183/15/2022-GST dated 27th December, 2022 shall be applicable, *in toto*, for the period from 01.04.2019 to 08.10.2019;
 - For the period from 09.10.2019 till 31.12.2021, guidelines vide Circular No. 183/15/2022-GST dated 27.12.2022 shall be applicable for verification of the condition of Section 16(2)(c) of CGST Act, subject to the condition that availment of ITC shall not exceed the limit prescribed vide rule 36(4), as applicable during the said period.
- This would provide clarity to the trade and the field formations and will reduce unnecessary litigation on the issue.



CHAIRMAN'S
INITIALS

Agenda 3(x): Annual Returns for FY 2022-23

[Vol 1- Pg. 178-189]

Issue:

- ❖ **FORM GSTR-9 and FORM GSTR-9C for FY 2022-23** need to be notified at the earliest so that the taxpayers can comply without any delay.
- ❖ Government had introduced new tax rate of 6% for brick kiln taxpayers in FY 2022-23. Corresponding row for the said tax rate is not available in FORM GSTR-9C and needs to be provided.

Proposal:

- ❖ **LC recommended the following:**
 - As new tax rate of 6% for brick kiln taxpayers has been introduced in FY 2022-23, separate rows for the said new tax rate may be inserted in table 9, 11 and Pt. V of **FORM GSTR-9C**.
 - The relaxations provided in FY 2021-22 in respect of various tables of **FORM GSTR-9** and **FORM GSTR-9C** may be continued for FY 2022-23.
 - The filing of annual return (in **FORM GSTR-9/ 9A**) for the **FY 2022-23** may be exempted for taxpayers having **aggregate annual turnover upto two crore rupees**, as per the relaxation extended in previous FYs.
- This would benefit smaller taxpayers and will ease compliance under section 44 of CGST Act.

Agenda 3(xii): Clarification on TCS liability under Sec 52 of the CGST Act in case of multiple E-commerce Operators (ECOs) in one transaction

[Vol 1- Pg. 195-201]

Issue:

- ❖ Reference has been received from the Department for Promotion of Industry and Internal Trade (DPIIT), Ministry of Commerce & Industry requesting to issue necessary clarification regarding TCS liability under section 52 of the CGST Act in case of multiple E-commerce Operators (ECOs) in one transaction, in the context of Open Network for Digital Commerce (ONDC).

Proposal:

- ❖ **LC recommended to clarify through a circular that:**
 - in a situation where multiple ECOs are involved in a single transaction through ECO platform, the compliances under section 52 of CGST Act, including collection of TCS, is to be done by the **supplier-side ECO who finally releases the payment to the supplier** for a particular supply made by the said supplier through him.
 - **where the Supplier-side ECO is himself the supplier of the said supply**, the compliances under section 52 of CGST Act, including collection of TCS, is to be done by the **Buyer-side ECO**.
- ❖ LC also recommended that **notification under section 148 of CGST Act** proposed to be issued as per recommendations of the Council in 48th meeting, also needs modification to cover such multiple ECOs situations.
- This would clarify the TCS liability in cases of multiple ECOs in one transaction.


CHAIRMAN'S
INITIALS

Agenda 3(xiii): Clarification on availability of ITC in respect of warranty replacement of parts and repair services during warranty period (1/2)

[Vol 1- Pg. 202-208]

Issue:

- ❖ Representations have been received from trade and industry that as a common trade practice, the original equipment manufacturers/ suppliers offer warranty for the goods/ services supplied by them.
- ❖ During the **warranty period, replacement goods/ services are supplied to customers free of charge** and as such no separate consideration is charged and received at the time of replacement.
- ❖ It has been represented that suitable clarification may be issued in the matter as unnecessary litigation is being caused due to contrary interpretations by the investigation wings and field formations in respect of GST liability as well as liability to reverse ITC against such supplies of replacement of parts and repair services during the warranty period without any consideration from the customer.

Agenda 3(xiii): Clarification on availability of ITC in respect of warranty replacement of parts and repair services during warranty period (2/2)

[Vol 1- Pg. 202-208]

Proposal:

- ❖ **LC recommended issuance of a circular to inter alia:**
 - Clarify that where the **manufacturer provides replacement of parts and/ or repair services** to the customer during the warranty period, without separately charging any consideration at the time of such replacement/ repair services, **no GST is chargeable on such replacement of parts and/ or repair service and also, no reversal of input tax credit is required to be made by the manufacturer.**
 - Clarify the **taxability and requirement of availment/ reversal of ITC** in situations where **distributor provides replacement of parts and/or repair services** to the customer, as part of warranty on behalf of the manufacturer.
- **This would clarify the issue of GST liability as well as liability to reverse ITC in respect of warranty replacement of parts and repair services during warranty period and will help in reducing litigation on this account.**



CHAIRMAN'S
INITIALS

Agenda 3(xvi): Clarification on taxability of shares held in a subsidiary company by the holding company

[Vol III- Pg. 26-31]

Issue:

- ❖ Representations have been received seeking clarification as to whether the holding of shares in a subsidiary company by the parent company is to be treated as 'supply of service' under GST and is to be taxed accordingly or not.
- ❖ Some of the field formations are relying on the SAC code 997171- "services provided by holding companies, i.e. holding securities of (or other equity interests in) companies and enterprises for the purpose of owning a controlling interest", and are demanding GST on "share capital held in subsidiary company".
- ❖ Securities under GST Law are considered neither goods nor services in terms of definition of goods under section 2(52) of CGST Act and in terms of definitions of services under section 2(102) of the said Act.
- ❖ Further, securities include 'shares' as per definition of securities under clause (h) of section 2 of Securities Contracts (Regulation) Act, 1956.

Proposal:

- ❖ Law Committee has recommended that the issue may be clarified through a circular, specifying that mere holding of securities of a subsidiary company by a holding company, whether located in India or abroad, cannot be treated as a supply of services and therefore, cannot be taxed under GST.
- The proposal will help in bringing clarity on the issue and in preventing unnecessary litigation.

Agenda 3(xviii): Special procedure for filing appeal against the orders passed in accordance with the Circular No. 182/14/2022-GST dated 10.11.2022 pursuant to the directions issued by the Hon'ble Supreme Court in the Union of India v/s Filco Trade Centre Pvt. Ltd.

[Vol III- Pg. 45-49]

Issue:

- ❖ There is no facility available on the portal, at present, to enable filing of appeals by the taxpayers and tax authorities against the orders issued by the proper officers in respect of TRAN-1/ TRAN-2 claims in accordance with the Circular No. 182/14/2022-GST dated 10.11.2022, pursuant to the directions issued by the Hon'ble Supreme Court in the Union of India v/s Filco Trade Centre Pvt. Ltd.
- ❖ Further, time period for filing appeals in some of such cases may already have expired.

Proposal:

- ❖ Law Committee has recommended for issuance of a notification to provide for a special procedure under section 148 of CGST Act for filing of manual appeals by the taxpayers and tax authorities against such orders, along with extension of time limit to file such appeals.
- This will facilitate taxpayers and the tax officers to file appeal against orders issued by the proper officers in respect of TRAN-1/ TRAN-2 claims.



CHAIRMAN'S
INITIALS

Agenda 3(vi) : : Clarification on refund related issues (1/5)

[Vol 1- Pg. 147-162]

Issue 1: Clarification on Refund of accumulated input tax credit under Section 54(3) on the basis of ITC available as per FORM GSTR 2B

- ❖ References received on whether the refund of the accumulated input tax credit under section 54(3) of CGST Act shall be admissible on the basis of the input tax credit as reflected in **FORM GSTR-2A** or on the basis of that available as per **FORM GSTR-2B** of the applicant consequent to change in provisions regarding ITC availment being restricted to that available as per **FORM GSTR 2B**.

Proposal:

- ❖ LC has recommended to clarify through a circular that:
 - w.e.f. 01.01.2022, availment of refund of the accumulated ITC under section 54(3) for a tax period may be restricted to the ITC on inward supplies as reflected in **FORM GSTR-2B of the said tax period or of any previous tax period.**
 - refund claims, which have already been disposed off by the proper officer before issuance of this circular, may not be reopened.

Agenda 3(vi) : : Clarification on refund related issues (2/5)

[Vol 1- Pg. 147-162]

Issue 2: Requirement of the undertaking in FORM RFD-01 inserted vide para 7 of Circular No. 125/44/2019-GST dated 18.11.2019

- ❖ Para 7 of Circular No. 125/44/2019-GST dated 18.11.2019 and the undertaking in FORM RFD-01 requires amendment due to omission of Section 42, FORM GSTR-2 & GSTR-3 and amendment in Section 41.

Proposal:

- ❖ LC has recommended to clarify through a circular that:
 - Para 7 of Circular No. 125/44/2019-GST dated 18.11.2019 & undertaking in FORM GST RFD-01 may be amended to delete the references to the omitted provisions;
 - Consequently, Annexure-A to Circular No. 125/44/2019-GST dated 18.11.2019 may be amended to the effect that:
 - "Undertaking in relation to sections 16(2)(c) and section 42(2)" wherever mentioned in Declaration/Statement/Undertaking/ Certificates to be filled online needs to be replaced by "Undertaking in relation to sections 16(2)(c)".
 - "Copy of GSTR-2A of the relevant period" & "Self-certified copies of invoices entered in Annexure-A whose details are not found in GSTR-2A of the relevant period" wherever required as supporting documents needs to be removed/ deleted.

Agenda 3(vi) : Clarification on refund related issues (3/5)

[Vol 1- Pg. 147-162]

Issue 3: Determination of value of adjusted total turnover in the formula under Rule 89(4)

- ❖ Clarification has been sought as to whether in view of insertion of **Explanation in rule 89(4) of CGST Rules**, for the purpose of calculation of "adjusted total turnover" in the formula under rule 89(4), the value of goods exported out of India has to be considered as per Explanation under rule 89(4).

Proposal:

- ❖ LC has recommended to clarify through a circular that:
 - Consequent to Explanation having been inserted in rule 89(4) of CGST Rules vide Notification No. 14/2022- CT dated 05.07.2022, **the value of export goods to be included while calculating "adjusted total turnover" in the formula under rule 89(4) will be determined as per the said explanation.**

Agenda 3(vi) : Clarification on refund related issues (4/5)

[Vol 1- Pg. 147-162]

Issue 4: Clarification on the scope and computation of the refund on account of inverted duty structure as provided in sub-section (3) of section 54 and in rule 89 (5) of the CGST Rules, 2017

- ❖ Divergent views are taken in field formations regarding treatment of **refund of accumulated ITC on account of inverted rated supply of goods** in cases where **subsidy is given by the Central Government or the State Governments**, resulting in lower taxable value of the outward supply of such goods.

Proposal:

- ❖ LC has recommended to clarify through a circular that:
 - the term "Net ITC" covers the ITC availed on all inputs in the relevant period, irrespective of their rate of tax, as long as there are some inputs on which the rate of tax is higher than the rate of tax on outputs;
 - the taxable value of the outwards supplies has no implication on the calculation of the refund amount of accumulated input tax credit as per the formula provided under rule 89(5) of CGST Rules, 2017;
 - ITC attributable to the subsidy cannot be removed from the calculation of 'Net ITC', or a notional amount cannot be added while calculating the 'tax payable on inverted rated supply' in the said formula under rule 89(5).


CHAIRMAN'S
INITIALS

Agenda 3(vi): : Clarification on refund related issues (5/5)

[Vol I- Pg. 147-162]

Issue 5: admissibility of refund where an exporter applies for refund subsequent to compliance of the provisions of sub-rule (1) of rule 96A

- ❖ There are instances where exporters voluntarily make payment of due integrated tax, along with applicable interest, in cases where goods could not be exported or payment for export of services could not be received within time frame as prescribed in rule 96A of CGST Rules.
- ❖ Clarification has been sought as to whether subsequent to export of the said goods, or as the case may be, realization of payment in case of export of services, the said exporters are entitled to claim refund of unutilized input tax credit on account of export and also refund of the integrated tax and interest so paid.

Proposal:

- ❖ LC has recommended to clarify through a circular that:
 - substantive benefits of refund accruing on account of zero-rated supply cannot be denied due to delayed export or delayed receipt of payment for export, as the case may be;
 - refund of IGST paid in compliance of the provisions of sub-rule (1) of rule 96A of CGST Rules may also be given, but no refund of interest paid can be given in such cases.
- The proposal will help in bringing clarity on these refund related issues and in preventing unnecessary litigation.

Agenda 3(xvii): Amendment in CGST Rules (1/8)

[Vol III- Pg. 32-44]

I. Omission of clause (c) of Explanation (1) to Rule 43**Issue:**

- ❖ Services by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India was an exempt supply till 30.09.2022, which was not further extended after 30.09.2022. As a result, the said service has become taxable after 30.09.2022.
- ❖ Clause (c) of Explanation (1) to Rule 43 of CGST Rules provides that aggregate value of exempt supplies for the purpose of reversal of common input tax credit under rule 42 or rule 43 shall exclude value of supply of services by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India.
- ❖ Since, the above service is not an exempt supply w.e.f. 01.10.2022, reversal of ITC in respect of supply of the said services is not required w.e.f. 01.10.2022. Therefore, clause (c) of Explanation (1) to Rule 43 of CGST Rules becomes **redundant** and may be omitted.

Proposal

- ❖ Law Committee has recommended that **clause (c) of Explanation (1) at the end of Rule 43 of CGST Rules may be omitted.**
- The proposal will omit a redundant clause from Explanation (1) of Rule 43 of CGST Rules.


CHAIRMAN'S
INITIALS

Agenda 3(xvii): Amendment in CGST Rules (2/8)

[Vol III- Pg. 32-44]

II. Amendment in proviso to rule 46(f) of CGST Rules 2017

Issue:

- ❖ Rule 46 of CGST Rules amended vide Notification No. 26/2022 –Central Tax dated 26.12.2022 by adding a proviso to clause (f) of the said rule to provide that:
 - where any taxable services is supplied by or through an ECO or by a supplier of OIDAR services to an unregistered recipient, irrespective of the value of such supply, a tax invoice issued by the registered person shall contain the name, address, PIN code and the name of the State of the recipient and the said address shall be deemed to be the address on record of the recipient for purpose of place of supply.
- ❖ This has led to concern by some tax administrations that where full address of the recipient is not available, the supplier may declare the place of supply as his own location leading to loss of revenue for the consumption states.
- ❖ Concerns have also been raised by some taxpayers in difficulty in providing full address of the recipients on the tax invoices.
- ❖ Accordingly, request has been made to not insist for full address details of the recipient and only the name of State of the recipient may be sufficient to be provided in the tax invoice.

Proposal

- ❖ Law Committee has recommended that proviso to rule 46(f) of CGST Rules may be amended to provide that only name of the State of the recipient may be sufficient to be provided on the tax invoice for deeming as address on record, and that name, address and PIN code of the recipient may not be required to be declared on the tax invoice.
- The proposal will remove the concerns of the consumption states regarding their loss of revenue and will also ease compliance burden of the taxpayers.

Agenda 3(xvii): Amendment in CGST Rules (3/8)

[Vol III- Pg. 32-44]

III. Amendment in rule 64 and FORM GSTR-5A of CGST Rules 2017

Issue:

- ❖ Rule 64 of CGST Rules provides for filing of a monthly return in FORM GSTR-5A by a registered person providing OIDAR services from a place outside India to a person in India other than a registered person.
- ❖ Currently, FORM GSTR-5A does not capture details of supplies made by the OIDAR service provider to registered persons in India.
- ❖ There may be cases where such person registered persons in India may not be paying applicable tax on RCM basis on such supplies received from OIDAR service provider.
- ❖ Accordingly, there may be a need to include details of supplies made by the OIDAR service provider located outside India to registered persons in India in FORM GSTR-5A to keep track of such supplies.

Proposal

- ❖ Law Committee has recommended for amendment in rule 64 and in FORM GSTR-5A so as to also include details of supplies made by the OIDAR service provider located outside India to registered persons in India.
- The proposal will help in improving compliance by registered persons in India paying tax on reverse charge basis on supplies received from OIDAR service providers.

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CHAIRMAN'S
INITIALS

Agenda 3(xvii): Amendment in CGST Rules (4/8)

[Vol III- Pg. 32-44]

IV. Amendment in Rule 89(1):**Issue:**

- ❖ 3rd proviso to sub-rule (1) of rule 89 of CGST Rules provides that refund of any amount by casual taxable person or by a non-resident taxable person shall be claimed in the **last return** required to be furnished by him.
- ❖ However, **Form GSTR- 3B** does not provide any option of claiming such refund, thus creating an anomaly regarding manner of claiming refund by casual taxable person or a non-resident taxable person.

Proposal

- ❖ Law Committee has recommended that **3rd proviso to sub-rule (1) of rule 89 of CGST Rules may be amended** so that casual taxable person or a non-resident taxable person can claim refund of advance tax amount in the nature of excess balance in electronic cash ledger, **after the last return required to be furnished by him has been so furnished.**
- The proposal will facilitate the casual taxable persons and non-resident taxable persons in claiming refund of advance tax amount deposited by them.

Agenda 3(xvii): Amendment in CGST Rules (5/8)

[Vol III- Pg. 32-44]

V. Amendment in Rule 89(2)(k):**Issue:**

- ❖ In terms of clause (k) of sub-rule (2) of Rule 89 of CGST Rules, **Statement-7** as appended to **FORM GST RFD-01** is required to be submitted along with the application for refund which is made under the category '**Excess Payment of Tax**'.
- ❖ **Statement-7** is designed for excess payment of tax made in a **particular return**.
- ❖ This restricts a taxpayer in filing a claim of refund of excess payment of tax which is **not** **relatable to a particular return period** or that of **excess payment of interest, penalty or late fee, etc.** under the category '**Excess Payment of Tax**'.

Proposal

- ❖ Law Committee has recommended that:
 - **clause (k) of sub-rule (2) of Rule 89 may be amended;**
 - **Statement 7 in FORM GST RFD 01 may be amended to incorporate the said rule change.**
- The proposal will allow the taxpayer to file a claim of refund of excess payment of tax which is not relatable to a particular return period or that of excess payment of interest, penalty or late fee under the category '**Excess Payment of Tax**'.


CHAIRMAN'S
INITIALS

Agenda 3(xvii): Amendment in CGST Rules (6/8)

[Vol III- Pg. 32-44]

VI. Amendment in Rule 96(2):**Issue:**

- ❖ The option to furnish the export details specified in **Table 6A of FORM GSTR 1** after filing return in **FORM GSTR-3B** was made available initially vide 1st & 2nd Proviso to Rule 96(2) of CGST Rules, when date of filing of **FORM GSTR-1** were extended.
- ❖ However, now concept of sequential filling of Return has been introduced and Section 37 & Section 39 of CGST Act, 2017 have been amended with effect from 01.10.2022 to provide for mandatory filing of **FORM GSTR-1** before filing of **FORM GSTR-3B** for a tax period.
- ❖ Therefore, 1st & 2nd Proviso to Rule 96(2) of CGST Rules have become redundant.

Proposal

- ❖ Law Committee has recommended omission of first and second proviso to Rule 96(2) of CGST Rules as they serve no purpose in light of the amendments in section 37 and 39 of CGST Act.
- The proposal will remove the redundancy in the legal provisions.

Agenda 3(xvii): Amendment in CGST Rules (7/8)

[Vol III- Pg. 32-44]

VII. Amendment in rule 108 and rule 109**Issue:**

- ❖ In terms of sub-rule (1) of rule 108 and sub-rule (1) of rule 109 of CGST Rules, doubts are being raised as to whether an appeal under section 107 can be filed either electronically or manually at the liberty of the Appellant, or the appeal needs to be filed electronically only, if not otherwise notified by the Commissioner.
- ❖ There is a need to provide a clarity in the matter and also to provide for manual filing of appeal in some specific circumstances.

Proposal

- ❖ Law Committee has recommended amendment in rule 108(1) and rule 109(1) of CGST Rules by inserting a proviso in both of the said rules providing for filing of appeal manually under certain specified circumstances.
- The proposal will facilitate taxpayers in filing of appeal manually under specified circumstances and will reduce ambiguity on the issue.


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Agenda 3(xvii): Amendment in CGST Rules (8/8)

[Vol III- Pg. 32-44]

VIII. Notice in FORM GSTR-3A for non-filing of Annual Return in FORM GSTR-9 or FORM GSTR-9A:

Issue:

- ❖ Section 46 of the CGST Act, read with Rule 68 of CGST Rules, requires issuance of a notice in **FORM GSTR-3A** to a registered person who fails to furnish return under Section 39 or Section 44 or Section 45 or Section 52 of CGST Act requiring him to furnish such return within fifteen days.
- ❖ While **FORM GSTR-3A** has provision to issue notice to return defaulters as well as defaulters of final return, there is no provision in it to issue notice to defaulters of Annual returns.

