

Minutes of the 55th Meeting of the GST Council
held on 21st December, 2024 at Jaisalmer, Rajasthan

The 55th meeting of the GST Council was held on 21st December, 2024 under the Chairpersonship of the Hon'ble Union Finance Minister, Smt. Nirmala Sitharaman at Jaisalmer, Rajasthan. The list of Hon'ble Members of the Council who attended the meeting is at **Annexure-1**. The list of the officers of the Centre, States, Union Territories, GST Council Secretariat and GSTN who attended the meeting is at **Annexure-2**.

1.2 The following agenda items were listed for discussion in the 55th meeting of the GST Council:

<u>Sl. No.</u>	<u>Agenda Item</u>
1.	Confirmation of Minutes of the 54 th GST Council Meeting held on 9 th September, 2024
2.	Ratification of Notifications, Circulars and GIC Decisions by the GST Council
	Issues recommended by the Law Committee for the consideration of the GST Council
	i) Amendment in Section 17(5)(d) of Central Goods and Services Tax Act, 2017 consequent to judgement of Hon'ble Supreme Court dated 03.10.2024 in the case of M/s Safari Retreats Pvt. Ltd. ii) Amendment in Schedule III of the Central Goods and Services Tax, 2017 (CGST Act, 2017) regarding supply of goods warehoused in a Free Trade and Warehousing Zone (FTWZ)/Special Economic Zone (SEZ) before clearance to Domestic Tariff Area/for Exports. iii) Amendment in Central Goods and Services Tax Act, 2017 for incorporation of provisions relating to Track and Trace Mechanism for specified commodities. iv) Amendment in sub-section (5) of section 9 of Central Goods and Services Act, 2017 for providing clarity regarding determination of tax liability of the electronic commerce operator in respect of specified services. v) Clarification regarding requirement of reversal of input tax credit by electronic commerce operators in respect of supplies made under section 9(5) of CGST Act, 2017. vi) Amendment in Rule 89 of CGST Rules, 2017 for providing the scope and computation of the refund on account of inverted duty structure as provided in sub-section (3) of section 54 of CGST Act, 2017. vii) Miscellaneous proposals for amendment in CGST Act, 2017
3.	I. Amendment in sub-section (6) of section 107 and sub-section (8) of section 112 of CGST Act, 2017 to provide for payment of pre-deposit for filing an appeal in respect of an order passed which involves only penalty amount. II. Agenda regarding removal of levy of late fee under sub-section (1) of section 47 of the CGST Act, 2017 in respect of furnishing

	of details of outward supplies in FORM GSTR-1.
	III. Amendment in Section 2(69)(c) of CGST Act, 2017 to insert an Explanation regarding definitions of Local Fund and Municipal Fund.
	IV. Amendment in provisions pertaining to Input Services Distributor mechanism under CGST Act, 2017 and CGST Rules, 2017.
	viii) Miscellaneous proposals for amendment in CGST Rules, 2017
	I. Provision for grant of Temporary Identification Number by Tax Officers to persons not liable to be registered otherwise.
	II. Agenda for allowing amendment in the field 'category of registered person' for taxpayers who opted composition levy through FORM CMP-02.
	III. Agenda on requirement of signature or digital signature of the supplier or his authorized representative in respect of e-invoice.
	ix) Clarification on availability of Input tax credit as per clause (b) of sub-section (2) of section 16 of CGST Act in respect of goods which have been delivered by the supplier at his (supplier's) place of business.
	x) Clarification regarding mentioning of correct details of name of the State of the un-registered recipient as well as correct declaration of place of supply in respect of supply of 'Online Services'.
	xi) Issues pertaining to taxability of Vouchers under GST.
	xii) Amendment in section 13(8)(b) of the IGST Act, 2017 in respect of place of supply of intermediary services.
	xiii) Clarification regarding applicability of late fee for delay in furnishing of FORM GSTR-9C.
	xiv) Amendment in CGST Act, 2017 and CGST Rules, 2017 in respect of functionality of Invoice Management System (IMS)
	xv) Concept note for implementing different categories of GST registration based on Risk Assessment and aligning the Registration Process with passing on of Input Tax Credit
4.	<p>Recommendations of the Fitment Committee for the consideration of the GST Council</p> <p>a) Recommendations made by the Fitment Committee for making changes in GST rates or for issuing clarifications in relation to goods (13 issues) - Annexure-I</p> <p>b) Issues where no change has been proposed by the Fitment Committee in relation to goods (4 issues) - Annexure- II</p> <p>c) Recommendations made by the Fitment Committee for making changes in GST rates or for issuing clarifications in relation to services (15 issues) - Annexure- IV</p> <p>d) Issues where no change has been proposed by the Fitment Committee in relation to services (3 issues) - Annexure-V</p>

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	e) Issues which have been proposed by the Fitment Committee for deferring in relation to services (2 issues) - Annexure-VI
	f) Issue on which Fitment Committee has not made any recommendations and decision may be taken by GST Council (1 issue) - Annexure-VII
5.	Closure of Group of Ministers (Gomm) on Analysis of Revenue from GST
6.	Recommendations of the 22 nd meeting of the IT Grievance Redressal Committee for approval/decision of the GST Council
7.	<p>DoR Agendas:</p> <p>a) Review of revenue position under Goods and Services Tax</p> <p>b) Status update on issues related to IGST Settlement to States</p> <p>c) GSTAT Procedure Rules to regulate the procedure for functioning of the GSTAT</p> <p>d) Relaxation in the eligibility criteria for selection to the post of Technical Member (State) of GSTAT for officers of the state of Goa.</p> <p>e) Relaxation in eligibility conditions for appointment of Technical Member (State) in GSTAT for the State of Jharkhand</p> <p>f) Status Report of GoM on restructuring Compensation Cess</p>
8.	<p>Issues recommended by GSTN</p> <p>a) B2C e-Invoicing</p> <p>b) Successful Rollout of IMS</p>
9.	Performance Report of Competition Commission of India (CCI) along with Performance Reports of State Level Screening Committee (SLSC), Standing Committee (SC) and Directorate General of Anti-Profiteering (DGAP), for 2 nd quarter of the F.Y 2024-25.
10.	Ad-hoc Exemption Orders issued under section 25(2) of the Customs Act, 1962 to be placed before the Council for information
11.	Report of Group of Ministers on Life and Health Insurance
12.	Bringing Aviation Turbine Fuel (ATF) under GST
13.	Any other agenda item with the permission of the Chair.

1.3 The Secretary to the GST Council (hereinafter called 'The Secretary'), welcomed all the Hon'ble Members of the Council and participating officers to the 55th meeting of the GST Council. He extended greetings to Shri Nayab Singh Saini, Hon'ble Chief Minister of Haryana; Shri Omar Abdullah, Hon'ble Chief Minister of Jammu & Kashmir; Shri Mohan Charan Majhi, Hon'ble Chief Minister of Odisha; Shri Radha Krishna Kishore, Hon'ble Minister for Finance, Jharkhand; and Shri Rajesh Dharmani, Hon'ble Minister of Technical Education, Himachal Pradesh to their first GST Council meeting.

1.4 The Secretary stated that following the recommendations made in the 54th Meeting of the GST Council, two Groups of Ministers (GoMs) were constituted one on Life and Health Insurance, and the other on restructuring of the Compensation Cess.

1.5 The GoM on Life and Health Insurance had prepared a report which had been circulated to all Members.

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1.6 The Secretary stated that a status report of the GoM on restructuring of Compensation Cess would also be presented before the Council. The GoM had recommended that the Cess at the present rates should be continued until 31.03.2026. The GoM was proposing to seek additional time from the Council to decide on the issue of future course of action post abolition of Cess as it required detailed deliberations.

1.7 The Secretary stated that the GST Appellate Tribunal (GSTAT) was established on 1st September, 2024, and after extensive deliberations, the draft GSTAT Procedure Rules had now been finalized to fully operationalize the Benches. These Rules were being placed before the Council for consideration.

1.8 The Secretary informed the Council that the agenda for 55th Council meeting was discussed in detail during the Officers' Meeting on the previous day which would benefit the Council in its deliberations.

1.9 The Secretary sought the permission of the Chair to begin deliberations on each item of the agenda. He then requested the Joint Secretary, GST Council Secretariat to start with the deliberations on the first agenda item viz., Confirmation of Minutes of the 54th GST Council meeting.

2. Agenda item 1: Confirmation of Minutes of the 54th GST Council Meeting held on 9th, September, 2024

2.1 Joint Secretary, GST Council Secretariat (GSTCS) informed the Council that the draft minutes of the 54th GST Council meeting were circulated to all the States on 28th October, 2024 and 7th November, 2024. She stated that five states, namely, Haryana, Punjab, Tamil Nadu, Uttar Pradesh and Rajasthan had responded and were in agreement with the draft minutes as circulated. The state of Rajasthan had requested to be included in the pilot project for B2C e-invoicing and the same was duly recommended to GSTN. She also stated that comments of the States were also sought in the Officers' Meeting, however, no State had any comments to offer.

2.2 The Secretary stated that the request of state of Rajasthan may be approved by the Council.

Decision: The Council adopted the Minutes of the 54th meeting of the GST Council held on 9th September, 2024 and approved the request of the State of Rajasthan to be included in the pilot project for B2C e-invoicing.

3. Agenda Item 2: Ratification by the GST Council of the Notifications and Circulars issued by the Central Government and decisions of GST Implementation Committee (GIC) for the information of the Council

3.1 The Secretary invited Commissioner, GST Policy Wing to take up the next item of agenda pertaining to the ratification by the GST Council of the Notifications and Circulars



issued by the Central Government and decisions of GST Implementation Committee for the information of the Council.

