



Minutes of the 21st GST Council Meeting held on 09 September, 2017

The twenty first Meeting of the GST Council (hereinafter referred to as 'the Council') was held on 9 September, 2017 in Hotel Novotel, Hyderabad, Telangana, under the Chairpersonship of the Hon'ble Union Finance Minister, Shri Arun Jaitley. A list of the Hon'ble Members of the Council who attended the meeting is at **Annexure 1**. A list of officers of the Centre, the States, the GST Council and the Goods and Services Tax Network (GSTN) who attended the meeting is at **Annexure 2**.

2. The following agenda items were listed for discussion in the 21st Meeting of the Council: –

1. Confirmation of the Minutes of the 20th GST Council Meeting held on 5 August 2017.
2. Decisions of the GST Implementation Committee (GIC) for information of the Council
3. Nomination of Director in the Board of GSTN from Group B (State Governments)
4. List of Acts from the Central and State Governments as per Section 5(4) of the GST (Compensation to States) Act, 2017
5. Issues recommended by the Law Committee for consideration of the GST Council
 - i. Notification with respect to sub-section 6 of Section 54 of Central Goods and Services Tax Act, 2017 (Category of Registered Persons not eligible for refund)
 - ii. Extension of date for opting for composition till 30 September, 2017 in respect of such migrated taxpayers, who have not exercised their option till 16 August, 2017
 - iii. Exemption from the requirement of registration to the persons making supplies of handicraft goods in different states
 - iv. Exemption to a job-worker making inter-State supply of services to a registered person from the requirement of obtaining registration under clause (i) of Section 24 of the CGST Act, 2017 and consequential amendments
 - v. Notifying the date from which Section 51 of the CGST Act, 2017 shall come into force as 18.09.2017 and notifying certain persons or category of persons as deductors under clause (d) of sub-section (1) of Section 51 of the said Act
 - vi. Constitution of the Standing Committee, Screening Committees and National Anti-profiteering Authority (NAA)
 - vii. Transitional provisions and filing of FORM GST-TRAN-1
 - viii. Changes in Central Goods and Service Tax Rules, 2017
6. Approach Paper on Principles for Fitment post implementation of GST
7. Recommendations of the Fitment Committee on goods and services (Outstanding Agenda Item from 20th GST Council Meeting)
8. Other Recommendations of the Fitment Committee

- i. Alternative approach for GST Rate Structure for Handicrafts
- ii. Compensation Cess on Motor Vehicles
- iii. Exemption from GST on the services provided to both international and domestic customers by ANTRIX Corporation Limited from levy of GST
- iv. Exemption from GST on the supply of nuclear fuel and heavy water by DAE to NPCIL
- v. GST on admission tickets for FIFA Under-17 Football World Cup-2017

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

10. Date of the next meeting of the GST Council

3. At the start of the meeting, on behalf of the Hon'ble Chief Minister of Telangana, Shri Etela Rajender, Hon'ble Finance Minister, Telangana, welcomed the Hon'ble Union Finance Minister, the Union Minister of State for Finance and the Hon'ble Members of the Council and also the officers of the Central and the State Governments. He informed that the Hon'ble Chief Minister of Telangana had personally monitored the arrangements for the Council's meeting and the stay of the delegates. He added that his State was honoured to host the 21st Meeting of the Council in Telangana.

4. The Hon'ble Chairperson commenced the 21st meeting of the Council. On behalf of all the Hon'ble Members of the Council, he thanked the Hon'ble Chief Minister of Telangana, Shri K. Chandrashekar Rao, the Hon'ble Finance Minister of Telangana and his team of officers for the excellent arrangements made for the meeting. The House endorsed this statement with a loud round of applause. The Hon'ble Chairperson also thanked the Hon'ble Deputy Chief Minister of Telangana, Md. Mohamood Ali, for the excellent arrangements. He further stated that Shri Santosh Gangwar, the erstwhile Hon'ble Minister of State for Revenue has been entrusted other responsibilities in the Government and welcomed the new Hon'ble Minister of State for Finance, Shri Shiv Pratap Shukla, as the new Member of the Council. He thereafter commenced discussion on the agenda items.

Discussion on agenda items:

Agenda item 1: Confirmation of the Minutes of the 20th GST Council meeting held on 5 August, 2017

5. The Hon'ble Chairperson invited comments of the Hon'ble Members on the draft Minutes of the 20th Meeting of the Council held on 5 August, 2017 (hereinafter referred to as the 'Minutes').

5.1. The Hon'ble Minister from Punjab stated that in paragraph 15.3 of the Minutes regarding discussion on changes to Central Sales Tax (CST) Rules, there was a reference that States could work out a scheme where all States should have a low rate of Value Added Tax (VAT) (say 5%) on those petroleum products which were presently out of GST, when they were used as inputs for manufacture of any other product. He stated that a uniform decision was required to be taken at an early date as otherwise interest of some States would get adversely affected. Dr. Hasmukh Adhia, Secretary to the Council (hereinafter referred to as the 'Secretary') stated that the observations recorded in paragraph 15.3 of the Minutes were

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only suggestions from the Council and this issue would need to be discussed separately by the Hon'ble Finance Ministers of the States in the Empowered Committee of the State Finance Ministers or in some other forum.

5.2. Shri V.K. Garg, Advisor to the Chief Minister of Punjab, stated that the Hon'ble Supreme Court had delivered a judgment during the pre-GST period that Form 'C' could be issued for goods which were not under CST. He stated that as per the Hon'ble Supreme Court judgment, newspapers were outside the CST, but the ink for printing of newspapers could be brought into the State under Form 'C'. He further explained that the GST goods today stood on the same footing as the newspaper in the pre GST period. The Hon'ble Supreme Court had said that the meaning of the word 'goods' in Section 8 of the CST Act was that for the first three times when it was used in the definition, it referred to the raw material but the fourth time, it referred to the output goods and the Hon'ble Court further held that one could not deny the use of anything which was within the CST law for making of something which was outside the CST law. He stated that recently, there had also been a judgment by the Hon'ble High Court of Karnataka that Form 'C' could be issued for petroleum products for producing goods like electricity. He urged that in order to have a uniform practice, the Central Government should study the judgment, even though it was an interim one, to examine whether there was a need to amend Section 8(3) of the CST Act. He further pointed out that unlike other goods which could be moved to the importing State as stock transfer which would then suffer normal VAT in the importing State, natural gas could not be transferred to a depot and would be directly supplied to the importing State and thus the entire revenue would go to the exporting State. He suggested that the same low rate should apply for supply made outside the State. The Secretary stated that during the last meeting of the Council, the view of the Central Government was that Form 'C' should be allowed to be issued for petroleum products used for manufacture of other goods. However, during the discussion in the Council, the Hon'ble Members felt that Form 'C' should be limited only for manufacture of petroleum products. He added that it needed consideration whether a circular should be issued. The Hon'ble Deputy Chief Minister of Gujarat stated that there was no need to issue a circular. The Secretary observed that if the judgment of the Hon'ble Supreme Court was delivered prior to the implementation of GST, its applicability post-GST period would need to be examined. He stated that the judgment of the Hon'ble High Court of Karnataka, being a later one, needed to be considered. Shri Ritvik Pandey, Commissioner, Commercial Tax (CCT), Karnataka, stated that the judgment of the Hon'ble High Court of Karnataka was only an interim order to permit issue of Form 'C' for goods used for manufacture of products other than petroleum products but the order had a caveat that if the petition was dismissed, the tax would have to be paid at the normal rate.

5.3. Dr. P.D. Vaghela, CCT, Gujarat, stated that the report of CCTs on CST may be considered by the Council which has recommended that issuance of Form 'C' should be left to the wisdom of the States as no State would like to hurt the interest of its own tax-payers. In the absence of Entry Tax, the local tax-payers of the States would suffer as these goods would be brought from other States on Form 'C'. Also, the State revenue from petroleum goods and natural gas would be reduced considerably if this issue is not resolved, even when the definition of goods has been amended and restricted to five petroleum products, namely, crude oil, petrol, diesel, aviation turbine fuel and natural gas and alcoholic liquor, in Section 8(3) of the CST Act, other three sectors i.e. telecom, mining and generation and distribution of

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electricity or any other form of power have been retained. This has created a confusion as to whether Form 'C' will be required to be issued for this set of activities also. The Secretary stated that in order to ensure that the downstream industry did not suffer, the States would need to keep a low rate of tax on natural gas used in production of other goods. He stated that either he or the Additional Secretary, Department of Revenue, would hold a meeting of the officers of the States to discuss this issue further. The Hon'ble Chairperson observed that for a constructive discussion, the State of Punjab could make a reference along with the relevant judgments of the Courts. He observed that the State of Maharashtra had also sent a reference to the Central Government on this issue, and therefore, the matter would need to be decided quickly. The Hon'ble Deputy Chief Minister of Gujarat stated that the rate of tax on natural gas had been reduced to 6% in his State in consultation with the stakeholders in order to remove cascading because of GST. He further stated that his State was also examining to reduce the rate of VAT on natural gas for supplies made outside the State.

5.4. The Hon'ble Minister from Odisha stated that his version was not recorded in paragraph 12.5. of the Minutes relating to discussion on dry fish. He requested to add his following version in paragraph 12.5. of the Minutes: 'The Hon'ble Minister from Odisha stated that dry fish was consumed by poor people and it was exempted under Odisha VAT Act. Dry Fish should be exempted under GST'. The Council agreed to add the version of the Hon'ble Minister from Odisha in paragraph 12.5. the Minutes.

5.5. The Hon'ble Minister from Odisha stated that in paragraph 41.4 of the Minutes, it is recorded that the Hon'ble Minister from Odisha stated that tax on *sal* and *siali* leaves and *sabai* grass should be exempt as taxing these goods would affect the livelihood of tribals of Mayurbhanj district and suggested that the Fitment Committee should examine these items. He stated that besides *sal*, *siali* leaves and *sabai* grass, he had also raised the issue of cups and plates stitched or made of *sal*, *siali* leaves and *sabai* ropes and also for exempting handicrafts. He requested to replace his version recorded in paragraph 41.4 of the Minutes with the following version: 'The Hon'ble Minister from Odisha stated that tax on *sal* and *siali* leaves and cups and plates made thereof and *sabai* grass and *sabai* rope should be exempt as taxing these goods would affect the livelihood of the tribals of Mayurbhanj district and suggested that the Fitment Committee should examine these items. He further stated that the Finance Department of the State of Odisha had written a letter to the GST Council requesting to consider exemption of handicraft goods. He requested that the Fitment Committee should examine to exempt handicraft goods as poor artisans are engaged in making handicraft articles.' The Council agreed to add the version of the Hon'ble Minister from Odisha in paragraph 41.4 of the Minutes.

5.6. The Hon'ble Minister from Goa stated that his version was not recorded correctly in paragraph 41.3. of the Minutes. He did not state that a declared tariff was needed and that this position existed in the service tax regime. He stated that this version should be replaced with the following: - 'The Hon'ble Minister from Goa stated that there was no clarity on charging tax on declared tariff and that tax rate may be fixed on transaction value on the best available rate of the day.' The Council agreed to replace the version of the Hon'ble Minister from Goa in paragraph 41.3 of the Minutes.

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5.7. The Hon'ble Minister from Karnataka stated that in paragraph 37.5 of the Minutes, it was recorded that he had requested that the State officers should also get an opportunity to join the briefing meeting with the learned Attorney General of India on the subject of Extra Neutral Alcohol and to convey their views to him. He stated that his version was not correctly recorded and the same should be replaced by the following version: 'The Hon'ble Minister from Karnataka suggested that the Members of the Council should also get an opportunity to interact with the learned Attorney General of India on the subject of Extra Neutral Alcohol and to convey their views to him.'

5.8. The Hon'ble Deputy Chief Minister of Gujarat stated that he had written a letter dated 7 September, 2017 to the Secretary wherein it was highlighted that though comments given in column 4 against entry No.13 of Annexure I for Agenda item 5, Volume II of 20th Council Meeting relating to rate of tax on works contract services generally provided to Government was that 12% rate would be applicable to those services, which were exempt from tax in the earlier Service Tax regime, the Council, after discussing the issue, had recommended to reduce the rate from 18% to 12% with full input tax credit on all types of works contract services to the Government, local bodies or Governmental authorities. He pointed out that the said decision of the Council was not recorded accordingly in paragraph 24 of the Minutes and it was erroneously recorded that the Council approved the recommendations of the Fitment Committee for the rate of tax on works contract services generally provided to the Government.

5.9. The Hon'ble Deputy Chief Minister of Gujarat further pointed out that the Government notification issued vide No.20/2017-Central Tax (Rate) did not include composite supply of works contract as defined in Clause (119) of Section 2 of the CGST/SGST Acts supplied to the Government, a local authority or a Governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of – (i) a civil structure or any other original works predominantly for use other than for commerce, industry, or any other business or profession; (ii) a structure meant predominantly for use as an educational, clinical, art or cultural establishment; (iii) a residential complex predominantly meant for self-use or for use of employees; (iv) a road, bridge, tunnel, or terminal for road transportation for any purpose (e.g. services provided for construction of road to BSF for exclusive military use, construction of runway for Air Force, construction of jetty and allied infrastructure for Navy). He pointed out that the above composite supply of works contract shall attract a tax rate of 18% instead of 12% which was against the decision of the Council. He suggested that keeping in view the deliberations in the Council in its 20th Meeting held on 5 August 2017, the Minutes should be amended accordingly and works contract services provided to the Government, local bodies or Governmental authorities should be levied to tax at the rate of 12% instead of 18%.

5.10. The Hon'ble Minister from Karnataka supported the observations of the Hon'ble Deputy Chief Minister of Gujarat. He observed that building construction like schools, hospitals, etc. was a major part of works contract service. He stated that there was no exclusion mentioned during the discussion in the Council. He stated that new buildings should not have been left out of the scope of the tax rate of 12% in view of the Council's deliberations. He added that it was also important to have clarity regarding the definition of Government works, as Government sets up special purpose vehicles for irrigation works,

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water works, road works, etc. to speed up the work and to ensure that the allocated funds did not lapse. He stated that it would be important to have a clear definition of Government works. The Hon'ble Minister from Maharashtra also supported the observations of the Hon'ble Deputy Chief Minister of Gujarat and stated that construction of buildings should be added into the scope of 12% tax rate. The Hon'ble Minister from Andhra Pradesh stated that a heavy pay out of tax was involved in Government contracts and the financial burden of the States should be lessened by reducing the tax rate.

5.11. The Hon'ble Minister from West Bengal observed that in paragraph 24 of the Minutes, reference to buildings was left out. He added that the Government budgetary grants to Corporations, statutory bodies and Boards was getting taxed. He suggested that these bodies should be regarded as part of the Government as otherwise, there would be a heavy burden of tax on the States. He suggested that the definition of Government should include those bodies which received Government grants. The Hon'ble Chief Minister of Puducherry stated that the contractors wanted to withdraw from the Government contracts and suggested that the rate of tax on construction of buildings etc. for the Government should be 12% and not 18%. He stated that if this was not done, the contractors would increase the cost of construction. He also expressed support to the suggestion of the Hon'ble Minister from West Bengal that local bodies and municipal bodies should be included in the definition of Government.

5.12. The Hon'ble Minister from Uttar Pradesh stated that the rate of tax for construction of Government building should be reduced from 18% to 12%. He stated that contracts relating to earth work, etc. should not be taxed. He also supported the proposal that the bodies that execute projects based on grant of budgetary provision from the Government should be covered within the definition of State. The Hon'ble Minister from Rajasthan stated that the rate of tax on labour intensive works like irrigation should be 5%.

5.13. The Hon'ble Minister from Telangana stated that the Hon'ble Chief Minister of his State had written to the Hon'ble Union Finance Minister that earlier there was Central Excise exemption for pipes above 10 cm diameter for drinking water, irrigation and sewerage. He pointed out that the cost of irrigation projects in his State was about Rs. 1,800 crore and there would be additional tax burden of about Rs. 200 crore if the rate of tax was not reduced. He stated that the tax rate on works relating to irrigation, sewerage, etc. should be kept at the pre-GST level and the burden of embedded tax could be shared between the Centre and the States. The Hon'ble Minister from Kerala stated that in the last Council's meeting, it was decided that the rate of tax on public works would be reduced to 12% and on this basis, they had issued a circular to contractors as to how to work out the cost. He, therefore, urged that rate of tax on all Government works should be reduced to 12%. He also supported the suggestion that the term and scope of 'Government works should be expanded. The Hon'ble Deputy Chief Minister of Gujarat stated that the cost of on-going irrigation works in his State was to the tune of about Rs. 12,000 crore and suggested to retain the old tax rate for the old contracts entered into before the implementation of GST. He added that for new contracts, the rate of tax could be kept at 12%. He expressed an apprehension that if higher tax rate was kept for on-going projects, the contractors could give up work and this would lead to difficulties for the people. The Hon'ble Minister from Maharashtra supported the proposal to lower the rate of tax on Works Contract for Government buildings.


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5.14. The Secretary clarified that in the agenda notes, it was mentioned that the rate of tax should be 12% on those Government works contract where service tax was exempt. He stated that service tax exemption was not available in relation to works contract for Government buildings. He informed that from 1 March, 2015, service tax exemption for construction of Government buildings was withdrawn but due to opposition to such withdrawal, the Works Contract entered into prior to 1 March, 2015 were grandfathered. He explained that if tax on construction of all buildings was kept in the 12% rate slab including those where there was no service tax exemption, there would be substantial loss of revenue. He pointed out that the relevant notification had been issued as per the earlier decision of the Council and if the Council took a new decision on this issue, a fresh notification could be issued accordingly.

5.15. The CCT, Gujarat, made it clear that two issues raised by Gujarat with regard to definition of governmental authority and transfer of budgetary grant are to be discussed independently of the issue of works contract even when these two issues have been discussed in relation to works contract also. The CCT, Gujarat stated that according to the explanation under Clause 16 of Section 2 of the IGST Act, 2017, 'Governmental authority' means an authority or Board or any other body set up by an Act of Parliament or a State legislature; or established by Government with 90% or more participation by way of equity or control, to carry out any function entrusted to a municipality under Article 243W of the Constitution. He stated that the same definition was provided under Notification No.12/2017-Central Tax (Rate) dated 30.06.2017 and the effect of this definition was that it excluded a Governmental authority from tax exemption which carried out functions of a Panchayat as provided under Article 243G of the Constitution. He suggested to modify the definition provided under Notification 12/2017-Central Tax (Rate) dated 30.06.2017 by explicitly incorporating reference in the definition of the Governmental authority to Article 243W as well as Article 243G of the Constitution.

5.16. The CCT, Gujarat stated that a second important issue to be addressed was that the transfer of budgetary grant by the Government to entities like Boards/Corporations/Societies/Institutes created by the State to implement various schemes of the Government and to carry out functions on its behalf should not be liable to tax. He explained that the transfer of budgetary grants to these entities could be construed as a consideration as such institutes performed certain activities on behalf of the Government and Section 2(17) of the IGST and SGST Acts defined the term 'business' very broadly to include any trade, commerce, manufacturing, profession, etc. whether or not for pecuniary benefit. It also included an activity or a transaction undertaken by the Central Government, State Government or any local authority in which it is engaged as a public authority. He added that the explanation to Section 15(5) of the IGST/SGST Act and Section 2(84) of the CGST/SGST Act made it appear that the Government, Government-owned companies, Corporations, Trusts, Societies, etc. are also persons as the Government controls them directly or indirectly and because of this, it could be argued that such a supply was taxable unless specifically exempted. He stated that such transactions between the Government and the various Boards/Corporations, etc. set up by the same Government should be declared as neither supply of goods nor supply of services under Section 7(2)(b) of the CGST/SGST Act. The Secretary stated that the Fitment Committee could examine these proposals and its recommendations could be considered by the Council.

5.17. The Hon'ble Minister from Karnataka expressed support to the suggestion of Gujarat and stated that some broad principles could be given to the Fitment Committee in this regard, like any project taken up with the State funding, directly or indirectly. He suggested that the Fitment Committee could examine the definition. The Hon'ble Chairperson stated that the expanded definition of Government or State could potentially include all public undertakings which were doing commercial activities. He observed that this could lead to a situation where a building under construction by Hindustan Petroleum Corporation or Indian Oil Corporation could also get exemption. He also pointed out that there was a series of judgments of the Courts laying down as to which bodies would come within the ambit of State and the general principle was that only such bodies that discharge the sovereign purposes of the State could be regarded as State. He stated that the definition of Governmental authority should be narrow as otherwise there could be loss of revenue. He further expressed that the issue should be examined by the Fitment Committee. The Hon'ble Minister from Karnataka concurred that the Governmental bodies should be only such bodies which were entrusted with sovereign functions like building roads, irrigation works, etc.

5.18. The Hon'ble Minister from Telangana stated that they had sent written comments that during the 20th Meeting of the Council, the Hon'ble Chairperson had mentioned that lowering of rate of tax further to 5% on certain types of Works Contracts and the issue of rate of tax in the case of on-going works would be examined and taken up in the next meeting of the Council but this assurance of the Hon'ble Chairperson was not mentioned in the relevant paragraphs, namely, paragraphs 13.7 to 13.13, of the Minutes. The Hon'ble Chairperson observed that the implication regarding suggestion to reduce the rate of tax further to 5% needed to be studied by the officers. The Secretary stated that the Works where labour was pre-dominantly involved, the question was as to what was the material component in such Works Contracts. The Fitment Committee would need to examine it. He informed that as per the letter received from the Hon'ble Minister from Telangana, it was stated that the tax on material component was to the tune of 3% and if the embedded tax of 5% was taken on it, then there would be input tax of 8% and the rate of 5% would lead to a situation of refund of input tax. He stated that this needed to be studied by the Fitment Committee.

5.19. The Hon'ble Minister from Kerala observed that contractors were in a state of great confusion and there was need to give a clear-cut guidance on this issue in this meeting. The Hon'ble Chairperson stated that the matter could be taken up in the next meeting after examination by the Fitment Committee.

5.20. The Hon'ble Minister from West Bengal stated that if the definition of Governmental authority was to be given on the basis of performance of sovereign obligation like irrigation, water works, etc., then equity participation by the Government should be taken as 51% instead of 90% and such bodies should also be registered with the Registrar of Companies (ROC). He suggested that the externally aided projects such as those by the Asian Development Bank or the World Bank should also be covered under the ambit of Governmental authority. He suggested that a decision in principle could be taken on these issues in this meeting and details could be worked out later.