Proposal

- ❖ Law Committee has recommended suitable amendment in **FORM GSTR-3A** for issuance of notice to the registered taxpayers for their failure to furnish Annual Return in **FORM GSTR-9** or **FORM GSTR-9A**.
- The proposal will help in improving discipline in filing of annual returns.

Agenda 3(xix): Issues pertaining to ISD mechanism and taxability of services provided by one distinct person to another distinct person (1/2)

[Vol III- Pg. 50-58]

Issue:

- ❖ Doubts are being raised as to whether is it mandatory for the headquarter office (HO) of an entity to follow the **Input Service Distributor (ISD) mechanism** for distribution of ITC in respect of **common input services, procured from a third party** which are also attributable to one or more branch offices (BOs), or can the HO also follow the **mechanism of raising invoice under section 31** to the BO without registering as ISD and the said BO thereafter claiming ITC in respect of such input services.
- ❖ Disputes are also being raised as to whether a particular activity being performed by HO for branch offices or by one BO for another BO can be treated as supply of services and also regarding the valuation of such **internally generated supply of services** from one distinct person to another distinct person, including as to which cost component is required to be included in the taxable value.

Proposal:

- ❖ **LC has recommended the following:**
 - (i) **For common input services procured from third party:**
 - ☐ To clarify through a circular that:
 - ISD mechanism is **not mandatory** as per the present provision of GST law for passing ITC in respect of common input services procured by HO from a third party which are attributable to both HO and BO or exclusively to one or more BOs;
 - **Registration as ISD mandatory** if ITC is to be distributed through ISD mechanism;
 - Distribution of ITC to a BO through ISD mechanism or through issuance of invoice under section 31 **only if the said services are actually being supplied to the concerned BO.**



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Agenda 3(xix): Issues pertaining to ISD mechanism and taxability of services provided by one distinct person to another distinct person (2/2)

[Vol III- Pg. 50-58]

Proposals:

- ☐ For future, ISD mechanism may be made mandatory prospectively by amendment in the law for distribution of ITC in respect of input services procured by HO from a third party but attributable to both HO and BOs or exclusively to one or more BOs, including in cases, where such input services are liable to tax on reverse charge basis.

➤ Amendment in GST law for the same to be formulated by the Law Committee.

(ii) For internally generated services:

- ☐ To clarify through a circular that in cases where full input tax credit is available to the recipient:
 - in view of second proviso to rule 28 of CGST Rules, the value of such supply of services declared in the invoice by HO to BOs may be deemed as open market value, irrespective of the fact whether cost of any particular component of such services, like employee cost etc., has not been included in the value of the services in the invoice, or not.
 - if the invoice is not issued with respect to any internally generated services by the HO to the BO, the value of such services may be deemed to be declared as Nil by HO to BO, and may be deemed as open market value in terms of the said proviso.
- ☐ Law Committee to further deliberate the issue of taxability and valuation of such internally generated services in cases, where full input tax credit is not available to the recipient.

➤ The proposal will help in bringing clarity on the issue and will help in reducing litigation on this issue.

Law Committee Recommendations relating to Compliance and Administrative measures under GST



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Agenda 3(ix): Procedure for Recovery of Tax and Interest in terms of Rule 88C(3)

[Vol I- Pg. 175-177]

Issue:

- ❖ As per recommendations of the GST Council in its 48th meeting, **rule 88C** was inserted in the CGST Rules with effect from **26.12.2022** for system based intimation to the registered person in cases of **difference in output tax liability in terms of FORM GSTR-1 and GORM GSTR-3B** of a registered person for any particular month above a specified threshold.
- ❖ The Council had also directed Law Committee to **formulate a procedure** in cases where the taxpayer deposits the differential tax liability only partly, with or without an explanation for such short payment, and for **further action for recovery of the unpaid amount in accordance with section 79**, for which no satisfactory explanation has been furnished.

Proposal:

- ❖ **LC recommended the following:**
 - insertion of a new **Rule 142B** in the CGST Rules and insertion of a new **FORM GST DRC-01D** to provide for **creation of liability in Electronic Liability Register** by the proper officer in respect of -
 - the amount intimated under rule 88C which is not paid by the registered person and for which no explanation has been furnished or the explanation furnished is not satisfactory; and
 - the amount of interest
- **This would help in expeditious recovery of due tax liability and interest amount.**

Agenda 3(viii): Mechanism of dealing with differences in ITC between GSTR-3B and GSTR-2B (1/2)

[Vol I- Pg. 170-174]

Issue:

- ❖ **GSTR-3B return** of a registered person for a tax period is being **auto-populated** on the portal from the details in his **FORM GSTR-1** and **FORM GSTR-2B** for the said tax period. However, the registered person is allowed presently to **freely edit the same**.
- ❖ This may lead to **availment of input tax credit by the registered person in GSTR-3B return in excess of that made available in his FORM GSTR-2B**.
- ❖ There is a need to safeguard revenue by finding suitable manner of handling and controlling the difference in ITC availed in **FORM GSTR-3B** by the registered person and that available as per his **FORM GSTR-2B**.
- ❖ Law Committee felt that considering large number of taxpayers involved, such a mechanism should be based on **system based identification of the taxpayers** based on certain approved risk criteria, along with system-based intimation, and a procedure of auto-compliance on the part of the taxpayers to explain/ take remedial action in respect of such differences, **in a manner similar to that provided for the difference between the liability reported in FORM GSTR-1 and FORM GSTR-3B vide Rule 88C of CGST Rules**.



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Agenda 3(viii): Mechanism of dealing with differences in ITC between GSTR-3B and GSTR-2B (2/2)

[Vol 1- Pg. 170-174]

Proposal:

❖ **LC recommended the following:**

- Insertion of new rule 88D in CGST Rules for system based intimation to the registered person about the difference between the input tax credit availed as per FORM GSTR-3B and that available as per FORM GSTR-2B and to direct payment of the differential amount or explain the difference.
- Insertion of a new clause (e) in sub-rule (6) of rule 59 of CGST Rules to enable blocking of FORM GSTR-1/ IFF for a subsequent tax period unless the taxpayer has reversed the amount specified in the intimation or has furnished a reply explaining the reasons for any amount remaining to be reversed.
- Insertion of FORM GST DRC-01C in CGST Rules as required under sub-rule (1) of the proposed rule 88D.
- To begin with, system based intimation under proposed rule 88D to the concerned registered person may be given in those cases where difference between the input tax credit availed in FORM GSTR-3B & that available as per FORM GSTR-2B is more than 20% as well as more than Rs. 25 lakhs.

➤ This would help in safeguarding the revenue by controlling the difference in ITC availed in FORM GSTR-3B and that available as per FORM GSTR-2B of the taxpayers, and will reduce ITC mismatches.

Agenda 3(xi): Amendment in CGST Rules, 2017 regarding registration (1/2)

[Vol 1- Pg. 190-194]

Issue:

- ❖ Some unscrupulous elements are misusing the identity of other persons to obtain fake/ bogus registration under GST, with an intention to defraud the Government exchequer.
- ❖ Such fake/ non-genuine registrations are being used to fraudulently pass on input tax credit to unscrupulous recipients by issuing invoices without any underlying supply of goods or services or both.
- ❖ This menace of fake registrations and issuance of bogus invoices for passing of fake ITC has become a serious problem, wherein fraudulent people engage in dubious and complex transactions, causing revenue loss to the government.
- ❖ There is, therefore, a need for further strengthening and streamlining the registration process in GST to tackle the menace of fake registrations.

[Signature]

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Agenda 3(xi): Amendment in CGST Rules, 2017 regarding registration (2/2)

[Vol I- Pg. 190-194]

Proposal

❖ **LC recommended the following:**

- Amendment in **rule 10A** to provide that the details of bank account may be required to be furnished within **30 days** of grant of registration, or **before filing of statement of outwards supply under section 37 of CGST Act in FORM GSTR-1/ IFF, whichever is earlier.**
- Amendment to **sub-rule (2A) of rule 21A** to provide for **system based suspension** of the registration in respect of such registered persons who either do not furnish details of valid bank account under rule 10A of CGST Rules within the time period prescribed in the said rule.
 - ✓ Insertion of 3rd proviso in **sub-rule (4) of rule 21A** to provide for **automatic revocation of suspension** upon compliance with provisions of rule 10A.
- Amendment to **sub-rule (6) of rule 59** to provide that in cases where a registered person has not furnished details of a valid bank account under rule 10A or where the said bank account is not validated, the said registered person may not be allowed to furnish the details of outward supplies in FORM GSTR-1 or using IFF.
- Amendment in **rule 9(1) and rule 25** to **do away with the requirement of presence of the applicant** for physical verification of business premises and to provide for physical verification in rule 25 in high risk cases even where Aadhaar has been authenticated.

➤ **This would streamline and strengthen the procedure for registration and help in weeding out fake registrations.**

Agenda 3(xi(a)): Pilot Project for biometric-based Aadhaar authentication of registration applicants in Puducherry

[Vol III- Pg. 7-9]

Issue:

- ❖ On the recommendations of the GST Council in its 48th meeting, it was decided to conduct a **pilot in the State of Gujarat for biometric-based Aadhaar authentication** of high-risk registration applicants.
- ❖ **Puducherry** has also communicated its **willingness to conduct pilot for biometric authentication** of Aadhaar for high-risk registration applicants in their State.

Proposal:

- ❖ In order to implement the said biometric-based Aadhaar authentication for registration applicants in Puducherry, the following notifications may be required to be issued:
 - The State of Puducherry to substitute rule 8(4A) and amendment of rule 8(5) & rule 9 of Puducherry SGST Rules on the lines of corresponding amendments in CGST Rules vide vide notification no. 26/2022-CT dated 26.12.2022 and notification no. 04/2023-Central Tax dated 31.03.2023;
 - The Central Government to further amend Notification No. 27/2022-CT dated 26.12.2022 for specifying that the proviso to rule 8(4A) will apply to the State of Puducherry as well.
 - ❖ Council may authorize the Chairperson to extend the said pilot project, if required, in other States and/ or Union territories, who may be willing to conduct pilot for such biometric authentication of Aadhaar.
 - ❖ Amendments made in rule 8(5), rule 9(1) and 9(2) of CGST Rules vide Notification No. 26/2022-CT dated 26.12.2022, may be notified by all States in their SGST Rules to provide for mandatory physical verification of registration applicants in high risk Aadhaar authenticated cases.
- **This would help in strengthening the registration process and will help in weeding out fake registrations.**

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Agenda 3(v): Clarification with respect to applicability of e-invoice w.r.t supplies made by a registered person to Government Departments, etc./ local authorities/ PSUs registered solely for the purpose of TDS

[Vol 1- Pg. 143-146]

Issue:

- ❖ Representations received seeking clarification with respect to **applicability of e-invoicing** under rule 48(4) of CGST Rules w.r.t supplies made by a registered person, whose turnover exceeds the prescribed threshold for generation of e-invoicing, **to the Government Departments or establishments / Government agencies / local authorities/ PSUs**, which are registered solely for the purpose of deduction of tax at source as per provisions of section 51 of the CGST Act.

Proposal:

- ❖ LC has recommended to clarify through a circular that:
 - the registered person, whose turnover exceeds the prescribed threshold for generation of e-invoicing, are required to **issue e-invoices for the supplies made to such Government Departments or establishments / Government agencies / local authorities / PSUs**, etc under rule 48(4) of CGST Rules.
- This will help in bringing clarity on the issue and improve e-invoicing compliance.

Agenda 3(i): Rules amendment consequent to submission of report of Group of Ministers (GoM) on implementation of E-way bill requirement for movement of Gold/ Precious stones under chapter 71

[Vol 1- Pg. 105-108]

Issue:

- ❖ The **Group of Ministers (GoM) on e-way bill for gold and precious stones** had submitted its report containing various recommendations in respect of e-way bill requirement for intra-state movement of gold and precious stones, which were accepted by the GST Council in its **47th meeting**.
- ❖ These recommendations inter alia include option to the States to require generation of e-way bill for intra-State movement of gold and precious stones, above a threshold of minimum 2 lakhs rupees, to be decided mutually by the Commissioner of State tax and Chief Commissioner of Central tax.
- ❖ LC was mandated to formulate requisite amendments in rules for this purpose.

Proposal:

- ❖ LC has recommended that a separate **rule 138F** may be inserted in **CGST Rules, 2017**, as well as in **SGST Rules, 2017** of the States who want to mandate the requirement of generation of e-way bills for intra-State movement of gold and precious stones under Chapter 71, for implementing the said recommendations of GoM.
- The proposal will enable the States to implement the requirement of e-way bill for intra-State movement of gold and precious stones, thus reducing evasion in respect of the said commodities.

[Signature]

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Agenda 3(ii): Agenda Note for Capacity based taxation and Special Composition Scheme in certain Sectors in GST (1/2)

[Vol 1- Pg. 109-129]

Issue:

- ❖ GST Council in its 42nd meeting recommended for constitution of a **Group of Ministers (GoM) for looking into the possibility of Capacity based taxation and Special Composition Scheme** in certain Sectors in GST.
- ❖ The GoM submitted its report with various recommendations which inter-alia included special registration mechanism for machines used in production of tobacco, pan masala and other similar items, special monthly returns to be filed by manufacturers of these items and prescribing heavy penalty for any unregistered machines found operating.
- ❖ These recommendations were accepted by GST Council in its 49th meeting and accordingly, procedure for implementation of said recommendation needs to be devised.

Proposal:

- ❖ Law Committee recommended for:
 - issuance of a **notification under section 148 of CGST Act prescribing the special procedure in respect of registration of machines used in manufacturing of tobacco, pan masala and similar items and special monthly returns to be filed by manufacturers of these items.**
 - Insertion of a **new section 122A in CGST Act to provide for penalty for non-declaration of machines** by such manufacturers, in addition to the penalty provisions specified in Section 122 of CGST Act.

Agenda 3(ii) : Agenda Note for Capacity based taxation and Special Composition Scheme in certain Sectors in GST (2/2)

[Vol 1- Pg. 109-129]

- Special registration of machines and filing of special monthly returns **to be done on the common portal** without any manual interface to prevent any undue harassment of the taxpayers.
 - Amendment to Section 16 of IGST Act made through section 123 of Finance Act 2021 (which provided for enabling provision for restricting IGST Refund route in respect of certain supplies or suppliers) may be **notified** with effect from **01.10.2023**.
 - **Tobacco, pan masala & similar items as well as mentha oil** may be notified under the proposed section 16(4) of IGST Act as goods on **whose supply IGST refund route shall not be available.**
 - Recommendations of GoM pertaining to implementation of QR code on pouches and track and trace mechanism, etc. may be taken at a later stage after the implementation of the special procedure recommended, as they involve detailed examination of their technical feasibility on the system.
- The implementation of special procedure for manufacturers of evasion prone commodities will help in curbing tax evasion from these commodities.


CHAIRMAN'S
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Agenda 3(xiv): Agenda Note for Rules Amendment consequent to amendments carried out by Finance Act, 2023 (1/3)

[Vol 1- Pg. 209-214]

Issue 1: Insertion of Explanation 3 to rule 43

- ❖ **Explanation to sub-section (3) of section 17 of CGST Act** was amended to provide that the value of such activities or transactions in respect of **clause (a) of paragraph 8 of Schedule III** of CGST Act, as may be prescribed, shall not be excluded from the value of exempt supply for the purpose of reversal of input tax credit under sub-section (2) of section 17.
- ❖ This was done as per the recommendation made by GST Council in its 47th meeting to **deny refund of input tax credit in respect of duty free shops (DFS) at arrival terminal of international airports.**

Proposal :

- ❖ **Law Committee has recommended for insertion of Explanation 3 after rule 43 of CGST Rules** to prescribe that:
 - **the value of activities or transactions in respect of paragraph 8(a) of Schedule III of the CGST Act, which is required to be included in the value of exempt supplies in accordance with clause (b) of Explanation to sub-section (3) of section 17 of the Act, shall be the value of supply of goods from Duty Free Shops at arrival terminal in international airports to the incoming passengers.**

Agenda 3(xiv): Agenda Note for Rules Amendment consequent to amendments carried out by Finance Act, 2023 (2/3)

[Vol 1- Pg. 209-214]

Issue 2: Amendment of rule 162

- ❖ **Vide Finance Act 2023, section 138 of the CGST Act has been amended** to provide for an amount ranging from **twenty-five percent to hundred percent** of the tax involved for **compounding of offences.**
- ❖ Further, sub-section (2) of section 138 of CGST Act provides for **prescribing such compounding amount with respect to various offences** through CGST Rules.

Proposal :

- ❖ **Law Committee has recommended for:**
 - **insertion of a sub-rule (3A) in rule 162 of CGST Rules** to prescribe the compounding amount for various offences under section 132 of CGST Act.
 - **amendment of sub-rule (3) of rule 162** to omit the condition that the applicant has cooperated in the proceedings.



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Agenda 3(xiv): Agenda Note for Rules Amendment consequent to amendments carried out by Finance Act 2023 (3/3)

Issue 3: Insertion of rule 163

[Vol I- Pg. 209-214]

- ❖ GST Council in its 47th meeting recommended to allow sharing of data available on the portal with the consent of the supplier and also of the recipient in certain cases.
- ❖ Accordingly, a new section 158A has been inserted in the CGST Act through Finance Act, 2023 to provide for prescribing manner and conditions for sharing of information furnished by registered person on the common portal with such other systems, as may be notified.

Proposal :

- ❖ Law Committee has recommended for:
 - Insertion of rule 163 in CGST Rules to implement the provisions of the newly inserted section 158A in CGST Act regarding consent based sharing of information of registered persons under GST.
 - Issuance of a notification under section 158A of CGST Act for notifying "Account Aggregators" as the systems with which information is to be shared by the common portal.
- The above amendments in CGST Rules and issuance of notifications to be done once the provisions of Finance Act 2023 come into effect.
- Council may also like to fix 01.10.2023 as the date on which the provisions in Finance Act, 2023 pertaining to GST may come into effect.
- The proposal will help in bringing effect to amendments carried out in CGST Act through Finance Act 2023.

Agenda 3(xv): Agenda Note for prescribing Goods and Services Tax Appellate Tribunal (Appointment and Conditions of Service of President and Members) Rules, 2023

[Vol III- Pg. 10-25]

Issue:

- ❖ In 49th GST Council meeting, the recommendation of the Group of Ministers (GoM) on the constitution of Goods and Services Tax Appellate Tribunal (GSTAT) was accepted by the Council.
- ❖ Accordingly, the law amendments in CGST Act, 2017 relating to the constitution of GST Appellate Tribunal have been incorporated through Finance Act, 2023 (vide clause 149 to 154 of the Finance Act, 2023), by substitution of sections 109, 110 and 114 of CGST Act and by amending sections 117, 118 and 119 of CGST Act.
- ❖ Therefore, it is required that Rules governing appointment and conditions of President and Members of the proposed GST Appellate Tribunal may be formulated for enabling smooth constitution and functioning of GST Appellate Tribunal.

Proposal

- ❖ Law Committee has recommended the rules for governing appointment and conditions of President and Members of the proposed GST Appellate Tribunal in form of GSTAT (Appointment and Conditions of Service of President and Members) Rules, 2023.
- ✓ The said Rules may be notified after notification of the above mentioned provisions of the Finance Act, 2023.
- The proposal will help in smooth implementation and effective operation of GST Appellate Tribunal.



CHAIRMAN'S
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Agenda 3(iv): Issues pertaining to interpretation of Section 10 of IGST Act, 2017

[Vol 1- Pg. 139-142]

Issue:

- ❖ In 37th GST Council Meeting, an agenda was placed before the GST Council for deliberation and approval of draft circular for clarifying the interpretation of section 10 of the IGST Act, 2017 for determining the place of supply (PoS) in cases where the goods are purchased over the counter (OTC) basis in one state and thereafter transported to another state by the recipient.
- ❖ The Council recommended to refer the agenda back to the Law Committee for considering the issue afresh after obtaining opinion of the States.

Proposal:

- ❖ Law Committee considered the issue afresh after obtaining the opinion of the States and recommended the following –
 - No need for amendment in section 10 of IGST Act for the supplies made to registered persons.
 - For the supplies made to unregistered persons, insertion of a new clause (ca) after clause (c) of sub-section (1) of section 10 of the IGST Act providing that PoS be:
 - ✓ the location as per the address of the said person recorded in the invoice issued in respect of the said supply; and
 - ✓ the location of the supplier, where the address of the said person is not recorded in the invoice.
- This will bring clarity for determination of the place of supply in case of OTC sale and will help in reducing disputes on the issue.