3.2 Commissioner, GST Policy Wing stated that based on the recommendations of the 54th GST Council Meeting, 13 Central Tax Notifications, 05 Central Tax (Rate) Notifications, 5 Integrated Tax (Rate) Notifications and 5 Union Territory Tax (Rate) Notifications had been issued. Further, 9 Circulars under the CGST Act had been issued after the 54th GST Council meeting. He also stated that the GST Implementation Committee (GIC) had taken 7 decisions after the 54th GST Council meeting which were placed before the Council along with their implementation status for information.

3.3 The Secretary requested that the notifications and circulars as listed in the agenda may be ratified by the Council and GIC decisions may be taken note of by the GST Council.

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

4. [Agenda Item 3: Issues recommended by the Law Committee for the consideration of the GST Council](#)

4.1 The Secretary took up the next agenda item which were the issues recommended by the Law Committee for the consideration of the GST Council. He invited Commissioner, GST Policy Wing to present this agenda.

Agenda Item 3(i): Amendment in Section 17(5)(d) of Central Goods and Services Tax Act, 2017 (CGST Act, 2017) consequent to judgement of Hon'ble Supreme Court dated 03.10.2024 in the case of M/s Safari Retreats Pvt. Ltd

4.2 Commissioner, GST Policy Wing stated that the Hon'ble Supreme Court in the case of Chief Commissioner, CGST vs Safari Retreats Pvt. Limited had held that the phrase 'plant or machinery' occurring in section 17(5)(d) of the CGST Act, 2017 is distinct from the phrase 'plant and machinery' occurring in section 17(5)(c) of the CGST Act, 2017. The Hon'ble Court held that Input Tax Credit on goods or services used in the construction of immovable property would be available in case the immovable property qualifies as a plant. The Hon'ble Court laid down that functionality test would have to be applied on case-to-case basis to decide whether an immovable property would qualify to be a 'plant' for availment of input tax credit on goods or services used in the construction of immovable property.

4.3 He further stated that the Law Committee examined the issue and observed that Legislature and GST Council never intended to treat the expression "plant or machinery" any different from the expression "plant and machinery". Had the intention been different, they would have defined either the expression "plant or machinery" or the words "plant" and "machinery" separately in the Chapter V and VI of the CGST Act, 2017. He further mentioned that using the "functionality test" in terms of the Hon'ble Supreme Court's decision, may result in unequal treatment on the availability of input tax credit on works contract services for the construction of immovable properties under clause (c) and on

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goods or services or both, for the construction of immovable properties under clause (d) of section 17(5) of the CGST Act, 2017. Keeping in view the same, the Law Committee recommended that section 17(5)(d) of the CGST Act, 2017 may be retrospectively amended with effect from 01.07.2017 to replace the phrase 'plant or machinery' with the phrase 'plant and machinery'.

4.4 He further mentioned that the Law Committee also recommended that while making the said amendment, it may specifically be mentioned that the said amendment is being done notwithstanding anything to the contrary contained in any judgment, decree or order of any court or any other authority. He further stated that this was discussed in the Officers' Meeting held on 20.12.2024 and it was agreed to by all.

Decision: The Council approved the recommendations of the Law Committee.

Agenda Item 3(ii): Amendment in Schedule III of the Central Goods and Services Tax Act 2017 regarding supply of goods warehoused in a Free Trade and Warehousing Zone (FTWZ)/Special Economic Zone (SEZ) before clearance to Domestic Tariff Area/for Exports

4.5 Commissioner, GST Policy Wing stated that as per clause(a) of paragraph 8 of Schedule III of CGST Act, 2017, the supply of goods warehoused in Customs bonded warehouses before clearance for home consumption is treated neither as a supply of goods nor a supply of services.

4.6 However, there is no similar provision with regard to the treatment of supply of goods warehoused in a SEZ/FTWZ, before removal to Domestic Tariff Area (DTA) or for exports under the CGST Act, 2017.

4.7 In order to provide similar treatment to the supply of goods warehoused in a SEZ/FTWZ, before removal to DTA/for exports in GST, as accorded to the supply of warehoused goods to any person before clearance for home consumption under clause (a) of paragraph 8 of Schedule III of CGST Act, 2017, the Law Committee recommended that clause (aa) may be inserted in paragraph 8 of Schedule III of CGST Act, 2017, along with amendment to Explanation 2 in Schedule III of CGST Act, 2017 and insertion of Explanation 3 in Schedule III of CGST Act, 2017.

4.8 The Law Committee further recommended that the proposed amendments in Schedule III of CGST Act, 2017 may be made effective retrospectively, with effect from 01.07.2017, as the provisions of clause (a) of paragraph 8 of Schedule III have been deemed to be inserted in Schedule III retrospectively, w.e.f. 01.07.2017 vide Section 159 of Finance Act, 2023.

4.9 The Law Committee also recommended that no refund may be admissible in cases where any tax has already been paid in respect of transactions/supplies covered under clause (aa) of paragraph 8 of Schedule III of CGST Act, 2017 before the said amendment is notified and an explicit provision may be provided in the Finance Act (on similar lines as was done in Finance Act, 2023 in respect of clause (a) of paragraph 8 of Schedule III) that no refund would be admissible in cases where any tax has already been paid in respect of

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transactions/supplies covered under clause (aa) of paragraph 8 of Schedule III of CGST Act, 2017 before the said amendment is notified.

4.10 He stated that this was also agreed in the Officers' Meeting on 20.12.2024.

Decision: The Council recommended to amend Schedule III of the CGST Act, 2017 retrospectively with effect from 01.07.2017 by inserting Clause (aa) in paragraph 8 of Schedule III of CGST Act, 2017 besides amendment to Explanation 2 in Schedule III of CGST Act, 2017 and insertion of Explanation 3 in Schedule III of CGST Act, 2017. The Council also recommended that no refund would be admissible in cases where any tax has already been paid in respect of transactions/supplies covered under clause (aa) of paragraph 8 of Schedule III of CGST Act, 2017 before the said amendment is notified.

Agenda Item 3(iii): Amendment in Central Goods and Services Tax Act, 2017 for incorporation of provisions relating to Track and Trace Mechanism for specified commodities

4.11 Commissioner, GST Policy Wing stated that the recommendation of the 'Group of Ministers (GoM) on capacity-based taxation and special composition scheme for evasion prone sectors' for a Track and Trace Mechanism for evasion prone commodities was approved by the GST Council, in its 49th meeting held on 18th February, 2023.

4.12 The Law Committee deliberated on the matter and recommended that while the technology for implementation of track and trace mechanism may be finalized in due course, an enabling provision needs to be provided in the Central Goods and Services Tax Act, 2017 to empower the Government to implement the said mechanism for the specified commodities, which are evasion prone in nature. The commodities to be specified for this purpose may be separately identified in due course and may be notified by the Government *on the recommendations of the Council.*

4.13 The Law Committee recommended that a new section, section 148A, may be inserted in the CGST Act, 2017 so as to empower the Government to bring in Track and Trace Mechanism for specified commodities and definition of 'Unique Identification Marking' may be inserted in section 2 of CGST Act, 2017 for implementation of the said mechanism. The Law Committee also recommended to provide for penal provisions for contraventions of the provision relating to Track and Trace mechanism and therefore, recommended that a new section 122B may be inserted in the CGST Act, 2017. The Law Committee also recommended that the detailed procedure to be followed for Track and Trace mechanism may be subsequently prescribed through rules after finalization of the technology for implementation of the said mechanism. Commissioner, GST Policy Wing further stated that this proposal was discussed in the Officers' Meeting on 20.12.2024 and was agreed to by all.

4.14 The Hon'ble Member from Tamil Nadu welcomed the proposal, but due to high rate of GST cess on the tobacco products, illicit and counterfeit products are actually reported in large numbers. He also stated that this track and trace mechanism would definitely help in identifying suppression at the time of inspection. He suggested that

procedure for the implementation of the above mechanism has to be worked out simultaneously for compliance by the manufacturers, dealers and wholesalers.

4.15 The Hon'ble Member from Karnataka stated that this mechanism may also be tried for pan and pan/gutkha related products which witness rampant non-declaration and the pan /gutkha sector is also highly prone to raw material and value addition leakages. He also stated that this may also be taken up as a pilot project so that the movement of goods from raw material to final product can be captured. He also suggested that it would be a welcome step if the above mechanism could be experimented on these lines.

4.16 The Secretary stated that approval of the Council was being sought only for an enabling provision for bringing in track and trace mechanism for specified commodities which are prone to tax evasion and that as suggested by the Hon'ble Member from Tamil Nadu, a mechanism would be developed after deliberations by the Law Committee and the same would be brought before the GST Council for approval. He further stated that as far as the suggestion of Hon'ble Member from Karnataka regarding enabling the mechanism for other commodities like Pan masala/ Gutkha is concerned, the idea is that this mechanism will be used for highly evasion prone commodities and before any commodity is specified, the proposal will be brought before the Council for its approval. He also stated that the suggestion to put the entire input chain for a particular commodity under the mechanism may be difficult, however, first the Law Committee may devise a suitable mechanism and this aspect could be discussed later. He further stated that at present, the intent is to put the final product under the track and trace mechanism.

Decision: The Council recommended to amend the CGST Act, 2017 for incorporation of provisions relating to Track and Trace Mechanism for specified evasion-prone commodities, including providing for penal provisions for contravention of the same, as per the recommendations of the Law Committee.

Agenda Item 3(iv): Amendment in sub-section (5) of section 9 of Central Goods and Services Tax Act, 2017 for providing clarity regarding determination of tax liability of the electronic commerce operators in respect of specified services

4.17 Commissioner, GST Policy Wing stated that section 9(5) of CGST Act, 2017 provides for a deeming provision as per which the electronic commerce operator (ECO) is deemed to be a supplier of specified services for the purpose of payment of tax on the said supplies of specified services through them. In the case of transportation of passengers by a radio taxi, motor cab etc., disputes have arisen regarding tax liability of ECOs operating under a subscription-based model as some of them are not paying tax on the specified services by contending that they the said services are not provided through them as they merely provide a platform for connecting the drivers and passengers and it is the driver who decides the fare and decides whether to provide the service or not.