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5.21. Shri Somesh Kumar, Principal Secretary (Finance), Telangana, stated that for the on-going Works which commenced prior to the implementation of GST, tax should be exempted and the burden of embedded tax could be shared between the Centre and the State. He also suggested that the Drawing and Disbursing Officer (DDO) of the relevant Department that was responsible for the Works Contract could certify that only tax paid inputs were used in the construction work. He informed that due to high rate of tax, all projects had come to a standstill. He also suggested to do a reciprocal audit of Governmental works i.e. the Central Government officers could audit the Works Contract of the State Government and *vice versa*. The Secretary observed that pre-GST, Works Contracts were charged to 5% VAT without input tax credit, and therefore, at this stage, there was no question of exempting the on-going Works Contract from the GST. The only issue to be examined was that in a labour-oriented contract, how much material was used and whether the rate of tax for such works could be taken to 5% by working out the actual incidence of embedded taxes and the headline rate. For that, he asked the States to submit the component of labour and material (on actual basis) in a works contract which is labour intensive. He stated that this issue could be examined by the Fitment Committee. He added that the second issue to be considered by the Fitment Committee related to the definition of Governmental authority. He stated that both these issues could be examined by the Fitment Committee instead of taking an *ad hoc* decision in this meeting of the Council.

5.22. The CCT, Gujarat, stated that if a Government corporation or authority or board was allotted grants by the State government (for example, grant allocated to construct a jail or police line, etc.), such transaction should not attract GST at the rate of 18%. He stated that he had already submitted two agenda points on this issue for consideration of the Fitment Committee. The Hon'ble Minister from Punjab observed that in Governmental contracts, work done was shoddy, and therefore, for future works, no rate reduction should be considered. The Hon'ble Minister from Kerala observed that while the Fitment Committee could look into the issue of material component in labour intensive works and the scope of the term Governmental authority, it was important to address the issue regarding the rate of tax on on-going works for construction of buildings as the States had already informed that the rate of tax would be 12%. Shri J. Syamala Rao, Chief Commissioner of Commercial Tax (CCCT), Andhra Pradesh, stated that the issue relating to execution of Works Contract by Corporations and Public Sector Undertakings as well as grants given to them needed to be examined at the earliest.

5.23. The Hon'ble Chairperson observed that various issues had been raised, such as whether Governmental authorities should be those which perform sovereign functions; whether the equity participation or control of the Government in a body should be 90% or 51% for it to be considered as Government; whether commercial activities of such bodies should be kept out of the expanded scope of definition of Government and only the sovereign functions should be considered. He stated that all these issues should be examined by the Fitment Committee and brought up before the Council in its next meeting. The Hon'ble Minister from West Bengal urged to take an in-principle decision in this meeting as this would help the officers to come to a conclusion more quickly. The Hon'ble Chairperson observed that the definition of Governmental authority should be very precise and limited to such bodies that performed sovereign functions on behalf of the Government and should exclude other State instrumentalities. He stated that the Fitment Committee should consider this issue

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and its recommendation be brought before the Council. The Secretary observed that the term public interest was a very broad concept. He stated that industrial development was an activity in public interest and if a public corporation was being used to promote industry, it was a commercial activity and allotment of land for it was a commercial service. He stated that the definition of Governmental authority should be limited to the sovereign functions and sovereign grants. The Hon'ble Deputy Chief Minister of Gujarat stated that the issue needed to be decided urgently and preferably today. The Secretary stated that it would not be advisable to take a decision in such a rush and suggested that the Council could authorise the GST Implementation Committee (GIC) to decide on the basis of the recommendations of the Fitment Committee. He added that no distinction could be made between the existing contracts and the new ones and that the only point of examination by the Fitment Committee would be the relative component of materials *vis-a-vis* labour in the labour intensive contracts on actual basis which could be studied by the Fitment Committee and brought before the Council in the next meeting. He added that in today's meeting, the Council could take a decision that the rate of tax for Works Contract for construction of Government buildings shall be 12%. The Hon'ble Chief Minister of Puducherry stated that the rate of tax for drainage schemes for Government should also be at the rate of 12%. The Hon'ble Minister from Karnataka expressed that the issues framed by the Secretary reflected the sentiment of the Council and he expressed support for the same.

5.24. The Hon'ble Minister from West Bengal stated that the issue could be considered by the GIC after which the Council could consider the issue through video conference. The Hon'ble Chairperson stated that for arriving at some correct decision, detailed data would need to be worked out. The Secretary stated that for labour intensive works, there was a need to examine the percentage of materials used on actual basis and the tax rate on the same.

5.25. The Council agreed that the rate of tax on services provided to the Central Government, State Government, Union Territory, a local authority or a Governmental authority (a) by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of civil structure for use other than for commerce, industry or any other business or profession; (b) a structure meant predominantly for use as an educational, clinical, art or cultural establishment; (c) a residential complex predominantly meant for self-use or for use by their employees or other persons specified in paragraph 3 of Schedule III of the CGST/SGST Act shall be reduced from 18% to 12%. The Council further agreed that the issue of definition of a Governmental authority and the rate of tax on labour intensive works contract would be studied by the Fitment Committee and its recommendations shall be placed before the Council.

6. In view of above discussion, for **agenda item 1**, the Council decided to adopt the Minutes of the 20th meeting of the Council with the changes as recorded below: -

6.1. To replace the version of the Hon'ble Minister from Goa in paragraph 41.3. of the Minutes with the following: 'The Hon'ble Minister from Goa stated that there was no clarity on charging tax on declared tariff and that tax rate may be fixed on transaction value on the best available rate of the day.'

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6.2. To add the following version of the Hon'ble Minister from Odisha in paragraph 12.5. of the Minutes: 'The Hon'ble Minister from Odisha stated that dry fish was consumed by poor people and it was exempted under Odisha VAT Act. Dry Fish should be exempted under GST.'

6.3. To replace the version of the Hon'ble Minister from Odisha recorded in paragraph 41.4. of the Minutes with the following: 'The Hon'ble Minister from Odisha stated that tax on *sal* and *siali* leaves and cups and plates made thereof and *sabai* grass and *sabai* rope should be exempt as taxing these goods would affect the livelihood of the tribals of Mayurbhanj district and suggested that the Fitment Committee should examine these items. He further stated that the Finance Department of the State of Odisha had written a letter to the GST Council requesting to consider exemption of handicraft goods. He requested that the Fitment Committee should examine to exempt handicraft goods as poor artisans are engaged in making handicraft articles.'

6.4. To replace the version of the Hon'ble Minister from Karnataka recorded in paragraph 37.5 of the Minutes with the following: 'The Hon'ble Minister from Karnataka suggested that the Members of the Council should also get an opportunity to interact with the learned Attorney General of India on the subject of Extra Neutral Alcohol and to convey their views to him.'

7. The Council also decided the following while discussing the Minutes of the 20th Meeting of the Council:

7.1. The issue of Form C under the Central Sales Tax Act shall be examined further in light of the Court decisions.

7.2. The rate of tax on services provided to the Central Government, State Government, Union Territory, a local authority or a Governmental authority (a) by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of civil structure for use other than for commerce, industry or any other business or profession; (b) a structure meant predominantly for use as an educational, clinical, art or cultural establishment; (c) a residential complex predominantly meant for self-use or for use by their employees or other persons specified in paragraph 3 of Schedule III of the CGST/SGST Act shall be reduced from 18% to 12%.

7.3. The issue of definition of a Governmental authority and the rate of tax on labour intensive works contract shall be studied by the Fitment Committee and its recommendations shall be placed before the Council.

Agenda item 2: Decisions of the GST Implementation Committee (GIC) for information of the Council

8. Shri Upender Gupta, Commissioner, (GST Policy Wing), CBEC, made a presentation on the decisions taken by the GST Implementation Committee (GIC) since the 20th Meeting of the Council held on 5 August, 2017. The presentation is at **Annexure 3** of the Minutes.

8.1. The Hon'ble Minister from West Bengal stated that the GIC was taking decisions and notifications were being issued and then it was being brought before the GST Council on *post facto* basis. He stated that some decisions were substantive in nature like the one relating to exemption from Compensation Cess under Section 9(4) of the CGST Act, 2017 for dealers availing the margin scheme and the other regarding amendment to the CGST Act, 2017 to provide that the goods moving across the Line of Control (LOC) from Jammu & Kashmir, was to be declared as deemed export under Section 147 of the CGST Act, 2017 and the goods coming from across the LOC to be charged to CGST and SGST on reverse charge basis under Section 9(3) of the CGST Act, 2017. He suggested that the Council could take an in principle decision that the GIC would decide and notify issues which were procedural in nature. However, for non-procedural issues, GIC would recommend and then the Council would decide through video conference. He further stated that GIC could consider serious issues relating to policy, but it should be brought before the Council for discussion and decision. The Hon'ble Chairperson stated that there could potentially be a grey area as to what was a substantial issue and what was not substantial in nature. The Hon'ble Minister from Punjab stated that excessive delegation to GIC should be avoided. The Secretary stated that the purpose of GIC was that for urgent issues where it was not possible to wait for the Council Meeting, GIC could decide and the decision could be notified. The Hon'ble Minister from Kerala stated that the Council could decide urgent matters through video conferencing. The Hon'ble Chairperson suggested that the GIC could decide on issues of routine nature, but if there was a substantial policy related issue, the Council could decide, either through video conferencing or by a physical meeting.

8.2. The Hon'ble Minister from Kerala stated that the CBEC had issued a circular clarifying that if there was an air-conditioned room in a restaurant, then the entire billing by the restaurant would have to be done at the rate of 18% whereas the rate for non-air-conditioned restaurant was 12% and also food from take away counters of such AC restaurant would attract tax at the rate of 18%. He observed that before issuing such clarification, it should also be considered by the States. The Secretary stated that such clarifications were normally examined by the Fitment Committee before issuance.

9. For **agenda item 2**, the Council took note of the decisions of the GIC. It also approved that the GIC could decide on procedural issues and for substantial policy related issues, the GIC should send its recommendations to the Council which could then be decided either through video conference or by a physical meeting of the Council.

Agenda item 3: Nomination of Director in the Board of GSTN from Group B (State Governments)

10. Introducing this agenda item, the Secretary stated that previously, the Empowered Committee had been nominating Directors on the Board of Directors of GSTN from State Governments and the Empowered Committee (EC). After passage of the Constitution (101) Amendment Act, 2016, as per Article 279A of the Constitution, GST Council has been making all important GST related recommendations to the Central and the State Governments. In view of this, it was decided in the 14th Council Meeting held on 18-19 May, 2017: (a) to nominate the Additional Secretary, GST Council Secretariat as ex-officio Director on the Board of GSTN in place of the erstwhile Member Secretary, Empowered Committee; and (b)

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to amend GSTN's Articles of Association to the effect that all references to the Empowered Committee of State Finance Ministers may, post Constitutional amendment, refer to GST Council. (However, decision with regard to (b) above was still under implementation in GSTN). He added that one Directorship in GSTN had fallen vacant on 27 July, 2017 due to application of the provision under Section 167(1)(b) of the Companies Act, 2013 under which if a Director absents himself from all meetings of the Board of Directors held during a period of 12 months with or without seeking leave of absence of the Board, his post of Directorship shall become vacant. He stated that Shri H.K. Dwivedi, Principal Secretary (Finance), Government of West Bengal, was unable to attend any of the Board meetings during the 12-month period of his Directorship, and therefore, his office of Directorship with GSTN had fallen vacant with effect from 27 July, 2017 in terms of Section 167(1)(b) of the Companies Act, 2013. The Secretary suggested that any State interested in becoming Director on the Board of GSTN could send nomination in writing to the GST Council by the end of the day and the Hon'ble Chairperson could then decide on the nomination. The Council agreed to the suggestion.

11. For agenda item 3, the Council approved the following: -

- (i) Henceforth, all nominations by States on the Board of Directors of GSTN shall be made by the GST Council; and
- (ii) The Hon'ble Chairperson shall suitably nominate a Director on the Board of Directors of GSTN on the basis of nominations to be received from the State Governments.

Agenda item 4: List of Acts from the Central and State Governments as per Section 5(4) of the GST (Compensation to States) Act, 2017

12. Introducing this agenda item, the Secretary informed that this issue was discussed in detail during the meeting of the officers of the Central Government and the State Governments held on 8 September, 2017 in Hyderabad. He informed that written comments on this agenda item were received from the States of Himachal Pradesh and Maharashtra. He further informed that during the Officers' meeting, the States of Uttar Pradesh, Odisha, Andhra Pradesh, Goa and Telangana had also raised the issue that some of the Acts listed were not repealed by their States in entirety but only certain Sections were omitted or that some Acts were missing or needed to be added in the proposed notification. He stated that during the Officers' meeting, he had advised the States to send in writing, all discrepancies relating to addition or deletion of the Acts subsumed under the Goods and Services Tax Act. He proposed that this agenda item could be deferred in view of the need for further corrections in the draft notification.

12.1. The Hon'ble Chief Minister of Puducherry stated that the auditors had excluded certain revenue from the base year for compensation which was not correct. The Secretary stated that only the eligible amounts could be considered for compensation and the law in this regard had already been framed. He suggested that the Acts not included or modified should be forwarded through the Auditor General of the States to enable suitable modification to the draft notification presented under this agenda item. After discussion, the Council agreed to defer this agenda item.

13. For agenda item 4, the Council agreed to defer this agenda item.

Agenda item 5: Issues recommended by the Law Committee for consideration of the GST Council

14. The Commissioner (GST Policy Wing), CBEC, made a presentation on the issues recommended by the Law Committee for consideration of the GST Council. The presentation is attached at Annexure 3 of the Minutes. Thereafter, a discussion took place on individual agenda items, which are recorded as below:

Agenda item 5(i): Notification with respect to sub-section 6 of Section 54 of Central Goods and Services Tax Act, 2017 (Category of registered persons not eligible for refund)

15. The Commissioner (GST Policy Wing), CBEC explained during the presentation that the Law Committee had recommended that under Section 54(6) of the Central Goods and Services Tax Act, 2017, two categories of suppliers making zero-rated supplies could be notified as not eligible for sanction of 90% refund on provisional basis within seven days of filing of the refund application. The first category was any registered person who has been granted registration under the CGST Act/SGST Act or under the existing law within a period of six months from the date of application for refund and the second category was any registered person who has not furnished return for three consecutive tax periods immediately preceding the date of application for refund.

15.1. The Hon'ble Minister from West Bengal stated that while provisional refund of 90% within seven days could be denied to persons who defaulted in filing returns for three consecutive months but it was not proper to deny 90% provisional refund within seven days to those exporters who were registered under the GST or under the existing law within six months. He stated that several exporters were start-up companies and they should be allowed the facility of provisional refund. He pointed out that the Chief Economic Advisor, in his presentation (which is recorded under agenda item 9), had dwelt upon the means to encourage export but this proposal went against this spirit. The Commissioner (GST Policy Wing), CBEC, explained that this provision was meant to exclude fly by night operators from availing the benefit of this provision. The Hon'ble Minister from West Bengal observed that the worst scenario should not be taken as the basis for making law. Shri Arun Mishra, Additional Secretary, Commercial Taxes, Bihar, stated that as input tax credit was allowed for two months, there was a risk that some people could claim refund and then vanish. Shri R.K. Tiwari, Additional Chief Secretary (ACS), Uttar Pradesh, stated that his State agreed to the proposal to deny the provisional refund to newly registered persons but had reservations regarding denial of provisional refund only to tax payers who had not filed three consecutive returns. He suggested that this provision should be made more stringent and the facility of provisional refund should be denied to a taxpayer if he had not filed even one return. The Secretary stated that one-month period for not filing return was too less, and suggested to keep it as three months. The Additional Secretary, Commercial Taxes, Bihar, stated that for provisional refund, the first level of check would be done through the Shipping Bill filed for the exported consignment and the Return would be the second document for verification. He explained that if an exporter did not file three returns consecutively, he would be denied the

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provisional refund and his refund claim would be considered only after the scrutiny of his return.

15.2. The Hon'ble Minister from Punjab suggested that this issue could be studied by a Committee on Exports, which the CEA had suggested to constitute in his presentation (which is recorded under agenda item 9) and the Committee could give its recommendations to the Council. The Hon'ble Chairperson observed that the Committee on Exports could be constituted to look at larger issues relating to exports, and this could consist of officers from the Centre and four to five major exporting States. The Council authorised the Hon'ble Chairperson to set up such a Committee on Exports consisting of officers from the Centre and 4-5 major exporting States to look at the issues of export sector and to recommend to the Council suitable strategy for helping the export sector in the post-GST scenario. The Secretary informed that the States wanting to be a member of this Committee could send their nomination in writing. The Hon'ble Minister from Tamil Nadu stated that his State should be taken as a member of the Committee on Exports. The Council agreed to defer a decision on this agenda item and to refer this issue to the Committee on Exports to be constituted by the Hon'ble Chairperson.

16. For agenda item 5(i), the Council approved to defer the decision and to await the recommendations of the Committee on Exports. The Council also approved to authorise the Hon'ble Chairperson to set up a Committee on Exports consisting of officers from the Centre and four to five major exporting States to recommend to the Council suitable strategy for helping the export sector in the post-GST scenario.

Agenda item 5(ii): Extension of date for opting for Composition till 30 September, 2017 in respect of such migrated tax payers, who have not exercised their option till 16 August, 2017

17. The Commissioner (GST Policy Wing), CBEC explained during the presentation that the Composition scheme for migrated tax payers had closed on 16 August, 2017 and many people could not register or avail of this scheme. In view of this, it was proposed to extend the date for opting for Composition scheme for migrated taxpayers till 30 September, 2017 and to implement it by introducing Rule 3(1) (A) in the CGST Rules and by also making a small consequential change in Rule 3(5) of the CGST Rules. He also explained that those who avail of the new deadline would be eligible for Composition benefits from 1 October, 2017. He explained that once the scheme was availed under the CGST Act, 2017, it would automatically be available under the other Acts, namely SGST Act and UTGST Act and *vice versa*. He further informed that during the Officers' meeting held on 8 September, 2017, it was proposed that the new deadline for availing Composition scheme should also be allowed to newly registered tax payers.

17.1. The Hon'ble Minister from West Bengal and the Hon'ble Deputy Chief Minister of Bihar supported the proposal. The Hon'ble Minister from Punjab observed that the Composition scheme had not become popular due to some glitches like denial of this scheme to any taxpayer who supplied any service. The Secretary observed that no change in law could be made at this stage. The Advisor to the Chief Minister of Punjab suggested that amendments could be made under the clause relating to removal of difficulties. The Secretary

responded that the clause regarding removal of difficulties could not be used to make changes in the law. After discussion, the Council agreed to the proposal to extend the date for opting for Composition scheme to 30 September, 2017 and to allow the composition benefits with effect from 1 October, 2017 for both migrated as well as newly registered tax payers.

18. For **agenda item 5(ii)**, the Council approved to extend the date for opting for Composition scheme to 30 September, 2017 and to allow the composition benefits with effect from 1 October, 2017 for both migrated as well as newly registered tax payers.

Agenda item 5(iii): Exemption from the requirement of registration to the persons making supplies of handicraft goods in different States

19. During the presentation, the Commissioner (GST Policy Wing), CBEC, explained that this issue had primarily been raised by the State of Jammu & Kashmir to address the problem of small artisans of any State selling handicraft goods in other States and it was proposed to exempt them from the requirement of registration under Section 24(i) of the CGST Act, 2017 even if they make inter-State supplies. This exemption would be available for annual turnover of up to Rs. 10 lakh for the Special Category States (other than the State of Jammu & Kashmir) and up to Rs. 20 lakh for other States with the condition that their turnover in one month should not be more than Rs. 5 lakh in Special Category States (other than the State of Jammu & Kashmir) and Rs. 10 lakh in other States. He further added that such persons shall also be eligible for exemption from the requirement of registration under Section 24(ii) of the CGST Act, 2017 for casual taxable person. To give effect to these exemptions, two notifications were proposed to be issued. He added that for such persons, PAN and e-way bill shall be mandatory and they would need to generate e-way bill, irrespective of the value of consignment being transported. He informed that during the Officers' meeting held on 8 September, 2017, a few States had expressed concern that it would reduce the number of registered tax payers.

19.1. The Hon'ble Minister from Jammu & Kashmir stated that this was a very important issue for his State as about 11 lakh people (almost 10% of the population of the State of Jammu & Kashmir) sold their products in other States and they were adversely affected due to GST, including high rate of tax. He suggested that there should be no monthly cap of turnover and that there should be only an annual turnover cap. The Hon'ble Minister from Madhya Pradesh stated that art galleries were not allowing display of paintings of small artists until they took GST registration. The Hon'ble Minister from West Bengal supported the observation of the Hon'ble Minister from Madhya Pradesh and stated that tribal art, folk art, etc. were very important and artists should not be forced to get registered as they would then need to employ an accountant for compliance with GST law. The Hon'ble Chief Minister of Puducherry also supported the proposal of the Hon'ble Minister from West Bengal. The Secretary stated that painting was part of handicrafts and it would be covered in the decision for exemption for handicrafts.

19.2. The Hon'ble Deputy Chief Minister of Gujarat stated that Tibetans came to his State during winter to sell their products like clothes, shawls, etc. and their sale amounted to several lakh of rupees and that, under this provision, they would stand exempted from tax. The Commissioner (GST Policy Wing), CBEC, explained that handicraft items would be defined

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and only people selling such handicraft items would enjoy the benefit of this exemption from registration. He added that those enjoying the benefit of this exemption should have PAN and must generate e-way bill. The Hon'ble Deputy Chief Minister of Bihar observed that a large number of Tibetans came to his State as well to sell woollen garments and they would not be covered under handicrafts. The Commissioner (GST Policy Wing), CBEC stated that they would not be covered under handicrafts, and therefore, they would need to be registered.

19.3. The ACS, Uttar Pradesh, observed that an exception was being created for artisans of handicrafts making inter-State sales by exempting them from registration under GST and in future, similar benefits could be claimed for many other goods (like handloom) thus adversely affecting the expansion of the tax base. He suggested that registration should be done for as many persons as possible and compliance burden should be brought down. The Hon'ble Minister from Jammu & Kashmir responded that this was a very important issue for his State and it should not be objected to by the States which obtained exemption from tax for items like *hawan samigri*. The Hon'ble Minister from Tamil Nadu expressed an apprehension that small artisans might not be able to fulfil the requirements of e-way bill. The Hon'ble Chairperson observed that the benefit of exemption from registration could be given to suppliers of handicrafts as tax effect would not be very high but compliance burden would be high and cumbersome. The Hon'ble Minister from West Bengal supported this suggestion and added that folk painting should also be added to the list of handicrafts items to which the Secretary responded that this was already covered as handicraft. The list of items of handicrafts could be taken from paragraph 5 of Agenda Item 8(i).

19.4. After discussion, the Council approved the suggestion to exempt from registration the suppliers of handicrafts with annual turnover of up to Rs. 10 lakh for the Special Category States (other than the State of Jammu & Kashmir) and up to Rs. 20 lakh for other States making inter-State supply under Section 24(i) as also making supply as a casual taxable person under Section 24(ii). The Council also agreed that there shall be no monthly limit of turnover for handicraft suppliers to avail the benefit of this provision. It was also agreed that the list of handicraft items listed in paragraph 5 of Agenda Item 8(i) shall be taken as a basis for drawing the list.