Other Proposals pertaining to Law and Procedures


CHAIRMAN'S
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Agenda 13: Request for extension of due dates for filing GSTR-7, GSTR-1 & GSTR-3B for the months of April, May and June 2023 and extension of Amnesty Schemes in the State of Manipur

Issue:

[Vol III- Pg. 60-61]

- ❖ Request has been received from the CCT Manipur vide letter dated 03.07.2023 for extension of due dates for filing GSTR-7, GSTR-1 & GSTR-3B for the months of April, May and June 2023 in the State of Manipur till 31.07.2023. It has been stated that due to volatile law and order situation in the State, mobile data services and internet/ data service are under suspension in the State.
- ❖ CCT, Manipur has also requested to extend the Amnesty Schemes notified vide notifications dated 31.03.2023 regarding non-filers of GSTR-4, GSTR-9 and GSTR-10 returns, revocation of cancellation of registration and deemed withdrawal of assessment orders issued under Section 62 till 31.07.2023, as these amnesty schemes have come to an end on 30.06.2023.
- ❖ Similar request for extension of amnesty schemes have also been received from some trade association.
- ❖ GSTN has informed that:
 - due date of filing of GSTR-7, GSTR-1 & GSTR-3B can be extended on the portal for taxpayers of Manipur;
 - it may not be possible for immediate extension of dates of amnesty scheme on the portal only for taxpayers of one State, as it will require coding in each of the functionalities for amnesty scheme;
 - such extension of dates for amnesty schemes can, however, be done easily on the portal on All India Basis.

Proposal:

- ❖ Council may deliberate on the matter regarding the request of CCT Manipur.

THANK YOU

(Signature)

CHAIRMAN'S
INITIALS

GST-R1 and GST-R3B filing Trend by Manipur Tax Payers

GST-R1

Return Period	Eligible to File	Filed till end of next month		Filed till 06th July 2023	%age filing till date
Jan-23	9,805	6,921	70.59%	7,977	81.36%
Feb-23	8,694	7,145	82.18%	7,872	90.55%
Mar-23	11,229	8,222	73.22%	9,112	81.15%
Apr-23	8,800	3,606	40.98%	5,756	65.41%
May-23	8,763	4,944	56.42%	5,288	60.34%

GST-R3B

Return Period	Eligible to File	Filed till end of next month	%age filing till end of next Month	Filed till 06th July 2023	%age filing till date
Jan-23	9,805	6,735	68.69%	7,941	80.99%
Feb-23	8,694	7,009	80.62%	7,827	90.03%
Mar-23	11,229	7,895	70.31%	8,948	79.69%
Apr-23	8,800	3,480	39.55%	5,644	64.14%
May-23	8,763	4,798	54.75%	5,159	58.87%

No. of Tax Payers who have NOT Provided Bank Account till date				
Date Slab based on Registration Grant Date (Current Date - GST Approval Date)	No. of Tax Payers	%age of Total	No. of Tax Payes who got Registered on or after 01st Jan 2023	%age of Total
Within 10 days	37,366	4.14%	37,366	9.30%
11 to 20 days	32,730	3.63%	32,730	8.15%
21 to 30 days	41,972	4.65%	41,972	10.45%
31 to 45 days	50,767	5.62%	50,767	12.63%
More than 45 days	7,40,021	81.96%	2,38,971	59.47%
Grand Total	9,02,856	100.00%	4,01,806	100.00%
Total Number of Active Tax Payers as on date		1,37,82,851		
%age of Defaulters		6.55%		
Total Number New Registration Jan-23 to June-23		10,46,211		
%age of Defaulters		38.41%		
Note :				
1. Only Active Tax Payers are considered				
2. Only Normal and Composition Tax Payers are considered				



CHAIRMAN'S INITIALS

Return Risk Engine (ITC Spike Rule: R3B-R2B)								
Domestic ITC availed in GST-R3B compared with Domestic ITC accrued in GST-R2B						Only Monthly Tax Payers are considered		
Return Period	Above 10 lakhs & 10%		Above 10 lakhs & 15%		Above 10 lakhs & 20%		Above 25 lakhs & 20%	
	No. of GSTINs	Mismatch (in Cr.)	No. of GSTINs	Mismatch (in Cr.)	No. of GSTINs	Mismatch (in Cr.)	No. of GSTINs	Mismatch (in Cr.)
Oct-22	14,180	10,821.65	12,960	10,129.72	11,944	9,462.85	5,331	8,438.45
Nov-22	11,332	7,897.89	10,319	7,363.39	9,463	6,910.19	4,081	6,080.95
Dec-22	11,471	8,627.92	10,426	8,050.12	9,590	7,458.74	4,272	6,636.28
Jan-23	11,340	11,571.09	10,438	11,135.53	9,684	10,770.51	4,248	9,931.70
Feb-23	13,862	8,295.65	12,933	7,814.01	12,185	7,418.58	5,266	6,348.85
Mar-23	33,239	22,610.51	31,335	21,526.62	29,700	20,313.74	13,361	17,787.58
Apr-23	8,292	25,634.28	8,735	25,333.14	8,205	24,922.90	3,974	24,287.94
May-23	12,084	9,287.71	11,193	8,709.57	10,467	8,241.32	4,922	7,378.13
Grand Total	1,16,800	1,04,746.71	1,08,339	1,00,062.10	1,01,228	95,498.82	45,455	86,845.75
Average Per Return Period	14,600	13,093	13,542	12,508	12,654	11,937	5,682	10,856

Return Risk Engine (R1 and R3B Spike Rule: R1-R3B)								
Liability Declared in GST-R1 compared with GST-R3B						Only Monthly Tax Payers are considered		
Return Period	Above 10 lakhs & 10%		Above 10 lakhs & 15%		Above 10 lakhs & 20%		Above 25 lakhs & 20%	
	No. of GSTINs	Mismatch (in Cr.)	No. of GSTINs	Mismatch (in Cr.)	No. of GSTINs	Mismatch (in Cr.)	No. of GSTINs	Mismatch (in Cr.)
Oct-22	2,628	1,528.13	2,558	1,496.96	2,495	1,463.63	1,094	1,250.55
Nov-22	2,289	1,637.04	2,235	1,610.93	2,177	1,582.89	962	1,395.78
Dec-22	2,526	7,386.32	2,454	7,348.90	2,384	7,311.99	1,105	7,114.11
Jan-23	2,855	1,959.29	2,806	1,935.02	2,528	1,901.52	1,085	1,680.25
Feb-23	3,654	3,752.66	3,601	3,725.07	3,540	3,678.70	1,327	3,340.77
Mar-23	7,640	4,963.51	7,506	4,897.14	7,378	4,825.73	3,410	4,209.11
Apr-23	5,238	6,295.29	5,158	6,237.72	5,096	6,212.98	2,117	5,751.39
May-23	13,404	8,900.78	13,353	8,877.08	13,297	8,843.16	5,414	7,626.41
Grand Total	40,034	36,423.03	39,471	36,128.82	38,895	35,820.59	16,514	32,368.37
Average Per Return Period	5,004	4,562.88	4,934	4,516.10	4,862	4,477.57	2,064	4,046.05

Chairman's Initials

CHAIRMAN'S INITIALS

Annexure-4

50th GST Council Meeting

Agenda item 4

Recommendations of Fitment Committee
on
Goods and Services

11th July, 2023

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



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Goods

- **Total 35 issues examined**

- Recommendations for making **changes** in GST rates/ issuing clarifications- **14**
[Agenda 4 (a): Vol-I: Annexure-I :pages 216 to 225]
- Recommendations for making **no change** - **17**
[Agenda 4 (b): Vol-I: Annexure-II: pages 226-237]
- Issues **deferred** for further examination – **4**
[Agenda 4 (c): Vol-I: Annexure-III :pages 238 to 246]

Services

- **Total 16 issues examined**

- Recommendations for making **changes** in GST rates/ issuing clarifications- **7**
-[Agenda 4 (d): Vol –I: Annexure-IV :pages 247 to 260]
- Recommendations for making **no change** - **3** - [Agenda 4 (e): Vol –I: Annexure-V: pages 261-264]
- Issues **deferred** for further examination – **6** -[Agenda 4 (f) : Vol –I: Annexure-VI :pages 265 to 274]
- **Standalone agenda -1 (Sl.No. 3/3A)** -[Agenda 4 (Part II) (g) : Vol III (addendum):pages 71 to 74]



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Goods-Changes Recommended (14):

Agenda No.	Issue/Proposal	Status after officers' meeting
4(a) (Annexure-I) <u>S.No. 1</u> Vol-I: Page No. 216	<ul style="list-style-type: none"> ➤ GST rate on uncooked/unfried extruded snack pellets, by whatever name called, may be reduced to 5% ➤ The issue for the past periods may be regularized on as is basis. 	No objection
4(a) (Annexure-I) <u>S.No. 2</u> Vol-I: Page No. 216-217	<ul style="list-style-type: none"> ➤ GST rate on fish soluble paste (CTH 2309) may be reduced from 18 % to 5%. ➤ The issue for the past periods may be regularized on as is basis. 	No objection

Agenda No.	Issue/Proposal	Status after officers' meeting
4(a) (Annexure-I) <u>S.No. 3</u> Vol-I: Page No. 217	<ul style="list-style-type: none"> ➤ IGST may be exempted on Dinutuximab (Quarziba) cancer medicine when imported for personal use. MoHFW has confirmed that Dinutuximab (Quarziba) is not approved by the Central Drugs Standard Control Organization (CDSCO) and hence is only imported 	No objection
4(a) (Annexure-I) <u>S.No. 4</u> Vol-I: Page No. 217-218	<ul style="list-style-type: none"> ➤ IGST may be exempted <ol style="list-style-type: none"> on Medicines and Food for Special Medical Purposes (FSMP) used in the treatment of rare diseases enlisted under the National Policy for Rare Diseases, 2021 which are imported for personal use subject to existing conditions and FSMP when imported by Centres of Excellence for Rare Disease or any person or institution on recommendation of any of the listed Centres of Excellence. 	No objection

Agenda No.	Issue/Proposal	Status after officers' meeting
4(a) (Annexure-I) S.No. 5 Vol-I: Page No. 218-219	<ul style="list-style-type: none"> ➤ On the recommendations of 47th GST Council meeting, GST rate of 5% was fixed on all goods viz. trauma, Spine and Arthroplasty implants falling under heading 9021 w.e.f. 18.07.2022. ➤ Earlier there were two entries @ 5% and @ 12% for similar goods under 9021, which was causing confusion. ➤ To regularize the matter for the period prior to 18.07.2022 on "as is basis" in view of genuine interpretational issues, that is , in case of payments at 5% or 12%. 	No objection
4(a) (Annexure-I) S.No. 6 Vol-I: Page No. 219-220	<ul style="list-style-type: none"> ➤ May be clarified that supply of raw cotton, including kala cotton, from agriculturists to cooperatives is a taxable supply and such supply to the cooperatives (being a registered person) attracts 5% GST under reverse charge mechanism. ➤ The issue for the past periods may be regularized on as is basis. 	No objection

Agenda No.	Issue/Proposal	Status after officers' meeting
4(a) (Annexure-I) S.No. 7 Vol-I: Page No. 220-221	<ul style="list-style-type: none"> ➤ New Foreign Trade Policy came into force w.e.f. 01.04.2023. ➤ Consequential changes may be carried out in the notifications. 	No objection
4(a) (Annexure-I) S.No. 8 Vol-I: Page No. 221-222	<ul style="list-style-type: none"> ➤ GST on imitation zari thread or yarn known by any name in trade parlance may be reduced from 12% to 5%. ➤ The issue for the past periods may be regularized on as is basis. 	No objection
4(a) (Annexure-I) S.No. 9 Vol-I: Page No. 222-223	<ul style="list-style-type: none"> ➤ GST rate may be reduced on LD slag from 18% to 5%. 	<ul style="list-style-type: none"> ➤ Both Odisha & Punjab drew attention to 48th GSTC wherein the same request was not recommended on the ground that it can be used in cement industry and ITC can be taken. It was explained that LD slag is not preferred by cement industry due to excess lime content. <p align="right">..... contd.</p>



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Agenda No.	Issue/Proposal	Status after officers' meeting
4(a) (Annexure-I) S.No. 9 Vol-I: Page No. 222-223	<ul style="list-style-type: none"> ➤ GST rate may be reduced on LD slag from 18% to 5%. 	<ul style="list-style-type: none"> ➤ Karnataka pointed out that other by-products of steel namely, BF Slag & Fly Ash are already at 5%. ➤ Odisha was asked whether a study has been conducted. ➤ Maharashtra pointed out that if offlake is not there, taxing at 18% has no meaning.
4(a) (Annexure-I) S.No. 10 Vol-I: Page No. 223	<ul style="list-style-type: none"> ➤ IGST exemption is available on imports of gold, silver or platinum by specified banks and other entities mentioned in List 34 of S. No. 359A of Notification No. 50/2017 – Customs dated 30.06.2017. ➤ List no. 34 may be updated as per revised Appendix 4B of FTP 2023 subject to confirmation from DGEP and DGFT. 	No objection

Agenda No.	Issue/Proposal	Status after officers' meeting
4(a) (Annexure-I) S.No. 11 Vol-I: Page No. 223-224	<ul style="list-style-type: none"> ➤ Compensation cess of 22% is applicable on <i>Sports Utility Vehicles (SUVs) (of length more than 4-metre, engine capacity more than 1500cc and ground clearance 170 mm).</i> ➤ FC recommended to include all <u>utility vehicles</u> by whatever name called provided they met the parameters of Length greater than 4000 mm, Engine capacity greater than 1500 cc and Ground clearance more than 170 mm. ➤ FC also recommended to insert an Explanation to clarify for the purposes of the said notification entry "Ground Clearance" in entry 52B means Ground Clearance in unladen condition. 	No Objection

Agenda No.	Issue/Proposal	Status after officers' meeting
4(a) (Annexure-I) S.No. 12 Vol-I: Page No. 224-225	➤ In cases where RSP is not required to be declared by law on pan masala and tobacco products, earlier ad-valorem rate, applicable as on 31st March 2023 for such goods, may be notified by amending the compensation cess notification.	No objection
4(a) (Annexure-I) S.No. 13 Vol-I: Page No. 225	➤ Issues related to dessicated coconuts for the period 1.7.2017 to 27.7.2017 may be regularized on as is basis.	No objection
4(a) (Annexure-I) S.No. 14 Vol-I: Page No. 225	➤ Since areca leaf plates and cups are already exempt, no action is required.	States had no objection but Karnataka suggested to regularise on as is basis for the period before 01.10.2019

Goods-**No change recommended (17) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(b) (Annexure-II) S.No. 1 Vol-I: Page No. 226	➤ Ministry of Power has requested for reduction of rate of GST on agro based biomass pellets to Nil as they have mandate to use 5% of biomass co-firing in all coal based Thermal Power Plants and to promote its uptake. ➤ Fitment Committee recommended to maintain <i>status quo</i> .	➤ While Gujarat has no objection to the proposal, the state suggested to regularise the issue on biomass briquettes for the period 01.07.2017 to 12.10.2017 and on solid bio fuel pellets from 01.07.2017 to 26.07.2018.
4(b) (Annexure-II) S.No. 2 Vol-I: Page No. 227	➤ Request is for increasing GST rate on de-oiled rice bran on the grounds that rice bran is sold to animal feed producers directly from the un-organized market or billed as de-oiled rice bran so as to avail nil GST ➤ The GoM on rate rationalisation in its interim report did not recommend bringing all goods under chapter 23 (other than dog and cat food) to 5%. ➤ Fitment Committee recommended to maintain <i>status quo</i> .	No objection



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Agenda No.	Issue/Proposal	Status after officers' meeting
4 (b) (Annexure-II) S.No. 3 Vol-I: Page No. 227	<ul style="list-style-type: none"> ➤ Request is to exempt products prepared or manufactured by the inmates of Kerala Prison and Correctional Services Department. ➤ End use based exemption is difficult to administer, prone to leakages ➤ Will lead to inverted duty structure on many commodities. ➤ Fitment Committee recommended to maintain <i>status quo</i>. 	No objection
4 (b) (Annexure-II) S.No. 4 Vol-I: Page No. 228	<ul style="list-style-type: none"> ➤ Request is for reduction in GST rate on bio-fertilizers and organic inputs from 12% to 5%. ➤ Council did not recommend changes in rates in 31st, 39th, 45th and 47th meetings. ➤ Fitment Committee recommended to maintain <i>status quo</i>. 	No objection

Agenda No.	Issue/Proposal	Status after officers' meeting
4(b) (Annexure-II) S.No. 5 Vol-I: Page No. 228-229	<ul style="list-style-type: none"> ➤ Request is to reduce GST on Sungudi sarees from 5% to nil. ➤ Exempting GST will break ITC chain and entail end use-based exemption which are prone to misuse. ➤ Persons under the threshold exemption are exempt from paying GST on their supplies. ➤ Fitment Committee recommended to maintain <i>status quo</i>. 	No objection
4(b) (Annexure-II) S.No. 6 Vol-I: Page No. 229-230	<ul style="list-style-type: none"> ➤ Request is from IAEA seeking upfront exemption from IGST on imports of their equipment and doing away with refund mechanism under Section 55 of CGST Act. ➤ Giving such exemption for a particular organization will result in similar requests in future from other organizations, which is not desirable and is prone to misuse. ➤ Fitment Committee recommended to maintain <i>status quo</i>. 	No objection

Agenda No.	Issue/Proposal	Status after officers' meeting
4(b) (Annexure-II) S.No. 7 Vol-I: Page No. 230	<ul style="list-style-type: none"> ➤ Request is to reduce GST on Avgas from 18% to nil/1%. ➤ Avgas is not goods for common man purpose. ➤ Reducing GST rate is not likely to significantly reduce training cost. ➤ ITC is available of GST paid on Avgas used for supplying pilot training services ➤ Fitment Committee recommended to maintain <i>status quo</i>. 	No objection
4(b) (Annexure-II) S.No. 8 Vol-I: Page No. 231	<ul style="list-style-type: none"> ➤ Request is to reduce GST on machinery used in sericulture industry and automatic reeling machinery from 18 % to 5%/Nil. ➤ End-use based exemption are prone to misuse ➤ Will deepen duty inversion as raw materials attract 18% GST. ➤ Council in 47th meeting did not recommend change in rate for Silk Reeling machineries. ➤ Fitment Committee recommended to maintain <i>status quo</i>. 	No objection

Agenda No.	Issue/Proposal	Status after officers' meeting
4(b) (Annexure-II) S.No. 9 Vol-I: Page No. 231-232	<ul style="list-style-type: none"> ➤ Request is for uniform GST rate of 5% on all sports goods (presently @12 %) and fitness products (@18%). ➤ This will lead to inverted duty structure as most of the inputs (steel, rubber etc) attract GST @ 18%. ➤ Fitment Committee recommended to maintain <i>status quo</i>. 	No objection
4(b) (Annexure-II) S.No. 10 Vol-I: Page No. 232	<ul style="list-style-type: none"> ➤ The present request is for introducing concessions under GST based on the lines of those that existed in the Central Excise regime for Mega Power Projects and that existed presently in Customs. ➤ Fitment Committee recommended to maintain <i>status quo</i>. 	No objection
4(b) (Annexure-II) S.No. 11 Vol-I: Page No. 233	<ul style="list-style-type: none"> ➤ Request is to reduce GST rate on apple carton boxes from 18 to 5 %. ➤ End-use based exemptions/concessional rates are difficult to administer. ➤ Fitment Committee recommended to maintain <i>status quo</i>. 	No objection



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Agenda No.	Issue/Proposal	Status after officers' meeting
4(b) (Annexure-II) S.No. 12&14 Vol-I: Page No. 233-234, 235	<ul style="list-style-type: none"> ➤ Present request is to reduce GST and compensation cess on flexi fuel vehicles. ➤ Flexi-fuel vehicles not clearly distinguishable and identifiable unlike EVs. ➤ No clear cut 'definition' of flexi fuel vehicle in the Motor Vehicle Act or any allied Acts. ➤ May lead to mis-classification of vehicles as flexi fuel vehicles for availing benefit of concessional GST rate. ➤ Fitment Committee recommended to maintain <i>status quo</i>. 	No objection
4(b) (Annexure-II) S.No. 13 Vol-I: Page No. 234	<ul style="list-style-type: none"> ➤ Request is to exempt GST on agricultural products and on agriculture- based items to protect farmers. ➤ Farmers do not have to pay tax on supply of fresh fruits and vegetables. Request is general in nature. ➤ Fitment Committee recommended to maintain <i>status quo</i>. 	No objection