4.18 He stated that the issue was deliberated by the Law Committee and the Law Committee recommended to amend section 9(5) of CGST Act, 2017 to provide clarity regarding liability of the ECOs to pay tax in respect of the specified services being provided using their platforms.

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4.19 He further stated that this was discussed in the Officers' meeting on 20.12.2024, however, there was no broad consensus on this issue. He stated that it was felt that these are emerging technological innovations in the e-commerce sector whose contours need to be examined in detail before taking any decision in the matter. Accordingly, it was recommended in the Officer's Meeting to defer the proposal to be deliberated further by the Law Committee.

Decision: The Council recommended to defer the agenda pertaining to amendment in sub-section (5) of section 9 of Central Goods and Services Tax Act, 2017 for further deliberation by the Law Committee.

Agenda Item 3(v): Clarification regarding requirement of reversal of input tax credit by electronic commerce operators in respect of supplies made under section 9(5) of CGST Act, 2017

4.20 Commissioner, GST Policy Wing stated that doubts are being raised regarding liability of electronic commerce operators (ECOs) to reverse input tax credit, corresponding to the supplies of specified services through them on which tax has to be paid by them under section 9(5) of CGST Act, 2017. The Law Committee recommended that a circular may be issued clarifying that ECOs are not required to make proportional reversal of ITC under section 17(1) of the CGST Act, 2017 or section 17(2) of the CGST Act, 2017 to the extent of supplies made under section 9(5), and that the ECOs are required to pay the full tax liability on account of supplies under section 9(5) of the CGST Act, 2017 only in cash.

4.21 He further stated that a similar clarification was issued in the case of restaurant services and that the same is now being extended to all the specified services. He also stated that this was discussed in the Officers' Meeting on 20.12.2024 and was agreed to.

Decision: The Council recommended issuance of a circular as per the recommendations of the Law Committee.

Agenda Item 3(vi): Amendment in Rule 89 of Central Goods and Services Tax Rules, 2017 (CGST Rules, 2017) for providing the scope and computation of the refund on account of inverted duty structure as provided in sub-section (3) of section 54 of CGST Act, 2017

4.22 Commissioner, GST Policy Wing stated that Section 54(3) of the CGST Act, 2017 provides for refund of accumulated input tax credit on account of inverted duty structure i.e., the rate of tax on inputs being higher than the rate of tax on output supplies. However, accumulation of input tax credit could also be due on other factors such as the stock accumulation, value of the output supplies being lower than that of input supplies due to subsidies provided by the Government or due to market conditions, etc. For example, if there is a subsidy given by the Central or the State Government, there could be accumulation of input tax credit both due to the rate of tax on inputs being higher than the rate of tax on output supplies as well as due to the subsidy component.

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4.23 He further stated that matter was deliberated by the Law Committee again as per directions of the GST Council made in 50th meeting. The Law Committee felt that the present formula for refund prescribed under rule 89(5) of the CGST Rules, 2017 does not take into account the accumulation of Input Tax Credit due to the subsidy provided by the Central or the State Government. The Law Committee was of the view that to ensure that Input Tax Credit accumulated due to such subsidies is not monetized by claiming a refund on account of inverted duty structure, and recommended inserting a new sub-rule (6) in rule 89 of the CGST Rules, 2017 for calculation of refund amount on account of accumulation of input credit on account of inverted duty structure in cases involving grant of subsidy by the Central or the State Government. He added that during discussion in the Officers' Meeting on 20.12.2024, there was a view that the proposal may have larger implications such as impact on prices, subsidy bill, etc. in such cases involving Government subsidy. Accordingly, it was suggested that the proposal may be deferred for further comprehensive examination of the matter by the Law Committee.

Decision: The Council recommended to defer the issue for further comprehensive examination of issue, including the implications and impact of the proposed amendments, by the Law Committee.

Agenda Item 3(vii): Miscellaneous proposals for amendment of the CGST Act, 2017

Agenda Item 3(vii) (I): Amendment in section 107(6) and section 112(8) of CGST Act, 2017 to provide for payment of pre-deposit for filing an appeal in respect of an order demanding penalty amount without any demand of tax

4.24 Commissioner, GST Policy Wing stated that the present mechanism provides for the pre-deposit in cases where a component of demand of tax is involved. However, while proviso to section 107(6) of CGST Act, 2017 provides for payment of pre-deposit of twenty-five percent of penalty for filing an appeal with appellate authority against an order issued under section 129(3) of CGST Act, 2017, there is no provision for pre-deposit for filing appeals against an order involving demand of penalty in other case, where no demand of tax is involved.

4.25 The Law Committee recommended that the proviso to section 107(6) of CGST Act, 2017 may be amended to provide for the requirement of pre-deposit of ten percent of the penalty amount for filing an appeal before Appellate Authority against an order demanding only penalty without demand of any tax. The Law Committee also recommended that a similar proviso may also be inserted in section 112(8) of CGST Act, 2017 to provide for the requirement of pre-deposit of ten percent of the penalty for filing an appeal before Appellate Tribunal in cases demanding only penalty without involving demand of any tax. The Law Committee further recommended that consequential amendments may be made in the FORM GST APL-01 and FORM GST APL-05.

4.26 He stated that the issue was discussed in the Officers' Meeting on 20.12.2024 and the same was agreed upon.

4.27 The Hon'ble Member from Tamil Nadu stated that wherever an adjudication order is passed with demand for only the interest component, which is actually a fixed amount, as



in the case of the non-payment of the interest on debit notes, the order is again appealable. He suggested that the pre-deposit in such appeals may be insisted upon.

4.28 Chairman, CBIC stated that it was discussed during the Officers' Meeting, whether along with penalty, interest and late fees also need to be included for requirement of pre-deposit for filing appeals. He stated that interest is an integral part of the duty demand and that the same is quantified as per law. Therefore, the adjudicating authority has no discretion in its quantification and same applies in case of late fees also. However, in case of penalty, it is the discretion of the adjudicating authority to impose the penalty and it can be challenged in appeal. He further stated that the provision for pre-deposit is being recommended only in respect of penalty since both interest and late fees are deemed to be confirmed amounts and cannot be challenged.

Decision: The Council recommended amendment of proviso to section 107(6) and insertion of new proviso in section 112(8) of CGST Act, 2017 to provide for the requirement of pre-deposit for filing an appeal before Appellate Authority and Appellate Tribunal respectively in cases involving demand of penalty without involving demand of any tax.

Agenda Item 3(vii) (II): Agenda regarding removal of levy of late fee under sub-section (1) of section 47 of the CGST Act, 2017 in respect of furnishing of details of outward supplies in FORM GSTR-1

4.29 Commissioner, GST Policy Wing stated that with the implementation of sequential furnishing of the details of outward supplies in FORM GSTR-1 before furnishing of return in FORM GSTR-3B of the corresponding tax period, in terms of sub-section (10) of section 39 of the CGST Act, 2017 a return in FORM GSTR-3B cannot be furnished without furnishing of details of outward supplies in FORM GSTR-1 of the said tax period. He further stated that considering this and also considering that there is already a late fee for delayed furnishing of return in FORM GSTR-3B under sub-section (1) of section 47 of the GST Act, 2017 which is getting auto-populated in the next return, the Law Committee recommended that charging a separate late fee for delayed furnishing of FORM GSTR-1 may not be desirable.

4.30 He also stated that during the discussion in the Officers' meeting, the States of Tamil Nadu and Telangana had opposed the proposal citing that removal of levy of late fee on the late filing of FORM GSTR-1 may affect the discipline of taxpayers in filing of FORM GSTR-1 timely, which would affect the passing of Input Tax Credit to the recipients and accordingly, it was recommended that the proposal may be revisited.

Decision: The Council recommended to defer the agenda regarding removal of levy of late fee under sub-section (1) of section 47 of the CGST Act, 2017 in respect of furnishing of details of outward supplies in FORM GSTR-1 for further deliberation by the Law Committee.

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Agenda Item 3(vii) (III): Amendment in Section 2(69)(c) of CGST Act, 2017 to insert an Explanation regarding definitions of 'Local Fund' and 'Municipal Fund'

4.31 Commissioner, GST Policy Wing stated that this agenda is based on a reference from the Fitment Committee. The Law Committee observed that sub-clause (c) in the definition of 'local authority' in Section 2(69) of the CGST Act, 2017 refers to the terms "municipal or local fund". However, the said terms have not been separately defined in CGST Act, 2017 which is causing ambiguities and disputes in the interpretation of scope of 'local authority'. The Law Committee recommended to replace the phrase "municipal or local fund" with the phrase "municipal fund or local fund" in sub-clause (c) of clause (69) of section 2 of the CGST Act, 2017 and to provide for definition of the terms "municipal fund" and "local fund" by inserting an Explanation after the said sub-clause. He also stated that it was discussed in the Officers' Meeting and was agreed to by all.

Decision: The Council approved the recommendation of the Law Committee to amend sub-clause (c) of Section 2(69) of CGST Act, 2017 and to insert an Explanation after the said sub-clause.

Agenda Item 3(vii) (IV): Amendment in provisions pertaining to Input Services Distributor mechanism under CGST Act, 2017 and CGST Rules, 2017

4.32 Commissioner, GST Policy Wing stated that doubts are being raised about the applicability of Input Service Distributor (ISD) mechanism in respect of inter-state supply of services received by an ISD on which tax has to be paid on reverse charge basis. He also mentioned that the definition of ISD under section 2(61) and the requirement of distribution of input tax credit by ISD in section 20 of CGST Act, 2017, as amended vide the Finance Act, 2024, refer to only intra-state RCM liability and do not refer to inter-state RCM supplies, which may lead to an interpretation that inter-state RCM liabilities are not covered under ISD mechanism.