20. For **agenda item 5(iii)**, the Council approved the following: (i) to exempt from registration the suppliers of handicrafts making inter-State supply under Section 24(i) as also making supply as a casual taxable person under Section 24(ii) if their annual turnover did not exceed Rs. 10 lakh in Special Category States (other than the State of Jammu & Kashmir) and Rs. 20 lakh for other States; (ii) there shall be no monthly limit of turnover for handicraft suppliers to avail the benefit of this provision; (iii) the list of handicraft items listed in paragraph 5 of Agenda item 8(i) shall be taken as a basis for drawing the list.

Agenda item 5(iv): Exemption to a job-worker making inter-State supply of services to a registered person from the requirement of obtaining registration under clause (i) of Section 24 of the CGST Act, 2017 and consequential amendments

21. The Commissioner (GST Policy Wing), CBEC, during his presentation, explained that as per the law, a job worker was liable to take mandatory registration for inter-State supply of services but the trade community had requested that small job workers with annual

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turnover of less than Rs. 20 lakh should be exempted from such mandatory registration. The Law Committee had recommended to exempt such job workers from registration requirement under Section 24(i) of the CGST Act and the SGST Acts but the benefit should not be available once he crossed the annual threshold of Rs. 20 lakh or if he took voluntary registration. He further informed that e-way bill was proposed to be made mandatory for movement of goods by such job workers, even if the value of their consignment was less than Rs. 50,000.

21.1. The Secretary informed that this agenda item was discussed during the meeting of the Officers of the Central Government and the State Governments held on 8 September, 2017 at Hyderabad, and while some States supported the proposal, others thought that this would lead to reduction in the number of registered tax payers. The Hon'ble Minister from Kerala observed that such type of exemption could lead to tax evasion and cautioned against accepting the recommendation. The Hon'ble Minister from West Bengal stated that this exemption would be beneficial for job workers of textile and jewellery as those with turnover below Rs. 20 lakh would not be saddled with compliance burden. The Hon'ble Deputy Chief Minister of Gujarat observed that this could encourage splitting of turnover by members of a family. The Commissioner (GST Policy Wing), CBEC, stated that in every case, the principal would pay tax on reverse charge basis. The Hon'ble Chairperson echoed the view of the Hon'ble Minister from West Bengal that relief should be given to persons with small turnover even at the cost of loss of some taxpayer base.

21.2. Shri Sanjeev Kaushal, ACS, Haryana, stated that a similar demand could come in respect of goods as well. He stated that for movement of goods between Delhi and Gurugram (Gurgaon), splitting of transactions was easy and cautioned against allowing such an exemption. The Hon'ble Deputy Chief Minister of Gujarat stated that a distinction should be made between an industrial job work and other types of job worker. He cautioned that there was a lot of movement of goods between Vapi and Mumbai and such an exemption would lead to large amount of tax evasion. The Commissioner (GST Policy Wing), CBEC reiterated that even if there was splitting of turnover, tax would be paid on reverse charge basis and also reminded that the provisions of e-way bill Rules would apply for movement of such goods. The Secretary observed that as jewellery, goldsmiths' and silversmiths' wares and other articles under Chapter 71 were excluded from the scheme of e-way bill to ensure security for such consignments as contents of the package and the truck number could be available to third parties, the job workers for such goods should not be extended the benefit of exemption from registration for inter-State supply of services to a registered person having an annual turnover of less than Rs.20 lakh. The Council agreed to this suggestion.

21.3. The Hon'ble Deputy Chief Minister of Gujarat stated that presently no checking was being done at check posts and no one knew the quantum of goods moving across the border. He also informed that many transporters were charging extra amount for moving the goods without e-way bill. The Secretary stated that the provisions of State level e-way bill could be tightened. The CCT, Assam, stated that a lot of non-tax paid goods were coming to his State and sought to know whether anti-evasion action could be taken on the basis of any information. The Secretary clarified that such an action could be taken against such tax evaders.

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22. For **agenda item 5 (iv)**, the Council approved the following: (i) to exempt from registration job workers making inter-State supply of job work services (except in case of jewellery, goldsmiths' and silversmiths' wares and other articles under Chapter 71) to a registered person and having an annual turnover of less than Rs. 20 lakh for normal States and Rs. 10 lakh for Special Category States; (ii) the benefit of exemption from registration mentioned in clause (i) shall not be available to those who opt to take registration voluntarily under Section 25(3) of the CGST Act/SGST Acts; (iii) generating e-way bill shall be mandatory for movement of goods by such job workers, even if the value of their consignment is less than Rs. 50,000.

Agenda item 5(v): Notifying the date from which Section 51 of the CGST Act, 2017 shall come into force as 18.09.2017 and notifying certain persons or category of persons as deductors under clause (d) of sub-section (1) of Section 51 of the said Act

23. The Commissioner (GST Policy Wing), CBEC, stated that it was proposed to notify Section 51 of the CGST Act, 2017 with effect from 18.09.2017 to enable registration of tax deductors but actual deduction of tax at source (TDS) could start at a later date. He added that the following persons were proposed to be notified as tax deductors under clause (d) of sub-section (1) of Section 51 of the CGST Act, 2017: -

- (a) an authority or a board or any other body -
 - (i) set up by an Act of Parliament or a State Legislature; or
 - (ii) established by any Government, with fifty-one per cent or more participation by way of equity or control, to carry out any function;
- (b) society established by the Central or State Government or a local authority under the Societies Registration Act, 1960;
- (c) public sector undertakings.

23.1. He informed that during the Officers' meeting held on 8 September, 2017, there was a view that Section 52 of the CGST Act, 2017 relating to Tax Collection at Source (TCS) should also be notified but it was pointed out that if Section 52 was notified, then tax collection at source would have to be started, which might not be feasible immediately. He stated that taking this into account, it was suggested that registration for TCS could be started by issuing a circular to this effect rather than by notifying Section 52. The Council agreed to the suggestion to notify Section 51 to start registration for tax deductors at source but to notify the requirements of tax deduction at source at a later date. The Council also approved the notification of categories of persons under Section 51(1)(d) of the CGST Act, 2017 as mentioned in paragraph 23 above who would also be liable to deduct tax at source. The Council further agreed to start registration for persons liable to TCS by issuing a circular to this effect by the respective Governments.

24. For **agenda item 5(v)**, the Council approved the following: (i) to notify Section 51 of the CGST Act, 2017, the SGST Acts and the UTGST Acts with effect from 18.09.2017; (ii) actual tax deduction at source (TDS) to start at a date to be decided later; (iii) to notify under Section 51(1)(d) of the CGST Act, 2017, the SGST Acts and the UTGST Acts, the categories of persons as mentioned in paragraph 23 above who would be liable to deduct tax at source; (iv) to start registration for persons liable to TCS by issuing a circular to this effect by the respective Governments.

Agenda item 5(vi): Constitution of the Standing Committee, Screening Committees and National Anti-profiteering Authority (NAA)

25. During the presentation, the Commissioner (GST Policy Wing), CBEC, informed that amendments were proposed to Rule 124(3), 124(4) and 124(5) and Rule 127 of the CGST Rules, 2017. In Rule 124(3), it was proposed that Technical Members shall get the same salary as admissible to him in an equivalent Group 'A' post in the Government of India and in case of retired officer, his salary shall be fixed as the last pay drawn as reduced by pension in accordance with the recommendations of the 7th Pay Commission as accepted by the Government. In sub-rules (4) and (5) of Rule 124, it was proposed to insert a mechanism to review the performance of the National Anti-profiteering Authority (NAA) by the Council and also removal of the Chairman/Technical Member on the recommendations of the Council. In Rule 127, it was proposed that the NAA shall submit a quarterly performance report to the Council. The Secretary suggested that minimum one year's experience could be prescribed at the level of Commissioner to be a Member of the NAA.

25.1. The Hon'ble Minister from West Bengal suggested not to provide the minimum experience and to just keep the eligibility at the level of Commissioner. After discussion, the Council approved the proposed amendment to Rules 124(3), 124(4), 124(5) and 127 of the CGST Rules, 2017, as discussed above. The Council also agreed that the Technical Members of the NAA shall have at least one year's experience as Commissioner.

25.2. The Hon'ble Minister from Kerala stated that Maximum Retail Price (MRP) had not been reduced on new stocks and it was important to demand that MRP on new stocks should be reduced as the Anti-profiteering bodies would take some time to get operational. The Secretary stated that this issue was raised during the last meeting of the Council and the Hon'ble Chairperson had made a public appeal to reduce the price of fresh stocks. He also explained that State-level complaints relating to State-level companies would be forwarded to the State-level Screening Committee and multi-State complaints would be forwarded to the Standing Committee, and thereafter, if needed, after investigation by the DG (Safeguards), CBEC, these would be placed before the NAA. The Hon'ble Minister from Kerala observed that there was no reduction in MRP of consumer goods and no serious warning had been given for reducing the MRP. The Secretary observed that the Anti-profiteering mechanism had been set up and State-level Screening Committees should start functioning soon.

25.3. The Hon'ble Minister from Goa observed that the ground realities were different than the initial euphoria created for GST. He added that the perception was that the traders had benefitted from GST and not the common people. He observed that this had created a bad name for the Ministers who are Members of the Council and observed that perception was important and common people should perceive that benefits of reduction of taxes under the GST regime were being passed on to the consumers. The Secretary observed that the State-level Committee would need to refer such cases to the Standing Committee.

25.4. The Hon'ble Deputy Chief Minister of Gujarat and the Hon'ble Minister from Haryana stated that some guidelines could be issued for the State-level Screening Committees and the Standing Committee. He further stated that it was important to evolve a combined incidence of taxes (Central Excise and VAT, etc.) as suggested by the Hon'ble Deputy Chief Minister of Bihar. The Hon'ble Deputy Chief Minister of Bihar recalled that during the last meeting of

the Council, he had suggested to make the public aware by listing about 100 important items giving break up of incidence of taxes of Central Excise and VAT to show how the tax rates had come down. He also emphasised that there should be publicity that Central Excise duty was always part of the price but now it was visible as GST. He suggested to launch a campaign to educate people on this aspect.

26. For **agenda item 5(vi)**, the Council approved the amendments to Rule 124(3), 124(4), 124(5) and Rule 127 of the CGST Rules, 2017 as mentioned at paragraph 25 above. It also approved that a minimum one year's experience shall be prescribed at the level of Commissioner to be a Member of the National Anti-profiteering Authority.

Agenda item 5(vii): Transitional provisions and filing of FORM GST-TRAN-1

27. The Commissioner (GST Policy Wing), CBEC, during his presentation, explained the provisions of GST TRAN-1 FORM which did not provide for permitting an amendment to the said FORM and stated that this was proposed to be amended to allow filing a revised GST TRAN-1 once by inserting a new rule in the CGST Rules, 2017. He added that amendment to GST TRAN-1 was also proposed to clarify that the heading of Table 5(a) shall include credit flowing from Section 145(9) of CGST Act, 2017 and that this issue related only to CGST credit and not to SGST credit. Another proposed change relating to the CGST credit only was in the heading of Table 7(a) to allow flow of credit available through Credit Transfer Document (CTD). He further informed that during the Officers' meeting held on 8 September, 2017, it was also recommended that filing of GST TRAN-1 should be extended by one month i.e. till 31 October, 2017 and one revision in TRAN-1 could be done upto 31 October, 2017. The Additional Secretary (Commercial Tax), Bihar, cautioned against permitting revision of GST TRAN-1 as CGST credit of Rs. 62,000 crore had already been taken by the business community. The Secretary observed that as only one revision was being allowed in GST TRAN-1, there could also be a downward revision of the credit claimed under TRAN-1. The Hon'ble Minister from West Bengal supported the proposal under this agenda item.

27.1. The Council approved the proposed changes, namely inserting a new rule in the CGST and the SGST Rules to permit one revision of FORM GST TRAN-1; amendment in the heading of Table 5(a) to include CGST credit flowing from Section 140(9) of the CGST Act, 2017; to slightly modify the heading of Table 7(a) to allow flow of CGST credit through Transfer Credit Document (CDT); and to extend the date for filing GST TRAN-1 from 30 September, 2017 to 31 October, 2017 and one revision in TRAN- could be done upto 31 October, 2017.

28. For **agenda item 5(vii)**, the Council approved the following: (i) to insert a new rule in the CGST Rules and the SGST Rules providing for one revision of FORM GST TRAN-1 upto 31 October, 2017; (ii) To amend heading of Table 5(a) of FORM GST TRAN-1 to include CGST credit flowing from Section 140(9) of CGST Act, 2017 (required only in the CGST Act); (iii) To modify the heading of 7(a) of FORM GST TRAN-1 to allow flow of CGST credit through Transfer Credit Document (CDT) (required only in CGST Act); (iv) to extend the date for filing GST TRAN-1 from 30 September, 2017 to 31 October, 2017.

Agenda item 5(viii): Changes in Central Goods and Services Tax Rules, 2017

29. During the presentation, the Commissioner (GST Policy Wing), CBEC, explained that this agenda item was proposed to carry out correction of a small typographical error in FORM GSTR-4 in Table 8 to substitute the entry at Table 8B(2) to read as "Inter-State Supplies (Rate-wise)" instead of "Intra-State Supplies (Rate-wise)" and to insert the following in FORM GST EWB-01: "The details of bill of entry shall be entered in place of invoice where the consignment pertains to an import".

30. For agenda item 5(viii), the Council approved the following: (i) to carry out correction of a small typographical error in FORM GSTR-4 in Table 8 to substitute the entry at 8B(2) to read as "Inter-State Supplies (Rate-wise)" instead of "Intra-State Supplies (Rate-wise)"; (ii) to insert the following in FORM GST EWB-01: "The details of bill of entry shall be entered in place of invoice where the consignment pertains to an import".

Agenda item 6: Approach Paper on Principles for Fitment post implementation of GST

31. Introducing this agenda item, Joint Secretary (TRU-I), CBEC, recalled that in the 20th Council Meeting held on 5 August 2017, one of the Hon'ble Members had suggested fixation of rates in a more refined fashion and floor rate could be considered for fixation through a method of statistical distribution under a sub-Committee of Hon'ble Ministers. He further stated that the present rate structure was more or less based on the pre-GST tax incidence and that any future review of the GST rate structure would be based on the policy objectives which the Council would seek to achieve from the GST rate structure of goods, rather than a mere fitment exercise. He stated that in the above context, the following basic principles regarding GST rates on goods could be relevant for any future review of rates: -

- (1) To ensure a free flow of ITC, exemptions which break the ITC chain and result in cascading of input taxes should be kept to a bare minimum.
- (2) If any particular State desires to incentivize certain goods of local importance (for dealers with turnovers beyond the Threshold Exemption and Composition Scheme), it would be desirable that the same is done using a direct subsidy, rather than exemption from GST or reduction in GST rate.
- (3) As Nil GST on manufactured goods results in negative protection for the domestic goods, and thus goes against 'Make in India' policy, as a rule, no manufactured goods should be fully exempt from GST.
- (4) As concessional GST rate on any goods (lower than the GST rate on inputs for such goods) results in additional cost to domestic suppliers, putting them at a disadvantage *vis-à-vis* imports, concessional GST rate on goods lower than the GST rate on inputs should be generally discouraged.
- (5) Considering that the present GST rate structure reflects more or less the pre-GST tax incidence, it would be desirable to let the goods prices settle with the present GST rates and seamless flow of input tax credits. In view of the concerns that the benefit of tax incidence reduction in GST or allowance of full input tax credit across the value chain is not being passed on to the consumer, further changes in GST rates on goods, before the prices get settled post introduction of GST, would not be advisable.
- (6) Any further changes in GST rates on goods may be considered only after a reasonable time gap, say three months. By then post GST prices will settle down and some



reliable commodity wise value and revenue data will also be available, which in turn will enable a more meaningful analysis before considering any change in the rates.

- (7) To ensure a meaningful and objective analysis of the costs and benefits of any intervention in GST rates and with an objective to converge towards a single rate (say 18%) or two rates (12% and 18%) GST, any further changes in GST rate on goods, based on policy objectives rather than pre-GST tax incidence on goods, may be considered only after a reasonable time gap, say three months.
- (8) For any further changes in GST rates on goods based on pre-GST tax incidence on goods, the following procedure may be adopted:
 - (a) Each State or Centre makes a list of goods where representations have been received seeking reduction in GST rates.
 - (b) Each State mentions VAT rates of different States for such goods and the Centre mentions the Central Excise duty rate for such goods.
 - (c) Considering the methodology adopted by the Fitment Committee, the pre-GST tax incidence is worked out.
 - (d) In case where the pre-GST tax incidence does not fall in the bracket as provided by the GST Council for the present GST rate, the GST rate may be considered for suitable modification keeping in view the overriding principles of (1) to (5) above.
- (9) In respect of goods attracting 28% GST, the review may be done after a reasonable time gap of say three months based on the GST data, on the following lines:
 - (a) Goods which satisfy the following criteria may not be considered for review, namely:
 - i. Goods that yield high revenue;
 - ii. Luxury goods;
 - iii. Goods having negative externality;
 - iv. Sin goods.
 - (b) Goods which satisfy any of the following criteria may be considered for review subject to the revenue yardstick, namely: -
 - i. Goods of mass consumption / public interest;
 - ii. Intermediate goods which are in the nature of B2B supplies;
 - iii. Goods predominantly manufactured in the unorganised MSME sector;
 - iv. Export related items.
 - (c) Based on the above criteria, the Council may consider suitable guidelines for review of 28% rate, with an aim to rationalise rate, with priority to items of consumption by common man and keeping in view the revenue impact of such changes.

31.1. Starting discussion on this agenda item, Dr. Arvind Subramanian, Chief Economic Advisor (CEA), Ministry of Finance, stated that he always had reservation regarding the 28% rate slab and he expected that the rates would be reduced in the range of 12% to 18%. He observed that he was encouraged by this Paper and it was a good framework to think where the rates of tax could be headed for in the short and medium term. He suggested that the 28% rate slab should be slimmed down as much as possible. He also commended the criteria suggested in the Approach Paper for review of rates. In order to expand the tax base, he

suggested that electricity, land and real estate should be brought under GST. He observed that the Hon'ble Chairperson as well as the Hon'ble Deputy Chief Minister of Delhi had expressed an interest in bringing these items under GST and this would also help in boosting exports.

31.2. The Hon'ble Minister from Punjab stated that he whole heartedly supported the Approach Paper. He informed that his administration was receiving several delegations from trade, requesting for rate reductions. He suggested that similar goods should attract same rate and in one chapter there should not be more than three rates and that while fixing rates of tax, the HSN (Harmonised System of Nomenclature) classification should be maintained. He stated that his State supported the suggestion to bring electricity, land and real estate under GST.

31.3. The Hon'ble Minister from Telangana stated that *bidi* was made from raw tobacco leaves and because of increase in the tax rate, prices had gone up and this needed to be taken note of. The Hon'ble Minister from Kerala observed that the Indian society was complex with a high level of inequality. He added that the present architecture of the GST was to facilitate ease of doing business and at this stage, it was the best compromise keeping in view the larger considerations of the Society. He stated that one should first evaluate the revenue earning under GST before planning for mid-term and long-term changes during six to nine months. He also suggested that the Council should not rush through discussion on rates of tax and should devote quality time for the same.

31.4. The Hon'ble Minister from Goa complimented the Approach Paper. He stated that the suggestion to review the rates after three months could be harmful to a tourist State like his where the 28% rate slab for rooms above Rs. 7,500 per day was causing serious loss of business. He stated that if these rates were not revised soon, the tourist traffic would get diverted to South East Asian countries where the rate of tax was only about 9%. He observed that the present rate of tax was counter-productive and the States would lose tourists permanently. He added that other than the lower tax rates, the South East Asian countries had many other facilities/attractions to offer like clean beaches and better infrastructure. He, therefore, suggested that instead of waiting for three months, the rate of tax on hotels should be reduced to 18% now itself since the high rates were actually punitive for the tourists. He stated that his State was trying to provide better infrastructure to bring in high value tourist traffic

31.5. The Hon'ble Minister from Rajasthan stated that the share of tourists coming to India was not very significant and the high tax rates had further harmed the growth of tourism. He noted that tourism gave foreign exchange, employment, etc. and suggested that the rate of 18% should be applied to room tariff up to Rs. 10,000 per day. The Hon'ble Minister from Odisha supported the observations of the Hon'ble Minister from Goa and stated that the high rates of tax would discourage tourism industry.

31.6. The Hon'ble Minister from Telangana stated that *granite, bidi and tendupatta* were very important goods and requested to reduce the tax rates on them.

31.7. The Hon'ble Minister from Jammu & Kashmir stated that the Paper was a good start. He observed that any rate review should reduce the dispersal of the rate structure. He further stated that another criterion for rate revision should be whether such reduction would be

beneficial for competitiveness of the product and in this regard, he cited the example of walnuts in Kashmir. He suggested that the Council should devise a template for considering rate review.

31.8. Dr. Shrikant Baldi, Addl. Chief Secretary (Finance), Himachal Pradesh, suggested to have one tax rate for one product category. He observed that different rates of tax for computer monitors, footwears and blankets created distortions. He also suggested that difference in the rates of tax between inputs and outputs of a product should not be very high. He also stated that it needed to be considered as to how to improve the MSME (Micro, Small and Medium Enterprises) sector. The Hon'ble Minister from Kerala suggested that the issue of rate structure for tourism should be discussed as a separate agenda item.

31.9. The Hon'ble Minister from Karnataka stated that the Fitment Committee had done a good work to come up with the Approach Paper but this needed more application of mind and more time to study. He also cautioned that a direct or tacit acceptance of the Approach Paper could open litigation in the Courts of law. He stated that if the Council over-ruled the norms approved by it, there could be scope for litigation on this matter. He suggested that the Fitment Committee could tacitly follow these principles. He stated that there was also a need to work on rate rationalisation after data on taxes were received. The Hon'ble Minister from West Bengal stated that the Approach Paper had raised several issues which needed to be studied and thought about. The Hon'ble Chairperson stated that the larger revenue trend needed to be looked at in the next two to three months. He added that if tax rates were reduced, then the Centre and the States would have to be willing to forego the principles of revenue neutrality. The Hon'ble Deputy Chief Minister of Bihar supported the proposal for reducing the rate of tax for hotel rooms to 18% and observed that the rate of 28% was very high. He also made a reference to the case of luxury tax and service tax. The Hon'ble Chairperson stated that for hotel rooms, the rate of 19% was the net tax and some States had a higher rate of tax.