Agenda No.	Issue/Proposal	Status after officers' meeting
4(b) (Annexure-II) S.No. 15 Vol-I: Page No. 235-236	<ul style="list-style-type: none"> ➤ Request is to reduce GST on utensil made up of metals. ➤ Already an inverted duty structure as raw materials attract 18% GST. Cost may increase with ITC accumulation. ➤ Fitment Committee recommended to maintain <i>status quo</i>. 	No objection
4(b) (Annexure-II) S.No. 16 Vol-I: Page No. 236	<ul style="list-style-type: none"> ➤ Request is to reduce GST rate on heavy feedstock, Vacuum Gas Oil (VGS)/reformates, etc from 18% to nil. ➤ Lack of clarity on intended use, capacity utilization potential and benefits. ➤ Fitment Committee recommended to maintain <i>status quo</i>. 	No objection
4(b) (Annexure-II) S.No. 17 Vol-I: Page No. 236-237	<ul style="list-style-type: none"> ➤ Request is to reduce rate on all bakery products manufactured and sold by MSME to 5%. ➤ Providing source based exemption to MSME sector for specific products will be difficult to monitor and will cause distortion. ➤ Fitment Committee recommended to maintain <i>status quo</i>. 	No objection

Goods- **Deferred Issue (4):**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Annexure-III) S.No. 1 Vol-I: Page No. 238-240	➤ On the issue of prescribing 5% GST rate on 'millet-mix' containing 90% millets, Fitment committee recommended to defer the issue for in-depth study as classification and tax treatment at par with cereal flours is likely to affect a large number of similarly placed products/mixes such as idle mix, dosa mix etc entailing significant revenue implication.	No objection
4(c) (Annexure-III) S.No. 2 Vol-I: Page No. 240	➤ On the issue whether khari and cream roll should get covered under "rusk, toasted bread and similar toasted products", Fitment Committee recommended to defer the issue for in-depth study regarding the nature of product and process of preparation before making any suggestions.	No objection

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Annexure-III) S.No. 3 Vol-I: Page No. 240-241	<p>➤ Request is to clarify regarding the scope of the product 'sugar-boiled confectionary' in view of difficulty in administering the levy on sugar boiled confectionery (at 12%) from sugar confectionary (at 18%).</p> <p>➤ On the issue of prescribing a uniform rate, Fitment Committee recommended to defer the issue for industry consultation.</p>	No objection



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Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Annexure-III) S. No. 4 Vol-I: Page No. 241-246	<ul style="list-style-type: none"> ➤ GST Council in its 47th meeting referred the issue of levy of GST on steel scrap on RCM basis to Fitment Committee. ➤ <u>State of Karnataka:</u> <ul style="list-style-type: none"> ❖ Such proposal may not be feasible as it breaks the ITC chain, leads to cascading of taxes and breakage of audit trail. ❖ Suggested measures such as introduction of trace and track mechanism, better registration procedures, registration of e-way bills if that commodity is registered to be supplied, ITC only if invoice is registered etc. ➤ <u>State of Punjab:</u> <ul style="list-style-type: none"> ❖ Tax iron and scrap on RCM and exempt supply of scrap in the hands of traders ❖ Make e-way bill mandatory for all transactions in scrap irrespective of value. ➤ Fitment Committee recommended to defer the issue to create a Committee of officers to study the issue holistically and to come up with workable solutions. 	No objection

Services- Change recommended (7) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(d) (Annexure-IV) S.No. 1 Vol-I: Page No. 247	<ul style="list-style-type: none"> ➤ Satellite launch services supplied by ISRO, Antrix Corporation Ltd (ACL) and New Space India Ltd (NSIL) are already exempt from GST ➤ GST on satellite launch services provided by private organizations may be exempted to promote start ups. 	No objection
4(d) (Annexure-IV) S.No. 2 Vol-I: Page No. 247-248	<ul style="list-style-type: none"> ➤ Anomaly may be rectified by inserting an Explanation that item at sl. No. 3(ie) of the notification No. 11/2017-CTR refers to sub-items of the item (iv),(v) and (vi) of the notification as they existed in notification prior to their omission vide notification No. 03/2022-CTR dated 13.07.2022. 	No objection

[Signature]

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Services- Change recommended (7) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(d) (Annexure-IV) <u>S.No. 3</u> Vol-I: Page No. 248	➤ Entry at clause (h) of explanation to the entry at Sl. No. 24 (i) of the notification No. 11/2017 CTR dated 28.06.2017 may be omitted as parallel entry at sl. No. 53A of the notf. No. 12/2017 CTR dated 28.06.2017 has already been omitted.	No objection
4(d) (Annexure-IV) <u>S.No. 4(a)</u> Vol-I: Page No. 248-250	➤ GTAs may not be required to file declaration for paying GST under forward charge every year. If they have exercised this option for a particular financial year, they shall be deemed to have exercised it for the next and future financial years unless they file a declaration that they want to revert to reverse charge mechanism (RCM).	No objection

Services- Change recommended (7) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(d) (Annexure-IV) <u>S.No. 4(b)</u> Vol-I: Page No. 250	➤ Last date of exercising the option by GTAs to pay GST under forward charge may be 31st March of preceding Financial Year instead of 15th March. 1st January of preceding Financial Year may be the start date for exercise of option.	No objection
4(d) (Annexure-IV) <u>S.No. 5</u> Vol-I: Page No. 250-252	<p>➤ The provisions which were introduced in the notification Nos. 8/2017-ITR, 9/2017-ITR and 10/2017-ITR making the importer liable to pay GST on ocean freight paid to foreign shipping lines under RCM have lost relevance and thus may be amended/deleted.</p> <p>➤ The proposed amendments/deletions may be synchronized with date of notification of Section 162 of Finance Act, 2023.</p>	No objection



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Services- **Change recommended (7) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4 (d) (Annexure-IV) S.No. 6 Vol-I: Page No. 252	<ul style="list-style-type: none"> ➤ It may be clarified that services supplied by a director of a company to the company in his private or personal capacity such as supplying services by way of renting of immovable property to the company or body corporate are not taxable under RCM. ➤ Only those services supplied by a director of company or body corporate, which are supplied by him as or in the capacity of director of that company or body corporate shall be taxable under RCM in the hands of the company or body corporate under notification No. 13/2017-CTR (Sl. No. 6) dated 28.06.2017. 	No objection
4(d) (Annexure-IV) S.No. 7 Vol-I: Page No. 252-255	<ul style="list-style-type: none"> ➤ It may be clarified that supply of food in cinema halls is taxable as restaurant service as long as (a) they are supplied by way of or as part of a service and (b) supplied independently of the cinema exhibition service. ➤ Where the sale of cinema ticket and supply of food and beverages are clubbed together, and such bundled supply satisfies the test of composite supply, the entire supply will attract GST at the rate applicable to service of exhibition of cinema, the principal supply. 	No objection

Services- **No change recommended (3) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4 (e) (Annexure-V) S.No. 1 Vol-I: Page No. 261	<ul style="list-style-type: none"> ➤ Exempt IGST on purchase of aircraft and aircraft lease payment ➤ The request to abolish GST of 5% on import/purchase of aircrafts and lease payments on leased aircrafts and engines was placed before the 45th GST Council. The Council did not accede. ➤ Fitment Committee recommended to maintain <i>status quo</i> 	No objection
4(e) (Annexure-V) S.No. 2 Vol-I: Page No. 261-263	<ul style="list-style-type: none"> ➤ Exempt GST on the services by the way of granting affiliation to schools by Central Board of Secondary Education (CBSE) for conduct of secondary stage examinations in schools ➤ Request for granting exemption on services by the way of affiliation services provided by universities/board or other educational organizations to educational institution was placed before the 47th GST Council. The Council did not accept the request. ➤ Fitment Committee recommended to maintain <i>status quo</i> 	No objection



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Services-**No change recommended (3) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(e) (Annexure-V) <u>S.No. 3</u> Vol-I: Page No. 263-264	<ul style="list-style-type: none"> ➤ Exempt GST on digital news subscription ➤ Subscription of e-papers is cheaper than the subscription of print newspaper. ➤ Further, e-papers are offered at discounted price by various platforms from time to time, thus bringing the price even lower. ➤ Lowering of GST on e-paper will adversely affect the printed newspaper industry. ➤ Exemption would result in blockage of ITC and increase of cost. This will also lead to inverted duty structure. ➤ Fitment Committee recommended to maintain <i>status quo</i>. 	No objection

Services- **Deferred Issue (6):**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(f) (Annexure-VI) <u>S.No. 1</u> Vol-I: Page No. 265-267	<ul style="list-style-type: none"> ➤ To clarify whether service by way of hostel accommodation, service apartments/ hotels booked for longer period is a service of renting of residential dwelling for use as residence and exempted. ➤ Since the matter is sub-judice in the Hon'ble Supreme Court of India, it may be deferred. 	No objection
4 (f)(Annexure-VI) <u>S.No. 2</u> Vol-I: Page No. 267-268	<ul style="list-style-type: none"> ➤ To exempt services provided by District Mineral Foundations (DMFs). ➤ 45th GST Council deferred the matter stating that the issue was not clear. Further, the council directed to obtain details about the nature of activities undertaken by DMF from Odisha. ➤ However, no reply in the matter has been received so far. ➤ The matter may be deferred till reply is received from State of Odisha. 	No objection



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Services- **Deferred Issue (6):**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(f) (Annexure-VI) S.No. 3 Vol-I: Page No. 268-269	<ul style="list-style-type: none"> ➤ To clarify whether reimbursement of electricity charges received by the Real estate companies, malls, airport operators etc. from their lessees/occupants is exempt from GST ➤ Members were requested to share practices being followed in their states with regard to levy of GST on such further supply of electricity along with other details. The reply has not been received so far. ➤ The matter may be deferred till the receipt of information. 	No objection
4(f) (Annexure-VI) S.No. 4 Vol-I: Page No. 279-271	<ul style="list-style-type: none"> ➤ To clarify whether ITC credit of other business verticals can be used to discharge GST on outward liability in respect of restaurant service given the restriction of input tax credit as specified in notification No. 11/2017-CT (Rate) dated 28.06.2017 ➤ Data from GSTN is required to be obtained regarding how much tax is being paid by suppliers of restaurant service in cash and credit ➤ Pending the information the matter may be deferred. 	No objection

Services- **Deferred Issue (6):**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(f) (Annexure-VI) S.No. 5 Vol-I: Page No. 271-272	<ul style="list-style-type: none"> ➤ To clarify that job work activity for processing of "Barley" into malt for alcoholic beverages industry attracts GST @ 5% and in case it is held that GST @18% i.e., leviable, to regularize for past on 'as is basis' ➤ West Bengal raised some concerns in relation to the instant issue and requested for time to present its views after due consultation. ➤ The matter may be deferred. 	No objection
4(f) (Annexure-VI) S.No. 6 Vol-I: Page No. 272-274	<ul style="list-style-type: none"> ➤ To apply uniform 5% GST on Business Correspondent services provided in both rural/urban areas. ➤ Data is required from Department of Financial Services regarding services provided by BC/BF in urban areas. ➤ The matter may be deferred. 	No objection

Services : **Standalone agenda (1)**

Agenda No.	Issue/Proposal	Status after officers' meeting
Agenda 4 (Part II) (g) Vol III (addendum) pages 71 to 74	➤ Standalone agenda deferred from 47th Meeting: positive list of services to be specified in Sl. No. 3/3A	-



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Recommendations of the Fitment Committee:

Goods

Agenda 4(a) (Annexure-I): Changes in GST rates/ issuing clarification (pages-215-225)

1. Kachri /Kachri Papad/Unfried snack pellets manufactured through extrusion process : (page 216)

- On the recommendations of 48th GST Council, a clarification was issued that extruded products such as “fryums” are classifiable under 19059030 attracting GST rate of 18%.
- Representation received:
 - to reduce the rate of GST or exempt the products, and
 - to regularize the issue for the past periods.
- Fitment Committee recommendations:-
 - GST rate on uncooked/unfried extruded snack pellets, by whatever name called, may be reduced to 5%
 - The issue for the past periods may be regularized on *as is basis*.



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Agenda 4(a) (Annexure-I)

2. Fish soluble paste: (pages 216-217)

- Retrospective GST exemption was given till 30.09.2019 to Fishmeal and unintended waste generated during the production of fish meal (falling under heading 2301), except for fish oil, on the recommendation of the 37th and 45th GST Council meetings respectively.
- Fish soluble paste is a by-product produced while producing fish meal and fish oil.
- Fishmeal attracts GST rate of 5% but fish soluble paste, generated as a waste by-product during the process of manufacture of fish meal, attracts 18% GST rate.
- Representation received:
 - to reduce the rate of GST to 5%
 - to regularize the issue for the past periods.

• Fitment Committee recommendations:

- GST rate on fish soluble paste (CTH 2309) may be reduced from 18 % to 5%.
- The issue for the past periods may be regularized on *as is basis*.



Agenda 4(a) (Annexure-I)

3. Dinutuximab (Quarziba) medicine : (page 217)

- The estimated cost of the therapy course is around Rupees 63 lakhs and it has to be imported.
- Patients and their kin are finding it difficult to pay the IGST rate of 12% since the medicine is already very expensive and the cost of medicine is met through crowdfunding.
- Some ad-hoc exemptions have already been provided on case-to-case basis
- Representation received:
 - IGST exemption on import of the cancer medicine .

• Fitment Committee recommendations:

- IGST may be exempted on Dinutuximab (Quarziba) medicine when imported for personal use.



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Agenda 4(a) (Annexure-I)

4. Medicines and Food for Special Medical Purposes used in treatment of rare diseases: (pages 217-218)

- As part of post Budget 2023-24, Basic Customs Duty (BCD) exemption has been given to drugs/medicines and Food for Special Medical Purposes (FSMP) when imported for personal use for treatment of rare diseases enlisted in the National Policy for Rare Disease subject to existing conditions (individual importer has to produce a certificate from central or State Director Health Services or District Medical Officer/Civil Surgeon of the district).
- The BCD exemption currently available for drugs used in treatment of rare diseases imported by Centres of Excellence for Rare Diseases or any person or institution on recommendation of any of the listed Centre of Excellence was also expanded to include FSMP.
- These exemptions have been given based on recommendations of Ministry of Health and Family Welfare.

Fitment Committee recommendation:

- IGST may be exempted on medicines and Food for Special Medical Purposes used in the treatment of rare diseases enlisted under the National Policy for Rare Diseases, 2021 which are imported for personal use subject to existing conditions and FSMP when imported by Centres of Excellence for Rare Diseases or any person or institution on recommendation of any of the listed Centres of Excellence.

Agenda 4 (a) (Annexure-I)

5. Trauma, Spine and Arthroplasty implants: (page 218-219)

- Earlier there were two entries @ 5% and @ 12% for the goods falling under 9021. Duality of rate on similar goods falling under the same CTH 9021 was causing confusion.
- Accordingly, on the recommendations of 47th GST Council meeting, GST rate of 5% was fixed on all goods falling under heading 9021 in order to bring uniformity.
- Entry at S. No. 255 A of Schedule I of notification No. 01/2017-CT Rate was inserted wef 18.07.2022 to implement the recommendation.

Representation received:

- to issue a clarification for period prior to the 18.07.2022.

Fitment Committee recommendation:

- To regularize the matter for the period prior to 18.07.2022 on "as is basis" in view of genuine interpretational issues

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Agenda 4(a) (Annexure-I)

6. Raw cotton: (pages 219-220)

- Supply of raw cotton by an agriculturist to any registered person is taxable under reverse charge mechanism.
- Section 2(84) (i) of the CGST Act, 2017 defines 'person' as including "a co-operative society registered under any law relating to co-operative societies". As per Section 7 (1) (aa) of the CGST Act "supply" includes "the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration."
- Supply includes all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business.
- Representation received:
 - to clarify that raw cotton supplied by agriculturists to cooperatives is not taxable under reverse charge mechanism.
- Recommendations of Fitment Committee :
 - May be clarified that supply of raw cotton, including kala cotton, from agriculturists to cooperatives is a taxable supply and such supply to the cooperatives (being a registered person) attracts 5% GST under reverse charge mechanism.
 - The issue for the past periods may be regularized on *as is basis*.



Agenda 4 (a) (Annexure-I)

7. Consequential changes after introduction of new Foreign Trade Policy 2023:

(pages 220-221)

- New Foreign Trade Policy came into force w.e.f. 01.04.2023.
- Several schemes including Advance Authorisation (AA), Export Promotion of Capital Goods (EPCG), Duty Free Import Authorisation (DFIA), Duty Drawback Scheme (DBK), Rebate on State and Central Taxes and Levies (RoSCTL), Remission of Duties and Taxes on Exported Products (RoDTEP) are also continued in the new FTP.
- Consequential changes will need to be carried out in notifications, which would be technical in nature such as cross-referencing to new Trade policy
- Reference received :
 - Notifications to be aligned with FTP 2023
- Fitment Committee recommendation:
 - Consequential changes may be carried out in the notifications.



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Agenda 4(a) (Annexure-I)

8. Imitation zari thread: (pages 221-222)

- In 15th Council meeting, the Council agreed to tax embroidery or zari articles i.e., imi, zari, kasab, saima, dabka, chumki, gota, sitara, naqsi, kora, glass beads, badla, gizai at the rate of 5%. Only embroidery articles, embroidery in piece, in strips or in motifs (heading 5809, 5810) got covered.
- In 28th GST Council meeting, the Council recommended to clarify that real zari kasab (thread) manufactured with silver wire gimped (vitai) on core yarn namely pure silk and cotton and finally gilted with gold would attract 5% GST.
- Input yarn, including kasab (thread), attracts 12% GST rate but embroidery articles attract 5% GST.
- Representation received:
 - to clarify the that imitation zari thread attracts 5% as imitation zari thread such as kasab, dabka are mentioned in the 5% entry.
- Fitment Committee recommendations:
 - GST on imitation zari thread or yarn known by any name in trade parlance may be reduced from 12% to 5%.
 - The issue for the past periods may be regularized on *as is basis*.



Agenda 4(a) (Annexure-I)

9. LD slag: (pages 222-223)

- LD Slag is a recyclable waste produced during the separation of molten steel slag from impurities in steel-making furnaces (200kg LD slag generated per ton of crude steel).
- Only 25% of the total slag generated in India is being reused/recycled. It is used for road project, sintering and iron-making.
- It is posing an environmental problem as it is getting accumulated over the years and less land is available for disposal of such huge quantities.
- The Council in the 23rd meeting recommended reduction of GST rate on BF Slag/Fly Ash to 5% based on the reason that it is an environmentally harmful product and its re-usage needs to be promoted.
- There is a need for better utilization of this waste and protection of environment.
- Representation received:
 - to reduce GST rate from 18% to 5% to encourage utilization
- Fitment Committee recommendation:
 - GST rate may be reduced on LD slag from 18% to 5%



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Agenda 4(a) (Annexure-I)

10. Updating list of banks/entities in notification 50/2017-Cus, eligible for IGST exemption on import of gold, silver or platinum as per annexure 4B of HBP FTP 2023 : (page 223)

- IGST exemption is available on imports of gold, silver or platinum by specified banks and other entities mentioned in List 34 of S. No. 359A of Notification No. 50/2017 – Customs dated 30.06.2017.
- In the 37th GST Council Meeting, dated 20.09.2019, the Council did not recommend inclusion of ICBC and RBL Bank Ltd in the said List 34 as 'Export Committee' had not recommended their inclusion in the said list.
- Now, Directorate General Export Promotion has conveyed that inclusion of PSU or Bank approved by RBI is not required to be discussed in Export Committee and has recommended for amending the List 34 suitably to include the name of RBL and to also delete the name of Banks/entities which no longer exists in Appendix 4B of HBP.
- RBL Bank and ICBC are authorized Banks mentioned in Para 4.40 of FTP 2023 (read with Appendix- 4B).
- **Recommendation of Fitment Committee :**

- List 34 in notification 50/2017-Customs may be updated so as to include **RBL** bank and **ICBC** bank and list no. 34 may be updated as per revised Appendix 4B of FTP 2023 subject to confirmation from DGEP and DGFT.



Agenda 4(a) (Annexure-I)

11. Compensation cess on utility vehicles (MUV/XUV): (pages 223-224)

- Based on recommendation of the GST Council in its 21st Meeting held in Sept, 2017 a higher rate of compensation cess of 22% was notified on "*Sports Utility Vehicles (SUVs) (of length more than 4-metre, engine capacity more than 1500cc and ground clearance 170 mm)*"
- During the discussion in the 48th meeting of GST council held in December, 2022 on agenda items relating to issuance of clarification on compensation cess leviable on SUVs, upon suggestion by few of the members to deliberate about compensation cess on other utility vehicles such as MUV, the Council directed the Fitment Committee to examine the same .
- It is seen that there were other utility vehicles also that satisfy the conditions of Length greater than 4000 mm, Engine capacity greater than 1500 cc and Ground clearance more than 170 mm, but are popularly NOT called as SUV but called as Multi Utility Vehicles (MUV) or multipurpose Vehicles or Crossover Utility Vehicles (XUVs) .