4.33 In this regard, the Law Committee observed that on perusal of the provisions of sub-section (2) of section 20 of the CGST Act, 2017, which also refers to distribution of credit of integrated tax in respect of RCM supplies, it appears that reference to RCM supplies in definition of ISD under clause (61) of section 2 and in section 20 of the CGST Act, 2017 pertains to both intra-State as well as inter-State RCM supplies. However, to avoid any ambiguity and dispute in the matter, the Law Committee recommended that necessary amendments may be made in clause (61) of section 2 and section 20 of the CGST Act, 2017 to explicitly include inter-state RCM transactions under the ISD mechanism, by including reference to section 5(3) and 5(4) of IGST Act, 2017 in the said provisions. The Law Committee also recommended that consequential amendment may also be made in Rule 39(1A) of the CGST Rules, 2017.

4.34 The Law Committee further recommended that the above amendments in section 2(61) and section 20 of CGST Act, 2017 may be brought into effect from 01.04.2025, i.e. the date on which amendments in section 2(61) and section 20 of CGST Act, 2017 made through Finance (No. 1) Act of 2024 will come into effect.

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4.35 Commissioner, GST Policy Wing further stated that this was discussed in the Officers' Meeting on 20.12.2024 and was agreed to by all.

Decision: The Council approved the recommendation of the Law Committee for amendment of clause (61) of section 2 and section 20 of the CGST Act, 2017 and sub-rule (1A) of rule 39 of the CGST Rules, 2017.

Agenda Item 3(viii): Miscellaneous proposals for amendment of the CGST Rules, 2017

Agenda Item 3(viii) (I): Provision for grant of Temporary Identification Number by Tax Officers to persons not liable to be registered otherwise

4.36 Commissioner, GST Policy Wing stated that there was a provision under Rule 87(4) of CGST Rules, 2017 which enables a person, who is not required to be registered but who wishes to make a payment of GST, to make such payment through a Temporary Identification Number (TIN).

4.37 The Law Committee observed that the present provisions of CGST Rules do not specifically provide for the procedure for grant of temporary identification number to a person, who is not required to register under GST, for enabling him to pay his liability as per the provisions of rule 87(4) of CGST Rules, 2017.

4.38 Accordingly, the Law Committee recommended that a new rule 16A may be inserted in CGST Rules, 2017 to provide for a separate provision for generation of temporary identification number for such persons, so as to discharge their liabilities, without need for getting themselves registered. The Law Committee also recommended consequential changes in FORM GST REG-12 for this purpose.

4.39 Commissioner, GST Policy Wing further stated that this was discussed in the Officers' Meeting on 20.12.2024 and was agreed to by all.

Decision: The Council approved the recommendation of the Law Committee to insert new rule 16A in CGST Rules, 2017 and to make consequential changes in FORM GST REG-12.

Agenda Item 3(viii) (II): Amendment in the field 'category of registered person' for taxpayers who opted for composition levy through FORM GST CMP-02

4.40 Commissioner, GST Policy Wing stated that when a normal registered person wishes to opt for the composition scheme through FORM GST CMP-02 and makes a mistake while choosing the "Category of Registered Person", the rules did not provide for a mechanism to allow this non-core amendment.

4.41 The Law Committee observed that there is a need to make amendment in rule 19 of CGST Rules, 2017 to provide for amendment in details furnished in FORM GST CMP-02

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through FORM GST REG-14. Accordingly, the Law Committee recommended that sub-rule (1) of rule 19 of CGST Rules, 2017 may be amended to allow the composition taxpayers to change “Category of Registered Person” (a non-core amendment), which was selected wrongly in FORM GST CMP-02 earlier.

4.42 Commissioner, GST Policy Wing further stated that this was discussed in the Officers’ Meeting on 20.12.2024 and agreed to by all.

Decision: The Council recommended to amend sub-rule (1) of rule 19 of CGST Rules, 2017 to allow composition tax payers to change “Category of Registered Person”, if selected wrongly in FORM GST CMP-02 (a non-core amendment).

Agenda Item 3(viii) (III): Agenda on requirement of signature or digital signature of the supplier or his authorized representative in respect of e-invoice

4.43 Commissioner, GST Policy Wing stated that the Law Committee observed that an invoice issued in the manner prescribed under Rule 48(4) of the CGST Rules, 2017 (i.e. e-invoicing), containing a Quick Response code and embedded Invoice Reference Number (IRN), appears to meet the objective of signing or digitally signing of invoice, as there was sufficient verification mechanism available in respect of e-invoices. The Law Committee, therefore, felt that requiring a signature or digital signature on such invoice as per provisions of rule 46 of CGST Rules, 2017 may be an unnecessary compliance burden on the tax payers, which may hinder end-to-end automation of e-invoicing and ITC reconciliation process. The Law Committee recommended that fourth proviso to rule 46 of the CGST Rules, 2017 may be amended to dispense with the requirement of signature or digital signature by the supplier or his authorized representative in respect of an invoice which is issued in the manner prescribed in sub-rule (4) of rule 48 of the CGST Rules, 2017.

4.44 He further stated that the issues were discussed in the Officers’ meeting on 20.12.2024, however, there was no consensus on the issue. State of Odisha supported the proposal while State of Tamil Nadu and State of Telangana opposed the same on the grounds that traders dealing in fake bills may misuse the facility. He further stated that State of Kerala agreed to the proposal in-principle but suggested that a middle path may be considered keeping in view the ease of doing business, especially for small taxpayers, as well as to address the concerns of misuse of the proposed exemption. State of Gujarat was also in agreement with State of Kerala’s view and proposed that the issue may be further deliberated upon. It was also suggested to examine the proposal for consistency with the Information Technology Act and admissibility of e-invoices as evidence in courts. Accordingly, it was recommended that the Law Committee may deliberate the issue further.

4.45 The Hon’ble Member from Uttar Pradesh stated that there should be no problem in giving up the requirement of digital signature.

4.46 The Secretary stated that in the discussion that took place during the Officers’ Meeting held on 20.12.2024, it was felt that for the ease of doing business, there may be no

need of digital signatures if the information contained in invoice has already been provided by the taxpayer on the portal through e-invoicing. However, if a taxpayer claims that the E-invoice was not issued by him, then there might be ensuing litigation. It was felt that the Law Committee may re-examine the matter. The Secretary further stated that both the aspects of ease of doing business as well as of the enforcement should be weighed in and deliberated by the Law Committee.

4.47 The Hon'ble Member from Tamil Nadu stated that they agree that it was a trade facilitation measure but there are a lot of cases of impersonation during registration as well as bogus transactions. Hence, it is imperative that we tread with caution.

4.48 The Hon'ble Member from Punjab stated that the issue should be looked at from the perspective of the provisions of the Information Technology Act because there is a high risk of it being misused and there can be more disputes.

Decision: The Council agreed to defer the issue for further deliberations by the Law Committee.

Agenda Item 3(ix): Clarification on availability of Input tax credit as per clause (b) of sub-section (2) of section 16 of CGST Act, 2017 in respect of goods which have been delivered by the supplier at his (supplier's) place of business

4.49 Commissioner, GST Policy Wing stated that clarification has been sought on availability of input tax credit (ITC) as per section 16(2)(b) of CGST Act, 2017 in respect of goods which have been delivered by the supplier at his (supplier's) place of business under an Ex-Works contract, whereby the property in goods passes to the dealer at the factory gate of the supplier, when the goods are handed over to the transporter at the instance of the dealer.

4.50 He stated that the Law Committee had recommended to clarify through a circular that wherever the contract between the supplier and recipient is an Ex-Works (EXW) contract, wherein the goods are to be delivered by the supplier to the recipient or any other person on behalf of the recipient, at the supplier's place of business, the said goods can be construed to have been "received" by the recipient at the time of handing over the said goods to the recipient or the transporter, as the case may be, as per provisions of section 16(2)(b) of CGST Act, 2017 and the said recipient may avail the ITC on such goods, subject to fulfilment of other conditions stipulated in section 16 and section 17 of the CGST Act, 2017.

4.51 He also stated that the issue was discussed in the Officers' Meeting on 20.12.2024 and it was agreed by all.

Decision: The Council recommended issuance of clarification on availability of Input tax credit as per clause (b) of sub-section (2) of section 16 of CGST Act, 2017 in respect of goods which have been delivered by the supplier at his place of business under an Ex-Works contract.

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Agenda Item 3(x): Clarification regarding mentioning of correct details of name of the State of the unregistered recipient as well as correct declaration of place of supply in respect of supply of 'Online Services'

4.52 Commissioner, GST Policy Wing presented the next agenda item on clarification regarding mentioning of correct details of name of the State of the unregistered recipient as well as correct declaration of place of supply in respect of the supply of 'Online Services'.

4.53 He stated that the Law Committee recommended to clarify that as per proviso to rule 46(f) of CGST Rules, 2017 to mandatorily declare the State of recipient of service shall be applicable in respect of all the online supplies of services supplied to an unregistered recipient, in addition to the supply of online money gaming and OIDAR services and that supplier should devise suitable mechanism to ensure collection of such details from unregistered recipient before making any supplies to him. It was also recommended to clarify that if the supplier fails to issue invoice in accordance with the said provisions, he may be liable to penal action under section 122(3)(e) of the CGST Act, 2017.

4.54 He further stated that the issue was discussed and agreed to in the Officers' Meeting on 20.12.2024. However, the State of Maharashtra was of the view that the issue may be better addressed by an amendment in the IGST Act, 2017. Accordingly, it was suggested that the recommendation of the Law Committee for issuance of a circular may be approved and the aspect of making necessary changes in the Act and/or Rules, if required, may be separately deliberated by the Law Committee.

4.55 The Secretary stated that during the discussions held during the Officers' Meeting it was suggested that the circular proposed by Law Committee could be issued and the matter of changes in the Act/Rules, if any, should be separately deliberated by the Law Committee.