31.10. The Secretary suggested that the Fitment Committee should not carry out an exercise for revision of rates until the Approach Paper was finalised except when rate revision is urgently required. The Hon'ble Deputy Chief Minister of Gujarat stated that the sufferings of industry and rise in unemployment should also be kept in mind while discussing the rate structure. He pointed out that the small-scale industry was suffering due to high rates of tax, and therefore, the rate related discussion should not be postponed. The Secretary stated that the proposed rates for goods listed for this meeting could be considered but the subsequent suggestions for any change in the rates should be based on the agreed Approach Paper. The Hon'ble Minister from Chhattisgarh suggested to add one more principle in the approach paper, namely, to watch revenue and employment situation for next three months and see if revenue was low or employment was high or *vice versa*, and then the rate of tax on that product could be re-examined. The Hon'ble Minister from Karnataka suggested that the Council should not bind itself into a rigid decision-making body on this issue and that it should take decisions on the basis of the Approach Paper or in the light of such other conditions as might be prevailing. He observed that the Council could take a decision on this issue. The Council agreed to give more time to the Members to study the Approach Paper and formulate their response and then take it up for discussion.

32. For **agenda item 6**, the Council approved to give more time to the Members to study the Approach Paper and formulate their response and then take it up for discussion in the Council.

Agenda Item 7: Recommendation of the Fitment Committee on goods and services
(Outstanding Agenda Item from 20th GST Council Meeting)

33. Introducing this agenda item, the Secretary stated that this was a carry-over agenda from the 20th Council Meeting held on 5 August, 2017 and proposed to discuss the items listed at Annexure I (List of goods for change in GST rate); Annexure IIA (List of issues relating to goods discussed by the Fitment Committee where slight changes are proposed); Annexure IIB (List of issues relating to goods discussed by the Fitment Committee where no change is proposed); Annexure III (GST Rate on Services- Proposals found NOT acceptable by the Fitment Committee for consideration of the GST Council during its 20th Meeting) and Annexure IV (List of musical instruments for specific inclusion in the exemption list). He recalled that the Council had already taken a decision in its 20th Meeting held on 5 August, 2017 in respect of goods listed at Sr. No. 1 (Concentrated milk or milk powder consumed by distinct persons as per Section 25 (4) for conversion into milk for distribution through dairy cooperatives), Sr. No. 23 (reduction in rate of tax on specified parts for tractors), and Sr. No. 30 (Goods imported for FIFA under 17 Football World Cup) of Annexure I. He further pointed out that proposal at Sr. No. 8 (Satellite launch services by ANTRIX to international and domestic customers to be exempted from GST) of Annexure III now stood superseded by another agenda item 8(iii) which specifically dealt with exemption from GST on the services provided to both international and domestic customers by ANTRIX Corporation Limited from levy of GST. A record of discussion on the specific items under different Annexes is as below.

Annexure-I

(i) **Tamarind dried (Sr.No. 2):** The proposal of the Fitment Committee was to reduce the rate of tax from 12% to 5%. The Hon'ble Minister from Chhattisgarh stated that dried tamarind was not a processed good as it only involved removal of seeds and pressing the fruits. He added that it was not a spice and it should be exempted from tax. He added that this product did not yield much revenue and it was connected to employment in the Bastar region. The Hon'ble Ministers from Maharashtra and Telangana supported the proposal of the Hon'ble Minister from Chhattisgarh. The Hon'ble Chairperson stated that revenue was also an important consideration while considering the rate proposals. The Hon'ble Minister from Telangana responded that revenue yield from this good would not be much and it was consumed by the poorer sections of the society. The Secretary stated that exemption should be given to limited products and tamarind dried was a processed good and was used as a spice like *jeera*, etc. The Hon'ble Minister from Tamil Nadu stated that this was not a processed good and it was only dried under sunlight. Shri Anurag Goel, CCT, Assam stated that even if tax on this product was exempted, its price might not be reduced. After further discussion, the Council agreed not to exempt the tax on this product, but to reduce the same from 12% to 5% as recommended by the Fitment Committee.

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(ii) **All goods i.e. cereals, put up in unit container and bearing a registered brand name (Sr. No. 3):** The Joint Secretary (TRU-I), CBEC, stated that in the 15th Meeting of the Council held on 3 June 2017, it was decided that since branded cereals were a value-added product, they could be taxed at the rate of 5%. The Council had also taken a view that this tax rate should not apply for all types of branding but should be restricted to only registered brand names. He added that the legal meaning of the registered brand names was derived from the Trade Marks Act. He stated that after this provision was put into place, a process of deregistration of registered brand names of cereals had started. He invited Shri Rajiv Jalota, CCT, Maharashtra to share the data on deregistration of brand names of cereals. The CCT Maharashtra informed that as per the data obtained from the office of DG, Patents and Trade Marks, in May 2017, out of 75 applications for deregistration of Trade Marks, only 15 related to food grains but this number showed substantial jump in the months of June and July, 2017. In June 2017, out of 110 applications for deregistration, 90 related to food grains and in July 2017, out of 150 applications for deregistration, 125 related to food grains. He stated that in this view, the definition of registered brand name was proposed to be modified by adding to it 3 conditions as mentioned in the agenda note. The Hon'ble Chairperson stated that there was a flaw in the original drafting as a Trade Mark need not be registered. He stated that if a Trade Mark was registered, then the person holding the Trade Mark could sue for infringement, but if a Trade Mark was well known, the user of the Trade Mark could still sue for passing off under the common law. He suggested that in addition to the 3 conditions recommended by the Fitment Committee for amendment in the definition of the registered brand name, a fourth condition could also be added namely, a mark or name in respect of which actionable claim is available shall be deemed to be a registered brand name. The Council approved this proposal.

(iii) **Roasted Gram (Sr. No. 4):** The Fitment Committee recommended to reduce the rate of tax from 12% to 5%. The Hon'ble Minister from Chhattisgarh suggested that roasted gram should be exempted as there was no tax on gram and also no tax on the end product of roasted gram, i.e. *sattu*. He stated that roasted gram was an intermediate product, it should also be exempt from tax and the revenue yield from this product would be very low. He added that as this product was supplied inter-State, it would also not enjoy the benefit of the threshold exemption of Rs. 20 lakh. He added that exempting this product from tax would help to generate employment. The Hon'ble Chairperson observed that the suppliers of roasted gram would be using some inputs which would be taxable such as mobile phone and they would be able to claim input tax credit on the same, if the product was taxed at the rate of 5%. After further discussion, the Council agreed not to exempt the tax on roasted gram, but to reduce the same from 12% to 5% as recommended by the Fitment Committee.

(iv) **Oil Cakes (Sr. No. 7):** The Joint Secretary (TRU-I), CBEC stated that the Fitment Committee proposed to tax oil cakes other than cotton seed oil cakes at 5% and to exempt cotton seed oil cake. He explained that this proposal was made keeping in view the fact that end use based exemption was difficult to administer as the supplier would not know the end use of the product. The Council approved the proposal.

(v) **Rubber bands (Sr. No. 11):** The Fitment Committee recommended to reduce the tax on this product from 28% to 18%. The Hon'ble Minister from Kerala stated that these goods were made in tiny production units and they should be taxed at the rate of 12% instead of 18%. The Council agreed to this suggestion.

(vi) Idols made of clay (Sr. No. 17) and Idols made of stone including marble (Sr. No. 18):

The Fitment Committee had recommended to reduce the rate of tax from 28% to 5% for idols made of clay. However, it refrained from suggesting any lower rate for idols of stone including marble (attracting tax at the rate of 18%), and left this decision to the Council. Initiating discussion on these products, the Hon'ble Minister from Maharashtra suggested to exempt idols made of clay as these were used in very important festivals like *Ganesh Utsav* and *Navratri*. The Hon'ble Minister from West Bengal supported this proposal. The Hon'ble Minister from Rajasthan suggested that idols made of stones should also be exempted from tax and that they were not taxed anywhere in the world. The Hon'ble Chairperson raised a question regarding taxation of idols of God made of cut glass and crystal. The Hon'ble Minister from Maharashtra suggested that tax should be levied only on idols of gold and silver. The Hon'ble Minister from West Bengal suggested to exempt from tax, idols made of clay, stone and marble. The ACS, Uttar Pradesh suggested that idols made of brass should be exempted from tax. He suggested that idols made from various non-precious metal should attract same rate of tax. The Hon'ble Minister from Punjab stated that similar goods should attract similar rate of tax whereas presently, idols attracted five different rates of tax. The Advisor to Chief Minister, Punjab stated that majority of idols were made of resin and it attracted tax at the rate of 28%. The Hon'ble Minister from Madhya Pradesh stated that clay idols should be exempted from tax as they were immersed in water after the festival. The Secretary stated that there was a need to distinguish between idols made of precious metals and other types of metal and the latter could be taxed at one rate. He added that the idols made of clay could be kept at a lower rate. The Hon'ble Minister from West Bengal also suggested to keep one rate of tax for idols made of precious metals and another rate for idols made of other metals. The Hon'ble Deputy Chief Minister of Bihar suggested to keep a rate of tax for idols made of marble but to exempt idols made of clay. The Hon'ble Minister from Maharashtra stated that supply of idols should be exempted from tax as temple was not a place of business. The Hon'ble Chairperson pointed out that cement, electrical fittings etc. used in construction of temples was also chargeable to tax. The Hon'ble Minister from Odisha observed that if idols were taxed, the artisans would suffer. CCT, Assam suggested to exempt clay idols but to tax idols of other materials as their inputs would be taxed. The ACS, Uttar Pradesh stated that exempting idols from tax would not hurt the domestic industry as large quantities of idols were also being imported. The Hon'ble Minister from West Bengal stated that tax on idols was a ground level issue linked to political economy and sociology and he had been pleading for its exemption since last three meetings. The Secretary observed that the turnover of several idol makers was in crores of rupees. He observed that there could be a ground to exempt idols made of clay but idols made of other materials should be taxed. He added that this would also help to bring such idol makers under the Income Tax net. The Hon'ble Minister from Rajasthan stated that only 2% of the idol manufactures had an annual turnover of more than Rs. 20 lakh. The Hon'ble Chairperson stated that suppliers dealing in high value idols needed to be taxed whereas the smaller ones would get covered under the threshold exemption of Rs. 20 lakh or the composition threshold of Rs. 75 lakh. The Hon'ble Minister from Punjab suggested that idols made of clay should be taxed at the rate of 5% and the other idols should be taxed at the rate of 12%. The Hon'ble Deputy Chief Minister of Gujarat suggested that the marble idols should be taxed at the rate of 5% and clay idols should be exempted from tax. The Hon'ble Chairperson suggested that the idols made of clay could be exempted from tax whereas idols made of wood, stone (including marble and granite) and metal (other than those made of precious metals) should be taxed at the rate of 12%. He



suggested that idols made of precious metals should be taxed at the rate of 3%. The Council agreed to these suggestions.

(vii) **Nozzles for drip irrigation equipment or sprinklers [mechanical appliances (whether or not hand operated) for projecting, dispersing or spraying liquids or powders]:** The Fitment Committee recommended to reduce the rate of tax from 18% to 12% on this product. The Hon'ble Deputy Chief Minister of Gujarat suggested to keep the rate of tax at 5%. The Secretary stated that a 5% tax rate would lead to a situation of refund due to inverted duty structure. The Council agreed to reduce the rate of tax from 18% to 12% on nozzles for drip irrigation system and nozzles for sprinklers as recommended by the Fitment Committee.

(viii) **Cotton quilts (Sr. No. 24):** The Fitment Committee recommended to reduce the rate of tax from 18% to 12%. The Hon'ble Minister from Rajasthan suggested that cotton quilts (*rajai*) should be taxed at par with blankets where tax rate was 5% for blankets with sale value not exceeding Rs. 1000 per piece and 12% for blankets with sale value exceeding Rs. 1000 per piece. The Council agreed to this suggestion.

(ix) **Worked corals (Sr. No. 25):** The Fitment Committee recommended to reduce the rate of tax from 28% to 5%. The Hon'ble Minister from Rajasthan stated that corals were also in the nature of precious stones and they should be taxed at the rate of 3%. The Joint Secretary (TRU-I), CBEC, stated that tax rate of 3% was applicable only for goods falling under Chapter 71 of HSN Code namely natural or cultured pearls, precious or semi-precious stones, precious metals, etc. whereas worked corals was classifiable under Chapter heading 9601. The Hon'ble Minister from Rajasthan suggested that rate of tax on worked corals should be kept at par with gems. The Joint Secretary (TRU-I), CBEC, stated that handicrafts made of shells and corals were excluded from this Chapter heading. The Hon'ble Chairperson observed that poor people did not buy corals and suggested to keep the rate of tax at 5%. The Council agreed to reduce the rate on worked corals, (other than articles of corals), from 28% to 5% as recommended by the Fitment Committee.

(x) **Walnuts (New proposal):** The Hon'ble Minister from Jammu & Kashmir stated that only his State produced walnuts and a liberal import regime was destroying walnut production in his State. He stated that the maximum sale of walnuts took place before Diwali and it was very urgent that the rate of tax on walnuts (whether or not shelled) should be reduced from 12% to 5%. The Council agreed to the proposal.

(xi) **Parts of diesel submersible engine (New proposal):** The Hon'ble Deputy Chief Minister of Gujarat stated that while the rate of tax on diesel submersible engine was 12%, its spare parts were taxed at the rate of 28%. He suggested that parts of diesel submersible engine should also be taxed at the rate of 12%. The Secretary stated that a list of parts exclusively used for diesel submersible engine could be provided to examine this matter. He stated that spare parts of general use could not be taxed at the rate of 12% when used in diesel submersible engine as this could lead to misdeclaration and evasion of duty. He recalled that a similar approach had been followed in respect of tractor parts. The Council did not take any decision on this proposal.

(xii) In addition, the Council approved all other recommendations of the Fitment Committee contained in Annexure-I of agenda item 7 of the 21st Council Meeting.

Annexure-IIA

33.1. The Secretary stated that Annexure-IIA of agenda item 7 broadly related to issues where the Fitment Committee had recommended to issue certain clarifications and suggested that the Council could approve the recommendations of the Fitment Committee. The Council discussed some of the items listed in Annexure-IIA and the discussion is recorded as below.

(i) **Nutritious diet (*Pushtaahar*) being distributed under the Integrated Child Development Scheme (Sr. No. 16):** The Fitment Committee did not agree to the proposals to reduce tax on these goods from 18% to Nil on the ground that *Pushtaahar* distributed under the Integrated Child Development Scheme (ICDS), was a mixture of proteins, various grains, wheat flour, sugar etc., and was covered under HSN Code 2106 and not 1901, and attracted 18% GST. The Fitment Committee suggested to clarify the same through publication under Frequently Asked Question (FAQ). The ACS, Uttar Pradesh stated that his State suffered from large number of cases of malnutrition of children and to supplement their diet, including for pregnant women, a large quantity of nutritious food was supplied to children and pregnant women under the ICDS and tax on them should be reduced from 18% to at least 5%, at par with the rate of tax on roasted gram. He stated that the current rate of tax was causing a loss of Rs. 600 crore to his State. The Secretary suggested that this issue could be again discussed in the Fitment Committee. The Council agreed to this suggestion.

(ii) The Council approved all other recommendations of the Fitment Committee contained in Annexure-IIA of agenda item 7 of the 21st Council Meeting.

Annexure-IIB

33.2. The Secretary stated that Annexure-IIB contained a list of goods on which the Fitment Committee did not agree to the recommendation to reduce the present rate of GST. The Council discussed some specific products and the record of discussion is as below.

(i) ***FarshiPaththar* (Flooring Stone) (Sr. No. 41):** The Fitment Committee did not recommend reduction of tax on this product from 28% to 5% on the ground that the GST rate of 28% for goods falling in Chapter 68 was as per pre-GST tax incidence and that it would not be advisable to lower the tax rate for one set of items, as it would necessitate similar reduction in a large number of similarly placed items, which would entail substantial revenue loss. The Hon'ble Minister from Chhattisgarh stated that due to high rate of tax on this product, almost all mines in his State were closed which employed about fifty thousand labour and it was a very grave issue in his State. He stated that this product was largely used as a building stone and due to inter-State sales, it was not even eligible for threshold exemption. He suggested that the rate of tax on this product should be reduced from 28% to 5%. The Hon'ble Minister from Telangana stated that his State faced similar issue in respect of *Napa* stones. The Hon'ble Minister from Rajasthan stated that they faced a similar problem in respect of *Kota* stones. The Secretary stated that all floor tiles fell into one category and that mosaic tile was even cheaper than these stones but all flooring tiles were taxed at the rate of 28%. The Hon'ble Minister from Chhattisgarh stated that fifty thousand workers could not be made

unemployed because of a classification issue and suggested that this product should be given a separate classification. The CCT, Assam stated that if the rate of tax on stones was reopened, then rate of tax for several other stones like *Kota* stone, etc. would need to be revisited and this could adversely affect the revenue interest of the consuming States. The Hon'ble Minister from Chhattisgarh stated that *FarshiPaththar* was different from polished *Kota* stone inasmuch as it was an unpolished stone. The Hon'ble Minister from Rajasthan stated that the buyer segment was the same for *Kota* stone and *FarshiPaththar*. The Principal Secretary, Finance, Telangana stated that a two-rate structure could be kept for different types of stone based on their sale price as was done for footwear and apparels. The Hon'ble Chairperson suggested that the issue could be referred back to the Fitment Committee for examination and to also examine the revenue impact of rate reduction.

(ii) **Fly Ash (Sr. No. 44):** The Fitment Committee did not agree to the proposal of reducing the tax rate on fly ash from 18% to Nil, on the consideration that manufacturers of fly ash products would get input tax credit of tax paid on fly ash and other inputs. It also took note that GST rate on fly ash bricks and blocks (12%) was lower than the pre-GST tax incidence and that there was no economic justification for further reduction in rate. The Hon'ble Minister from Odisha stated that fly Ash caused environmental pollution. There was no consideration for fly ash. If it was kept in taxable category, e-Way bill would be required for movement/transportation and this would cause harassment. He suggested that Fly ash should be exempted under GST.

(iii) **Carpets and floor coverings of coir (Sr. No. 50):** The Fitment Committee did not recommend reduction of the existing rate of 12% on these products and felt that in order to achieve the larger goal of a single rate of GST, it might not be appropriate to tweak GST rates of goods which were already at 18% or below. The Hon'ble Minister from Kerala stated that while the intention was to tax floor coverings, carpets, mats and matings and textiles of rubber at 5%, only HSN codes 5705.00 and 5311.00 were included. He suggested to include HSN codes 5702.20.10, 5702.20.20, 5702.20.90 and 5702.90.20 which appeared to be inadvertently left out. He also stated that while fixing a tax rate of coir ropes at 5%, HSN code 5607.90.10 was included but the coir products under 5609.00.10 was omitted, which should be rectified. He further added that many coir products had become expensive and there was a need to take decision item by item. The Hon'ble Minister from Karnataka stated that in the textile sector, there was a huge diversity, there being large firms and very small firms, and there was a need to take a considered decision in the Council after detailed discussion, instead of taking summary decision.

(iv) **Khadi fabrics, garments and made up (Sr. No. 64):** The Fitment Committee did not agree to recommend to reduce the rate of tax on these products from 5%/12% to Nil. The Hon'ble Minister from Karnataka stated that the suggestion to exempt *khadi* fabrics from tax should not be rejected summarily. The Hon'ble Minister from Kerala stated that *khadi* textiles and approved goods should be exempt from tax as vulnerable sections of society depended on this segment of goods. The Hon'ble Chairperson stated that the Council could take a decision on this issue but the challenge was how to define *khadi*. The Secretary stated that earlier, all textiles were exempt and the practical difficulty would now be how to distinguish between *khadi* fabric and other types of fabrics. He suggested that one way to address this issue could be to provide that *khadi* fabrics sold from the outlets authorised by *Khadi* and Village Industries Commission (KVIC) would be exempt from tax. He clarified that this proposal

should only be adopted for *khadi* fabrics and not for *khadi* garments. The Hon'ble Deputy Chief Minister of Bihar supported the proposal. The Hon'ble Minister from Karnataka observed that this had the potential of abuse of power by KVIC but optically the decision was acceptable. The ACS (Finance), Himachal Pradesh, stated that exemption should not be made seller based as this would mean that when private persons sold *khadi* fabrics, no tax exemption shall be available. After discussion, the Council agreed to the proposal of the Secretary.

(v) The issues listed in Annexure II B could not be discussed in detail by the Council due to paucity of time, and it decided to discuss these issues in its next meeting. In this context, the Hon'ble Chairperson stated that the issues on which the Council, after discussion, did not agree with the recommendations of the Fitment Committee (as contained in the said Annexure IIB) could be referred back by the State or the Centre for reconsideration by the Fitment Committee. The Council agreed to this suggestion.

Annexure-III

33.3. This Annexure related to proposals regarding reduction in rate of services which the Fitment Committee did not find acceptable. Due to paucity of time, this Annexure could not be discussed by the Council and was deferred to the next meeting of the Council.

Annexure-IV

33.4. The Secretary explained that indigenous handmade musical instruments are exempt from GST. However, doubts were being raised whether or not a particular musical instrument was an indigenous musical instrument. He also explained that the list of musical instruments contained in Annexure IV of the Agenda Note 7 was provided by the CCT West Bengal, as mentioned in Sr. No. 9 of Annexure-IIA. The Council agreed to the inclusion of this list as an exhaustive list of indigenous musical instruments, which if handmade, would be eligible for the existing exemption from tax.

34. In view of the above discussion, for agenda item 7 relating to recommendation of the Fitment Committee on goods and services (Outstanding Agenda Item from 20th GST Council Meeting), the Council took decisions as recorded below.

34.1. For Annexure-I, the Council approved the recommendations of the Fitment Committee with the following amendments/addition:

- (i) **All goods i.e. cereals, put up in unit container and bearing a registered brand name (Sr. No. 3):** In addition to the 3 conditions recommended by the Fitment Committee as amendment in the definition of the registered brand name, a fourth condition shall be added namely, a mark or name in respect of which actionable claim is available shall be deemed to be a registered brand name.
- (ii) **Rubber bands (Sr. No. 11):** The rate of tax shall be 12%.
- (iii) **Idols made of clay (Sr. No. 17):** The rate of tax shall be NIL.

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- (iv) **Idols made of stone including marble (Sr. No. 18):** The rate of tax for idols made of wood, stone (including marble and granite), and metal (other than those made of precious metals) shall be 12%. Idols made of precious metals shall be taxed at the rate of 3%.
- (v) **Cotton quilts (Sr. No. 24):** The rate of tax for cotton quilts (*rajai*) with sale value not exceeding Rs. 1000 per piece shall be 5% and the rate of tax on cotton quilts (*rajai*) with sale value exceeding Rs. 1000 per piece shall be 12%.
- (vi) **Walnuts (New proposal):** The rate of tax on walnuts (whether or not shelled) shall be 5%.