• **Fitment Committee recommendations:**

- To amend the entry to **include all utility vehicles** by whatever name called provided they met the parameters of Length greater than 4000 mm, Engine capacity greater than 1500 cc and Ground clearance more than 170 mm.
- to insert an Explanation to clarify for the purposes of the said notification entry "Ground Clearance" in entry 52B means Ground Clearance in un-laden condition.



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Agenda 4(a) (Annexure-I)

12. Compensation cess on pan masala, chewing tobacco etc: (pages 224-225)

- To implement the recommendations made by 49th GST Council, which accepted the GoM report, the levy of compensation cess was converted from ad valorem tax to specific tax-based levy to boost the first stage (manufacturer level) collection of revenue in respect of pan masala, chewing tobacco, etc.
- The rates are linked to retail sale price for such products.
- Representation received:
 - to determine rate of compensation cess in cases where it is not legally required to declare retail sale price
- Fitment Committee recommendation:
 - Earlier ad valorem rate as was applicable on 31st March 2023 for such goods may be notified by amending the compensation cess notification.



Agenda 4(a) (Annexure-I)

13. Dessicated coconut: (page 225)

- Entry 47 of Notification 2/2017-Central Tax (Rate) exempted coconuts fresh or dried, whether or not shelled or peeled.
- Vide corrigendum issued on 27-07-2017 to notification 01/2017-CT(R) dated 28.06.2017, dessicated coconut was declared as a taxable product at 12% GST.
- Between the period 1.7.2017 to 27.7.2017 since there was no specific entry for dessicated coconut, suppliers may not have collected GST from consumers.
- Representation received:
 - to regularize the intervening period between issue of original notification & issue of corrigendum prescribing 12% GST rate.
- Fitment Committee recommendation:
 - The issue for the period 1.7.2017 to 27.7.2017 may be regularized on *as is basis*.



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Agenda 4(a) (Annexure-I)

14. Areca leaf plates and cups: (page 225)

- Currently, plates and cups made up of all kinds of leaves/ flowers/bark are already exempt vide SI No. 114C of notification 2/2017-Central Tax (Rate) dated 28.6.2017.
- In the 37th GST Council meeting held on 20.9.2019, GST Council had recommended the reduction in rate of cups and plates made of leaves of areca tree from 5% to nil.
- Representation received:
 - to exempt areca leaf plates and cups
- Fitment Committee recommendation:
 - Since areca leaf plates and cups are already exempt, no action is required.



Agenda 4(b) (Annexure-II): Recommendations for no change (pages 226-237)

1. Agro-based biomass pellets : (pages 226-227)

- 5% GST rate has been prescribed on the basis of recommendation of:
 - ✓ 22nd GST Council Meeting (for Biomass briquettes) in October 2017 &
 - ✓ 28th GST Council Meeting (for solid bio fuel pellets) in July 2018.
- Ministry of Power has made the requested on the ground that they have mandated to use 5% of biomass co-firing in all coal based Thermal Power Plants under Mission SAMARTH and to promote its uptake.
- Issue of GST rate reduction on solid biofuel pellets / biomass briquettes or pellets was discussed in 37th and 47th meetings but was not recommended
- Representation received:
 - To reduce GST on agro-based biomass pellets to Nil
- Fitment Committee Recommendation:
 - Status quo may be maintained.



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Agenda 4(b) (Annexure-II)

2. De-Oiled Rice Bran: (page 227)

- Prior to the 25th Council Meeting, rice bran (HS 2302) for use as feed attracted nil GST and 5% for other uses.
- The GST Council in its 25th meeting prescribed 5% GST on rice bran, irrespective of end use, and nil GST on de-oiled rice bran.
- Present request is has been justified on the grounds that rice bran is sold to animal feed producers directly from the un-organized market or billed as de-oiled rice bran so as to avail nil GST
- GoM on rate rationalisation in its interim report did not recommend bringing all goods under chapter 23 (other than dog and cat food) to 5%
- Representation received:
 - To increase GST rate on De-oiled Rice Bran
- **Fitment Committee Recommendation:**
 - Status quo may be maintained.



Agenda 4(b) (Annexure-II)

3. Products prepared or manufactured by the inmates of Kerala Prison and correctional Services Department: (page 227)

- Request is to exempt products prepared or manufactured by the inmates of Kerala Prison and correctional Services Department.
- End use based exemption is difficult to administer, is prone to leakages and needs to be discouraged.
- It would lead to inverted duty structure on many of these commodities and disrupt the ITC chain.
- **Fitment Committee Recommendation:**
 - Status quo may be maintained.



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Agenda 4(b) (Annexure-II)

4. Bio-fertilizers and other such organic inputs: (page 228)

- Based on 25th GST Council meeting recommendations, GST rate on 12 specified bio-pesticides was reduced from 18% to 12 %.
- In its 31st meeting, the Council did not recommend reduction in GST on agricultural inputs including pesticides, fertilizers and plant growth regulators to avoid a distortion of the ITC chain and inversion of duty structure which would put domestic manufacturers at a disadvantage.
- In its 39th meeting, the Council did not recommend any change in rate on fertilisers.
- In its 45th and 47th meetings, the Council did not recommend any change in the rates of fertilizers or other organic farm inputs.

Representation received:

- Present request is for reduction in GST rate on bio-fertilizers and organic inputs from 12% to 5%.

• Fitment Committee Recommendation:

- Status quo may be maintained.



Agenda 4(b) (Annexure-II)

5. Sungudi saree: (pages 228-229)

- In the manufacture of Sungudi Sarees, about 10,000 families of minority Sourashtra Community are engaged.
- However, sarees already attract concessional 5% GST and not 12% as mentioned in the representation
- Exempting GST will break ITC chain and will entail end use-based exemption which are prone to misuse.
- Under the threshold exemption, any person having turnover of less than Rs 40 lacs a year in goods, is exempt from paying GST on their supplies.

Representation received:

- to reduce GST from 12% to Nil on sungudi saree.

• Fitment Committee Recommendation:

- Status quo may be maintained.



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Agenda 4(b) (Annexure-II)

6. Upfront exemption for IAEA from payment of IGST and refund mechanism be done away with: (pages 229-230)

- IAEA gets refund of GST paid under Section 55 of the CGST Act which provides for the refund of GST paid by specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, consulate or embassy of foreign countries and any other person or class of persons as may be specified by notification.
- Notification No. 13/2017-IGST (rate) issued to give effect to section 55 of the CGST Act.
- Giving such exemption for a particular organization, for which refund mechanism is already in place will result in similar requests in the future from other organizations, which is not desirable and is prone to misuse.

Representation received:

- Upfront exemption from IGST on imports of their equipment instead of refund mechanism.

• **Fitment Committee Recommendation:**

- Status quo may be maintained.



Agenda 4(b) (Annexure-II)

7. Avgas: (page 230)

- Avgas is a type of aviation fuel used in small piston engine powered aircraft within the general aviation community. These aircraft are predominantly used by private pilots and flying clubs and for tasks such as flight training.
- Pilot training course in India cost about Rs. 35-40 lacs from a DGCA-approved reputed flight school which is majorly undertaken by upper-middle class strata of the society. Avgas is, therefore, not goods for common man purpose.
- Avgas is only a component of flying training cost and other major costs includes aircrafts costs, insurance, maintenance, instructors salaries etc.
- Reducing GST rate on Avgas is not likely to lead to significant reduction in training cost.
- ITC is available for GST paid on Avgas used for supplying pilot training services.

Representation received:

- Request is for reduction of GST rate from 18% to nil/ 1%.

• **Fitment Committee Recommendation:**

- Status quo may be maintained.



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Agenda 4(b) (Annexure-II)

8. Machinery used in Sericulture Industry: (page 231)

- Such reduction/exemption on machineries will lead to an end-use based exemption which are prone to misuse.
- Raw materials for these machineries such as iron steel, plastic, and other metals, in general, attract 18% GST. Reduction in GST to 5% will deepen the duty inversion.
- Similar issue related to Silk Reeling machineries (8445 40 40) was deliberated in 47th GST Council Meeting and no change was recommended.
- Representation received:
 - Request is to reduce GST on machinery used in sericulture industry and automatic reeling machinery from 18 % to 5/Nil.
- **Fitment Committee Recommendation:**
 - Status quo to be maintained.



Agenda 4(b) (Annexure-II)

9. Sports goods & Fitness equipment: (page 231-232)

- GST Council in its 14th Meeting held on 18.05.2017 recommended GST rate @ 12% for sports goods classified under CTH 9506 (other than articles and equipment for general physical exercise) (Sl. No. 230 of schedule II of notification 01/2017-Integrated Tax (Rate).
- Earlier, Articles and equipment of general physical exercise, gymnastics etc attracted GST @ 28%. GST Council in its 23rd Meeting recommended GST @ 18% (Sl. No. 441 of Schedule III of notification No. 01/2017-Integrated Tax (Rate) for articles and equipment of general physical exercise, gymnastics, athletics, padding pool etc etc.
- This would lead to an inverted duty structure as most of the inputs for sports goods like steel, rubber etc attract GST @ 18%.
- Representation received:
 - The present request has asked for a uniform GST rate of 5% on articles under CTH 9506.
- **Fitment Committee Recommendation:**
 - Status quo to be maintained.



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Agenda 4(b) (Annexure-II)

10. Mega power projects: (page 232)

- Before inception of GST, Customs and Central Excise Duty exemption benefit was available to mega power projects
- Initially, this exemption was available only to the power projects certified as Mega Power Project by the MoP. Subsequently, with respect to **provisional** Mega Power Projects (which were yet to be issued a final Mega Power Project certificate), exemption from payment of customs and central excise duties were provided subject to submission of security (BG/FDR). This time limit for submission of final certificate was 36 months initially and subsequently increased first to 60 months in February, 2014 and then to **120 months** in **May, 2017** (before inception of GST) by amending this time-limit in **both** Customs and Central Excise notification, failing which duty involved was required to be paid along with interest.
- On the eve of inception of GST, the notification No. 12/2012-CE (S.N. 339) providing Central excise duty benefit to such projects, was superseded by notification No. 11/2017-CE dated 30.06.2017. The superseding notification did not have any reference to the exemption for Central Excise. Under GST, no exemptions have been provided.
- Representation Received:
 - Introduce concessions under GST based on the lines of those that existed in the Central Excise regime and that existed presently in Customs.
- Fitment Committee Recommendations:
 - Status quo to be maintained.



Agenda 4(b) (Annexure-II)

11. Apple Carton Boxes: (page 233)

- Carton Boxes fall under HSN heading 4819.
- The matter in respect to the GST rates on the items falling under HSN 4819 was placed before the GST Council in its 45th meeting, wherein it was observed that the items falling under HSN 4819 like cartons, boxes and cases of non-corrugated paper or paper board attracts a GST rate of **18%** and cartons, boxes and cases of corrugated paper or paper board attract a concessional GST rate of **12%**. After due deliberations, it was recommended that all items falling under HSN 4819, irrespective of being corrugated or non-corrugated, shall attract a uniform GST rate of **18%**. This change was made effective from 1st October, 2021.
- In 49th GST Council it was decided that Himachal Pradesh will submit a detailed representation in this regard for examination by the Fitment Committee. Representation from CCT Himachal Pradesh was presented before the Fitment Committee.
- Generally, end-use based exemptions/concessional rates are difficult to administer and are generally litigation-prone.
- Representation Received:
 - to reduce GST rate on apple carton boxes from 18 to 5 %.
- Fitment Committee Recommendation:
 - Status quo to be maintained.



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Agenda 4(b) (Annexure-II)

12 & 14. Two-wheeler and 4-wheeler Flexi Fuel Vehicles (FFV): (pages 233-234 & 235)

- Flexi fuel vehicles (FFVs) have an internal combustion engine and are capable of operating on normal petrol and/or any blend of petrol and ethanol.
- It has been a clear and consistent policy of decarbonizing the transport sector through various policies and initiatives that support Electric Vehicles (EV), which is evident in the lowest tax rate of 5% GST on EVs in addition to PLI Scheme for Auto Sector & Advance Chemistry Cell (ACC)
- However, unlike the EV vehicles which is clearly distinguishable and identifiable, this is not the case with flexi fuel vehicle. There is no clear cut 'definition' of flexi fuel vehicle in the Motor Vehicle Act or any allied Acts.
- This is likely to lead to mis-classification of vehicles as flexi fuel vehicles for availing benefit of concessional GST rate.
- Representation Received:
 - to reduce GST and compensation cess, has given the slightly higher cost of flexi fuel engines as a rationale for GST/cess reduction.
- **Fitment Committee Recommendation:**
 - Status quo to be maintained.



Agenda 4(b) (Annexure-II)

13. Agricultural products: (page 234)

- Farmers do not have to pay tax on supply of fresh fruits and vegetables.
- The request is general in nature.
- Representation received
 - to exempt GST on agricultural products and on agriculture- based items to protect the farmers.
- **Fitment Committee Recommendation:**
 - Status quo may be maintained.



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Agenda 4(b) (Annexure-II)

15. Utensils made up of brass , bronze and other metals: (page 235-236)

- GST rate on raw materials for these utensils such as copper, zinc, tin, iron, steel, other metals and their scrap in general, attract 18% GST.
- As a result, there is already inverted duty structure for supply of these utensils. Further reduction in GST rate on utensils will deepen this tax inversion and consequently may lead to accumulation of input tax credit thereby increasing cost of utensils.
- Representation received:
 - to reduce GST on utensil of made up of metals.
- Fitment Committee Recommendation:
 - No change recommended.



Agenda 4(b) (Annexure-II)

16. Heavy feedstock, Vacuum Gas Oil / Reformates, etc: (page 236)

- This issue was deferred in last Fitment Committee meetings held in June & September, 2022 as inputs were awaited from Ministry of Petroleum and Natural Gas (MoPNG).
- Fitment Committee had noted that further clarity was needed on the matter regarding the intended use, capacity utilization potential and benefits accruing from heavy feedstock.
- The inputs received from MoPNG do not justify a reason for reduction in rate.
- Representation received
 - to reduce GST rate on heavy feedstock, Vacuum Gas Oil / reformates, etc from 18% to nil.
- Fitment Committee Recommendation:
 - Status quo may be maintained.



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Agenda 4(b) (Annexure-II)

17. All bakery products manufactured and sold by MSME: (pages 236-237)

- Rusks, toasted bread and similar toasted products attract GST rate of 5%.
- Bakery products like Pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products [other than pizza bread, khakhra, plain chapatti or roti, bread, rusks, toasted bread and similar toasted products] attract GST rate of 18%.
- Small manufacturers/traders in MSME sector have the option to avail threshold exemption and composition scheme.
- Pre-GST incidence on most bakery products on which rate reduction is sought was 18% or more.
- Providing source based exemption to MSME sector for specific products like bakery products will be difficult to monitor and will cause distortion.
- Representation received
 - to reduce rate on all bakery products manufactured and sold by MSME to 5%.
- **Fitment Committee Recommendation:**
 - Status quo may be maintained.



Agenda 4(c) (Annexure-III): Issue **deferred** for further examination (pages-238-246)

1. Millet-based products: (pages 238-240)

- Classification and tax treatment of millet mix at par with cereal flours is likely to affect the classification and applicable tax rate on a large number of similarly placed products/mixes such as idle mix, dosa mix etc entailing significant revenue implication.
- Representation received:
 - Request is to prescribe 5% GST rate on 'millet-mix' containing 90% millets.
- **Fitment Committee Recommendations:**
 - Deferred for in-depth study



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Agenda 4(c) (Annexure-III)

2. Khari, Cream Rolls (Bakery products): (page 240)

- Currently, concessional GST rate of 5% is applicable on Rusks, toasted bread and other toasted products
- Bakery products such as Pastry, Cake, Biscuits, Communion Wafers, etc (other than pizza bread, khakhra, plain chapatti or roti, bread, rusks, toasted bread and similar toasted products) attract GST rate of 18%.
- The matter was deferred by the 47th GST Council for further examination
- Representation received:
 - to clarify that khari and cream roll should get covered under "rusk, toasted bread and similar toasted products".
- **Fitment Committee Recommendations:**
 - Deferred for in-depth study regarding the nature of product and process of preparation before making any suggestions.



Agenda 4(c) (Annexure-III)

3. Sugar-boiled confectionary: (pages 240-241)

- Currently, sugar- boiled confectionary attracts GST at the rate of 12% and Sugar confectionary attract GST at the rate of 18%.
- Sugar boiled confectionary has been carved out with a lower GST rate of 12% based on recommendations of the GST Council in its 25th meeting.
- In view of difficulty in administering the levy on sugar boiled confectionery (at 12%) from other similarly placed commodities (at 18%) it is advisable to have uniform rate of 18% to remove the potential leakages/misuse and avoidable litigation.
- Representation received:
 - to clarify regarding the scope of the product 'sugar-boiled confectionary'.
- **Fitment Committee Recommendations:**
 - Deferred for industry consultation



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Agenda 4(c) (Annexure-III)

4. Steel Scrap: (page 241-246)

- Request to reduce GST rate from 18 % has not been accepted by GST Council in its 47th meeting. The only issue referred to Fitment committee for deliberations is regarding levy of GST **on RCM basis**.
- During deliberations in 47th meeting, member from Karnatak suggested for detailed study and member from Punjab suggested for deferment for want of detailed consultation.
- After consultation with stakeholders and industry, State of **Karnataka** suggested, inter alia that :
 - the proposal of levy of GST on reverse charge mechanism may not be feasible as the same breaks the chain of input tax credit and also leads to cascading of taxes and also breakage of audit trail.
 - to prevent the evasion and to create conducive business atmosphere, few measures were recommended such as: introduction of trace and track mechanism, better registration procedures, registration of e-way bills if that commodity is registered to be supplied, ITC only if invoice is registered etc.
- **Punjab** has *inter alia*, suggested:
 - to tax iron and scrap on RCM and exempt supply of scrap in the hands of traders
 - e-way bill should be mandatory for all transactions in scrap irrespective of value.
- **Fitment Committee Recommendations:**
 - Deferred: to create a **Committee of officers** to study the issue holistically and to come up with workable solutions.



Recommendations of the Fitment Committee: Services

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Agenda 4 (d) (Annexure-IV): Changes in GST rates/ issue clarification (page-247-260)

1. Exempt GST on satellite launch services provided by private organizations (pages 247-247)
 - Satellite launch services supplied by ISRO, Antrix Corporation Ltd (ACL) and New Space India Ltd (NSIL) are exempt from GST. However this exemption is not applicable to satellite launch services provided by private organisations.
 - The 42nd GST Council took a conscious decision to exempt satellite launch services even though GST charged on such supplies was available to the recipient of these services as ITC. The rationale behind this decision was to reduce the upfront cost for the recipients of such services especially startups.
- Recommendations of Fitment Committee
 - The exemption may be extended to satellite launch services provided by private organizations with a view to provide level playing field.



Agenda 4(d) (Annexure-IV)

2. Rectification in item at Sl. No. 3(ie) of notification No. 11/2017-CTR (pages 247-248)
 - Sl. No. 3(ie) of notification No. 11/2017-CTR dated 28.06.2017 currently reads as "(ie) Construction of an apartment in an ongoing project under any of the schemes specified in sub-item (b), sub-item (c), sub- item (d), sub-item (da) and sub-item (db) of item (iv); sub-item (b), sub-item (c), sub-item (d) and sub-item (da) of item (v); and sub- item (c) of item (vi), against serial number 3 of the Table, in respect of which the promoter has exercised option to pay central tax on construction of apartments at the rates as specified for this item."
 - On the recommendations of 47th GST Council items at sl. No. 3(iv), (v) and (vi) of the above notification have been omitted vide notification No. 03/2022-CTR dated 13.07.2022.
 - However, the item at sl. No. 3(ie) of the notification continues to have reference to some of the housing schemes etc. which figured under sl. No. 3(iv), (v) and (vi) of the notification in order to take care of the real estate projects which commenced prior to 01.04.2019.
- Recommendations of Fitment Committee
 - The anomaly may be rectified by inserting suitable explanation to effect that the item at sl. No. 3(ie) of the said notification refers to sub-items of the item (iv),(v) and (vi) of the notification as they existed in notification prior to their omission vide notification No. 03/2022-CTR dated 13.07.2022.