4.56 The Hon'ble Member from Tamil Nadu expressed his gratitude for considering their proposal regarding issuance of clarification in respect of Place of Supply for online services and requested that all the MIS reports be sent to the States for the details of the State wise tax collected on such services.

4.57 The Secretary stated that the Law Committee shall deliberate on the above issues and present its recommendations before the GST Council.

Decision: The Council recommended issuing a clarification through a circular regarding mentioning of correct details of name of the State of the unregistered recipient as well as correct declaration of place of supply in respect of supply of 'Online Services'. The Council further recommended that the aspect of requirement of amendment in Act/Rules, if any, may be deliberated separately by the Law Committee.

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Agenda Item 3(xi): Issues pertaining to the taxability of Vouchers under GST

4.58 Commissioner, GST Policy Wing presented the next agenda item pertaining to taxability of vouchers. He stated that representations have been received from trade and industry requesting for clarification regarding taxability of gift cards/vouchers, GST treatment of transactions to vouchers like issuance, distribution, redemption, time of supply, place of supply and treatment of the income booked in the accounts in respect of unredeemed vouchers etc.

4.59 He further stated that the Law Committee has recommended that a circular be issued clarifying that supply of voucher is in itself neither a supply of goods nor a supply of services and therefore, is not taxable under GST. However, the underlying supply of goods or services, in respect of which vouchers are used as consideration, shall be taxable under GST. The distribution of vouchers on a principal-to-principal basis is neither a supply of goods nor a supply of services and, therefore, would not be liable to GST. The Law Committee further recommended that in case of distribution of vouchers on a principal-to-agent basis, GST would be payable by distributor/sub-distributor, acting as an agent of the voucher issuer, on the commission/fee or any other amount, charged for such purpose. Additional services related to vouchers, such as co-branding, technical support etc. are taxable under GST. Income accrued from unredeemed vouchers (breakage) is not a consideration pertaining to any supply of goods or services and therefore, is not taxable under GST.

4.60 The Law Committee recommended that as transactions in voucher itself are neither a supply of goods nor a supply of services, the provisions related to time of supply of vouchers in section 12(4) and section 13(4) of CGST Act, 2017 may not be required and may be omitted. Similarly, the provisions relating to valuation of vouchers as provided in rule 32(6) of the CGST Rules, 2017 may also be omitted.

4.61 He stated that the issue was discussed and agreed in the Officers' Meeting on 20.12.2024.

Decision: The Council recommended omission of section 12(4) and section 13(4) of CGST Act, 2017 and rule 32(6) of CGST Rules, 2017 and issuance of a circular clarifying various issues pertaining to GST treatment of vouchers.

Agenda Item 3(xii): Amendment in place of supply provisions for intermediary services under section 13(8)(b) of the IGST Act, 2017

4.62 Commissioner, GST Policy Wing presented the next agenda item and stated that as per section 13(8)(b) of IGST Act, 2017 the place of supply in respect of 'intermediary services' is the location of the supplier, which is an exception to the default rule of place of supply, which is the location of the recipient of the services.

4.63 He stated that representations have been received regarding disputes arising in respect of scope of 'intermediary' services, resulting in show cause notices denying benefit of export of services in such cases, causing uncertainty to the industry involved in such supplies, mainly in IT and IT-enabled services (ITeS) sector, which is making them

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uncompetitive vis-à-vis foreign competitors. It has also been represented that despite the issuance of various clarificatory circulars, disputes regarding the scope of intermediary and the place of supply of intermediary services are still continuing.

4.64 The Law Committee recommended that clause (b) may be omitted from sub-section (8) of section 13 of IGST Act, 2017 so as to provide that the place of supply for "intermediary services" will be determined as per the default provisions under section 13(2) of the IGST Act, 2017 i.e. the location of the recipient of such services, so as to provide certainty in the matter of taxation of such services.

4.65 He stated that the issue was discussed during the Officers' Meeting on 20.12.2024 wherein the State of Karnataka expressed their disagreement with the recommendations of the Law Committee, citing revenue implications.

4.66 He also stated that State of Kerala also expressed its disagreement with the recommendations of Law Committee by citing the example of intermediary services provided by educational consultants in relation to admission of students to pursue courses outside India. The State of Maharashtra supported the proposal and highlighted the interpretational challenges of the provisions regarding place of supply in respect of 'intermediary services' and ensuing litigation due to the same.

4.67 Commissioner, GST Policy Wing further stated that in light of the objections raised by some of the States, it was agreed that the matter may be further deliberated by the Law Committee on the basis of the deliberations and recommendations of a group of officers comprising of officers from CBIC as well as States of Maharashtra, Karnataka, Gujarat, Kerala, Telangana and Haryana.

4.68 The Hon'ble Members from Tamil Nadu, Uttar Pradesh, Punjab and West Bengal requested that their officers may also be included in the Group of Officers.

4.69 The Secretary stated that during the discussions held in the Officers' Meeting, the confusion and disputes arising due to interpretational challenges of the provisions regarding place of supply in respect of 'intermediary services' were highlighted. He emphasized that the intention was that export of services from India should be tax-free and globally competitive. He emphasized that the aim should be to balance the promotion of IT and ITeS as well as the reduction of tax disputes. He further stated that if agreed, the Law Committee may deliberate the matter based on the recommendations of a group of officers and present its recommendations to the Council.

Decision: The Council recommended that a group of officers may be constituted comprising of officers from CBIC, Maharashtra, Karnataka, Gujarat, Kerala, Telangana, Haryana, Tamil Nadu, Uttar Pradesh, Punjab and West Bengal to deliberate on this issue. The Law Committee may re-examine the matter on the basis of the recommendation of the aforementioned group of officers.

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Agenda Item 3(xiii): Clarification regarding applicability of late fee for delay in furnishing of FORM GSTR-9C

4.70 Commissioner, GST Policy Wing stated that representations have been received requesting to clarify whether late fee under sub-section (2) of section 47 of CGST Act, 2017 will be leviable where the reconciliation statement in FORM GSTR-9C is furnished by the registered person beyond the due date of furnishing of annual return, in cases where annual return in FORM GSTR-9 has already been furnished.

4.71 The Law Committee observed that as per Section 44 of CGST Act, 2017, read with rule 80 of the CGST Rules, 2017, a registered person required to furnish an annual return in FORM GSTR-9 for every financial year, shall also furnish along with it, a reconciliation statement in FORM GSTR-9C, if the aggregate turnover of the said registered person during a financial year exceeds the specified threshold limit. Thus, where FORM GSTR-9C is required to be furnished along with FORM GSTR-9, furnishing of annual return under section 44 of the CGST Act, 2017 may not be said to be complete, unless both FORM GSTR-9 and FORM GSTR-9C are furnished.

4.72 He stated that the Law Committee recommended to issue a circular clarifying that the late fee under Section 47(2) of the CGST Act, 2017 is leviable for the delay in filing the complete annual return under Section 44 of the CGST Act, 2017, which includes both FORM GSTR-9 and FORM GSTR-9C (where applicable). The late fee is not separately applicable for the delay in filing FORM GSTR-9 and FORM GSTR-9C but will be computed from the due date of the annual return until the date on which the complete annual return (FORM GSTR-9 as well as FORM GSTR-9C where applicable) is filed.

4.73 He further stated that the Law Committee also recommended that in view of lack of clarity in respect of late fee on the delay of filing of FORM GSTR-9C, the late fee for the past period up to the Financial Year 2022-23, may be waived, which is in excess of the amount of late fee payable till the date of filing of FORM GSTR-9 for the said financial year, provided FORM GSTR-9C is filed on or before 31st March 2025. The Law Committee also recommended that however, no refund may be available in respect of late fee already paid in respect of delayed filing of FORM GSTR-9C for the said financial years.

4.74 He also stated that the issue was discussed and agreed in the Officers' Meeting on 20.12.2024.

Decision: - The Council recommended issuance of a circular clarifying the applicability of late fee for delay in furnishing FORM GSTR-9C, and issuance of a notification waiving amount of late fee in respect of delayed furnishing of reconciliation statement in FORM GSTR-9C, in excess of the late fee payable up to date of furnishing GSTR-9, for any of the financial years from 2017-18 to 2022-23, subject to the condition that the said FORM GSTR-9C is filed on or before 31st March 2025.

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Agenda Item 3(xiv): Amendment in CGST Act, 2017 and CGST Rules, 2017 in respect of functionality of Invoice Management System (IMS)

4.75 Commissioner, GST Policy Wing presented the next agenda item and stated that the GST Council in its 54th meeting had recommended introduction of a new optional functionality, Invoice Management System (IMS) on the common portal, which will allow the taxpayers to accept, reject, or to keep the invoices pending for the purpose of availment of Input Tax Credit. The said functionality is expected to reduce errors in claiming input tax credit and improve reconciliation between the input tax credit which is availed in FORM GSTR-3B vis-a-vis the input tax credit which is available in FORM GSTR-2B. He stated that IMS has been launched on the GST Portal from 1st October 2024 and is available to the taxpayers for taking actions on the invoices reported by their suppliers for the purpose of availment of input tax credit.

4.76 He further stated that the Law Committee took a note of the key features of IMS implemented on the common portal and has recommended certain amendments in CGST Act, 2017 and CGST Rules, 2017 in respect of the same.

4.77 The Law Committee has recommended an amendment in Section 38 of CGST Act, 2017 and rule 60 of CGST Rules, 2017 to provide a legal framework for generation of FORM GSTR-2B based on the action taken on IMS. Taking note of concerns raised by the trade regarding non-availability of keeping the credit notes pending on IMS, the Law Committee also recommended providing a short period during which credit notes or documents decreasing the tax liability of the supplier can be kept pending by the recipient on IMS.