34.2. **For Annexure-IIA**, the Council approved the recommendations of the Fitment Committee with the following amendments:

- (i) **Nutritious diet (*Pushtaahar*) being distributed under the Integrated Child Development Scheme (Sr. No. 16):** The Fitment Committee to again discuss the rate of tax on this product.

34.3. **For Annexure-IIB**, the Council agreed to exempt *khadi* fabrics sold through the outlets of Khadi and Village Industries Commission (KVIC) from tax and also decided to discuss the other recommendations in its next meeting. The Council further decided that the issues on which the Council, after discussion, did not agree with the recommendations of the Fitment Committee (as contained in Annexure IIB) could be referred back by the State or Centre for reconsideration by the Fitment Committee.

34.4. **For Annexure-III**, the Council deferred discussion to the next meeting of the Council.

34.5. **For Annexure-IV**, the Council approved this list as an exhaustive list of indigenous musical instruments, which if handmade, shall be eligible for the existing exemption from tax.

Agenda item 8: OTHER RECOMMENDATIONS OF THE FITMENT COMMITTEE

Agenda item 8(i): Alternative approach for GST Rate Structure for Handicrafts

35. Introducing this agenda item, the Joint Secretary (TRU-I), CBEC stated that handicrafts were exempt under Central Excise as per Notification No.76/1986-CE and Notification No.17/2011-CE but the articles of jewellery falling under Heading No. 7113 were excluded from this exemption. He informed that the Hon'ble Supreme Court, in the case of Collector of Central Excise, New Delhi Vs. Louis Shoppe (12.03.1995) laid down certain criteria to establish whether a particular article merited classification as 'handicraft', like predominantly made by hand, graced with visual appeal in the nature of ornamentation or inlay work or some similar work. He stated that using such criteria would lend an element of subjectivity and would also result in increased interface between administration and tax payers and in disputes. He informed that the website of the Development Commissioner (Handicrafts) under the Ministry of Textiles, Government of India (<http://handicrafts.nic.in>) listed out various categories of goods which are manufactured by craftsmen across the country apart from mechanised production. He stated that this list was examined and one possible way to resolve the issue of GST rate on handicrafts could be to consider a lower the rate of tax for

goods which were largely made by hand. He stated that this approach would obviate the need to define 'handicraft' *per se*. He explained that keeping this approach in view, the rates of tax for certain items were suggested in the agenda notes. He added that the broad principle adopted was that if the existing rate was 12% or lower, then no change was recommended; but if the rate was higher than 12%, then, it was recommended to reduce it to 12%.

35.1. Initiating the discussion on this agenda item, the Hon'ble Minister from Karnataka expressed his agreement to the proposed rate on handicrafts. The Hon'ble Minister from Jammu & Kashmir stated that the list was not exhaustive and handmade shawls, carpets, etc. were missing. He added that Paper *Mache* articles was a unique product of Jammu & Kashmir on which Excise Duty was Nil and it could not now be taxed at the rate of 12%. The Secretary clarified that shawls already attracted GST at the rate of 5% or 12% depending on their sale value and carpets at 12%.

35.2. The Hon'ble Minister from Odisha stated that in Serial No.7 of the list of items, *sabai* grass and its products were not covered. Shri Tuhin Kanta Pandey, Principal Secretary (Finance), Odisha, stated that during pre-GST period, Central Excise Duty on textiles was NIL and artisans were unregistered persons, and therefore, their sale at the next level would attract tax on reverse charge basis at the rate of 12% or 18%, which was very high. He stated that there was similar problem with *siali* leaves and *sal* leaves, used in making cups and plates. He expressed that these products would become expensive if taxed at the rate of 12% or 18%. He suggested to apply the pre-GST incidence of tax for these products or to exempt them as all handicraft items were exempt from Central Excise earlier. After discussion, it was agreed that tax on all handicraft products of grass, leaves, reed and fibre including mats, pouches and wallets would be reduced from 12% to 5%.

35.3. The Principal Secretary (Finance), Odisha, stated that carved wood products (Chapter Headings 4415, 4416, 4419 and 4420) would get expensive if these were taxed at the rate of 12% or 18% and suggested that these should be taxed at the rate of 5%. After discussion, it was agreed that as the earlier incidence of Central Excise on carved wood products was 12.5% and VAT was 5% in general, the GST rate on carved wood products could be kept at 12% for goods falling under Chapter heading 4415 and 4416 (carved wood products like boxes, inlay work cases, casks, etc. and under Chapter 4420 (carved wood products). It was also agreed to reduce the rate of tax for goods falling under Chapter 4419 (carved wood products – table and kitchenware, etc.) from 18% to 12%.

35.4. The Hon'ble Minister from Kerala stated that the question as to what constituted a 'handicraft' remained unresolved. The Hon'ble Chairperson suggested that the tax rate on handicraft items on which the Fitment Committee had reached consensus, could be approved and for others, wherever the States made a suggestion in writing, it could be taken up for discussion by the Fitment Committee again. The Hon'ble Minister from Kerala stated that there was no agreement on products covered under Serial No.15 (coir products—mats, mattresses, etc. under Chapters 5705 and 9404).

35.5. The Secretary suggested that the rate of tax on glass statues under Chapter Headings 7018 and 9010 need not be reduced from 18% to 12% as glass statues could also be made of crystals. He further suggested that Paper *Mache* articles (Chapter Heading 4823) could be taxed at the rate of 5% as it was an important item for Jammu & Kashmir. The Council

agreed to this suggestion. The Council also agreed that where no change in the rate of tax on a product was proposed by the Fitment Committee despite recommendation by a State, the States could once again raise the issue of rate of tax on such products in the Fitment Committee and the Committee should re-examine the same.

36. For **agenda item 8(i)**, the Council approved the change in rate of those goods listed under agenda item 8 (i) where the Fitment Committee had agreed to the proposed change in rate and to also reduce the rate for the following goods:

- (i) **Handicraft products of grass, leaves, reed and fibre including mats, pouches and wallets:** To be taxed at the rate of 5%;
- (ii) **Carved wood products like boxes, inlay work cases, casks, etc. (Chapter heading 4415 and 4416):** To be taxed at the rate of 12%.
- (iii) **Carved wood products falling under Chapter heading 4420:** To be taxed at the rate of 12%.
- (iv) **Carved wood products – table and kitchenware, etc. falling under Chapter heading 4419:** To be taxed at the rate of 12%.
- (v) **Paper Mache articles falling under Chapter Heading 4823:** To be taxed at the rate of 5%.
- (vi) Where no change in the rate of tax on a product was proposed by the Fitment Committee despite recommendation by a State (including item at Sr. No. 15, namely coir products-mats, mattresses, etc.), the States could once again raise the issue of rate of tax on such products in the Fitment Committee and the Committee shall re-examine the same.

Agenda item 8 (ii): Compensation Cess on Motor Vehicles

37. The Joint Secretary (TRU-I), CBEC explained this agenda item and stated that based on the data received from Tamil Nadu regarding the total tax amount, pre and post-GST, and the total tax incidence, pre- and post-GST, the reduction in taxes after introduction of GST for different models of Hyundai was worked out and on this basis, the GST Council, in its 20th Meeting held on 5 August, 2017 recommended increase in the maximum rate of Compensation Cess on motor vehicles falling under Chapter Heading 8702 and 8703 from 15% to 25%. He stated that the Union Cabinet, in its meeting held on 30 August, 2017 approved promulgation of an Ordinance to amend the Goods and Services Tax (Compensation to States) Act, 2017 so as to increase the maximum rate at which Compensation Cess could be levied from 15% to 25% on motor vehicles for transport of not more than 13 persons including the driver falling under Chapter Heading 8702 10, 8702 20, 8702 30 or 8702 90 and motor vehicles falling under Chapter Heading 8703, and an Ordinance was accordingly promulgated on 2 September, 2017 to amend the Schedule to the Goods and Services Tax (Compensation to States) Act, 2017. He explained that the variation in pre-GST tax incidence was primarily on account of variation in dealer's margin and freight for different makes of motor vehicles and higher the dealer's margin and freight, the lower was the tax incidence. He stated that if the rate of Compensation Cess was fixed by taking into account the highest pre-GST tax incidence, it might result in increase in tax on vehicles with higher dealer's margin/freight, and therefore, it might be advisable to consider lower limit of pre-GST tax incidence for arriving at the rate of Compensation Cess for a particular type of vehicle. He

also suggested to have a separate rate of Compensation Cess for mid and large segment motor vehicle as these categories showed a significant variation in pre-GST tax incidence.

37.1. The Hon'ble Chairperson stated that a view needed to be taken whether Cess should also be increased on small cars. The Hon'ble Minister from Karnataka stated that Cess on small cars need not be touched if it was reasonably certain that the manufacturers would pass on the benefit to the consumers.

37.2. The Hon'ble Minister from Tamil Nadu stated that his State was one of the leading States in automobile sector and Chennai was renowned as the Detroit of India. He stated that a large number of ancillary industries were dependent on factories manufacturing motor vehicles. He further stated that subsequent to introduction of GST, there was reduction in the price of cars of all segments and this had resulted in revival of the automobile industry, resulting in substantial increase in sale of vehicles to the extent of about 20%. He cautioned that any further increase in the Cess would affect the turnover and would correspondingly reduce tax collections from this vital sector. He, therefore, suggested to exercise caution against increase in the rate of Cess on cars without examining the price elasticity of demand, particularly in lower and mid segment of vehicles.

37.3. The Hon'ble Chairperson stated that discussion could commence from the high-end vehicles and suggested that Sports Utility Vehicles (SUVs) (of length more than 4-metre, engine capacity more than 1500 cc and ground clearance 170 mm) could be charged to an additional 7% Cess so that the total Cess became 22% and the total incidence of tax on SUVs became 50%. For large cars (of engine capacity more than 1500 cc), he suggested that the Cess could be increased by an additional 5% to bring the Cess rate to 20% from the earlier 15%. For the mid segment cars (of engine capacity less than 1500 cc), he suggested to increase the rate of Compensation Cess by 2% to make it 17% from the existing 15%. He further suggested that there should be no increase in the rate of Cess on small cars (of length less than 4-metre and engine capacity 1200 cc for petrol and 1500 cc for diesel vehicles). The Council agreed to this suggestion.

37.4. The Hon'ble Minister from Jammu & Kashmir suggested that the rate of tax on small cars should be unified into one single rate and this rate could be kept at 30%. The Hon'ble Chairperson informed that the difference in the rate of tax on small cars was kept to disincentivise use of diesel cars.

37.5. The Hon'ble Minister from Karnataka suggested that hybrid cars should not be subjected to any increase in the rate of Cess. The Hon'ble Chairperson agreed to the suggestion. The Secretary stated that no change in the rate of Cess was also suggested for motor vehicles for transport of not more than 13 persons including the driver, falling under sub-headings 8702 10, 8702 20, 8702 30 or 8702 90. The Council agreed to this suggestion.

38. For **agenda item 8(ii)**, the Council approved the increase in the rate of Compensation Cess for the following categories of motor vehicles:

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- (i) **Sports Utility Vehicles (SUVs)** (of length more than 4-metre, engine capacity more than 1500 cc and ground clearance 170 mm): To increase the rate of cess from the present 15% to 22%;
- (ii) **Large cars** (of engine capacity more than 1500 cc): To increase the rate of cess from the present 15% to 20%;
- (iii) **Mid segment cars** (of engine capacity less than 1500 cc): To increase the rate of cess from the present 15% to 17%;
- (iv) No change in the rate of cess for other categories of motor vehicles.

Agenda item 8(iii): Exemption from GST on the services provided to both international and domestic customers by ANTRIX Corporation Limited from levy of GST

39. Shri Amitabh Kumar, Joint Secretary (TRU-II), CBEC, introduced this agenda item and stated that the Chairman, Space Commission, Department of Space, Government of India, had requested to exempt satellite launch services provided to both international and domestic customer by ANTRIX Corporation Limited from levy of GST. He stated that ANTRIX Corporation is a wholly owned Government of India company under the administrative control of the Department of Space. He stated that the Department of Space had given a number of justifications for granting this exemption, such as need of Government support to compete against global pioneers; to earn foreign exchange by bringing down the cost of launch services through tax exemption; lack of clarity on whether satellite launch service constituted export of service; and the fact that ISRO's Launch Vehicle placed the customer-satellites in space, which was outside the territory of India and these satellites were being controlled, monitored and utilised from the customer's own country after launch. He explained that the primary question was whether the launch service provided by ANTRIX Corporation qualified to be considered as export of services. He stated that in terms of Section 13(9) of IGST Act, 2017, the place of supply of satellite launch service by ANTRIX Corporation to international customers would be outside India and where such supply qualified under Section 2(6) of the IGST Act, 2017, this would constitute as export of service and shall be zero rated and where satellite service was provided to a person in India, the place of supply of satellite launch service would be governed by Section 12(8) of the IGST Act, 2017 and would be taxable. He stated that the Fitment Committee had agreed to this understanding and recommended to issue a clarification on the above lines. The Council agreed to this suggestion.

40. For **agenda item 8 (iii)**, the Council approved to clarify as follows: (i) place of supply of satellite launch services by ANTRIX Corporation Ltd., to international customers would be outside India in terms of Section 13(9) of the IGST Act, 2017 and where such supply meets the requirements of Section 2(6) of the IGST Act, 2017 and thus constitutes export of service, shall be zero rated; (ii) Where satellite launch service is provided to a person in India, the place of supply of satellite launch service is in India and hence taxable.

Agenda item 8(iv): Exemption from GST on the supply of nuclear fuel and heavy water by DAE to NPCIL

41. Introducing this item, the Joint Secretary (TRU-II), CBEC, stated that the Cabinet Secretariat had forwarded a letter of the Chairman, Atomic Energy Commission and Secretary, Department of Atomic Energy (DAE), requesting to exempt levy of GST on lease

of nuclear fuel and heavy water by the DAE to NPCIL (Nuclear Power Corporation of India Limited). He stated that the DAE had justified the proposal for exemption on the ground that the DAE and the NPCIL were related persons as per the definition of "related persons" in Explanation to Section 15 of the CGST Act, 2017 as one of them, directly or indirectly, controlled the other. Therefore, supply of goods and services, even if made without consideration, when made in the course or furtherance of the business, shall attract GST. He further explained that the DAE, being a Government Department was not a tax payer under the GST Act, and the NPCIL, being an assessee under the GST Act, would be required to pay GST on reverse charge basis and file returns under GSTR-1, GSTR-2 and GSTR-3, and therefore, would capture sensitive details regarding strategic materials used in unsafeguarded reactors, which was a matter of concern to the DAE. He further stated that in the pre-GST regime, heavy water and nuclear fuel did not attract Central Excise Duty *vide* Serial No. 94 of Tariff Notification No.12/2012-CE. He informed that the Fitment Committee had discussed this issue on 5 September, 2017 and recommended to exempt from GST, supply of heavy water and nuclear fuel by the DAE to the NPCIL. The Council agreed to this proposal.

42. For **agenda item 8(iv)**, the Council approved to exempt from tax supply of heavy water and nuclear fuels (falling in Chapter 28 of the Customs Tariff Act) by the Department of Atomic Energy to the Nuclear Power Corporation of India Ltd.

Agenda item 8(v): GST on admission tickets for FIFA Under -17 Football World Cup-2017

43. Introducing this agenda item, the Joint Secretary (TRU-II), CBEC, stated that the Ministry of Youth Affairs and Sports (MoYAS) had requested *vide* their letter dated 17 August, 2017 to exempt admission tickets for FIFA Under-17 Football World Cup-2017 event from GST. He informed that MoYAS had furnished the details of ticket price structure and had also stated that the State Governments of Assam, Goa, Kerala, Maharashtra West Bengal and NCT of Delhi, where the events would be held, had given guarantee to exempt Entertainment Tax on sale of tickets by the All India Football Association (AIFA), which is the host Association. He stated that in view of this, it was obligatory on the Government of India to provide exemption from GST. He informed that the issue was also discussed in the Fitment Committee and one view was that since 3/4th of the tickets were covered by the existing exemption from GST as they would be priced at Rs.250 or less, exemption was not warranted. However, the Fitment Committee, in its meeting held on 5 September, 2017 recommended to exempt admission to FIFA U-17 Football World Cup-2017 from GST. The Council agreed with the proposal.

44. For **agenda item 8(v)**, the Council approved to exempt from tax, services by way of right to admission to the events organised under FIFA U-17 World Cup 2017.

Agenda Item 9: Any other agenda item with the permission of the Chairperson

(i) Discussion on GST Revenues

45. The Hon'ble Minister from Kerala desired that the GST Council be briefed about position on the GST revenues collected and the fund settlement done for the month of July, 2017. The Hon'ble Chairperson requested the Secretary for a briefing on the GST revenues.

45.1. The Secretary stated that for the month of July, 2017, the last date for filing of return was 28 August, 2017. As per data received from GSTN on 29 August, 2017 for taxes collected upto 28 August, 2017, the amount of collection was Rs.15,033 crore as CGST, Rs.22,962 crore as SGST and Rs.48,070 crore as IGST out of which IGST collection on account of import, as per data received from Customs upto 31 August, 2017 was Rs. 21,377 crore. He added that for July 2017, the Compensation Cess collected was Rs.7,216 crore. He explained that IGST was an interim tax which is used to discharge the tax liability of IGST, CGST and SGST and that the GSTN had given the cross-utilisation report of IGST used for payment of CGST and SGST and *vice versa*. He informed that the Settlement Order for IGST had been issued. Out of Rs.48,070 crore collected as IGST, the Central Government had got Rs.3,297 crore as CGST and the States had got Rs.7,504 crore as SGST. He stated that the total tax collected by the Central Government as CGST upto 28 August, 2017 was Rs.18,330 crore and that by the States was Rs.30,466 crore. He informed that some returns were randomly cross checked and the programming logic for cross utilisation of IGST for CGST and SGST and *vice versa* was found to be correct.

45.2. The Secretary further informed that based on the State revenue figures of taxes subsumed under GST for 2015-16, as certified by the State Auditor Generals, and adding a growth rate of 14% per year for each of the two years upto 2017-18, the total monthly revenue requirement of the States has been calculated to be Rs.42,973 crore for the year 2017-18. He informed that all States had recorded collection of revenue less than the projected collection after taking into account the 14% growth rate. He stated that for the month of August, 2017, as per GST revenues, there appeared to be a shortfall in the revenue of the States to the tune of around Rs. 12,000 crore. He added that this figure did not include figures from the State of Goa whose certified revenue figures for the year 2015-16 had not yet been received and requested the Hon'ble Minister from Goa to send the same at the earliest. He observed that the Compensation Cess already collected would partly take care of the short collection. He stated that till 28 August 2017, compliance regarding return filing was only about 70% and if more people filed the tax returns and discharged the tax liability, some more tax would accrue to the Government. He informed that an additional Rs.3,000 crore by way of CGST, SGST and IGST had already been collected between 28 August to 9 September 2017. He added that the States would also earn VAT income for the month of August 2017 and the Department of Revenue was collecting the details from the States. The Hon'ble Chairperson pointed out that tax from Composition taxpayers shall also come. The Secretary stated that about 10 lakh persons had opted for the Composition scheme and the revenue from them would also bridge the shortfall. He further explained that it was expected that IGST revenue would build up in the first month because taxpayers who carried out the transaction of purchase in the first month would take the credit but use it in the subsequent months when these goods are sold. He stated that about 21 lakh new registered dealers (including those dealing in textiles) had come into the tax fold during the month of July and August, 2017 and tax from them was also expected to come in the next month.

45.3. The Secretary stated that the amount of Central Excise credit claimed in TRAN-1 for CGST was Rs.61,856 crore and for SGST was Rs.4,002 crore. He stated that all the transitional credit might not be used in the current month and it could be carried forward to the subsequent months. He added that the Central Government was checking the correctness of the high quantum of CGST credit taken in TRAN-1. The Hon'ble Chairperson stated that

the revenue figure under IGST was creating an illusion of high tax collection. He observed that as per the State and Central Government's Budget Estimate, in order to break even, the revenue from July should have been about Rs.91,000 crore. He observed that presently, only about 73% -74% of returns had been filed and additional tax was expected from the late return filers as also from the Composition Tax. He also pointed out that the amount lying in IGST account in the first month (July) might not be a perpetual problem as the credit would get used in the coming months. The Hon'ble Minister from Kerala stated that against a projected revenue of Rs. 1,600 crore for his State till July 2017, the actual collection, taking into account the GST revenue, was Rs. 1,250 crore, leading to a shortfall of Rs. 350 crore. He further observed that the amount lying in balance in the IGST account could be distributed to the States on the basis of some criteria. The Secretary stated that one reason for tax collection being low in August, 2017 was large scale destocking of goods in June, 2017 by traders. He observed that the revenue of the States would have been buoyant in the month of July, 2017.

45.4. The Hon'ble Minister from Jammu & Kashmir enquired whether no State had been able to collect the revenue that was expected to be collected by them and whether every State would need compensation. The Secretary stated that *prima facie*, it appeared to be the case but the final picture would emerge after adding the VAT revenue. The Hon'ble Chairperson expressed that if the revenue collection built up on account of tax payment by late return filers and on account of revenue from composition tax payers, then compensation might not be required for some States. The Secretary informed that the Settlement Order for IGST utilisation had been passed and sent to the States and the States could calculate the revenue yield after taking into account the growth rate of 14%. The Hon'ble Minister from Kerala expressed that they would like to look at the calculation done for the IGST settlement to understand why a certain percentage of the amount was kept unallocated. The Secretary explained that IGST was an interim tax and there was no allocation except for the amounts utilised for payment of CGST and SGST. The Hon'ble Minister from Kerala stated that his State needed to track the use of IGST by big firms. The Hon'ble Minister from Assam stated that consuming States were expected to get a larger share of IGST. The CEA stated that at this stage, because of several one off factors, it would not be advisable to make a definitive statement regarding which States were losing and which were gaining revenue. This could be done after 3-4 months after the System had settled down. He further observed that all States should clearly understand how the IGST settlement was worked out.

45.5. The Hon'ble Minister from West Bengal stated that the liquidity of States was suffering and they were required to borrow much more. He observed that the date for devolution of funds from the Centre to the States had been extended from 1st to 15th of the month and the balance amount of IGST was also being kept with the Centre. He suggested that in order to address the liquidity problem of the States, the amount lying in balance under the IGST head needed to be used in some way. The Hon'ble Minister from Telangana stated that his State suffered a shortfall of Rs.853 crore for the month of July, 2017 and needed support to bridge this shortfall. The ACS (Finance), Uttar Pradesh, observed that large amount of money was locked under the IGST head and one reason for it could be that returns might not have been filed in the exporting and the destination States. He suggested to carry out a quick analysis of the tax payers who had sold the stocks but not filed their returns and the result of this analysis could be shared with the States for further follow up action to make such defaulters file their return. He also suggested to find out an *ad hoc* mechanism to

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distribute some part of IGST amongst the States to ease their Ways and Means situation. The Hon'ble Minister from Rajasthan stated that part of the balance of about Rs. 37,000crore under the IGST head should go to the States to address their liquidity problem. The Hon'ble Minister from Punjab suggested to use the Canada model to distribute the revenue under the IGST head *prorata*, on the basis of GDP of the States. He observed that his State had suffered a shortfall of Rs.800 crore and a part of left over IGST should be shared with the States. The Hon'ble Minister from Jammu & Kashmir stated that for the first time in three years, there was a real liquidity crisis in his State. He stated that overdraft facility of the Reserve Bank of India (RBI) was based on multiples of cash balance and suggested that the IGST balance could be taken as collective cash balance of all States for higher overdraft facility from the RBI.