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Agenda 4(d) (Annexure-IV)

3. Omission of clause (h) of explanation to the entry at Sl. No. 24 (i) of the notification No. 11/2017 CTR (pages 248-248)

- On the recommendation of 47th GST Council, exemption entry at sl. No. 53A of the notf. No. 12/2017 CTR dated 28.06.2017 which covered "*services by way of fumigation in a warehouse of agricultural produce*" was omitted vide notification No. 04/2022-CTR dated 13.07. 2022.
- However, a parallel entry at clause (h) of explanation to the entry at Sl. No. 24 (i) of the notification No. 11/2017 CTR dated 28.06.2017 for the same service has not been omitted.

• Recommendations of Fitment Committee

- The anomaly may be rectified by omitting the parallel entry at clause (h) of explanation to the entry at Sl. No. 24 (i) of the notification No. 11/2017 CTR dated 28.06.2017



Agenda 4(d) (Annexure-IV)

4(a). Exercise of option by Goods Transport Agencies (GTAs) to pay GST under Forward Charge Mechanism (FCM) (pages 248-250)

- GTAs who want to pay GST under FCM during any Financial Year are required to exercise the option to do so by filing an online declaration on Goods and Services Tax Network (GSTN) portal by 15th March of the preceding financial year.
- This requirement was notified on 13.07.2022 based on the recommendations of the 47th GST Council meeting. Accordingly, the deadline for exercising this option for Financial Year 2023-2024 was 15th March, 2023.
- Representations were received that some of the GTAs could not file declaration by 15th March, 2023 for various reasons including the presumption that the GTAs who had already opted for FCM are not required to file option every year.
- Representations were also received that GTAs who commenced business after 15th March will not be able to exercise option for the FY 2023-2034.

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Agenda 4(d) (Annexure-IV)

4(a). Exercise of option by Goods Transport Agencies (GTAs) to pay GST under Forward Charge Mechanism (FCM) (contd....) (pages 248-250)

- The following **two changes** were made with the approval of **GST Implementation Committee (GIC)** to resolved the issues in view of the urgency involved:
 - The last date for exercising the option to pay GST under FCM was extended from 15th March, 2023 to 31st May, 2023 and
 - GTAs who commence new business or cross registration threshold during any Financial Year, have been allowed to exercise the option for the year in which they commence business or cross registration threshold within 45 days from date of applying for GST registration or 1 month from date of obtaining registration whichever is later.
- The above changes were notified w.e.f **09.05.2023** thereby resolving this issue for the current Financial Year.
- For the future, it is felt that GTAs who have exercised option to pay GST under forward charge in previous Financial Year(s) should not be required to file declaration every year.
- **Recommendations of Fitment Committee**
 - As a trade friendly measure, the requirement to exercise option to pay GST under forward charge every year may be done away with. GTAs who have exercised option to be under FCM during a particular Financial Year shall be deemed to have exercised it for the next and future Financial Years unless they file a declaration that they want to revert to reverse charge mechanism (RCM).



Agenda 4(d) (Annexure-IV)

4(b). Notifying 1st January of preceding Financial Year as start date and 31st March of preceding Financial Year as end date for filing of option by Goods Transport Agencies (GTAs) to pay GST under forward charge (pages 250-250)

- GSTN has requested that a start date for filing of option by GTA may be provided for subsequent Financial Years; otherwise the default date for exercise of option for a Financial Year shall be 1st April of the preceding Financial Year. For example, the default start date for Financial Year 2024-2025 would be 1st April, 2023.
- Keeping start date for exercise of option for a FY as 1st April of the preceding Financial Year is not desirable as this may give rise to false impression to the GTAs that they have exercised the option for the current Financial Year .
- **Recommendations of Fitment Committee**
 - The start date may be prescribed as 1st January of the preceding Financial Year.
 - The last date for filing the option may be changed from 15th March to 31st March of preceding Financial Year.



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Agenda 4(d) (Annexure-IV)

5. Amendment to be made to notification No. 8/2017-ITR and notification No. 10/2017-ITR to remove redundant provisions pursuant to amendments in Finance Act, 2023. (pages 250-252)

- The place of supply (PoS) for transportation of goods is 'destination of goods'. As a result, transportation service supplied by an Indian Shipping Line (ISL) to a foreign exporter, for transport of goods from foreign port to India do not qualify to be an export of service and is thus, taxable. However, on the same service supplied by a Foreign Shipping Line (FSL) to foreign exporter, both being outside India, FSLs do not pay GST.
- To provide level playing field to ISLs, liability on such transportation service supplied by FSLs to foreign exporter for transport of goods to India, was placed on the Indian importer under RCM.
- Hon'ble Supreme Court judgement in Mohit Mineral case passed in 2022 has set aside this RCM liability placed on the importers.
- In order to restore level playing field to ISLs, the PoS of service of transportation of goods has been changed from 'destination of goods' to 'location of recipient' vide Finance Act 2023. As a result, services supplied by ISLs to foreign exporter against payment in foreign exchange would now meet the definition of export of service and shall be zero rated. This is intended to bring parity between tax treatment of service supplied by FSL and ISLs both for inward and outward freight. [For a service to qualify as export of service, its PoS should be outside India].

Agenda 4(d) (Annexure-IV)

5. Amendment to be made to notification No. 8/2017-ITR and notification No. 10/2017-ITR to remove redundant provisions pursuant to amendments in Finance Act, 2023 (contd...) (pages 250-252)

- Once the provisions of Finance Act, 2023 are notified, the provisions in notification Nos. 8/2017-ITR, 9/2017-ITR and 10/2017-ITR, making the importer liable to pay GST on ocean freight paid to FSLs under RCM will become redundant.
- **Recommendations of Fitment Committee**
- The provisions which were introduced in the said notifications to provide level playing fields to ISLs have lost relevance may be amended/deleted.
- The proposed amendments/deletions may be synchronized with date of notification of Section 162 of Finance Act, 2023.



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Agenda 4(d) (Annexure-IV)

6. Clarify whether services provided by director in his personal/private capacity to company/body corporate are subject to reverse charge mechanism (pages 252-252)

- Entry No. 6 of notification No. 13/2017 CTR dated 28.06.2017, provides that services supplied by a director of a company or a body corporate to the said company or the body corporate are subject to Reverse Charge Mechanism under the provisions of Section 9(3) of CGST Act.
- Issue has been raised whether services supplied by a director of a company in his personal capacity such as renting of immovable property to the company or the body corporate is taxable under Reverse Charge Mechanism.

• Recommendations of Fitment Committee

- It may be clarified by way of circular that services supplied by a director of a company to the company in his private or personal capacity such as supplying services by way of renting of immovable property to the company or body corporate are not taxable under RCM. Only those services supplied by a director of company or body corporate, which are supplied by him as or in the capacity of director of that company or body corporate shall be taxable under RCM in the hands of the company or body corporate under notification No. 13/2017-CTR (Sl. No. 6) dated 28.06.2017.



Agenda 4(d) (Annexure-IV)

7. Clarify that the food or beverages supplied at cinema hall is taxable as restaurant service (pages 252-255)

- As per Explanation at Para 4 (xxxii) to notification No. 11/2017-CTR dated 28.06.2017, "Restaurant Service" means supply, by way of or as part of any service, of goods, being food or any other article for human consumption or any drink, provided by a restaurant, eating joint including mess, canteen, whether for consumption on or away from the premises where such food or any other article for human consumption or drink is supplied."
- Eating joint is a wide term which includes refreshment or eating stalls/ kiosks/ counters or restaurant at a cinema also. The cinema operator may run these refreshment or eating stalls/ kiosks/ counters or restaurant themselves or they may give it on contract to a third party. The customer may like to avail the services supplied by these refreshment/snack counters or choose not to avail these services. Further, the cinema operator can also install vending machines, or supply any other recreational service such as through coin-operated machines etc. which a customer may avail or not.

• Recommendations of Fitment Committee

- It may be clarified by way of a circular that the food or beverages served in a cinema hall is taxable as restaurant service as long as:
 - the food or beverages are supplied by way of or as part of a service and
 - supplied independent of the cinema exhibition service.
- Where the sale of cinema ticket and supply of eatables such as popcorn or cold drinks etc. are clubbed together, and such bundled supply satisfies the test of composite supply, the entire supply will attract GST at the rate applicable to service of exhibition of cinema, the principal supply.



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Agenda 4 (e)(Annexure-V): Recommendations for no change (page-261-264)

1. Exempt IGST on purchase of aircraft and aircraft lease payment (pages 261-261)
 - The request to abolish GST of 5% on import/purchase of aircrafts and lease payments on leased aircrafts and engines was placed before the 45th GST Council. The Council did not accede to this request.
 - Exempting IGST on purchase/import of aircraft will be detrimental to the 'Make in India' initiative of the government and the nascent aircraft manufacturing industry in India.
 - GST on supply of goods on lease has to be the same as GST on supply of goods by way of sale to avoid arbitrage.
- Recommendations of Fitment Committee
 - Status Quo to be maintained



Agenda 4 (e) (Annexure-V)

2. Exempt GST on the services by the way of granting affiliation to schools by Central Board of Secondary Education (CBSE) for conduct of secondary stage examinations in schools (pages 261-263)
 - Request for granting exemption on services by the way of affiliation services provided by universities/board or other educational organizations to educational institution was placed before the 47th GST Council. The Council did not accept the request.
 - Earlier, based on the recommendations of the 43rd GST Council, it was clarified vide circular dated 17.06.2021 that such services attract GST at the rate of 18%.
- Recommendations of Fitment Committee
 - Status Quo to be maintained



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Agenda 4 (e) (Annexure-V)

3. Exempt GST on digital news subscription (pages 263-264)
 - Services by way of online/digital news subscription comes under the heading 9984 - Telecommunications, broadcasting and information supply services which attract GST @ 18%. Supply of news in digital form is essentially different from the printed news papers in its constitution, distribution and transmission
 - Subscription charges for online news vis-à-vis print media have been examined. It is found that subscription of e-papers is cheaper than the subscription of print newspaper.
 - Further, e-papers are offered at discounted price by various platforms from time to time, thus bringing the price even lower.
 - Even after being taxed at 18%, subscription for online/digital newspaper is available at considerably lower price. Therefore, the argument of trade that the 18% rate hinders the access of the consumers to the online news has no merits. In fact, lowering of GST on e-paper will adversely affect the printed newspaper industry.
 - Further, in case of printed newspaper, major inputs i.e. newsprint attracts GST @5%, however, in case of e-papers, major inputs are taxed at higher rates of GST (18/28% e.g. Telecommunications, broadcasting and information supply services, Electronic goods (monitors, storage device etc.). As a result, exemption would result in blockage of ITC and increase of cost. This will also lead to inverted duty structure.
- **Recommendations of Fitment Committee**
- Status quo to be maintained



Agenda 4 (f) (Annexure-VI): Issue deferred for further examination (page-265-274)

1. Clarify whether service by way of hostel accommodation, service apartments/ hotels booked for longer period is a service of renting of residential dwelling for use as residence and exempted (pages 265-267)
 - The services under heading 9963 by a hotel, inn, guest house, club or campsite by whatever name called for residential or lodging purpose, having declared tariff of a unit below one thousand rupees per day or equivalent were exempt till 17.07.2022 vide entry no. 14 of the notf. No. 12/2017-CT(R) dated 28.06.2017.
 - Circular No. 354/17/2018-TRU dated 12.02.2018 has considered hostel accommodation at par with hotel accommodation.
 - As a result, the service of hostel accommodation prized below Rs. 1000/- a day is now taxable @ 12% w.e.f 18.07.2022 provided charges are Rs. 7500/- or less per day.
 - However, in the case of Taghar Vasudeva Ambrish, the Hon'ble Karnataka High has held the service of hostel accommodation as the services by renting of residential dwelling for use as residence.
 - Entry no. 12 of notification No. 12/2017-CT (Rate) dated 28.06.2017 exempts the services by way of renting of residential dwelling for use as residence.

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CHAIRMAN'S
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Agenda 4(f) (Annexure-VI)

1. Clarify whether service by way of hostel accommodation, service apartments/ hotels booked for longer period is a service of renting of residential dwelling for use as residence and exempted (contd...)(pages 265-267)

- Therefore, if the hostel accommodation is considered as the hotel accommodation in line with the circular dated 12.02.2018, it is taxable and if it is considered as residential dwelling, as held by the Hon'ble Karnataka High Court, it is exempt from GST.
- The department has filed civil appeal before the Hon'ble Supreme Court of India against the Hon'ble Karnataka High judgement. The matter is sub-judice.

• Recommendations of Fitment Committee

- Since the matter is sub-judice, it may be deferred.



Agenda 4(f) (Annexure-VI)

2. Exempt services provided by District Mineral Foundations (DMFs) (pages 267-268)

- 45th GST Council (*Sl.No. 7 of Annexure-VI, Agenda No. 14*) deferred the matter stating that the issue was not clear. Further, the council directed to obtain details about the nature of activities undertaken by DMF from Odisha.
- Odisha government was requested to inform the nature of activities undertaken and services supplied by DMF. *However, no reply in the matter has been received so far.*

• Recommendations of Fitment Committee

- The matter may be deferred till reply is received from State of Odisha.



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Agenda 4 (f) (Annexure-VI)

3. Clarify whether reimbursement of electricity charges received by the Real estate companies, malls, airport operators etc. from their lessees/occupants is exempt from GST (pages 268-269)

- The issue was discussed in the Fitment Committee meetings held on 25.04.2023 and 09.06.2023
- Members were requested to share practices being followed in their states with regard to levy of GST on such further supply of electricity by builders/developers etc., the regulatory framework w.r.t such further supply of electricity, and copies of Show Cause Notices/Adjudication Orders issued, if any, demanding GST on such further supply of electricity, along with their views. However, the same have not been received so far.
- Recommendations of Fitment Committee
- The matter may be deferred till the receipt of information.

Agenda 4(f) (Annexure-VI)

4. Clarify whether ITC credit of other business verticals can be used to discharge GST on outward liability in respect of restaurant service given the restriction of input tax credit as specified in notification No. 11/2017-CT (Rate) dated 28.06.2017, as amended (pages 269-271)

- It was decided to obtain data from GSTN regarding how much tax is being paid by suppliers of restaurant service in cash and credit for further examination of the issue.
- Recommendations of Fitment Committee
- The matter may be deferred.



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Agenda 4(f) (Annexure-VI)

5. Clarify that job work activity for processing of "Barley" into malt for alcoholic beverages industry attracts GST @ 5% and in case it is held that GST @18% i.e., leviable, to regularize for past on 'as is basis' (pages 271-272)

- In the Fitment Committee meeting held on 29.05.2023 , West Bengal raised some concerns in relation to the instant issue and requested for time to present its views after due consultation.

• Recommendations of Fitment Committee

- The matter may be deferred.



Agenda 4(f) (Annexure-VI)

6. Apply uniform GST rate of 5% on Business Correspondent services provided in both rural/urban areas. (pages 272-274)

- It was felt that to further examine the issue, difficulties faced by banks in availing benefit of GST exemptions with respect to business correspondents/business facilitators in rural area needs to be ascertained more comprehensively.
- Further, some more data is required from Department of Financial Services regarding services provided by BC/BF in urban areas.

• Recommendations of Fitment Committee

- The matter may be deferred.



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Agenda 4(Part II) (g) :

Stand alone agenda: deferred from 47th GST Council meeting (Addendum to Vol. III, pages -71-74)

- A proposal to specify a positive list of 12 services under Sr. No. 3/3 A of notification 12/2017-CT(R) dated 28.06.2017 was placed before the 45th GST Council. The Council was of the view that while the approach to specify a positive list of exempt services was agreeable, the list recommended by Fitment Committee needs to be pruned and refined.
 - **Entry at Sr. No. 3:** exempt supply of pure services supplied to Central Government, State Government or Local Authority, by way of any activity in relation to Municipal or Panchayat functions under Article 243G or 243W of the Constitution
 - **Entry 3A :** exempt composite supplies (goods component 25% or less) supplied to Central Government, State Government or Local Authority by way of activity in relation to Municipal or Panchayat functions under Article 243G or 243W of the Constitution
- There was a similar Service tax exemption. However, in view of disputes, the exemption was restricted to supply of services by way of five specific activities, namely , *water supply, public health, sanitation conservancy, solid waste management or slum improvement and up-gradation*
- As per the direction of the 45th GST Council, the list was circulated to States. Comments were received from West Bengal, Bihar and Tamil Nadu. The issue was further discussed at length in the Fitment Committee.
- In 47th GST Council, Fitment recommended pruned list of 6 services.
- The recommendations of Fitment Committee was placed before 48th GST Council meeting held on 17.12.2022 held vide video conference.
- Some states did not agree with the recommendation of the Fitment Committee. The Council decided to postpone discussion on the positive list of services in a physical meeting of the GST Council.

Recommendations of Fitment Committee on positive list of services to be specified in Sl. No. 3/3A of notification No. 12/2017-CT (R) dated 28.06.2017

A. Entry 3 and 3A may be reworded to omit the words “ in relation to” as below:

Supply of pure services, or composite supply of goods and services, in which the value of goods constitutes not more than 25% of the value of composite supply, to Central Government, State Government, Union Territory, a local authority or a public authority by way of----

B. Following list of 12 services may be specified under the entry:

1. *Water treatment and/or supply;*
2. *Public Health activities, Sanitation Conservancy and Solid or Liquid Waste management;*
3. *Slum Improvement and Up gradation;*
4. *Maintenance and operation of street lights, bus stops, public conveniences, public parks and gardens, burial ground and crematorium;*
5. *Education, including primary and secondary schools;*
6. *Technical training and vocational education*
7. *Adult and non-formal education;*
8. *Libraries;*
9. *Social Forestry and Farm Forestry;*
10. *Fire Services;*
11. *Renting of motor vehicles for carrying out functions listed at Sr. No. 1 to 10 above;*
12. *Supply of manpower services for carrying out functions listed at Sr. No 1 to 10 above.”*

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C. Exemption may be extended to "Public Authority" and Public authority may be defined as under:

"Public Authority means an authority or a board or any other body established and controlled by the Central or State Government to carry out the functions listed in Sl. No. 1 to 10 of the entry."



THANK YOU

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Annexure-5

FACT SHEET

Casinos, Race Courses & Online Gaming

50th GST Council Meeting11th July, 2023

1

Legal Framework

- GST - levied on the **supply of goods and services**.
- **Goods** include **actionable claims** as per section 2(52) of the CGST Act, 2017.
- **Actionable claim** means a claim to any beneficial interest in movable property not in the possession of the claimant where such beneficial interest is existent, accruing, confidential or contingent.
- As per **Entry 6 of Schedule III of the CGST Act, 2017**, actionable claims in the form of lottery, betting and gambling are taxable.

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Background

- Actionable claims in the form of lottery, betting and gambling attract 28% GST (Entry 228 & 229, Schedule IV, Nott. No. 1/2017-CTR) on full face value of bets placed (Rule 31A, CGST Rules 2017).
- Taxation of lottery is settled. (SC decision in Skill Lotto case) Rule 31A, CGST Rules, 2017 was also upheld in the said case.
- Online gaming companies claiming their supply of services under SAC 998439 (other on-line content) which attracts 18%.
- Casinos and race clubs are classifying their supply under SAC 9996 (gambling & betting services) which attract 28%.
- No specific mention of casinos, race courses and online gaming in Entry 6, Schedule III.

3

Casinos

- Currently, Casinos operational in Goa and Sikkim. Yet to be operational in Daman.

Pre GST (Goa)			GST (Current)		
Tax	Rate	Value	Tax	Rate	Value
Entertainment tax (entry ticket)	Rs 1000/- (2016-17)	Per person			
Entertainment tax (gaming revenue)	15%	Sale of chips/coins or the receipts received by the proprietor/ operator towards casino games either on slot machine or table games or any other games provided in the casino.	GST	28%	100% of the face value of the bet
As per Goa that in practice tax was being paid @ 15% on GGR*.					
* GGR (Gross Gaming Revenue) means net value after deducting the chips/coins returned by players					

• Present Practice:

GST @28% is being paid on GGR in both Sikkim and Goa.