4.78 The Law Committee also recommended an amendment in sub-section (2) of section 34 of the CGST Act, 2017, to specifically provide the condition of reversal of input tax credit as is attributable to a credit note by the registered recipient, for the reduction in output tax liability of the supplier and insertion of a new rule 67B in the CGST Rules, 2017 to prescribe the manner in which the output tax liability of the supplier will be adjusted against the credit note issued by him.

4.79 Further, the Law Committee recommended an amendment in sub-section (1) of section 39 of CGST Act, 2017 and rule 61 of CGST Rules, 2017 to provide that FORM GSTR-3B of a tax period shall be allowed to be filed only after FORM GSTR-2B is made available on the portal for the corresponding tax period. Also, consequential amendment in Rule 88D of CGST Rules, 2017 and FORM GSTR-2B has been recommended.

4.80 He stated that the recommendations were discussed in the Officers' Meeting on 20.12.2024 and agreed to by all.

Decision: - The Council recommended amendments in CGST Act, 2017 and CGST Rules, 2017 in respect of the functionality of Invoice Management System (IMS).

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Agenda Item 3(xv): Concept note for implementing different categories of GST registration based on Risk Assessment and aligning the registration process with passing on of Input Tax Credit

4.81 Commissioner, GST Policy Wing introduced the next agenda item which was a concept note on risk-based registration process with restrictions on ITC availability and stated that the Law Committee had proposed to categorize GST registrations into three categories based on their eligibility to pass on Input Tax Credit (ITC) in order to streamline the GST registration process as well as for tightening controls to prevent fraudulent registrations and ITC claims.

4.82 He stated that during the Officers' Meeting on 20.12.2024, all the officers had agreed in principle with the concept note. It was further recommended that the Law Committee may deliberate on the detailed guidelines and parameters as well as requirement of amendment in GST Act and Rules as well as the processes on GSTN system through a group of officers from CBIC, GSTN and the States of Andhra Pradesh, Delhi, Goa, Gujarat, Tamil Nadu, and Telangana.

4.83 The Secretary stated that this is one of the major trade facilitation measures. Representations from trade and industry have highlighted challenges in the GST registration process, which causes hardship to genuine taxpayers. On the other hand, fraudulent entities exploit the system by using fake documents to obtain GST registrations. The concept paper is an attempt to mitigate the risk from bogus suppliers while facilitating the trade.

4.84 He further stated that in-principle approval of the Council is being sought to make the GST registration process more streamlined for genuine taxpayers while tightening controls to prevent fraudulent registrations and ITC claims. This mechanism has provision for fast registration for new businesses to start operating, followed by varying levels of verification based on the taxpayer's eligibility to pass ITC.

4.85 The Hon'ble Member from Karnataka welcomed the concept paper and suggested *refining the registration process by additionally identifying high-risk sectors and introducing targeted measures for these high-risk sectors.* He further suggested automated tools may be developed and data-driven methods be utilized to assess and manage these high-risk sectors thereby minimizing reliance on human intervention. While he agreed that to start with, streamlining of registration process is more feasible, however, he suggested that initially, one or two high-risk segments may be picked for testing the efficacy of a systemic approach which can thereafter be expanded to other sectors. He also stated that State of Karnataka would like to participate in this exercise to contribute and learn from the thought process involved in the new mechanism.

4.86 The Hon'ble Member from Uttar Pradesh stated that he agreed with the concept note and any decision in this regard may be taken on a case-to-case basis. He further expressed willingness of the State of Uttar Pradesh to join the Group of Officers.

4.87 Hon'ble Chairperson stated that this was a welcome step and any of the other States willing to volunteer for being a part of the Group of Officers, may indicate their willingness so that further decision can be taken.

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4.88 The Hon'ble Member from Goa welcomed the concept note and expressed willingness of State of Goa to join the Group of Officers. He stated that the goal is to balance the ease of doing business as well as tax compliances.

4.89 The Hon'ble Member from Bihar also requested that State of Bihar may be included in the Group of Officers.

4.90 The Secretary stated that the nominations of States willing to join the Group of Officers had been duly noted. He further stated that a challenge at the time of registration is that the supplier may not declare all the commodities he will deal in and subsequent to grant of registration, he may start dealing in risky commodities. He suggested that the Law Committee may deliberate on such issues through the Group of Officers for further recommendations to the Council.

Decision: The Council accorded in-principle approval to the proposed framework of registration under GST and recommended that Law Committee may deliberate on the detailed guidelines and parameters as well as requirement of amendment in GST Act and Rules as well as the processes on GSTN system through a Group of Officers (to be constituted for this purpose) for further recommendations to the Council.

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

5.1 The Secretary introduced the agenda item relating to recommendations of the Fitment Committee and asked the JS, TRU to present the agenda.

5.2 JS, TRU -I stated that the Fitment Committee agenda was summarized in six Annexures wherein the first two Annexures (I and II) related to goods and the other four Annexures (IV, V, VI and VII) related to services. There were a total of 17 issues relating to goods out of which the Fitment Committee had recommended making changes in the GST rates or issuance of clarifications in case of 13 items (Annexure-I of the Agenda Volume-I), no change had been recommended in respect of 4 items (Annexure-II of the Agenda Volume-I). In the case of services, there were a total of 21 issues, of which the Fitment Committee had recommended making changes in the GST rates or issuance of clarifications in case of 15 items (Annexure-IV of the Agenda Volume-I), no change had been recommended in respect of 3 items (Annexure-V of the Agenda Volume-I) and 02 items have been deferred by the Committee (Annexure-VI of the Agenda Volume-I). One agenda item was being placed before the Council wherein the Fitment Committee had not made any recommendation and was brought before the Council for taking a decision (Annexure-VII of the Agenda Volume-I).

5.3 JS, TRU-I presented the agenda pertaining to goods as mentioned in Annexure-I of the Agenda item no.4 (Volume-I). She presented the recommendations made by the Fitment Committee regarding 13 issues for making changes in the GST rates or for issuing clarifications in relation to goods.

5.4 The first item presented for discussion in Annexure-I of the Agenda Volume-I was clarification on classification and tax rate on ready to eat popcorn which are mixed



with spices and salt. JS, TRU-I stated that the Fitment Committee had examined the issue and had recommended to clarify that ready to eat popcorn which is mixed with salt and spices are classifiable under HS 2106 90 99. However, when popcorn is mixed with sugar thereby changing its character to sugar confectionary (e.g. caramel popcorn), it would be classifiable under HS 1704 90 90 attracting 18% GST. She further stated that it had also been recommended to clarify that supply of ready to eat popcorn mixed with salt and spices, classifiable under HS 2106 90 99, attracts 5% GST, if other than pre-packaged and labelled and attracts 12% GST if supplied in pre-packaged and labeled form. She also stated that Fitment Committee had recommended to regularize the issue for the past period on "as is where is" basis. She further stated that the issue was discussed and agreed upon during the Officers' Meeting.

Decision: The Council recommended to issue a clarification that supply of ready to eat popcorn mixed with salt and spices are classifiable under HS 2106 90 99 and attracts 5% GST if other than pre-packaged and labelled, and 12% GST if pre-packaged and labelled. However, popcorn mixed with sugar, thereby changing its character to sugar confectionary, is classifiable under HS 17049090 and attracts 18% GST. The Council also recommended to regularize the issue for the past period on "as is where is" basis.

5.5 The next agenda item presented by JS, TRU-I was regarding 'Systems, sub-systems, equipment, parts, sub-parts, tools, test equipment, software meant for assembly/ manufacture of LRSAM system'. She stated that requests have been received to extend the exemption to Systems, sub-systems, equipment, parts, sub-parts, tools, test equipment, software meant for assembly/ manufacture of Long Range surface to Air Missile system (LRSAM) in place of LRSAM system in the existing entry at S. No. 21(II) of the notification No.19/2019- Customs. She stated that currently the exemption from basic customs duty (BCD) and IGST is available on imports of long-range Surface to Air Missile system (LRSAM). However, at the time of import of LRSAM, it is not imported as one single equipment which causes problems during clearance. She further stated that the issue was examined by the Fitment Committee which had recommended amendment of the existing entry to extend IGST exemption to include systems, sub-systems, equipment, parts, sub-parts, tools, test equipment, software meant for assembly/ manufacture of LRSAM system in place of long-range Surface to Air Missile system (LRSAM). She further stated that the issue was discussed in the Officers' Meeting and it was agreed.

Decision: The Council recommended to amend the existing entry to extend IGST exemption to include systems, sub-systems, equipment, parts, sub-parts, tools, test equipment, software meant for assembly/ manufacture of LRSAM system in place of long-range Surface to Air Missile system (LRSAM).

5.6 The next agenda item presented by JS, TRU-I was regarding GST on the sale of old and used Electric Vehicles. She stated that request was received to reduce GST rate on sale of old and used Electric Vehicles (EVs) from 12% to 5%. She stated that all old and used petrol vehicles of engine capacity of 1200 cc or more and of length of 4000 mm or more, diesel vehicles of engine capacity of 1500 cc or more and of length of 4000 mm and SUVs attract 18% GST vide entries at S. No. 1 to 3 of Notification No. 08/2018-Central Tax (Rate) dated 25.01.2018. However, vide residuary entry at S. No.4 of the said

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Notification, all old and used vehicles including EVs (other than those mentioned at S. No. 1 to 3 of the said Notification), attract 12%.

5.7 She further stated that the issue was deliberated in the Fitment Committee and it was felt that since duty rate is applicable only on the value that represents margin of the supplier, the tax incidence is already on the lower side. Therefore, Fitment Committee recommended to harmonise the tax rate from 12% to 18% for all the other vehicles, including EVs, at par with all the other entries.

5.8 The Secretary brought to the notice of all Hon'ble Members of the Council that if an individual sells their own vehicle to another person, and the individual is not registered under GST Act, no GST is applicable in that case. This provision only applies to registered persons or businesses dealing in old and used cars.