45.6. The Hon'ble Minister from Karnataka stated that IGST would be a revolving fund where part of the money belonged to the Centre and part to the States. He stated that for the States' share, the balance IGST could be devolved to them in the same proportion as the ratio of devolution of IGST in the previous 2-3 months. He observed that this would help ease the fund requirement of States. He observed that the Centre had also postponed the date of devolution of funds and keeping all this in mind, the revolving nature of IGST could be harnessed. The Hon'ble Chairperson stated that IGST was someone else's money lying in trust with the Government for use in the future payment of taxes and as its custodian, the Government could not distribute it. He observed that as on 28 August, 2017, the net negative revenue of States was Rs. 12,522crore (after taking into account the 14% growth rate for two years) and from 28 August to 9 September, 2017, an additional revenue of Rs. 3,000crore had accrued, and going by the pattern emerging so far, the SGST collection might be higher than that of CGST and this would reduce the shortfall. He stated that the VAT revenue of the previous month would also contribute to reducing the shortfall. He added that Rs. 7,216crore had already been collected as Compensation Cess which, unlike IGST, was available for distribution to the States and expressed the hope that the overall gap might not be very large. The Secretary stated that another mitigating factor for the States was that compensation was to be paid on bi-monthly basis, and therefore, the States' revenue would be a combination of the revenue of July and August, 2017. He added that as the revenue of July, 2017 was very buoyant, compensation requirement would be lesser.

45.7. The Hon'ble Deputy Chief Minister of Gujarat stated that in order to strengthen the faith of the business people in GST, it was necessary to have robust mechanism for refunds, like export refund, GST refund and the old VAT refund. The Hon'ble Minister from Telangana stated that revenue position of the States should not become so bad that giving salary to officials also became a challenge. The Hon'ble Minister from Rajasthan suggested that Compensation Cess should be distributed on a monthly basis. The Secretary stated that collection of taxes was not uniform every month as certain factors might affect revenue collection in a month. He stated that compensation would be calculated on the basis of revenue collection of the States for the months of July and August, 2017. The Hon'ble Minister from Kerala stated that the date of devolution should be changed from 15th to 1st of the month. The Hon'ble Minister from West Bengal supported this suggestion. The Hon'ble Chairperson stated that this issue would be looked into by the Expenditure Department of the Union Government.

45.8. The Hon'ble Chief Minister of Puducherry stated that most States were losing from the point of view of revenue collection. He expressed concern regarding payment of salary to officials. He stated that as States were not getting adequate revenue, the periodicity of compensation needed to be revisited. He suggested that some money could be disbursed to the States on the basis of calculation of States so that they did not face a situation of overdraft. The Hon'ble Minister from West Bengal stated that as the Hon'ble Chairperson was also in charge of the Department of Expenditure, he could take a decision regarding advancing the date for fund devolution. The Hon'ble Minister from Assam stated that such a decision could not be taken at this stage and observed that the Hon'ble Chairperson had shown high sensitivity towards the concern of the States. The Hon'ble Chairperson stated that the position regarding tax collection including VAT would be worked out expeditiously and compensation would be given accordingly.

45.9. The Principal Secretary (Finance), Odisha, stated that as IGST was released to States in September, 2017, it would count as receipts for September, 2017. The Secretary stated that for compensation, the payment was to be counted for August, 2017 only. The Hon'ble Chief Minister of Puducherry stated that there was a higher revenue collection by States in July, 2017 due to the festival season in the prior month. He stated that compensation should be decided on the basis of revenue for July, 2017. The Secretary stated that the Compensation law provided that compensation would be paid on the basis of actual revenue collected from the date of transition, and therefore, the revenue figure for July and August, 2017 would need to be taken into account. The Hon'ble Chief Minister of Puducherry stated that the spirit of the Compensation Act should be honoured and that they would not get any compensation if tax buoyancy of the pre-GST period was also included for calculating the amount of compensation. He expressed an apprehension that no State would get actual compensation if this method was adopted. The Hon'ble Chairperson observed that the compensation date was given in the law itself.

(ii) Presentation by the Chief Economic Advisor, Government of India on 'GST and Exports'

46. The Chief Economic Advisor (CEA) made a presentation on the topic 'GST and Exports'. He gave an overview to the Members on the economic background, embedded taxes on exports in the post-GST regime and the steps needed to make export competitive and to ensure robust growth in exports. (Copy of the presentation is attached as **Annexure 4** to the Minutes.)

46.1. The CEA stated that while the GVA (Gross Value Addition) and GDP (Gross Domestic Product) showed upward movement in the financial year 2015-16, these showed a decline from FY 2016-17 onwards. Non-oil export declined sharply in the first quarter of the fiscal year 2017-18, imports were picking up and the GDP had also been decelerating for the last six quarters. He stated that the Central and the State Governments needed to do more to revive the slowing economy and slowing exports and the Council could also play a role in this. He stated that one of the urgent issues that came up for discussion at the highest level in New Delhi was how to promote exports. He observed that one way to promote exports was to provide subsidies for exports but these always led to questions regarding their WTO consistency. So, a better method to promote exports would be to look at how to eliminate the

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burden of embedded taxes in exports, which would be a WTO consistent step and would also make the Indian exports more competitive internationally.

46.2. The CEA stated that under GST, though exports were zero rated, they were not zero taxed mainly due to embedded taxes on account of factors like certain inputs, like Petroleum, Electricity and Stamp Duty falling outside the scope of GST; duty inversion due to input taxes being higher than taxes on value addition at final stage within GST as in textile and clothing sector; reverse charge especially in agriculture; and procedural changes under GST like upfront payment of IGST on imported machinery which used to be exempted from duty in the earlier tax regime under the EPCG scheme. He stated that the residual embedded taxes varied between 1% -7% depending upon the value addition and the tax structure. He observed that this was quite a hefty amount of embedded tax which made the Indian exports uncompetitive. He observed that some taxes which were outside GST but were embedded in exports were refunded under the Duty Drawback Scheme but the scheme only covered the Central taxes except for apparel and clothing where State level taxes were also being refunded by the Centre. However, taxes embedded due to GST like duty inversion did not get any relief under the Duty Drawback Scheme. He added that according to some calculation done by the industry, there was extra 1%-2% tax on exports due to duty inversion.

46.3. The CEA suggested certain measures to make exports competitive and to ensure its robust growth. In the short run, he suggested that the Central Government could provide immediate, though temporary, relief via the duty drawback scheme, taking into consideration the embedded tax. He suggested that the Council could also take short term and medium-term steps to make exports more competitive. In the short run, the Council could set up a Committee to estimate all embedded taxes both inside and outside GST in all sectors and how the same could be relieved on all exports and how the associated burden could be shared between the Centre and the States. In the medium run, the Council should actively bring electricity, energy, land and real estate into the GST, which would not only have other benefits (like transparency, credit flow, better compliance), but would also reduce embedded taxes on exports. He also presented statistics of the embedded taxes in exports on account of taxes outside GST and due to duty inversion, which, depending upon the value addition, ranged from 3.2% to 5.9%.

46.4. Members of the Council agreed that a Committee of the officers should be constituted by the Hon'ble Chairperson which would examine the issues related to exports, specifically the taxes which were embedded in exports and draw up a mechanism for refund of such taxes. The formal decision on this agenda item is recorded in paragraph 15.2 supra.

(iii) Presentation on Information Technology (IT)-readiness of GSTN for roll-out of GST

47. The Hon'ble Minister from Karnataka requested to allocate time for discussion on issues related to GSTN. The Hon'ble Minister from West Bengal supported the suggestion and recalled that he had earlier suggested to bring out a white paper on IT preparedness. He expressed that collective thinking was needed to address IT related issues. The Hon'ble Chairperson agreed to the suggestion. The Secretary invited Shri Prakash Kumar, Chief Executive Officer (CEO) of GSTN to make a presentation. In his presentation, the CEO, GSTN highlighted the services made available on the GST Portal, statistics of the

Registration, Migration, Return filed, etc. as on 7 September, 2017 and challenges faced and action taken thereon (copy of the presentation is attached as **Annexure 5** of the Minutes).

47.1. The CEO, GSTN, informed that for Registration, the following applications had been made available on GST Portal for Registration: (i) Application for new registration for normal tax payers; (ii) Application for new registration for Input Service Distributor; (iii) Application of enrolment for GSTP; (iv) Application to opt for Composition Scheme; (v) Registration of casual tax payers; (vi) Application for amendment of registration for non-core fields; (vii) Appeal to revoke registration applications. For Payments, the following services had been made available on the GST Portal: (i) Online Payments through Internet Banking and NEFT/ RTGS(with 25 Banks); (ii) Offline Payments-Over the Counter (Authorised Banks); (iii) Creation and maintenance of Electronic Cash Ledger; (iv) Payment option for migrated taxpayers who have not filed Part B of enrolment form. As regards Returns, the following services were available on the GST Portal: (i) Creation and saving of Outward Supplies Return in Form GSTR-1; (ii) Viewing of Invoices uploaded by Supplier in GSTR-2A by Buyer (but only 26 lakh invoices filed so far); (iii) Offline Utility for GSTR-1 for upload of invoices; (iv) Creation, Saving, and Filing of Return Form GSTR-3B; (v) Filing of Return Forms GSTR-1 and GSTR-2. As regards Transitional Forms, the following services were available on the GST Portal: (i) Tran Form 1 - Transitional ITC / Stock Statement; (ii) Tran Form 3 - Credit distribution.

47.2. The CEO presented the statistics of new registration and migration status as on 7 September 2017 in respect of Centre and State Counts. He informed that 11, 30,985 new registrations on Central side and 10,26,960 on State side were approved, besides 61,50,760 fully migrated registrants. In respect of status of filing of GSTR-3B, he stated that 45, 09,561 returns had been filed as on 7 Sept, 2017 and presented the data regarding the frequency of said returns filed on daily basis. In respect of GSTR-1, the CEO stated that 19,83,342 returns had been filed and further presented frequency of GSTR-1 filed on daily basis. He elaborated that the peak time for filing GSTR-3B during a day was 11.00 am to 12.00 pm and 6.00 pm to 8.00 pm. He also stated that on the first day of GSTR-1 filing, 50,000 returns had been filed. He informed that on 5 and 8 September, 2017, there was a problem in accessing GST Portal because one Bank had filed large number of invoices in format different from that prescribed by GSTN and many had wrong GSTIN, which led to the glitch. The CEO also gave details of date-wise payment of tax in the month of August, 2017.

47.3. The CEO gave a brief overview of some of the challenges faced by them in respect of each of the modules like registration, payments, returns and transitional forms and action taken by them to resolve them. He informed that the IT Committee of officers was meeting every week for 2-3 hours to discuss the challenges faced and to take remedial action. He informed that some of the problems faced by the tax payers had already been fixed and these included: (i) Tax payer's registration application stuck in various statuses like "pending for approval" etc.; (ii) A small percentage of taxpayers' status shown as "RC cancelled" after filing GSTR-3B and payment of tax; (iii) Non-editable and blank profiles; (iv) Access denied even after putting correct login credentials; (v) Amount getting debited but cash ledger not updated; (vi) Track Payment Status giving access denied in some cases; (vii) User filed return but status shown as submitted for processing; (viii) Tax payer unable to offset liabilities in GSTR-3B return; (ix) Offline tool not allowing multiple rates for single invoice; (x) Offline

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tool-JSON file not being uploaded, showing error, but not exactly reporting the nature of error; (xi) Error occurred while filing GSTR-3B (xii) System error when accessing Get Taxpayer Detail Page. The CEO, GSTN, informed that some problems were being worked upon to resolve them and these included: (a) Taxpayer unable to file TRAN 1 due to incorrect information given in Registration application which he was unable to amend subsequently; (b) Fee amount shown in Payment Section of GSTR-3B even if fee and penalty is waived; (c) Alert to be provided to the other authority when any ARN (Application Reference Number) was approved; (d) Alert to be provided when Taxpayer did not respond to show cause notice within seven days; (e) Transfer of charge where role/charge was to be given back to officer returning from leave; (f) Capability to revoke role given by State/Centre administration; (g) Tax Officer unable to view return data of taxpayers.

47.4. In respect of data sharing, the CEO stated that GSTR 3B data was already shared with CBEC/Model-1 States and that arrangements were being made to enable Model-2 States to see the data, as per their needs. Replying to a query whether Model-2 States could get the data the way Model-1 did, he clarified that Model-2 States could also put data provided they developed their APIs, as done by Model-1 States. In respect of data of GSTR-1, he informed that GSTR 1 API was available in Prod (production environment) from 1 September, 2017. He stated that reconciliation of payment data shared in reports and those shared in email was being done with Karnataka State first, and its findings would be shared with all States.

47.5. The CEO also presented the future plan of releases as under: (i) Migrated taxpayers processing - 8 September 2017; (ii) Filing of ISD Return - GSTR-6 and GSTR-6A- 11 September 2017; Application of Amendment of Core fields- 13 September 2017; (iii) Processing of GSTP Application- 13 September 2017; (iv) Suo-moto Registration with Payment functionality- 13 September 2017; (v) Filing of Monthly Return GSTR-3- 15 September 2017; (vi) Filing of GSTR-1A-15 September 2017; (vii) Processing of TDS/TCS-22 September 2017; (viii) Registration and Processing of NRFT (non-resident foreign taxpayer)-22 September 2017; (ix) Opt out from Composition scheme-22 September 2017; (x) Balance Registration features (Cancellation, revocation & processing of both)- 6 October 2017; (xi) Creation and display of reports (Settlement, Mismatch)- 6 October 2017; (xii) Return filing for Composition dealers (GSTR-4)- 6 October 2017; (xiii) Viewing of composition supplies (GSTR-4A)- 6 October 2017; (xiv) Annual return filing (GSTR-9)- 01 December 2017; (xv) Annual return filing for Composition (GSTR-9A)- 01 December 2017; (xvi) Submission of final return (GSTR-10)- 01 December 2017; (xvii) Filing of Statement of ITC, cash and tax liability due to transfer of business GSTR-14-01 December 2017.

47.6. The CEO presented the future plan of releases of different modules as under: (i) SRS for following modules signed-off and development in progress: (a) Transition and ITC; (b) Policy Admin; (ii) SRS of following modules in final stage of review and to be signed-off by end of coming week: (a) Appeal; (b) Advance Ruling; (c) Recovery; (d) DCR (Demand and Collection Register); (e) Enforcement; (f) Audit and Return Processing; (g) MIS Reports; (h) Assessment and Adjudication; (i) Prosecution and Compounding.

47.7. The CEO informed that Banks were issuing one invoice for each transaction whereas the law had given them the flexibility to issue one invoice in a month for a customer. He stated that if Banks issue one invoice in a month, it would reduce the number of B2B invoices

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to be fed in the system (GSTR-1) by the banks, which would help the supplier and buyer and would also reduce the load on GST Portal. He also informed that the possibility of staggering of invoice load and return filing needed to be looked into. The Hon'ble Chairperson enquired whether large taxpayers could be mandated to file returns during the night alone and the CEO responded that this could be done, as invoice data could be uploaded any time by a supplier.

47.8. The Hon'ble Minister from Karnataka stated that a major transition like GST would have challenges as there was a fundamental change in the method of tax administration from manual to automated mode. However, the main issue was responsiveness to the problems faced and the pro-activeness in solving them. He observed that lack of communication in this regard put the field level officers in a difficult situation. He expressed the need for proper flow of information as to what were the problems, what was being resolved and by what date. He observed that there should be better communication in regard to all these issues. He emphasised that States should have equal access to information and data on real time basis and they should be able to download information at each level of administration directly without asking for it from anyone. He proposed that a Group of Ministers (GoM) should be set up to interface with GSTN and to provide a real-time resolution mechanism on IT related issues.

47.9. The CEO, GSTN, informed that the State of Karnataka was a Model-1 State and the GSTN only needed to provide it information on Registration, Return and Payment. He stated that they faced some technical challenges in exchange of data on registration/return where all of them were not transferred. The Hon'ble Minister from Karnataka observed that the technical problems should be corrected at the earliest. The Hon'ble Minister from Kerala supported the proposal to create GoM. The Hon'ble Deputy Chief Minister of Bihar congratulated GSTN for carrying out one of the world's biggest task and suggested that instead of GoM, there could be a group of officers to interface with GSTN. He informed that taxpayers had reported slow rate of validation and generation of reports on GST Portal. The taxpayers also had to open multiple windows and needed to refresh the page very frequently. He also observed that all invoices were not getting imported into the offline utility tool and the missing invoices were to be tracked and entered manually. He further informed that if the number of invoices crossed 500 for a taxpayer, then modification of any incorrect entry could not be done online and the taxpayer needed to download the whole data, find out the missing invoice, correct it offline and then upload again. He added that Rule 87(4) of the GST Rules, 2017 provided that an unregistered person could also get a temporary identification number through the GST Portal for making any payment of tax etc. and the same needed to be provided for. The CEO, GSTN, stated that the facility of creating temporary ID had been made available but the challenge was that if one challan was created for payment, a second challan could not be generated. He further stated that this limitation was being fixed. He also clarified that the second version of the offline utility had a feature to automatically pinpoint the missing invoices.

47.10. The Hon'ble Minister from Jammu & Kashmir stated that GSTN had been conveying that things were alright but there were gaps in delivery. He observed that the work was already being done at the officers' level but there was a disconnect at the Council level. He suggested to form a GoM for GSTN related issues. He also observed that a sub-committee of Ministers might need to be formed for some other areas of work too. He observed that there

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was a fear of large scale shortfall in revenue which was a collective issue of the Centre and the States and a GoM of 3-4 Ministers should be set up. Shri Manoj Rai, Joint Commissioner, Commercial Tax, Sikkim requested GSTN to modify the registration software application to provide field requiring the applicant to fill in licence details. He said that this was necessary to make the software compatible with the GST law as Section 22(2) of the CGST Act, 2017 prescribed that holding of licence was pre-requisite for filing registration application. He also requested the Council to authorise GSTN to carry out the needful modification.

47.11. The Hon'ble Minister from Haryana expressed satisfaction on the progress of work by GSTN so far. He stated that there was some anxiety and restlessness regarding what had not been done till now. He observed that much more could be achieved with the help of the States and expressed the need for active participation of Ministers and officers. He stated that States needed data available with the GSTN and the CBEC in order to analyse migration of taxpayers not done, the number of cancellation of registrations, etc. He also emphasised the need to increase the level of co-ordination between the officers of the Centre and the States. He stated that in order not to miss the bus, these steps must be taken in the next month and a half.

47.12. The Secretary observed that the sense of the House was anxiety on IT related issues. The taxpayers were also finding the IT situation to be difficult and it was taking almost two hours to file a return. He stated that firstly one should admit that there was a problem and then give a deadline to fix the problem to make the IT system work seamlessly. He stated that there was a need to complete the first cycle of GSTR-1, GSTR-2 and GSTR-3 but keeping in view the experience gained in July, 2017, a longer time frame could be given for the same. He informed that the issue regarding extension of dates for different Returns was discussed during the officers' meeting held on 8 September 2017, and the following had been agreed upon: (i) To permit filing GSTR-3B for supplies for the months of August, 2017 to December, 2017; (ii) To extend the date for filing GSTR-1 for the month of July, 2017, which was expiring on 10 September, 2017 (as only 20 lakh returns had been filed so far) to 10 October, 2017 but the last date for filing GSTR-1 for taxpayers with turnover of more than Rs.100 crore shall be 3 October, 2017 (to give smaller taxpayers more time to file GSTR-1 without creating a System overload); (iii) To give another 20 days for filing GSTR-2 in order to allow filling up the missing invoices auto-populated from GSTR-1 of the supplier and to accordingly extend time for filing GSTR-2 for the month of July, 2017 from 25 September, 2017 to 31 October, 2017; (iv) To extend the date for filing GSTR-3 for the month of July, 2017 from 30 September, 2017 to 10 November, 2017; (v) There shall be no extension of the last date for filing GSTR-4 for Composition taxpayers (18 October, 2017), but the feature regarding auto-population of inward supplies in GSTR-4A and Table 4 of GSTR-4 shall be deactivated; (vi) To revise the due date for filing GSTR-6 (Return for Input Service Distributor) for the month of July, 2017 from 8 September, 2017 to 13 October, 2017; (vii) The dates for filing of GSTR-1, GSTR-2, GSTR-3 and GSTR-6 for the months of August, 2017 onwards would be decided afterwards on seeing the results.

47.13. The Hon'ble Ministers from Kerala and Punjab supported the proposal for extension of the dates for various returns. The Hon'ble Deputy Chief Minister of Gujarat enquired regarding the reasons for delays in developing software by the GSTN. The CEO, GSTN, responded that GST Rules and Forms were finalised at a late stage and a fixed time was

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required thereafter for developing and testing the software. The Hon'ble Minister from Kerala supported the proposed revised deadline for returns and stated that a lenient view should be taken not only on penalty but also for interest payment as the delays in filing returns was due to the software problems. He also supported the proposal of other States to set up a GoM for GSTN related issues. The Hon'ble Minister from West Bengal also supported the proposal for creation of a GoM and for extending the deadline for filing various returns. He also suggested to have a core group of officers of States to directly interact with GSTN as the officers of States were not able to work to their full capacity due to absence of data.

47.14. The Hon'ble Minister from Madhya Pradesh suggested that to ameliorate the compliance burden on small taxpayers, return filing could be made quarterly for taxpayers with annual turnover below Rs.1.5 crore. The Secretary observed that this would require change in law. He expressed that this proposal could be explored for taxpayers making only B2C (Business to Consumer) supplies and that the Law Committee could examine it.

47.15. The Hon'ble Chairperson stated that the Council could agree to the suggestion for the new timelines for filing the returns suggested by the Secretary (in paragraph 47.12). He also suggested to constitute a small Group of Ministers consisting of 4-5 Ministers to monitor and resolve the IT challenges faced in implementation of GST. He also expressed that everyone had equal interest in revenue, and therefore, there should be an arrangement for unhindered flow of information.