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Casinos -View of States

Sikkim & Goa
Tax Casinos @ 28% on GGR

Casinos – Tax Revenue

(in Rupees Crore)

GST Collected				
Centre/State	FY	HSN	Taxable Value [GGR]	GST
Goa (Centre)	2017-18	999692	93.94	26.3
	2018-19	999692	139.19	38.97
	2019-20	999692	112.45	31.49
	2020-21	999692	48.84	13.67
	2021-22	999692	147.82	41.39
	2022-23 (Nov)	999692	80.05	22.41
	Total		622.28	174.24
Goa (State)	2017-18	999692	583.73	163.45
	2018-19	999692	986.35	276.18
	2019-20	999692	974.46	272.85
	2020-21	999692	431.65	120.86
	2021-22	999692	739.25	206.99
	2022-23 (Nov)	999692	987.47	276.49
	Total		4702.91	1316.81
Sikkim	2017-18	999692	22.90	6.19
	2018-19	999692	43.58	11.58
	2019-20	999692	36.46	9.52
	2020-21	999692	19.21	5.16
	2021-22	999692	41.52	11.14
	2022-23	999692	56.78	14.15
	Total		220.46	57.74
Grand Total			5545.66	1548.79


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Race Courses

- Horse Racing Clubs operate in 7 cities, - Mumbai, Hyderabad, Chennai, Kolkata, Bengaluru, Mysore and New Delhi.

Pre GST			GST [Current tax structure]		
Tax	Rate	Value	Tax	Rate	Value
Service Tax on tote commission	15%	On 20% commission retained by the race club from bets placed in the totalizator.	GST	28%	100% of the face value of the bet or the amount paid into the totalisator
Service Tax on allowing access to race course	15%	On the price of entry ticket.			
Entertainment tax	29% (weighted average)	On the price of entry ticket			
Betting/Totalisator tax	8% - 21% in different states	On the full face value of the bets placed			

Race Courses -Present Practice

Race Club	Rate	Value
Royal Western India Turf Club	28%	Full value of bet
Royal Calcutta Race Club	28%	Full value of bet
Delhi Race Club	28%	Full value of bet
Bangalore Turf Club	28%	<ul style="list-style-type: none"> July, 2017 – Jan, 2019 – on commission/margin Feb, 2019 – June, 2021 – on full value of bets June, 2021 – till date – on commission/margin [Karnataka HC has ruled in favour of Bangalore Turf Club. Dept has filed appeal in SC]
Mysore Race Club	28%	<ul style="list-style-type: none"> July, 2017 – 22nd Jan, 2018 – on commission 23rd Jan, 2018 – 31st Jan, 2019 - on full value of bets (paid under protest and writ is pending in HC) 1st Feb, 2019 – May, 2023 – on full value of bets 01st June, 2023 onwards – on commission
Hyderabad Turf Club	28%	Commission/Margin [Department has booked cases (Demanding GST @ 28% on the total face value of the bets received by the Club). Case is pending before the HC of Telangana state.]
Madras Race Club	28%	Commission/Margin

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Race Courses – Tax Revenue

(Value in Rupees Crore)

Horse Racing		
Financial Year	Taxable Value	GST(Actual)
2017-18	477.04	133.39
2018-19	690.35	188.09
2019-20	882.82	245.32
2020-21	148.20	40.81
2021-22	219.59	59.57
2022-23	291.75	78.50
Total	2709.75	745.67

Race Courses

- Horse Racing may be taxed
 - @ 28%
 - on full value of the bets placed with bookmakers/totalisator


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Online Gaming

Current GST tax structure		
Tax	Rate	Value
GST	28%	100% of the face value of the bet

Present Practice:

- Online gaming companies are paying GST @18% on platform fees.

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Online Gaming – Tax Revenue

Financial Year	Maharashtra	Uttar Pradesh	West Bengal	Panchkula Zone	Bangalore Zone	Sikkim	Total of GST (6 States/Zones)
2017-18	33.84	107.50	0.00	0.00	3.77	1.96	147.07
2018-19	145.01	144.12	0.00	0.00	17.05	3.85	310.03
2019-20	631.60	155.15	0.00	49.64	100.22	4.22	940.83
2020-21	867.76	119.38	1.61	29.35	349.97	5.12	1373.19
2021-22	885.89	244.60	10.17	156.38	379.64	6.22	1682.90
2022-23 [till Nov]	959.40	166.24	7.72	169.30	-	10.87	1313.53

**Sample data from 6 States/Zones*

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Demand Notices/Litigation

- Three SCNs issued by DGGI, CBIC wherein the revenue involved is Rs. 22583 Crore.
- States such as Kerala, Tamil Nadu, Telangana, Andhra Pradesh and Karnataka banned online gaming/gambling. However, the same has been stayed by Court orders. Tamil Nadu has issued an ordinance.

Case	High Court	Issue	Decision of High Court	Appeals filed
Gurdeep Singh Sachar Vs UOI & Ors (CRLPIL No. 22/2019)	Bombay High Court	1. Dream 11 – game of skill or chance? 2. GST on Dream 11?	1. Dream 11 is a game of skill. 2. It is an actionable claim but not in the form of betting and gambling. Therefore, it is neither supply of goods nor supply of services, thus clearly exempted from levy of any GST.	1. Appeal filed by State of Maharashtra. The High Court order has been stayed vide Supreme Court vide order dated 06.03.2020. 2. Review petition filed by UOI before the Bombay High Court is pending.
Varun Gumber Vs UT of Chandigarh & Ors (CWP No. 7559/2017)	Punjab & Haryana High Court	Dream 11 – game of skill or chance?	Dream 11 is a game of skill. [Case was in the context of police laws of the state and UOI was not a party to the case]	An appeal filed by Varun Gumber in the Supreme Court was dismissed.
Gameskraft Technologies (WP 19570/2022) [SCN demanding Rs. 20,989 Crore]	Karnataka High Court	GST on online Rummy and other games	GST Demand Notice has been set aside.	SLP is being filed in Supreme Court on advise of ASG.
Myteam 11 Fantasy Sports Vs UOI & Ors (DBCWP 1100/2023)	High Court Of Rajasthan at Jaipur	GST on online Rummy, poker & other games	No coercive action to be taken by GST Authorities.	Final order (High Court) is pending.

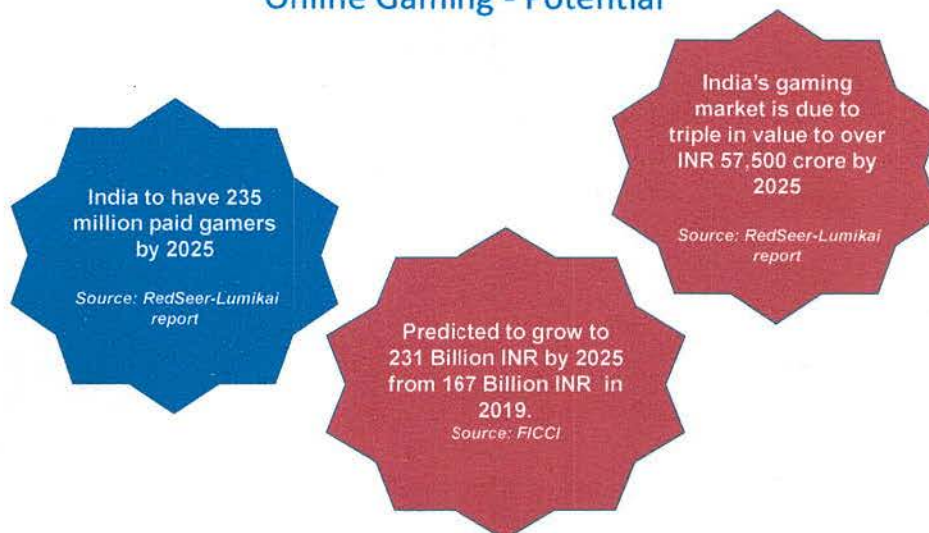
Demand Notices/Litigation

Case	High Court	Issue	Decision of High Court	Appeals filed
Chandresh Sankhla Vs. The State of Rajasthan & Ors (DBCWP No. 6653/2019)	High Court Of Rajasthan at Jaipur	"Dream 11" alleged to be betting of cricket team and amounting to gambling.	Dream 11 is not betting and gambling. • Scope of review petition filed in the Bombay HC (Gurdeep Singh Sachar case) - only w.r.t GST and not to re-visit the issue as to whether gambling is or is not involved. • "Dream 11" - having any element of betting/gambling is no more res integra in view of the pronouncements by the Punjab and Haryana High Court and Bombay High Court...	1. SLP filed by Avinash Mehrotra (SLP(C) No. 011794/2021) was dismissed in Supreme Court.
Ravindra Singh Chaudhary Vs UOI & Ors (DBCWP No. 20779/2019)	High Court Of Rajasthan at Jaipur	(1) Whether online fantasy sports games offered on Dream 11 platform are "gambling/betting"? (2) GST on such online fantasy sports games offered by Dream 11?	(1) Online fantasy sports games offered on Dream 11 platform are games of mere skill as - • Result of fantasy game depends on skill of participant and not sheer chance; • Winning or losing of virtual team created by the participant is also independent of outcome of the game or event in the real world. (2) In light of the above findings on the issue of gambling/betting, Court deemed it appropriate to leave the said second issue for the GST authorities to consider in accordance with law.	1. SLP filed by Avinash Mehrotra (SLP(C) No. 015791/2022)w as dismissed in Supreme Court.



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Online Gaming - Potential



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Online Gaming

- Online gaming may be taxed
 - @ 28%
 - on full value of the bets placed

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[Signature]

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Imperative to take a decision

- Litigation - a time consuming process
- Substantial revenue Implication

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Issue No. 1

- 1) Whether any amendment in law is required?
- 2) Whether any amendment in law is required to specifically include casinos, race courses and online gaming under taxable actionable claims to remove ambiguity.

Merits

- Avoid litigation
- Ease of administration
- Ease of Doing Business

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Issue No.2

Whether to tax online gaming, horse racing and casinos on:

- Full face value
- GGR/platform fees
- Deemed Value (e.g. Some exemption from value)

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Issue No 3

What should be the rate of tax ?

- 28%
- 18%
- 12%

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Impact on Lottery

- Taxation of lottery is settled and are paying 28% on full face value of the lottery ticket.
- Decisions taken on Online Gaming, Casino horse racing has implications on lottery.
- Of late, Lottery Trade Associations are representing that 28% GST should be levied on GGR (Revenue after deduction of prize money paid/payable)

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Revenue Implications

Activity	Tax Rate	Value*	Potential Revenue* (in Rs. Cr)
Casinos	28%	Full face value	2070
		GGR/platform fees	310
	18%	Full face value	1330
		GGR/platform fees	199
	12%	Full face value	887
		GGR/platform fees	133
Race Courses	28%	Full face value	543
		GGR/platform fees	98
	18%	Full face value	350
		GGR/platform fees	63
	12%	Full face value	234
		GGR/platform fees	42
Online gaming	28%	Full face value	11928
		GGR/platform fees	1789
	18%	Full face value	7668
		GGR/platform fees	1150
	12%	Full face value	5112
		GGR/platform fees	766

*Taxable value & Potential revenue for casinos, online gaming (sample data of 6 State/zone) and race courses has been back calculated based on 6 years data received.



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Betting Tax – Pre GST

Clubs	State	Rate of Betting Tax
Royal Western India Turf Club	Maharashtra	20%
Hyderabad Turf Club	Telangana	15%
Madras Race Club	Tamil Nadu	21%
Royal Calcutta Turf Club	West Bengal	10%
Bangalore Turf Club	Karnataka	8%
The Mysore Race Club	Karnataka	8%
Delhi Turf Club	New Delhi	20%

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Online Gaming – MeitY Guidelines

• MeitY has notified amendments to *Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021*:

✓ "online real money game" means an **online game where a user makes a deposit in cash or kind with the expectation of earning winnings on that deposit**. Explanation.—In this clause, "winnings" means any prize, in cash or kind, which is distributed or intended to be distributed to a user of an online game based on the performance of the user and in accordance with the rules of such online game.

✓ "permissible online game" - an online real money game that does **not involve wagering** on any outcome.

✓ Verification of online real money game.— *The online gaming self-regulatory body, upon an application made to it by its member in respect of an online real money game, may declare such online real money game as a permissible online real money game, if, after making such inquiry as it deems fit, it is satisfied that— (a) the online real money game does not involve wagering on any outcome; and....*

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Potential Revenue - Casinos

If Casinos are taxed @ 28%/ 18%/12% on full value of the bets placed

GST Collected				Potential Revenue			
State	FY	Taxable Value [GGR]	GST	Taxable Value [Assumed Full Bet Value]	GST @28%	GST @ 18%	GST @12%
Goa (Centre)	2017-18	93.94	26.30	626.27	175.35	112.73	75.15
	2018-19	139.19	38.97	927.93	259.82	167.03	111.35
	2019-20	112.45	31.49	749.67	209.91	134.94	89.96
	2020-21	48.84	13.67	325.60	91.17	58.61	39.07
	2021-22	147.82	41.39	985.47	275.93	177.38	118.26
	2022-23 (Nov)	80.05	22.41	533.67	149.43	96.06	64.04
Goa (State)	2017-18	583.73	163.45	3891.53	1089.63	700.48	466.98
	2018-19	986.35	276.18	6575.67	1841.19	1183.62	789.08
	2019-20	974.46	272.85	6496.40	1818.99	1169.35	779.57
	2020-21	431.65	120.86	2877.67	805.75	517.98	345.32
	2021-22	739.25	206.99	4928.33	1379.93	887.10	591.40
	2022-23 (Nov)	987.47	276.49	6583.13	1843.28	1184.96	789.98
Sikkim	2017-18	22.90	6.19	152.67	42.75	27.48	18.32
	2018-19	43.58	11.58	290.53	81.35	52.30	34.86
	2019-20	36.46	9.52	243.08	68.06	43.75	29.17
	2020-21	19.21	5.16	128.09	35.87	23.06	15.37
	2021-22	41.52	11.14	276.80	77.50	49.82	33.22
	2022-23	56.78	14.15	378.55	105.99	68.14	45.43
Total		5545.66	1548.79	36971.05	10351.89	6654.79	4436.53

*Based on backward calculation taking GGR as 15% of total taxable value

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Potential Revenue – Race Courses

If Race Courses are taxed @ 28%/ 18%/12% on full value of the bets placed

(in Rupees Crore)

Horse Racing						
GST collected			Revenue Potential			
Financial Year	Taxable Value	GST(Actual)	*Taxable Value (calculated)	GST @ 28%	GST @ 18%	GST @ 12%
2017-18	477.04	133.39	3022.26	846.24	544.01	362.67
2018-19	690.35	188.09	3715.22	1035.35	668.74	445.83
2019-20	882.82	245.32	2156.00	599.77	388.08	258.72
2020-21	148.20	40.81	378.21	105.23	68.08	45.39
2021-22	219.59	59.57	1007.50	280.37	181.35	120.90
2022-23	291.75	78.50	1400.43	389.22	252.08	168.05
Total	2709.75	745.67	11679.63	3256.17	2102.33	1401.56

*Based on backward calculation taking GGR as 15% of total taxable value where race clubs are paying on margin. Where race clubs are paying on full value of the bets placed, it has been duly incorporated in the taxable value, (calculated) accordingly.

Potential Revenue – Online Gaming

If Online Gaming is taxed @ 28%/ 18%/12% on full value of the bets placed

Tax collected								Potential Revenue				
Financial Year	Maharashtra	UP	WB	Panchkula Zone	Bangalore Zone	Sikkim	Total GST of States/Zones	Approx. Taxable Value [margin]	Approx. taxable value considering margin is 15%	GST @28%	GST @ 18%	GST @12%
2017-18	33.84	107.5	0	0	3.77	1.96	147.07	817.06	5447.04	1525.17	980.47	653.64
2018-19	145.01	144.12	0	0	17.05	3.85	310.03	1722.39	11482.59	3215.13	2066.87	1377.91
2019-20	631.6	155.15	0	49.64	100.22	4.22	940.83	5226.83	34845.56	9756.76	6272.20	4181.47
2020-21	867.76	119.38	1.61	29.35	349.97	5.12	1373.19	7628.83	50858.89	14240.49	9154.60	6103.07
2021-22	885.89	244.6	10.17	156.38	379.64	6.22	1682.90	9349.44	62329.63	17452.30	11219.33	7479.56
2022-23 (till date)	959.4	166.24	7.72	169.3	-	10.87	1313.53	7297.40	48649.30	13621.80	8756.87	5837.92
Total	3523.51	936.99	19.5	404.67	850.65	16.11	5751.43	31952.41	213016.06	59644.50	38342.89	25561.93

*Sample data from 6 States/Zones

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Annexure-6



Agenda



- 1 • Overview of GoM on IT system Reforms
- 2 • Agenda Items for 3rd Meeting of GoM and Decisions
- 3 • Conclusion



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1. Overview of GoM on IT system Reforms

7/25/2023



GoM on GST System Reforms

❖ Background:

- 45th meeting of GSTC, held on 18th Sept 2021: GoM reconstituted and TOR revised.
 - Subsumed the earlier GoM on IT challenges and revenue mobilization.
 - **TOR**
 1. Suggest measures to make the system more effective and efficient including changes in business processes;
 2. Identify sources of evasion & suggest changes in business processes & IT systems to plug revenue leakage;
 3. Identify and suggest use of data analysis towards better compliance / revenue augmentation;
 4. Identify mechanisms for better coordination between different tax administrations (States/Centre);
- **Three meetings held after change of composition of GoM w.e.f. September 21, 2021**
 - First Meeting held on 21st October 2021
 - Second Meeting held on 10th February 2022 : Recommendations approved in 47th GST Council meeting.
 - Third Meeting held on 13th February 2023



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Group of Ministers (GoM) on GST System Reforms



The Membership of GoM is as below:

#	Designation and State	
1	Deputy Chief Minister, Maharashtra	Convenor
2	Deputy Chief Minister, Haryana	Member
3	Deputy Chief Minister, Delhi	Member
4	Minister for Finance, Assam	Member
5	Minister for Finance, Planning, Commercial Taxes, Skill Development and Training and and Legislative Affairs, Andhra Pradesh	Member
6	Minister for Finance and Parliamentary Affairs, Odisha	Member
7	Minister for Finance and Human Resources Management, Tamil Nadu	Member
8	Minister for Commercial Taxes, Chhattisgarh	Member



2. Agenda Items for 3rd Meeting of GoM and Decisions

7/25/2023



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Agenda Items of 3rd GoM



#	Agenda
1	Hard locking of Table-4 of GSTR-3B
2	Tracking and identification of Non-Existent Tax Payers (NETP). It involves i. Cancellation/Suspension of Registration of Taxpayers (TP) ab-initio ii. Declaration of Taxpayer as NETP
3	Reporting of transactions by payment gateways & banks. To identify details of B2C sale, not reported by taxpayers where payment is received through POS machines.
4	HSN level reporting in GSTR-1: To improve data quality, integrating and auto-population of e-invoice/e-way bill data with Table 12 of GSTR1
5	i. Integration with Income Tax, ICEGATE and other data points. ii. Improving collection of data on import of services.
6	Additional Agenda items: i. MIS of commodities liable for RCM ii. MIS report of the Auto Populated interest on account of late payment.



Agenda Item 1: Hard locking of Table-4 of GSTR-3B

7/25/2023

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Agenda Item: Hard locking of Table-4 of GSTR-3B



#	Agenda	Decisions of GoM
1	Hard locking of Table-4 of GSTR-3B with data from GSTR 2A/2B to control ITC Mismatch	<p>The GoM after due deliberations took a view that presently hard locking of Table 4 of GSTR-3B with GSTR 2A/2B data (ITC Available) is not feasible as taxpayers may face difficulties in business activities.</p> <p>The GoM approved :</p> <ol style="list-style-type: none"> Systemic intervention in the form of spike rule based on gap in ITC utilization (threshold of mismatch between GSTR 2A/2B and GSTR 3B suggested at Rs. 25 lakh or more) shall be implemented in phased manner. This will be on similar line of Rule 88C (liability mismatch between GSTR 1 and GSTR 3B). Where threshold of ITC gap is crossed, an intimation to be sent to taxpayer and a online facility to be created for taxpayer to furnish reason for such gap. Further, mechanism for verification and initiation of action in non-compliant cases is to be provided. In subsequent phase, filing of GSTR-1 to be blocked till the officer verifies and approve the reply filed by the taxpayer.



Agenda Item 2: Tracking and identification of Non-Existent Tax Payers (NETP)

7/25/2023

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Agenda Item: Tracking and identification of Non-Existent Tax Payers (NETP)



- ❖ Fake / Non-Existent taxpayer denotes the entity which is only engaged in issuance of fake GST invoices i.e. without underlying supply of goods / services.
 - ❖ Intent to pass the fake GST credit to defraud the revenue.
 - ❖ The business activity declared in registration does not exists.
- ❖ GST registration is obtained by means of fraud or willful mis-statement like:
 - ❖ Declare Non-existent or incomplete address at the time registration. Or furnish fake / forged documents of address while taking registration.
 - ❖ Identity theft by using of credentials (ADHAR, PAN, etc) of persons without their knowledge.
 - ❖ Use of credentials (Mobile linked to ADHAR, PAN, etc) of innocent persons to get registration.
- ❖ Complex web / network of Fake / Non-Existent entities spread across the States / jurisdiction.
- ❖ Multi-stage layering till fake credit reaches to actual beneficiaries.
- ❖ Necessity to devise work flow based system to track the flow of fake credit.
- ❖ Consolidated information of Fake / Non-Existent entities would help in leveraging the capabilities of predictive analysis of suspected Fake / Non-Existent entities.