5.9 Chairman, CBIC further explained that where the registered person has claimed depreciation under Section 32 of the Income Tax Act, 1961 then GST is payable only on the value that represents the margin of the supplier i.e. difference between selling price and the purchase price. Where such margin is negative, no tax is payable. If the depreciated value is higher than the sale price, no GST will be charged. Where there is a difference between the two, GST will be applicable on that difference, and the amount would be meager.

Decision: The Council recommended to increase the rate from 12% to 18% for all the other vehicles, including EVs, covered by entry at S. No.4 of the Notification No. 08/2018-Central Tax (Rate) dated 25.01.2018.

5.10 JS, TRU-I then presented the agenda item pertaining to 'Fly ash based autoclaved aerated concrete blocks'. She stated that requests have been received to issue clarification on the classification and the tax rate applicable on Autoclaved Aerated Concrete (AAC) blocks containing at least 50% fly ash as raw material constituent. She stated that fly ash bricks, fly ash aggregates and fly ash blocks classifiable under HS 6815 attract 12% GST while articles of cement, of concrete or of artificial stone, whether or not reinforced, are classifiable under HS 6810 which attracts 18% GST.

5.11 She further stated that dispute was raised by field formations claiming that 'Fly ash based autoclaved aerated concrete blocks' with more than 50% fly ash content are classifiable under HS 6810. She then stated that based on the Circular issued by Ministry of Environment & Forests wherein it has been notified that for the manufacturing of fly ash bricks, blocks, tiles etc, fly ash equivalent to minimum 50% of total input materials is required to be used, Fitment Committee has recommended to clarify that AAC blocks containing more than 50% fly ash content will fall under HS 6815 and shall attract 12% GST. She further stated that the issue was discussed and agreed in the Officers' Meeting.

Decision: The Council recommended clarifying that Autoclaved Aerated Concrete (AAC) blocks containing more than 50% fly ash content are classifiable under HS 6815 and attract 12% GST.

5.12 JS, TRU-I then presented the agenda item pertaining to 'Dried pepper of the genus piper'. She stated that requests have been received to issue clarification on the classification and GST rate applicable on dried pepper of genus piper and whether dried



pepper is an agricultural produce and supply from plantations is exempt from GST. She then stated that the Fitment Committee had examined the issue and had recommended to clarify that:

- (i) pepper of genus piper, whether green (fresh), white or black, is covered under HS 0904 and attracts 5% GST;
- (ii) an agriculturist supplying dried pepper is not liable to be registered under Section 23 (1) of the CGST Act, 2017 and is exempt.

She further stated that this was discussed in the Officers' Meeting and agreed.

Decision: The Council recommended to clarify that pepper of genus piper, whether green (fresh), white or black, is covered under HS 0904 and attracts 5% GST. The Council also recommended to clarify that an agriculturist supplying dried pepper is not liable to be registered under Section 23 (1) of the CGST Act, 2017, and that supply by an agriculturist is exempt from GST.

5.13 The next agenda item presented by JS, TRU-I was regarding 'Raisins'. She stated that similar to the previous agenda item, requests have been made to reduce GST rate on raisins from 5% to Nil, if supplied other than pre-packaged and labelled and 5% on pre-packaged and labelled as doubts were raised in the context of supply by agriculturists. She then stated that the Fitment Committee was of the view that no change, as requested, was required in the GST rate on raisins.. The Fitment Committee had recommended to issue a clarification along the lines as recommended on supply of pepper by agriculturist i.e., to clarify that an agriculturist supplying raisins is not liable to be registered under Section 23 (1) of the CGST Act, 2017 and the supply of raisins by an agriculturist is exempt from GST.

Decision: The Council recommended to maintain status quo on the GST rate on raisins. The Council also recommended to clarify that an agriculturist supplying raisins is not liable to be registered under Section 23 (1) of the CGST Act, 2017 and is exempt.

5.14 The next agenda item presented by JS, TRU-I was pertaining to the scope of what constitutes agricultural farm produce. She stated that GST rates for certain goods are linked with the provisions of Legal Metrology Act and rules thereunder for the purpose of defining 'pre-packaged and labelled' commodities. She stated that as per amendment to Rule 3 of the Packaged Commodities Rules w.e.f. 01.01.2018, the provisions applicable to packages intended for retail sale do not apply to agricultural farm produce sold in bags above 50 kilograms. She further stated that the GST Council in its 53rd meeting had recommended that the proviso to the GST rate notification be suitably amended such that for purposes of GST, the supply of agricultural farm produce in packages containing quantity of more than 25kg or 25 litre shall not be considered as a supply made within the expression 'pre-packaged and labelled'.

5.15 She then stated that the Fitment Committee had examined the issue and recommended to amend the definition of 'pre-packaged and labelled' to cover all commodities that are intended for retail sale and containing not more than 25 kg or 25 litre,

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which are 'pre-packed' as defined under the Legal Metrology Act, or a label affixed thereto, and are required to bear the declarations under the provisions of the Act and rules, instead of inserting the definition of 'agricultural farm produce' as it is not defined in the parent legislation.

Decision: The Council recommended to amend the definition of 'pre-packaged and labelled' to cover all commodities that are intended for retail sale containing not more than 25 kg or 25 litre, which are 'pre-packed' as defined under the Legal Metrology Act, or a label affixed thereto, and are required to bear the declarations under the provisions of the Act and Rules.

5.16 The next agenda item presented by JS, TRU-I was regarding 'Supplies to merchant exporter by domestic supplier'. She stated that requests have been received to reduce Compensation Cess to 0.1% on supplies made by domestic supplier to merchant exporters. She further stated that currently 0.1% GST is applicable for such supply made to merchant exporters subject to certain conditions. Therefore the Fitment Committee recommended that the same rate can be made applicable for Compensation Cess. She further stated that this was discussed in the Officers' Meeting and agreed.

Decision: The Council recommended 0.1% Compensation Cess on supplies made by domestic supplier to merchant exporter at par with GST rate on such exports and the same conditions.

5.17 The next agenda item presented by JS, TRU-I was regarding supply of Fortified Rice Kernels (HS 1904) for ultimate use in PDS/ welfare schemes. She stated that requests have been received for reduction in GST rate from 18% to 5% on supply of Fortified Rice Kernels for ultimate use in PDS/ welfare schemes. She then stated the issue was deliberated in the Fitment Committee and it had recommended reduction in GST rate on all Fortified Rice Kernels from 18% to 5% irrespective of end use. This was discussed in the Officers' meeting and agreed.

Decision: The Council recommended reduction in GST rate on all Fortified Rice Kernels (HS 1904) from 18% to 5%.

5.18 The next agenda item presented by JS, TRU-I was regarding 'Supply of food preparations for distribution under a government program'. She stated that requests have been received to issue clarification that the inputs for the food preparation intended for free distribution to economically weaker sections of the society under a government program are eligible for the concessional rate of 5% under Notification No. 39/2017-Central Tax (Rate) dated 18.10.2017. She then stated that currently the said Notification prescribes a concessional rate of 5% GST for supply of food preparations put up in unit containers and intended for free distribution to economically weaker sections of the society under a programme duly approved by the Central Government or any State Government subject to obtaining a certificate from the nodal authority that such goods have been distributed free under the scheme.

5.19 She further stated that the issue was deliberated in the Fitment Committee and it had recommended to extend the concessional rate to the inputs of these food preparations also subject to the same conditions as specified in notification No. 39/2017 – Central Tax (Rate), dated 18.10.2017. This was discussed in the Officers' meeting and agreed.



5.20 The Hon'ble Member from Karnataka pointed out that while the title is correct, the use of the word "inputs" is too broad. The term "inputs" includes everything including plant, machinery, rent, transport, etc. which could be interpreted broadly. The Hon'ble Member sought a clarification as to whether the intent was to refer specifically to food inputs, such as perishable or edible inputs, rather than all inputs in general, as the word "input" is all-encompassing. He stressed that clear language is crucial to avoid litigation, as the intent behind decisions can be challenged later.

5.21 JS, TRU-I clarified that the intention is to include only food inputs, and the relevant HS code i.e. HS 19 or 21, will be provided.

5.22 The Hon'ble Chairperson stated that clarification is necessary to avoid litigation. While HS codes are fine and should be mentioned, the use of the word "inputs" must be more specific, such as "edible inputs" or "perishable inputs," according to the HSN codes, to avoid confusion.

Decision: The Council recommended to extend the concessional rate of 5% GST to the food inputs of food preparations, under HS 19 or 21, intended for free distribution to economically weaker sections of the society under a government program also subject to the same conditions as specified in notification No. 39/2017 – Central Tax (Rate), dated 18.10.2017.

5.23 The next agenda item presented by JS, TRU-I was pertaining to 'Clarification regarding effective date of amendment in Entry 52B Notification No. 3/2023- Compensation Cess (Rate) regarding ground clearance of SUVs. She stated that based on recommendations of the GST Council in its 50th GST Council meeting, the Notification entry was substituted to provide that cess @ 22% will be applicable to all motor vehicles known as utility vehicles by whatever name called, with engine capacity exceeding 1500cc, length exceeding 4000 mm and ground clearance of 170 mm & above. She then stated that it was done as prior to this, it was applicable only on SUVs. She further stated that a new explanation was also added that ground clearance means ground clearance in unladen condition which has led to different views in some jurisdictions regarding the effective date of amended entry 52B. She further stated that the issue was deliberated in the Fitment Committee and it had recommended to clarify that the amendment will apply on or after 26.07.2023 i.e. the date of the insertion of the entry. This was discussed in the Officers' meeting and agreed.

Decision: The Council recommended clarifying that the amendment in Entry 52B Notification No. 3/2023-Compensation Cess (Rate) regarding ground clearance of SUVs will apply to supplies on or after 26.07.2023.