48. In view of the above discussion, the Council approved the following: -

48.1. To permit filing GSTR-3B for supplies for the months of August, 2017 to December, 2017;

48.2. To extend the date for filing GSTR-1 for the month of July, 2017 from 10 September, 2017 to 10 October, 2017 but the last date for filing GSTR-1 for taxpayers with turnover of more than Rs.100 crore shall be 3 October, 2017;

48.3. To extend time for filing GSTR-2 for the month of July, 2017 to 31 October, 2017;

48.4. To extend the date for filing GSTR-3 for the month of July, 2017 to 10 November, 2017;

48.5. No extension of last date for filing GSTR-4 for Composition taxpayers (18 October, 2017) but the feature in GSTR-4A and Table 4 in GSTR-4 regarding auto-population of inward supplies shall be deactivated;

48.6. To extend the due date for filing GSTR-6 (Return for Input Service Distributor) to 13 October, 2017;

48.7. To constitute a small Group of Ministers consisting of 4-5 Ministers to monitor and resolve the IT challenges faced in implementation of GST. The Hon'ble Chairperson shall decide the composition of this Group.

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(iv) Speeches circulated during the Meeting

49.1. The Hon'ble Minister from Tamil Nadu circulated a written speech. In the speech, it was mentioned that the State of Tamil Nadu broadly agreed with the recommendations of the Law Committee on the issues being brought up in this meeting. He also urged that the Standing Committee, Screening Committee and National Anti-profiteering Authority should be duly represented by the State and qualifications of Members to the Authority should be so fixed that such representation was possible. He also highlighted that as regards the outstanding agenda items from the previous Council meeting, the Fitment Committee had not considered many genuine demands which he had reiterated in his written speech during the last meeting of the Council and he reiterated the same during this Meeting of the Council.

49.2. The Hon'ble Minister from Kerala circulated a written speech. He suggested that the rate of Composition levy applicable to restaurants should be reduced to 2% as in the case of manufacturers. He stated that the clarification issued by the Chief Commissioner of Central Tax, Thiruvananthapuram Zone regarding house boat functioning as a tour operator should be issued as an advisory of GST Council for information. He also suggested to exempt from tax dry fish, aids and implements used by differentially abled persons, plastic scrap, and IGST on gifts sent by expatriates. He suggested to modify the scope of 'puja samagri' and 'hawan samagri' to also include vibhuti, rosaries, prayer beads, venthingas and kasuroopam (not made of gold) and robes for holy mass so that they also became exempt from tax. He also suggested to reduce tax on boards made from rubber wood waste from 28% to 12% and on ayurvedic medicines from 12% to 5%. He suggested that GSTN should make its System open source compatible.

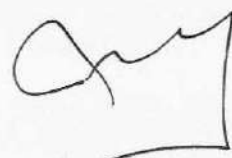
49.3. The Hon'ble Chief Minister of Nagaland circulated a written speech. He highlighted some issues and challenges faced by the State of Nagaland in the process of implementation of GST relating to migration, new registrations, filing of returns, interest and related penalties and varying rates of tax on lotteries. He also suggested to share comparative tax incidence on goods and services pre-GST, vis-à-vis GST rates. He also suggested greater sensitisation and publicity to explain the reasons and advantages as to why exempted goods and services under the earlier VAT regime had been brought under GST. He further suggested some measures to protect small traders like the GSTN portal allowing them to shift from a normal dealer to the composition scheme.

49.4. The Government of Telangana circulated a booklet on GST implications on Government Works contract in which it highlighted the options available for taxation of Government works contract and gave data regarding additional burden of tax for the Government if the rate of tax was kept at 12% and work sheet regarding total value of work of some projects of the State

Agenda Item 10: Date of the next meeting of the GST Council.

50. After discussion, the Council agreed that the next meeting of the Council would be held in New Delhi on 24 October, 2017.

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


(Arun Jaitley)
Chairperson, GST Council

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Annexure 1

List of Ministers who attended the 21st GST Council Meeting on 9th September 2017

Sl No	State/Centre	Name of the Minister	Charge
1	Govt. of India	Shri Arun Jaitley	Finance Minister
2	Govt. of India	Shri S.P. Shukla	Minister of State (Finance)
3	Puducherry	Shri V. Narayanasamy	Chief Minister
4	Bihar	Shri Sushil Kumar Modi	Deputy Chief Minister
5	Gujarat	Shri Nitin bhai Patel	Deputy Chief Minister
6	Andhra Pradesh	Shri Yanamala RamaKrishnudu	Minister -Finance, Planning, Commercial Taxes & Legislative Affairs
7	Assam	Dr.Himanta Biswa Sarma	Hon'ble Finance Minister
8	Chhattisgarh	Shri Amar Agrawal	Minister - Commercial Taxes
9	Goa	Shri Mauvin Godinho	Minister - Panchayat
10	Haryana	Captain Abhimanyu	Minister - Excise and Taxation
11	Jammu & Kashmir	Dr. Haseeb Drabu	Finance Minister
12	Karnataka	Shri Krishna Byre Gowda	Minister - Agriculture
13	Kerala	Dr. Thomas Issac	Finance Minister
14	Maharashtra	Shri Sudhir Mungantiwar	Finance Minister
15	Madhya Pradesh	Shri Jayant Malaiya	Finance Minister
16	Meghalaya	Shri Zenith Sangma	Minister - Taxation
17	Odisha	Shri Shashi Bhusan Behera	Minister - Finance & Excise
18	Punjab	Shri Manpreet Singh Badal	Finance Minister, Punjab
19	Rajasthan	Shri Rajpal Singh Shekhawat	Minister - Industries
20	Tamil Nadu	Shri D Jayakumar	Minister – Fisheries, Personnel & Administrative Reforms
21	Telangana	Shri Etela Rajender	Finance Minister
22	Uttar Pradesh	Shri Rajesh Agrawal	Finance Minister
23	West Bengal	Dr. Amit Mitra	Finance Minister

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Minutes of 21st GST Council Meeting

Annexure – 2

List of Officials who attended the 21st GST Council Meeting on 9th September 2017

S No	State/Centre	Name of the Officer	Charge
1	Govt. of India	Dr. Hasmukh Adhia	Revenue Secretary
2	Govt. of India	Dr. Arvind Subramanian	Chief Economic Advisor
3	Govt. of India	Shri Mahender Singh	Member (GST), CBEC
4	Govt. of India	Shri R.K. Mahajan	Member (Budget), CBEC
5	Govt. of India	Shri B N Sharma	Additional Secretary (Dept. of Revenue)
6	Govt. of India	Shri P.K. Jain	DG, DG-GST, CBEC
7	Govt. of India	Shri Sandeep M. Bhatnagar	DG, DG-Safeguards, CBEC
8	Govt. of India	Shri P.K. Mohanty	Advisor (GST), CBEC
9	Govt. of India	Shri Alok Shukla	Joint Secretary (TRU), Dept of Revenue
10	Govt. of India	Shri Upender Gupta	Commissioner (GST), CBEC
11	Govt. of India	Shri Udai Singh Kumawat	Joint Secretary, Dept of Revenue
12	Govt. of India	Shri Amitabh Kumar	Joint Secretary (TRU), Dept of Revenue
13	Govt. of India	Shri G.D. Lohani	Commissioner, CBEC
14	Govt. of India	Shri D.S. Malik	ADG, Press, Ministry of Finance
15	Govt. of India	Ms. Sheyphali B. Sharan	ADG, Press, Ministry of Finance
16	Govt. of India	Shri S.K. Rai	Director (UT), Ministry of Home Affairs
17	Govt. of India	Shri G.G. Pai	Director, TRU
18	Govt. of India	Shri Reyaz Ahmed	Director, TRU
19	Govt. of India	Ms. Aarti Saxena	Deputy Secretary, Dept of Revenue
20	Govt. of India	Shri Pramod Kumar	Deputy Secretary, TRU-II
21	Govt. of India	Shri Pramod Kumar Sharma	OSD, TRU-II
22	Govt. of India	Shri Paras Sankhla	OSD to FM
23	Govt. of India	Shri Mahesh Tiwari	PS to MoS
24	Govt. of India	Shri Geelani Basha K.S.M	Technical Officer, TRU-I
25	Govt. of India	Shri Siddharth Jain	Assistant Commissioner, GST Policy

MINUTE BOOK

26	Govt. of India	Shri Satvik Dev	Assistant Commissioner, GST Policy Wing
27	GST Council	Shri Arun Goyal	Additional Secretary
28	GST Council	Shri Shashank Priya	Joint Secretary
29	GST Council	Shri Dheeraj Rastogi	Joint Secretary
30	GST Council	Shri G.S. Sinha	Joint Commissioner
31	GST Council	Shri Rakesh Agarwal	Asst. Commissioner
32	GST Council	Shri Kaushik TG	Assistant Commissioner
33	GST Council	Shri Rahul Raja	Assistant Commissioner
34	GST Council	Shri Mahesh Kumar	Assistant Commissioner
35	GST Council	Shri Mukesh Gaur	Superintendent
36	GST Council	Shri Anis Alam	Inspector
37	GSTN	Shri Prakash Kumar	CEO
38	GSTN	Shri Vashishta Chaudhary	SVP(Services)
39	GSTN	Shri Jagmal Singh	VP (Services)
40	Andaman & Nicobar	Shri Mahesh Kumar Gupta	Joint Commissioner, GST/ADM
41	Andhra Pradesh	Shri J. Syamala Rao	Commissioner (Commercial Taxes)
42	Andhra Pradesh	Shri T. Ramesh Babu	Additional Commissioner (CT)
43	Andhra Pradesh	Shri D.Venkateswara Rao	OSD to Special CS, Revenue
44	Arunachal Pradesh	Shri Anirudh S Singh	Special Secretary (Tax & Excise)
45	Arunachal Pradesh	Shri Tapas Dutta	Asst. Commissioner (Nodal Officer GST)
46	Assam	Shri Anurag Goel	CCT, Assam
47	Assam	Shri Shakeel Saadullah	DCCT Assam & i/c GST Cell
48	Bihar	Ms. Sujata Chaturvedi	Principal Secretary (CT)
49	Bihar	Shri Arun Kumar Mishra	Addl. Secretary (CT)
50	Chandigarh	Shri Parimal Rai	Advisor to Administrator
51	Chandigarh	Shri Sanjeev Madaan	ETO
52	Chhattisgarh	Shri Amitabh Jain	Principal Secretary (Finance)
53	Chhattisgarh	Ms. Sangeetha P	Commissioner, Commercial Taxes

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54	Dadra & Nagar Haveli	Shri Gaurav Singh Rajawat	Commissioner (GST/VAT)
55	Daman & Diu	Smt Charmi Parekh	Deputy Commissioner
56	Delhi	Shri H. Rajesh Prasad	Commissioner (State Tax)
57	Delhi	Shri Anand Kumar Tiwari	Additional Commissioner (GST)
58	Goa	Shri Dipak M. Bandekar	Commissioner, Commercial Taxes
59	Gujarat	Dr. P.D. Vaghela	Commissioner, Commercial Taxes
60	Gujarat	Shri Sanjeev Kumar	Secretary (Economic Affairs)
61	Haryana	Shri Sanjeev Kaushal	Additional Chief Secretary
62	Haryana	Ms. Ashima Brar	Commissioner (Excise & Taxation)
63	Haryana	Shri Rajeev Chaudhary	Dy. Excise and Taxation Commissioner
64	Himachal Pradesh	Dr. Shrikant Baldi	Addl. Chief Secretary (Finance)
65	Himachal Pradesh	Shri R. Selvam	Excise & Taxation Commissioner
66	Himachal Pradesh	Shri Sanjay Bhardwaj	Addl. Excise and Taxation Commissioner
67	Himachal Pradesh	Shri Rakesh Sharma	Dy. Excise and Taxation Commissioner
68	Jammu & Kashmir	Shri P K Bhat	Addl CCT, Tax Planning
69	Jharkhand	Shri. K.K. Khandelwal	Principal Secretary
70	Jharkhand	Shri Sanjay Kumar Prasad	Joint Commissioner
71	Karnataka	Shri Ritvik Pandey	Commissioner (Commercial Taxes)
72	Karnataka	Shri M.S. Srikar	OSD
73	Kerala	Dr. Rajan Khobragade	Commissioner (State Tax)
74	Kerala	Shri D. Balamurali	Joint Commissioner (State Tax)
75	Madhya Pradesh	Shri Manoj Kumar Shrivastava	Principal Secretary (Commercial Taxes)
76	Madhya Pradesh	Shri Raghwendra Kumar Singh	Commissioner of Commercial Taxes
77	Madhya Pradesh	Shri Sudip Gupta	Joint Commissioner
78	Maharashtra	Shri Rajiv Jalota	Commissioner (GST)
79	Maharashtra	Shri Dhananjay Akhade	Joint Commissioner (GST)
80	Manipur	Shri Hrisheekesh Modak	Commissioner (Commercial Taxes)

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81	Meghalaya	Shri L. Khongsit	Deputy Commissioner
82	Mizoram	Shri Vanlalchhuanga	Commissioner & Secretary
83	Mizoram	Shri Hrangthanmawia	Asst. Comm of State Taxes
84	Nagaland	Shri Y.Mhathung Murry	Commissioner of Taxes
85	Nagaland	Shri Wochamo Odyuo	Additional Commissioner
86	Odisha	Shri Tuhin Kanta Pandey	Principal Secretary (Finance)
87	Odisha	Shri Saswat Mishra	Commissioner (Commercial Taxes)
88	Odisha	Shri Sahadev Sahoo	Joint Commissioner (Commercial Taxes)
89	Puducherry	Dr. V. Candavelou	Secretary (Finance & Commercial Tax)
90	Puducherry	Shri G. Srinivas	Commissioner, Commercial Taxes
91	Punjab	Shri V K Garg	Advisor (Finance)
92	Punjab	Shri Anurag Agarwal	FCT
93	Punjab	V P Singh	ETC
94	Punjab	Shri Pawan Garg	DETC
95	Rajasthan	Shri Praveen Gupta	Secretary (Finance)
96	Rajasthan	Shri Alok Gupta	Commissioner, Commercial Taxes
97	Sikkim	Shri Manoj Rai	Joint Commissioner
98	Tamil Nadu	Shri S.K. Prabhakar	Principal Secretary (FAC)
99	Tamil Nadu	Shri M A Siddique	Commissioner, Commercial Taxes
100	Tamil Nadu	Shri K. Gnanasekaram	Additional Commissioner
101	Telangana	Shri Somesh Kumar	Principal Secretary
102	Telangana	Shri Ramakrishna Rao	Principal Secretary (Finance)
103	Telangana	Shri Anil Kumar	Commissioner, Commercial Taxes
104	Telangana	Shri Laxminarayn Jannu	Additional Commissioner
105	Tripura	Dr. Brahmneet Kaur	Chief Commissioner (State Tax)
106	Uttar Pradesh	Shri R.K. Tiwari	Additional Chief Secretary
107	Uttar Pradesh	Shri Mukesh Kumar Meshram	Commissioner (Commercial Tax)
108	Uttar Pradesh	Shri Mukti Nath Verma	Joint Secretary

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109	Uttar Pradesh	Shri Vivek Kumar	Additional Commissioner (GST)
110	Uttarakhand	Shri Vipin Chand	Additional Commissioner, Commercial Taxes
111	Uttarakhand	Shri Yashpal Singh	Deputy Commissioner
112	West Bengal	Shri H K Dwivedi	Principal Secretary (Finance)
113	West Bengal	Ms. Smaraki Mahapatra	Commissioner, Commercial Taxes
114	West Bengal	Shri Khalid A Anwar	Senior Joint Commissioner

Annexure – 3

Presentation on Decisions made by GIC & Recommendations of Law Committee



Agenda



- ☐ Decisions made by GIC
- ☐ Agenda notes for approval of GST Council Meeting

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Decisions in GIC Meeting on 16th August 2017 (1/3)



- **Amendment to Rule 3(4):** Extending the time limit to furnish the details of stock held by migrating taxpayer from sixty to ninety days
- **Amendment to Rule 17(2):** Amending the rule for assigning of UIN on the recommendation of the MEA
- **Amendment to Rule 40(1)(b):** Extension of the time limit for furnishing the details by a newly registered taxable person for claiming credit of eligible ITC on the stock available
- **Insertion of Rule 44A:** For restricting the CENVAT credit of CVD availed at the time of importation of gold dore bar, on the stock of gold dore bar held on 01/07/2017 or contained in gold or gold jewellery held in stock on 01/07/2017 made out of such imported gold dore bar

3

Decisions in GIC Meeting on 16th August 2017 (2/3)



- **Amendment of Rule 61(5):** To provide that the Commissioner may specify the manner and conditions subject to which the return shall be furnished in FORM GSTR-3B
- **Amendment of Rule 87(2) and 87(3):** Allowing OIDAR service providers to deposit amount in electronic cash ledger through the EASIEST and SWIFT mode of payment
- **Amendment of Rule 103:** Providing for the Government to appoint an officer not below the rank of Joint Commissioner as member of the Authority for Advance Ruling
- **Amendment of FORM GST REG-01:** Adding serial no.16 in the instructions of the said FORM to enable Government departments to not furnish Bank Account details

4

Decisions in GIC Meeting on 16th August 2017 (3/3)



- **Amendment of FORM GST REG-13:** Making PAN non-mandatory for UN organizations / Diplomatic Missions etc.
- **Minor amendments in TRAN 1 form**
 - Notification No. 22/2017-CT dated 17.08.2017 issued
- **Conditions for filing FORM GSTR- 3B :** Due to Non-availability of TRAN 1 form from GSTN:
 - For Non-TRAN 1 cases - Date of tax payment and filing of return was 20th August
 - For TRAN-1 cases - TRAN 1 to be filed between 21st – 28th August and FORM GSTR- 3B to be filed by 28th August but tax payment was to be made by 20th August
- Notification No. 23/2017-CT dated 17.08.2017 issued

5

Decisions in GIC Meeting on 19th and 25th August 2017



- **GIC dated 19.08.2017**
 - **Extension of filing of FORM GSTR- 3B & date of payment** from 20th August to 25th August 2017
 - Notification No. 24/17-CT dated 21.08.2017 issued
- **GIC dated 25.08.2017**
 - Simplification of FORM GST ENR-01 to reduce from 14 heads to 9 heads & requirement of obtaining some details was omitted
 - **Amendment in FORM GST TRAN – 02 :** Minor corrections
 - Notification No. 27/17-CT dated 30.08.2017 issued
 - Approval of Circular No. 5/5/2017 dated 11.08.2017 – Clarification on Bonds / LUTs for exporters
 - Minor amendment in SGST Rules in Rule 117, 119 of SGST Rules

6

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Decisions in GIC Meeting on 31st August and 1st Sept 2017



- **Approval of Circular** for clarifying the system-based reconciliation of information furnished in FORM GSTR- 1 and FORM GSTR-2 with the return furnished in FORM GSTR-3B

- Circular No. 7/7/2017-CT dated 01.09.2017 issued

• **Division of Assessee Principles :**

Assessee in earlier Law	Turnover to be taken for division
For only VAT registrations	Total turnover under VAT
For assesses both under VAT & Central Excise	Total turnover under VAT
For only Central Excise (and not VAT)	Total turnover under Central Excise
Service tax registration in one State only	Total turnover under Service Tax
Centralized Registration under Service Tax	Total All India Turnover under Service Tax
Both under VAT and Service Tax	Total of Non-Overlapping turnover

7

Decisions in GIC Meeting on 4th Sept 2017



- **Extension of time limit** for furnishing details in FORM GSTR-1, FORM GSTR-2 and the return in FROM GSTR-3 for the months of July and August, 2017

- Notification No. 29/2017-CT dated 05.09.2017 issued

July, 2017	Current	Proposed
GSTR-1	1—5 th September, 2017	Upto 10 th September, 2017
GSTR-2	6—10 th September, 2017	11—25 th September, 2017
GSTR-3	11—15 th September, 2017	Upto 30 th September, 2017
August, 2017		
GSTR-1	16—20 th September, 2017	Upto 5 th October, 2017
GSTR-2	21—25 th September, 2017	6—10 th October, 2017
GSTR-3	26—30 th September, 2017	Upto 15 th October, 2017

8

Category of Person not eligible for refund (Provisional)



- Notification with respect to Section 54 (6) of Central Goods & Services Act, 2017- For exporters who will not be eligible for provisional refund (90% / 7 days)
 - Person not registered under GST or existing law for at least six months – To exclude fly by night exporters
 - Persons who have not furnished three consecutive returns before date of filing of application of refund – Persons only filing valid returns to be included

9

Extending date of Composition Scheme



- Composition scheme for migrated taxpayer closed on 16th August, 2017
- Many people could not register / avail such scheme
- Proposal to extend date for opting for composition scheme by migrant taxpayers till 30th September, 2017 – Rule 1(1A) proposed to be introduced & minor change in Rule 3(5)
 - Those who avail in the new deadline will avail composition benefits from 1st October, 2017
 - Once scheme is availed in CGST it is automatically available in other Acts – SGST / UTGST and vice versa

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Exemption to supply of Handicraft Goods between two states



- Issue raised by Jammu & Kashmir
- Small artisans/traders of another State selling handicraft goods in a State may be exempted from the requirement of registration
- Limit of 10 lacs (Rs 5 lacs in special category States) per month and upto 20 lacs (Rs 10 lacs in special category States) a year – Proposal:
 - Exemption from registration in terms of section 24(i) even if making inter-state supplies – Notification to be issued under section 23(2)
 - Exemption from registration in terms of section 24(ii) for casual taxable person – Notification to be issued under section 23(2)
 - PAN and E-way bill to be mandatory & limit of Rs. 50,000/- also not available

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Exemption from Registration for Job Worker making inter-State supply of job work services



- Job worker liable to take mandatory registration for inter-State supply of services
- Trade had requested that smaller job workers (turnover less than Rs 20 lacs) be exempted from such mandatory registration
- Proposal to exempt from registration under clause (i) of Section 24 subject to the condition:
 - No exemption if turnover more than Rs. 20 lacs (liable to be registered u/s 22) and voluntary registration u/s 25(3)
 - E-way bill to be mandatory and limit of Rs. 50,000/- also not available

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Operationalizing Tax Deduction at Source



- Section 51 proposed to be notified wef 18.09.2017 to enable registration of tax deductors
- Actual deduction of TDS to start at a date as may be notified later
- Persons liable for TDS – specified u/s 51(a), (b) & notified under (d)
- Category of person proposed to be notified u/s 51(1)(d):
 - a) *an authority or a board or any other body, set up by an Act of Parliament or a State Legislature; or established by any Government, with fifty-one per cent. or more participation by way of equity or control, to carry out any function;*
 - b) *Society established by the Central or State Government or a Local Authority under the Societies Registration Act, 1960;*
 - c) *public sector undertakings;*

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Committees for Operationalizing Anti-Profiteering law