Agenda Item: Tracking and identification of Non-Existent Tax Payers (NETP)



#	Agenda	Decision of GoM
2	Tracking and identification of Non-Existent Tax Payers (NETP). (At present letter based requests are sent by State Tax Administrations to each other)	The GoM approved : <ol style="list-style-type: none"> a. Formulation of SOP for handling NETP (GSTN and Maharashtra will prepare SOP) b. Uniform policy for ab-initio cancellation of Registration of NETP across State/CBIC Tax Administration . An SOP in this regard to be issued by Policy Wing. c. Development of System driven solution to facilitate declaration of NETP by Tax Administration. d. Creation of facility to report NETP and Central repository for NETP to be accessible to all. e. System based communication of recipients of NETP among the States up to the jurisdictional officer f. Flagging of related entities of declared NETPs (including suppliers) for appropriate action. g. System based facility to create tasks of various actions against related parties (including suppliers) and recipients to be developed.



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CHAIRMAN'S INITIALS



Agenda Item 3: Reporting of transactions by payment gateways & Banks

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Agenda Item: Reporting of transactions by payment gateways & Banks



#	Agenda	Decision of GoM
3	Reporting of transactions by Payment Gateways & banks: To capture details of B2C sale where payment is received through POS machines by the supplier	<ol style="list-style-type: none"> 1. The GoM discussed the issue of reporting B2C transactions through Payment Gateways and Point of Sale (PoS) machines, and gave in-principle approval to this agenda item. 2. It was proposed that data from all digital payment transactions that are processed through specific networks, such as NPCI for RUPAY, VISA, MASTERCARD, etc shall be compiled to estimate turnover of a business. However, peer-to-peer (P2P) digital payments were proposed to be excluded. 3. The convenor of GoM, directed to constitute an officers group & hold a meeting in this regard in Mumbai to develop a detailed methodology & business process to achieve the stated goal in Consultation with the RBI and the NPCI.

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Agenda Item 4: HSN level reporting in GSTR-1

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Agenda Item: HSN level reporting in GSTR-1

#	Agenda	Decision of GoM
4	HSN level reporting in GSTR-1 : Integrating and auto-population of e-invoice/e-way bill data with Table 12 of GSTR1	<p>The GoM approved :</p> <ul style="list-style-type: none"> a. In first phase, HSN data in Table 12 of GSTR 1, should be auto populated from e-invoice and EWB. (In initial phase AATO Rs. 5 Crore or more to be considered) b. Phase wise and time bound approach to be adopted for action against non-compliant taxpayers with nudging messages and e-mails. c. Blocking of GSTR 1 for failure to fill HSN will be taken up in the later phase.


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Agenda Item 5:

- Integration of Income Tax, ICEGATE and other data points.
- Improving collection of data on import of services.

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Agenda Item: Integration of Income Tax, ICEGATE, other data: Import of Services



#	Agenda	Decision of GoM
5	<ul style="list-style-type: none"> • Integration of ICEGATE and Income Tax and other third party data for augmenting GST collection • Import of Services and evasion of Tax thereon. 	<ul style="list-style-type: none"> • The issue of integration of third party data to be addressed with the support of DoR. • The GoM approved the formation of a Committee of Officers from TPRU-1, GSTN, Center, State (Maharashtra) and RBI to examine how remittance data (from India to Abroad) can be used to identify volume of services import into India.

CHAIRMAN'S
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Agenda Item 6: Additional Agenda items related to MIS

7/25/2023

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Additional Agenda items related to MIS

#	Agenda	Decision of GoM
6	<p>Following MIS are required to augment revenue:</p> <ol style="list-style-type: none"> 1. Commodities liable for GST under RCM . 2. Auto populated interest on account of late payment. 	The GoM approved development of MIS.





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3. Conclusion

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Conclusion



While the recommendations of GoM are specific, as general direction, the GST System should move in the following directions:-

1. Need for strengthening registration process by using biometric validations and premises verification etc. , to remove NETPs from the system.
2. Controlling flow of fake ITC at both the ends, i.e. the recipient and the supplier of a supply. Recipient should report B2B supply and pay tax on it and recipient should take ITC on such reported invoice.
3. Expanding use of third party data for better forecasting of turnover and other verifications of taxpayers.



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THANK YOU!!

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Annexure-7**Agenda Item 11: Implementation of GSTAT consequent to passing of Finance Act, 2023****Agenda**

- The final Report and recommendations of the Group of Ministers (GoM) on constitution of Goods and Services Tax Tribunal constituted tabled before the GST Council in its 49th Meeting.
- Recommended to establish one GST Appellate Tribunal with a Principal Bench and State Benches. Each Bench of the Appellate Tribunal to consist of four members i.e. **two Judicial Members and two Technical Members, one Member from Centre and one from the State.**
- The report of GoM on GSTAT adopted by the Council with certain modifications.
- Amendments in CGST Act incorporated through Finance Act, 2023 (refer clause 149-154 of the Finance Act, 2023), by substitution of sections 109, 110 and 114 of CGST Act, 2017 and by amending sections 117, 118 and 119 of CGST Act, 2017.
- The GST Council may recommend a suitable date for notifying the amendments to CGST Act, 2017 made vide Finance Act, 2023. Accordingly, the States/UTs with legislature may also notify the corresponding amendments in their respective Acts on the same date. The GSTAT would be constituted after these amendments are notified.

Search-cum-Selection Committee

Section 110

(4) (a) The **Search-cum-Selection Committee for Technical Member (State)** of a State Bench shall consist of the following members namely:—

- (i) the Chief Justice of the High Court in whose jurisdiction the State Bench is located, to be the Chairperson of the Committee;
- (ii) the senior-most Judicial Member in the State, and where no Judicial Member is available, a retired Judge of the High Court in whose jurisdiction the State Bench is located, as may be nominated by the Chief Justice of such High Court;
- (iii) Chief Secretary of the State in which the State Bench is located;
- (iv) one Additional Chief Secretary or Principal Secretary or Secretary of the State in which the State Bench is located, as may be the nominated by such State Government, not in-charge of the Department responsible for administration of State tax; and
- (v) Additional Chief Secretary or Principal Secretary or Secretary of the Department responsible for administration of State tax, of the State in which the State Bench is located — Member Secretary; and

Search-cum-Selection Committee

b) the Search-cum-Selection Committee **for all other cases** shall consist of the following members, namely:—

- (i) the Chief Justice of India or a Judge of Supreme Court nominated by him, to be the Chairperson of the Committee;
- (ii) Secretary of the Central Government nominated by the Cabinet Secretary — Member;
- (iii) **Chief Secretary of a State to be nominated by the Council — Member;**
- (iv) one Member, who—
 - (A) in case of appointment of a President of a Tribunal, shall be the outgoing President of the Tribunal; or
 - (B) in case of appointment of a Member of a Tribunal, shall be the sitting President of the Tribunal; or
 - (C) in case of the President of the Tribunal seeking re-appointment or where the outgoing President is unavailable or the removal of the President is being considered, shall be a retired Judge of the Supreme Court or a retired Chief Justice of a High Court nominated by the Chief Justice of India; and
- (v) Secretary of the Department of Revenue in the Ministry of Finance of the Central Government — Member Secretary



CHAIRMAN'S
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Status of confirmation of Amendments to SGST/UTGST Act corresponding to formation of GSTAT

The States of Andhra Pradesh, Chhattisgarh, Gujarat, Kerala, Telangana, Rajasthan and Uttar Pradesh have defined the jurisdictions of the Benches based on Division/Zone/Revenue division.

Karnataka and West Bengal have defined the jurisdiction of the Benches as entire state jurisdiction

For North-Eastern States, it is submitted that there are five High Courts in North-East in the States of Tripura, Sikkim, Meghalaya, Manipur and Assam. In case of Arunachal Pradesh and Meghalaya, the GSTAT has been proposed at Guwahati, Assam. may be clarified that the appeal arising out of GSTAT order in such cases will fall within jurisdiction of the High Court of the State where the taxpayer is located. Meghalaya has also requested for this clarification.

S.No.	State Name	TOTAL Taxpayer	Revenue (Domestic) F.Year	No. of Benches requested by States in Agenda
1	Uttar Pradesh	1,798,288	2022-23 87969	5 (Lucknow, Varanasi, Ghaziabad, Agra and Prayagraj)
2	Maharashtra	1,676,761	270345	7 (Mumbai-2, Pune-2, Thane-1, Nagpur-1 & Aurangabad (Chhatrapati Sambhajinagar)-1)
3	Gujarat	1,142,794	114221	3 (Ahmedabad, Surat and Rajkot)
4	Tamil Nadu	1,113,313	104377	NA
5	Karnataka	985,729	122821	3 (Bengaluru)
6	Rajasthan	842,067	45458	2
7	Delhi	778,692	55843	2 (Delhi)
8	West Bengal	717,527	58059	2 (Kolkata)
9	Bihar	602,293	16547	1 (Patna)
10	Madhya Pradesh	509,039	36231	1 (Bhopal)
11	Haryana	508,566	86668	2 (Hisar & Gurgaon)
12	Telangana	496,953	51830	2 (Hyderabad)
13	Andhra Pradesh	414,274	40232	3 (Vijayawada, Vishakhapatnam and Tirupati)
14	Kerala	399,701	27371	3 (Trivananthapuram, Ernakulam & Kozhikode)
15	Punjab	384,053	20949	2 (Chandigarh & Mohali)
16	Odisha	320,506	49441	1 (Cuttack)
17	Assam	221,656	13710	1 State Bench of GSTAT at Guwahati, Assam
18	Jharkhand	196,868	32019	1 (Ranchi)
19	Uttarakhand	195,150	16845	1 (Dehradun)
20	Chhattisgarh	171,573	31968	2 (Raipur & Bilaspur)
21	Jammu and Kashmir	136,285	5246	1 (Jammu & Srinagar on rotational basis)
22	Himachal Pradesh	120,679	8778	1 (Shimla)
23	Goa	41,960	5520	1 (Panaji)
24	Chandigarh*	30,436	2365	Common State Bench of Punjab (Chandigarh)
25	Tripura	30,147	883	1 (Agartala)
26	Meghalaya	28,670	2075	Common State Bench of GSTAT at Guwahati, Assam
27	Puducherry	23,760	2373	1 (Puducherry)
28	Arunachal Pradesh	17,137	1022	Common State Bench of GSTAT at Guwahati, Assam
29	Dadra and Nagar Haveli & Daman and Diu*	15,511	3771	Common State Bench of Maharashtra (Mumbai)
30	Manipur	13,891	614	Common State Bench of GSTAT at Guwahati, Assam
31	Sikkim	10,368	3155	Common Bench with Kolkata
32	Nagaland	10,212	566	Proposed one Bench
33	Ladakh*	7,907	333	Common State Bench of Jammu & Kashmir
34	Mizoram	7,534	418	1 (Aizawl)
35	Andaman and Nicobar Islands*	5,660	373	Common State Bench of W.B. (Kolkata)
36	Lakshadweep*	347	21	Common State Bench of Kerala
	Grand Total	13,976,308	1,320,420	37

* This has been proposed by GSTCS as these are the UT without legislature. This proposal is on the basis of previous Notification issued by DoR.



CHAIRMAN'S
INITIALS

No. of Taxpayers more than 7.5 lakh				
S.No.	State Name	TOTAL Taxpayer	Revenue (Domestic) F.Year 2022-23	No. of Benches requested by States in Agenda
1	Uttar Pradesh	17,98,288	87969	5 (Lucknow, Varanasi, Ghaziabad, Agra and Prayagraj)
2	Maharashtra	16,76,761	270345	7 [Mumbai-2, Pune-2, Thane-1, Nagpur-1 & Aurangabad (Chhatrapati Sambhajinagar)-1]
3	Gujarat	11,42,794	114221	3 (Ahmedabad, Surat and Rajkot)
4	Tamil Nadu	11,13,313	104377	NA
5	Karnataka	9,85,729	122821	3 (Bengaluru)
6	Rajasthan	8,42,067	45458	2 (Jaipur & Jodhpur)
7	Delhi	7,78,692	55843	2 (Delhi)

No. of Taxpayers less than 7.5 lakh				
S.No.	State Name	TOTAL Taxpayer	Revenue (Domestic) F.Year 2022-23	No. of Benches requested by States in Agenda
8	West Bengal	7,17,527	58059	2 (Kolkata)
9	Bihar	6,02,293	16547	1 (Patna)
10	Madhya Pradesh	5,09,039	36231	1 (Bhopal)
11	Haryana	5,08,566	86668	2 (Hisar & Gurugram)
12	Telangana	4,96,953	51830	2 (Hyderabad)
13	Andhra Pradesh	4,14,274	40232	3 (Vijayawada, Vishakhapatnam and Tirupati)
14	Kerala	3,99,701	27371	3 (Triruvananthapuram, Ernakulam & Kozhikode)
15	Punjab	3,84,053	20949	2 (Chandigarh & Mohali)
16	Odisha	3,20,506	49441	1 (Cuttack)
17	Assam	2,21,656	13710	1 State Bench of GSTAT at Guwahati, Assam
18	Jharkhand	1,96,868	32019	1 (Ranchi)
19	Uttarakhand	1,95,150	16845	1 (Dehradun)
20	Chhattisgarh	1,71,573	31968	2 (Raipur & Bilaspur)
21	Jammu and Kashmir	1,36,285	5246	1 (Jammu & Srinagar on rotational basis)
22	Himachal Pradesh	1,20,679	8778	1 (Shimla)
23	Goa	41,960	5520	1 (Panaji)
24	Chandigarh*	30,436	2365	Common State Bench of Punjab (Chandigarh)
25	Tripura	30,147	883	1 (Agartala)
26	Meghalaya	28,670	2075	Common State Bench of GSTAT at Guwahati, Assam
27	Puducherry	23,760	2373	1 (Puducherry)
28	Arunachal Pradesh	17,137	1022	Common State Bench of GSTAT at Guwahati, Assam
29	Dadra and Nagar Haveli & Daman and Diu*	15,511	3771	Common State Bench of Maharashtra (Mumbai)
30	Manipur	13,891	614	Common State Bench of GSTAT at Guwahati, Assam
31	Sikkim	10,368	3155	Common Bench with Kolkata
32	Nagaland	10,212	566	Proposed one Bench
33	Ladakh*	7,907	333	Common State Bench of Jammu & Kashmir
34	Mizoram	7,534	418	1 (Aizwal)
35	Andaman and Nicobar Islands*	5,660	373	Common State Bench of W.B. (Kolkata)
36	Lakshadweep*	347	21	Common State Bench of Kerala

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CHAIRMAN'S
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No. of Taxpayers above 5 lakhs				
S.No.	State Name	TOTAL Taxpayer	Revenue (Domestic) F. Year 2022-23	No. of Benches requested by States in Agenda
1	Uttar Pradesh	1,798,288	87969	5 (Lucknow, Varanasi, Ghaziabad, Agra and Prayagraj)
2	Maharashtra	1,676,761	270345	7 [Mumbai-2, Pune-2, Thane-1, Nagpur-1 & Aurangabad (Chhatrapati Sambhajinagar)-1]
3	Gujarat	1,142,794	114221	3 (Ahmedabad, Surat and Rajkot)
4	Tamil Nadu	1,113,313	104377	NA
5	Karnataka	985,729	122821	3 (Bengaluru)
6	Rajasthan	842,067	45458	2 (Jaipur & Jodhpur)
7	Delhi	778,692	55843	2 (Delhi)
8	West Bengal	717,527	58059	2 (Kolkata)
9	Bihar	602,293	16547	1 (Patna)
10	Madhya Pradesh	509,039	36231	1 (Bhopal)
11	Haryana	508,566	86668	2 (Hisar & Gurugram)

Taxpayers less than 5 lakh and more than 40,000				
S.No.	State Name	TOTAL Taxpayer	Revenue (Domestic) F. Year 2022-23	No. of Benches requested by States in Agenda
13	Andhra Pradesh	414,274	40232	3 (Vijayawada, Vishakhapatnam and Tirupati)
14	Kerala	399,701	27371	3 (Triruvananthapuram, Ernakulam & Kozhikode)
15	Punjab	384,053	20949	2 (Chandigarh & Mohali)
16	Odisha	320,506	49441	1 (Cuttack)
17	Assam	221,656	13710	1 State Bench of GSTAT at Guwahati, Assam
18	Jharkhand	196,868	32019	1 (Ranchi)
19	Uttarakhand	195,150	16845	1 (Dehradun)
20	Chhattisgarh	171,573	31968	2 (Raipur & Bilaspur)
21	Jammu and Kashmir	136,285	5246	1 (Jammu & Srinagar on rotational basis)
22	Himachal Pradesh	120,679	8778	1 (Shimla)
23	Goa	41,960	5520	1 (Panaji)



CHAIRMAN'S
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MINUTE BOOK



S.No.	State Name	No. of Taxpayers above 40,000		No. of Benches requested by States in Agenda
		TOTAL Taxpayer	Revenue (Domestic) F.Year 2022-23	
23	Jammu and Kashmir	136,285	5246	I (Jammu & Srinagar on rotational basis)
24	Dadra and Nagar Haveli & Daman and Diu*	15,511	3771	Common State Bench of Maharashtra (Mumbai)
25	Sikkim	10,368	3155	Common Bench with Kolkata
26	Puducherry	23,760	2373	I (Puducherry)
27	Chandigarh*	30,436	2365	Common State Bench of Punjab (Chandigarh)
28	Meghalaya	28,670	2075	Common State Bench of GSTAT at Guwahati, Assam
29	Arunachal Pradesh	17,137	1022	Common State Bench of GSTAT at Guwahati, Assam
30	Tripura	30,147	883	I (Agartala)
31	Manipur	13,891	614	Common State Bench of GSTAT at Guwahati, Assam
32	Nagaland	10,212	566	Proposed one Bench
33	Mizoram	7,534	418	I (Aizwal)
34	Andaman and Nicobar Islands*	5,660	373	Common State Bench of WB. (Kolkata)
35	Ladakh*	7,907	333	Common State Bench of Jammu & Kashmir
36	Lakshadweep*	347	21	Common State Bench of Kerala

* This has been proposed by GSTCS as these are the UT without legislature. This proposal is on the basis of previous Notification issued by DoR.

S.No.	State/ Union Territory	Population (2011 Census)	No. in Crore
1	Uttar Pradesh	19,95,81,412	19.958
2	Maharashtra	11,23,72,272	11.237
3	Bihar	10,38,04,637	10.380
4	West Bengal	9,13,47,786	9.135
5	Andhra Pradesh	8,46,65,593	8.467
6	Madhya Pradesh	7,25,37,505	7.260
7	Tamil Nadu	7,21,38,958	7.214
8	Rajasthan	6,86,21,012	6.862
9	Karnataka	6,11,30,704	6.113
10	Gujarat	6,03,65,628	6.038
11	Odisha	4,19,47,358	4.195
12	Telangana	3,51,95,978	3.519
13	Kerala	3,33,87,677	3.339
14	Chhattisgarh	3,29,66,238	3.297
15	Assam	3,11,69,272	3.117
16	Punjab	2,77,04,236	2.770
17	Haryana	2,53,53,081	2.535
18	Chhattisgarh	2,55,40,196	2.554
19	Delhi	1,67,53,235	1.675
20	Jammu and Kashmir	1,22,67,013	1.227
21	Uttarakhand	1,11,16,752	1.112
22	Himachal Pradesh	68,56,509	0.686
23	Tripura	36,71,032	0.367
24	Meghalaya	29,64,007	0.296
25	Manipur	27,21,756	0.272
26	Nagaland	19,80,602	0.198
27	Goa	14,57,723	0.146
28	Arunachal Pradesh	13,82,611	0.138
29	Mizoram	10,91,014	0.109
30	Sikkim	6,07,688	0.061
31	Puducherry	12,44,464	0.124
32	Chandigarh	10,54,686	0.105
33	Dadra and Nagar Haveli and Daman and Diu	5,85,764	0.059
34	Andaman and Nicobar Islands	3,79,944	0.038
35	Ladakh	2,74,289	0.027
36	Lakshadweep	64,429	0.006
Total		1,24,63,79,776	124.638

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THANK YOU



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