- Standing committee with four members (two from the State of Haryana, Delhi and two from CBEC) to be notified shortly
- Information about constitution of State level Screening Committees awaited from States
- **Amendment in Rules 124(3):** Technical member to get same salary as salary and allowances, as admissible to him in an equivalent Group 'A' post in GOI. In case of retired officer, his salary could be fixed as the last pay drawn as reduced by pension
- **Amendment to Rules 124(4) & (5):** Mechanism to review the performance of NAA by the Council and also removal of Chairman / Technical Members on recommendations of the Council
- **Amendment to Rule 127:** Authority to submit quarterly performance report to Council

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Filing of FORM GST-TRAN-1



- Proposal to allow filing of Revised TRAN 1 once within a period of three months –Proposal to insert Rule 117(2A)
- Amendment in FORM GST TRAN-1
 - Heading of Table 5(a) to include credit flowing from section 140(9) – No provision was available for allowing this credit earlier –This issue is related to CGST credit only
 - Heading of Table 7(a) to allow flow of credit available through Credit Transfer Document (CTD) – This issue is related to CGST credit only

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Other Minor Changes



- **Typographic error** : In FORM GSTR-4, in table 8, the entry at 8B(2) reads as "Intra-State Supplies (Rate Wise)", whereas it should read as "Inter-State Supplies (Rate Wise)" since the entry at 8B(1) already captures the Intra-State Supplies details
- **Insertion in FORM GST EWB-01** to read as –

"The details of bill of entry shall be entered in place of invoice where the consignment pertains to an import"

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Annexure – 4
GST and Exports

GST and Exports

GST Council Meeting, Hyderabad
September 9, 2017

Arvind Subramanian
Chief Economic Adviser

GST and Exports Dr. Arvind Subramanian, CEA Wednesday, 13 September 2017 1

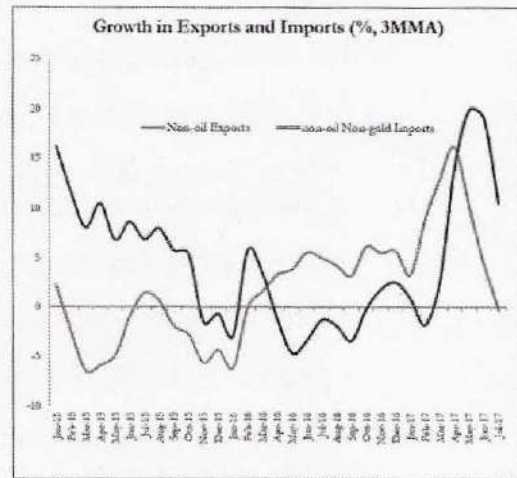
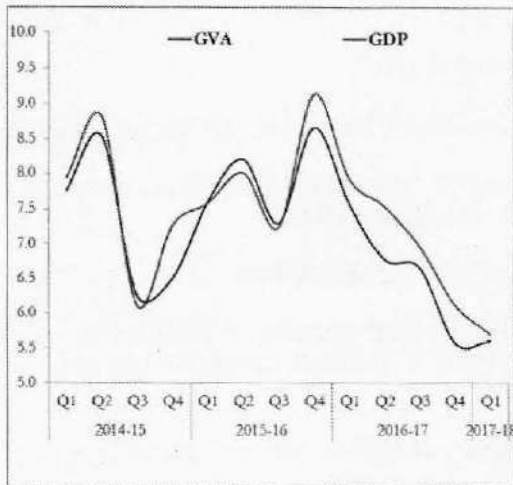
Outline

- Background
- Taxes on exports in post-GST regime
- What GST Council needs to do?

GST and Exports Dr. Arvind Subramanian, CEA Wednesday, 13 September 2017 2

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Slowing Economy, Slowing Exports



GST and Exports

Dr. Arvind Subramanian, CEA

Wednesday, 13 September 2017

3

Promoting Exports

- Providing subsidies: But WTO inconsistency?
- Eliminating burden of embedded taxes in exports: WTO consistent

GST and Exports

Dr. Arvind Subramanian, CEA

Wednesday, 13 September 2017

4

Exports are zero-rated but are they Zero-Taxed?

- But taxes get embedded because of:
 - Certain inputs, like Petroleum and Electricity, fall outside GST
 - Duty Inversion —because input taxes are higher than taxes on value addition at final stage —within GST
 - Reverse charges especially involving agriculture
 - Procedural changes under GST like payment of IGST on imported machinery which used to be duty exempted in old regime under EPCG scheme
- How much: Depends on value addition and tax structure but could vary between 1 percent-7 percent

GST and Exports

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Wednesday, 13 September 2017

5

Relief: Duty Drawback Scheme

- Refund some of the taxes which are out of GST but embedded in exports but scheme covers only center's taxes
- Tax embedded because GST like, duty inversion, is not part of Duty Drawback Scheme
- Difference of opinion between Government and Industry over embedded taxes

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Wednesday, 13 September 2017

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Taxation of Exports Under GST

		Clothing (apparel and made-up)		Other Sectors	
Category		Impact	Refund Measures	Impact	Refund Measures
Outside GST					
<i>Center</i>	Petroleum	Embedded	Duty Drawback	Embedded	Duty Drawback
<i>State</i>	Petroleum	Embedded	Under RoSL	Embedded	No refund
<i>State</i>	Electricity (stamp duty?)	Embedded	Under RoSL	Embedded	No refund
Within GST (tax)					
	Duty Inversion	Embedded	No refund	Embedded	No refund
	Reverse Charges (agri inputs)	Embedded	No refund	Embedded	No refund
Within GST (procedure)					
	EPCG Scheme	Upfront Payment of IGST increasing working capital	No relief	Upfront Payment of IGST increasing working capital	No relief

GST and Exports

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Wednesday, 13 September 2017

7

Things to be done to make export competitive and to ensure robust growth in exports

- Immediate

- ✓ Central government may provide immediate (temporary) relief via the duty drawback scheme

GST and Exports

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What GST Council Should Do?

• Short Run

✓ GST council should set up a committee to examine how all embedded taxes can be relieved on ALL exports

✓ How the associated burden should be shared between the Center and the States.

• Medium-Run

✓ Should actively bring electricity, energy, and land and real estate into the GST.

✓ This will not only have other benefits (transparency, credit flow, better compliance), it will also reduce embedded taxes on exports

GST and Exports

Dr. Arvind Subramanian, CEA

Wednesday, 13 September 2017

9

Embedded Taxes in Export on account of Duty Inversion

	Value Addition of 1.5X		Value Addition of 2.6X		Value Addition of 3X	
	Pre tax price	Tax	Pre tax price	Tax	Pre tax price	Tax
Inputs within GST (18%)	100000	18000	100000	18000	100000	18000
Inputs outside GST (50%)		0		0		0
Total Inputs	100000	18000	100000	18000	100000	18000
Value Addition at Final Stage	150000		260000		300000	
Total value of output (5%)	250000	12500	360000	18000	400000	20000
Duty Inversion		5500		0		-2000
% of Final Value		2.10		0.00		-0.48
Total Embedded Tax in Exports		5500		0		0
% of Final Value		2.1		0.0		0.0

GST and Exports

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Wednesday, 13 September 2017

10

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Embedded Taxes in Export on account of Taxes Outside GST

	Value Addition of 1.5X		Value Addition of 2.6X		Value Addition of 3X	
	Pre tax price	Tax	Pre tax price	Tax	Pre tax price	Tax
Inputs within GST (18%)		0		0		0
Inputs outside GST (50%)	30000	15000	30000	15000	30000	15000
Total Inputs	30000	15000	30000	15000	30000	15000
Value Addition at Final Stage	150000		260000		300000	
Total value of output (5%)	195000	23400	305000	45750	345000	51750
Embedded Tax		15750		15750		15750
% of Final Value		7.21		4.49		3.97
Total Embedded Tax in Exports		15750		15750		15750
% of Final Value		7.2		4.5		4.0

GST and Exports

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Wednesday, 13 September 2017

11

Embedded Taxes in Export on account of Taxes Outside GST and Duty Inversion

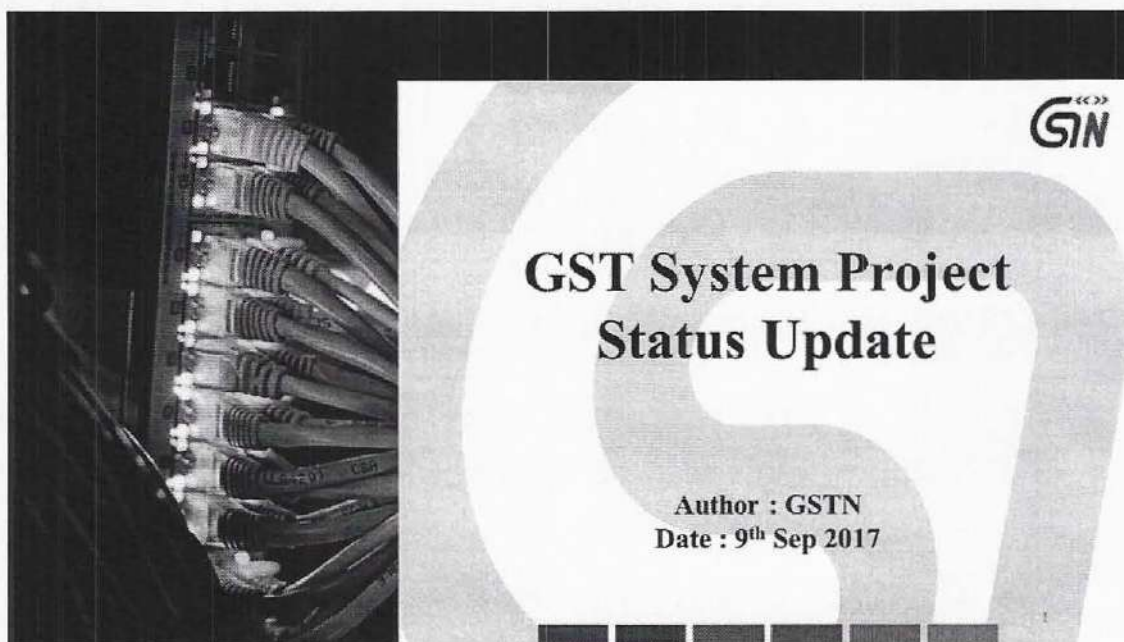
	Value Addition of 1.5X		Value Addition of 2.15X		Value Addition of 3X	
	Pre tax price	Tax	Pre tax price	Tax	Pre tax price	Tax
Inputs within GST (18%)	100000	18000	100000	18000	100000	18000
Inputs outside GST (50%)	30000	15000	30000	15000	30000	15000
Total Inputs	130000	33000	130000	33000	130000	33000
Value Addition at Final Stage	150000		215000		300000	
Total value of output (5%)	295000	14750	360000	18000	445000	22250
Duty Inversion		3250		0		-4250
% of Final Value		1.0		0.0		-0.9
Embedded Tax		15000		15000		15000
% of Final Value		4.8		4.0		3.2
Total Embedded Tax in Exports		18250		15000		15000
% of Final Value		5.9		4.0		3.2

GST and Exports

Dr. Arvind Subramanian, CEA

Wednesday, 13 September 2017

12

Annexure – 5GST System Project Status Update**Services made available on GST Portal**

Registrations	Payments	Returns	Transitional Forms
Application for New Registration for Normal Taxpayer	Online Payments through Internet Banking and NEFT/RTGS	Creation and saving of Outward Supplies Return in Form GSTR-1	Tran Form 1 - Transitional ITC / Stock Statement
Application for New Registration (ISD)	Offline Payments-Over the Counter (Authorised Bank)	Viewing of Invoices uploaded by Supplier in GSTR-2A by Buyer	Tran Form 3 - Credit distribution
Application of Enrolment for GSTP	Creation and maintenance of Electronic Cash Ledger	Offline Utility for GSTR-1 for upload of invoices	
Application to opt for Composition scheme	Payment option for migrated taxpayers who have not filed Part B of enrolment form	Creation, saving, and Filing of Return form GSTR-3B	
Registration of casual tax payer		Filing of Return form GSTR-1 and GSTR-2	
Application for Amendment of Registration – for non core fields			
Appeal to revoke rejection of registration applications			

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New Registration and Migration Stats (as on 7th Sep' 2017)

GIN

New Registration

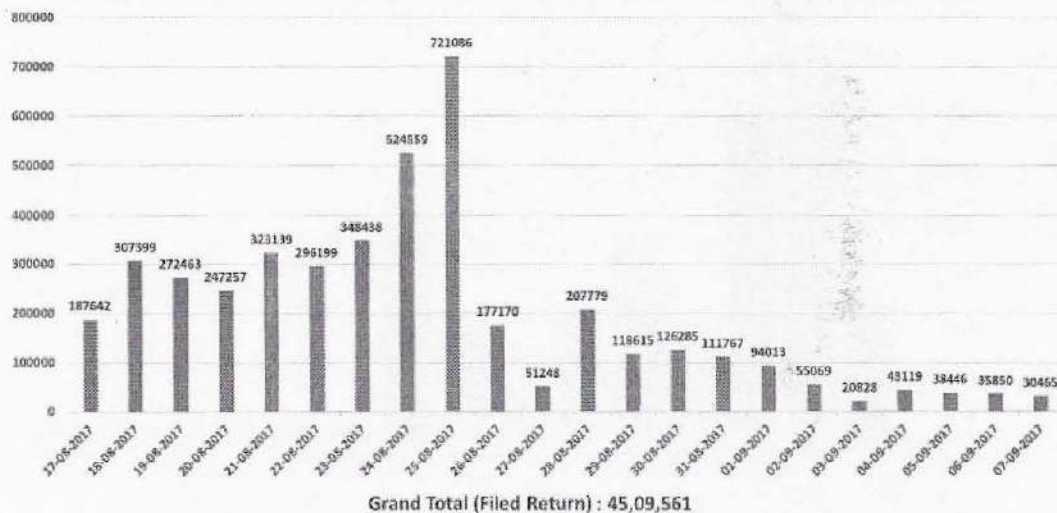
Details	Center Count	State Count
Number of Registration Filed and allocated	12,43,026	12,51,962
Number of Registrations – Approved	11,30,985	10,26,960
Number of Registrations – Rejected	58,198	1,49,817
Applications pending with Tax-officers	37,509	49,935
Application pending with Tax-payer (SCN raised)	16,334	25,250
Number of Tax-payers opted for Composition		10,60,650

Migrated from previous regime

Details	Count
Total Provisional IDs (PIDs) issued	85,95,194
Total PIDs Activated	72,70,023
Total Tax-payers Filled application part – B and fully migrated	61,50,760

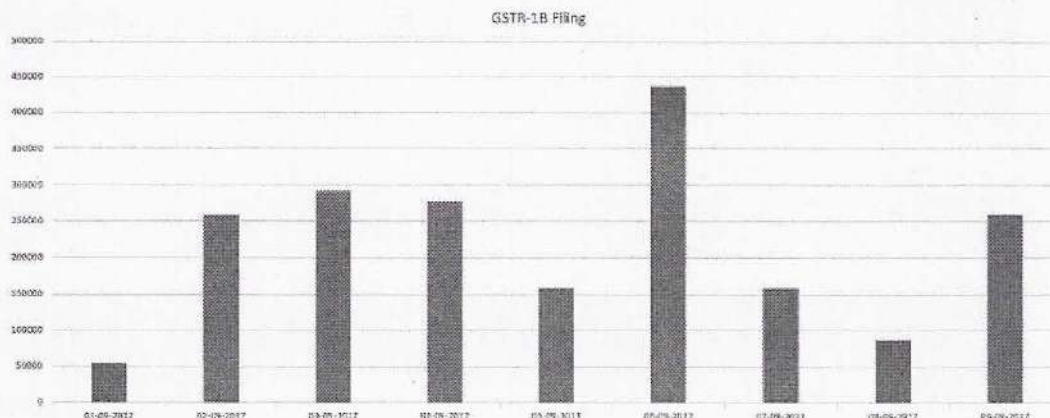
Daily Filing of GSTR 3B (as on 7th Sep' 2017)

GIN



Daily Filing of GSTR 1 (1st Sep – 7th Sep' 2017)

CC 20
GIN

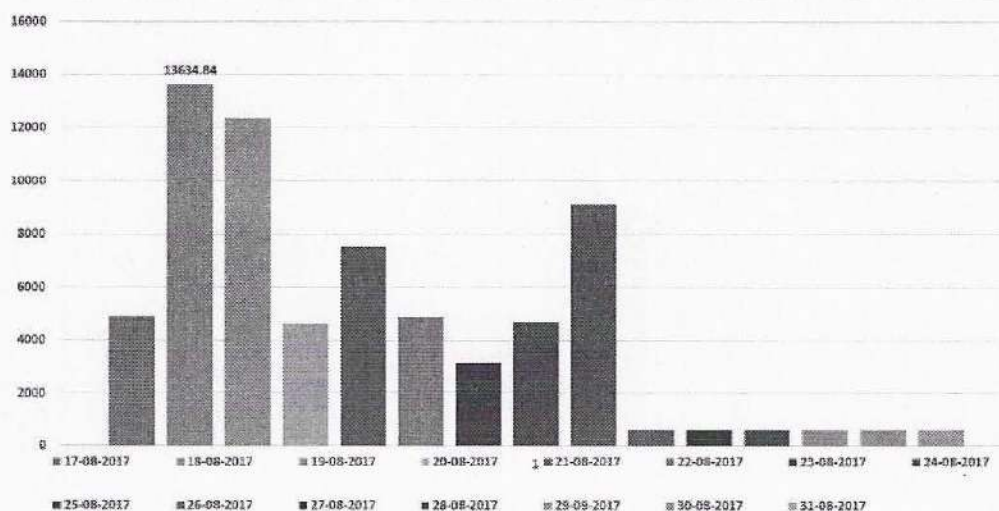


Grand Total (Filed Return) : 19,83,342



Day wise Payment of Tax (August 2017)

CC 20
GIN



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Challenges faced and Action Taken: Registration/Enrolment

Issues	Action Taken
Taxpayers' registration application stuck in various statuses like "pending for approval" or "pending for orders" or "pending for processing".	This has been fixed for all cases.
Taxpayer's status is shown as "RC Cancelled" after filing GSTR-3B and payment of tax.	This has been fixed.
Non-editable & Blank Profile: Some taxpayers have activated their account on GST Portal but now entire profile has become blank and non-editable. So, he cannot proceed further.	This has been fixed
Access Denied: Even after putting correct login credentials, many taxpayers facing the error message as "Access denied" at the time of login.	This has been fixed
Taxpayers completed the process and generated the ARN and status shows approved but didn't receive the welcome mail along-with their GSTIN and login credentials.	This defect has been fixed. "Resend Welcome Mail" is under development.

Challenges faced and Action Taken: Payment



Issues	Action Taken
Amount getting debited and cash ledger is not being updated	This has been fixed
Track Payment Status giving access denied in some cases	This has been fixed



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Challenges faced and Action Taken: Return Related



Issues	Action Taken
After successful login taxpayer is unable to see the services related to Returns functionality - Return dashboard is not available.	For most of the cases, this defect has been fixed. There are few records left with such issue and being addressed by technical team.
User has filed the return but the status is showing submitted for processing	Fixed
Taxpayer is unable to offset liabilities in GSTR 3B return	Fixed
Taxpayer is unable to file TRAN 1 due to incorrect information given in registration application and that he is not able to amend in registration application	Being worked upon
Offline tool is not allowing multiple rates for single invoice	Fixed



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Challenges faced and Action Taken: Return Related

GSI

Issues	Action Taken
Offline tool – JSON file is not being uploaded, showing error, but not exactly reporting the nature of error.	Fixed
The fee amount is shown in payment section of 3B even if fee and penalty is waived (reported for many tax payers -Gujarat)	This is coming for users who have submitted between 28th Aug to 1st Sep. Being worked upon.
Error occurred while filling GSTR 3-B. Error is "CGST payment amount in other than reverse charge should be equal to the outstanding liability." (reported for many tax payers -Gujarat)	Fixed
Submission under process	Fixed on 8 th night



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Challenges faced and Action Taken: API Related

GSI

Issues	Action Taken
Alert need to be provided to other authority when any ARN is approved.	Will be available from 9 th Sept.
Alert need to be provided when tax payer doesn't respond to SCN within 7 days	Will be available from 9 th Sept.
GSTR 3B data sharing	GSTR 3B data is already shared with CBEC/Model-1 states. Arrangements are being made to enable Model-2 States as well to pull the data, as per their needs
GSTR 1 Data sharing	GSTR 1 API is available in Prod from 1st Sep.
Reconciliation of Payment data shared in reports vs shared in email	We are reconciling the data with Karnataka state first to see it's matching with what we have in our database. We'll share our findings with all states.



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Challenges faced and Action Taken: Back Office Related

Issues	Action Taken
Transfer of charge where role/charge is to be given back to officer returning from leave.	Being worked upon
Capability to revoke role given by state/centre (super) admin	Being worked upon
System Error when accessing Get Taxpayer Detail Page	Fixed
System Error when accessing Search ARN page	working fine for registration ARN. Fixing for Returns ARN is in progress.
Tax officer is unable to view returns data of taxpayers.	Being worked upon

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Future Releases of Key Functionalities

8th -Sep-2017	<ul style="list-style-type: none"> Migrated taxpayers processing
11th -Sep-2017	<ul style="list-style-type: none"> Filing of ISD Return – GSTR-6 and GSTR -6A
13th-Sep-2017	<ul style="list-style-type: none"> Application of Amendment of Core fields Processing of GSTP Application Suo-moto Registration with Payment functionality
15-Sep-2017	<ul style="list-style-type: none"> Filing of Monthly Return GSTR-3 Filing of GSTR-1A
22nd -Sep-2017	<ul style="list-style-type: none"> Processing of TDS/TCS Registration and Processing of NRFT Opt out from Composition scheme

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Future Releases of Key Functionalities



6-Oct-2017

- Balance Registration features (Cancellation, revocation & processing of both)
- Creation and display of reports (Settlement, Mismatch)
- Return filing for Composition dealers (GSTR-4)
- Viewing of composition supplies (GSTR-4A)

01-Dec-2017

- Annual return filing (GSTR-9)
- Annual return filing for Composition (GSTR-9A)
- Submission of final return (GSTR-10)
- Filing of Statement of ITC, cash & tax liability due to transfer of business GSTR-14



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Updates on Phase 2 Progress



1. SRS for following modules have been signed-off and development is in progress:
 1. Transition & ITC
 2. Policy Admin
2. SRS of following modules are in final stage of review and will be signed-off by end of coming week:
 1. Appeal
 2. Advance Ruling
 3. Recovery
 4. DCR
 5. Enforcement
 6. Audit and Return Processing
 7. MIS Reports
 8. Assessment and Adjudication
 9. Prosecution and Compounding



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MINUTE BOOK

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