5.24 The next agenda item presented by JS, TRU-I was regarding 'CAR-T cell therapy'. She stated that requests have been received to reduce GST rate on CAR-T cell therapy (HS 30) from 12% to Nil. It was received in the context of the NexCAR19 developed by ImmunoACT, a spin-off company of IIT Bombay in collaboration with Tata Hospital, Mumbai. She stated that this innovative new treatment has reduced the costs significantly in India as compared to prices in USA, although the costs are still prohibitively high for the Indian patients. She then stated that similar exemption is given to In Vitro Fertilization (IVF). She further stated that the issue was deliberated in the Fitment

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Committee and it had recommended to reduce the GST rate on gene therapy (HS 30) from 12% to Nil. This was discussed in the Officers' meeting and agreed.

5.25 The Hon'ble Member from Bihar welcomed the recommendations and also suggested that the Fitment Committee may deliberate on tax reduction on other therapies and drugs related to cancer treatment.

5.26 The Hon'ble Member from Maharashtra also agreed with the recommendations of the Fitment Committee and supported Bihar's viewpoint that other cancer treatments should also be considered, especially given the rising rate of cancer and various related diseases. She stated that if the Fitment Committee takes this into consideration, it would be a significant and positive step toward addressing cancer and other related diseases.

Decision: The Council recommended reduction in the GST rate on gene therapy (HS 30) from 12% to Nil.

5.27 The next agenda item presented by JS, TRU-I was regarding 'temporary import of equipment and consumable samples by inspection team of International Atomic Energy Agency (IAEA)'. She stated that requests have been received to exempt IGST on the temporary import of equipment and consumable samples by Inspection Team of International Atomic Energy Agency (IAEA). She stated that currently a conditional exemption is available for imports of equipment and consumable samples by the inspection team of Organisation for Prevention of Chemical Weapons (OPCW).

5.28 She further stated that the issue was deliberated in the Fitment Committee and it had recommended to exempt IGST on imports of all equipment and consumable samples by the inspection team of IAEA subject to the condition that the importer shall produce a certificate along with duly certified list of equipment and consumable samples from the Joint Secretary or the Deputy Secretary, Ministry of External Affairs to the effect that such equipment and samples are required for carrying out verification/ inspections as per terms of IAEA; and the Joint Secretary or the Deputy Secretary, MEA shall furnish an undertaking to the effect that such equipment and consumable samples are required for the intended purpose and shall be accounted for. This was discussed in the Officers' meeting and agreed.

Decision: The Council recommended IGST exemption on temporary import of equipment and consumable samples by inspection team of International Atomic Energy Agency (IAEA) subject to conditions as set out above in para 5.28.

5.29 JS, TRU-I then presented the agenda pertaining to goods as mentioned in Annexure-II of the Agenda Item No.4 (Volume-I). She presented the recommendations made by the Fitment Committee regarding 4 issues where no change had been proposed by the Fitment Committee in relation to goods.

5.30 The first item presented for discussion in Annexure-II of the Agenda Volume-I was regarding 'Agriculture machinery used for cleaning, sorting or grading, seed, grain or dried leguminous vegetables, machinery used in milling industry or for the working of cereals or dried leguminous vegetables other than farm type machinery and parts thereof'. She stated that requests have been received to reduce GST rate from 18% to 5%/Nil on it. She stated that the rate was increased from 12% to 18% based on the recommendations of the GoM on



Rate Rationalization to correct inverted duty structure. She stated that the issue was discussed in the Fitment Committee and it had recommended maintaining status quo. She also stated that this was discussed in the Officers' Meeting and agreed.

Decision: The Council recommended maintaining status quo on rate of GST on Agriculture machinery used for cleaning, sorting or grading, seed, grain or dried leguminous vegetables, machinery used in milling industry or for the working of cereals or dried leguminous vegetables other than farm type machinery and parts thereof.

5.31 JS, TRU-I then presented the next agenda item regarding the proposal to regularize the issue for past period in respect of supply of extruded or expanded products, savoury or salted. She stated that in the 48th GST Council meeting, it was clarified that these goods attract 18%. The GST Council, in its 54th meeting, had recommended to keep the GST rate on extruded or expanded products, savoury or salted falling under HS 1905 9030 at 12% on par with namkeens, bhujia etc. and directed the Fitment Committee to re-examine the issue for the past period. She stated that the Fitment Committee had not recommended regularization of the issue for the past period. She further stated that this was discussed in the Officers' Meeting and agreed.

Decision: The Council did not recommend regularizing the issue of GST payments for the past period on supply of extruded or expanded products, savoury or salted

5.32 The next agenda item presented by JS, TRU-I was regarding 'Rice Bran Oil'. She stated that a request had been received to reduce GST rate on Rice Bran Oil which currently attracts 5% GST. The Fitment Committee had recommended maintaining status quo as reduction in GST rate may deepen the existing duty inversion. This was discussed in the Officers' meeting and agreed.

Decision: The Council recommended maintaining status quo on rate of GST on Rice Bran Oil.

5.33 The next agenda item presented by JS, TRU-I was regarding 'components and parts used in manufacture of electric vehicles'. She stated that requests have been received to reduce GST rate from 28% / 18% to 5% on components and parts used in manufacture of electric vehicles. She stated that in the 54th Council Meeting, the issue was referred back to the Fitment Committee based on the intervention from the State of Andhra Pradesh. She further stated that the State of Andhra Pradesh sent the representation again asking for the reduction of rates. The Fitment Committee also received representations from trade body organizations on four specific components and parts. However, after examining the issue, it was found that there were no dedicated EV parts and they were of dual use. It was recommended to maintain the status quo. She further stated that this was discussed in the Officers' Meeting and agreed.

Decision: The Council recommended maintaining the status quo on rate of GST on components and parts used in manufacture of electric vehicles.

5.34 JS, TRU-II then presented the agendas pertaining to Services as mentioned at Annexure IV in the Agenda Volume I.

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5.35 JS, TRU-II presented the agenda item relating to a request to clarify the taxability of delivery services provided by delivery partners in connection with the supply of restaurant service through Electronic Commerce Operators (ECO). He stated that restaurant services supplied through ECOs were brought under section 9(5) of Central Goods and Service Act, 2017 (hereinafter referred to as CGST Act) w.e.f. 01.01.2022 on the recommendations of the 45th GST Council meeting, however, payment of tax on the service of delivery in relation to restaurant services supplied through an ECO was not notified explicitly. The Fitment Committee had recommended to insert an explanation under entry (iv) of Notification No. 17/2017-CT(Rate) dated 28.06.2017, issued under section 9(5), that the restaurant service includes the service of delivery (by any person, of food or any other article for human consumption or drink from the restaurant, eating joints etc.) to the recipient of restaurant service and to levy GST at 5%, without ITC, on such services of delivery. He informed the Council that during the discussion in Officers' meeting, the State of Haryana had raised concerns that the recommendation was not aligned with the views taken earlier in Fitment Committee.

5.36 The Officer from Haryana informed that the State had agreed to the proposal but he had been instructed by the Hon'ble Member from Haryana to bring two issues to notice of the Council. The first issue was that the Council should deliberate on the impact of this decision on other similar delivery platforms or quick commerce entities which follow same delivery methods. There is exponential growth in such platforms and it is likely that such platforms might take similar stand based on this recommendation. The second issue was that Fitment Committee should bring out the revenue implication of any proposal brought before the Council.

5.37 The Hon'ble Member from Karnataka requested to repeat the issue in simple language for a better understanding. He agreed with the views expressed by State of Haryana that food industry is a fast-growing sector and that this decision could have wider ramifications. He also requested to clarify as to how the composite supplies and stand-alone food supplies would be distinguished for the purpose of this agenda item.

5.38 JS, TRU-II clarified that restaurant services supplied through ECOs are at present subject to 5% GST without input tax credit. The restaurant service is effectuated once delivery is made. He further informed the Council that during the deliberations in the Fitment Committee there was a view from the field formations that delivery services should be subject to a levy of 18% GST. He stated that the Fitment Committee had therefore, recommended to clarify that only those delivery services for restaurants which are made through ECOs will be subject to 5% GST on the rationale that these restaurant services cannot be effectuated through the ECOs without the delivery of the same.

5.39 The Hon'ble Member from Karnataka enquired as to whether there is a provision for distinguishing the delivery made by a restaurant and the delivery made by a service provider.

5.40 The Secretary clarified that restaurant services wherein food is supplied through ECOs are charged at 5% and that therefore, the question was whether the delivery of the same should be charged at 18%. He stated that in big cities a large percentage of the population avail restaurant services through these platforms and therefore, it was recommended in the Fitment Committee that GST on delivery of the same should be



levied at 5%. He further added that in this context, the State of Haryana during the Officers' Meeting had enquired as to how the delivery of other products (for example mobiles) through ECOs would be treated. He informed the Council that such a broad consideration will divert the discussion from the subject of particular delivery service to delivery services in general. He sought the guidance of the Council as to whether to proceed with this recommendation or to refer it to fitment committee to discuss its implication on other delivery services and come back to the Council later.

5.41 The Hon'ble Member from Karnataka stated that when it is looked at structurally and conceptually the service portion should be charged at 18% and the product should be charged at the applicable rate. However, he added that in cases where the product is bundled with services there is a challenge as it is difficult to distinguish them from each other. He further stated that instead of committing to a particular decision that would have far reaching consequences, the issue can be further deliberated upon also for the reason that once the industry aligns itself with the thought process of the Council then getting them to change later becomes difficult.

5.42 The Hon'ble Member from Maharashtra stated that many of the restaurants have their own delivery services and therefore, requested for a clarification as to whether the delivery service provided by the restaurant themselves is subject to 5% or 18%.

5.43 The Secretary stated that these are delicate issues and that as indicated by Hon'ble Member from Karnataka many new innovations in this growing sector need to be looked at in detail. He proposed that the Fitment Committee could examine this in detail.

5.44 The Hon'ble Member from Chhattisgarh stated that food industry is a growing sector and that food items make up a major component of this sector. He further stated that in such a scenario charging 18% on food delivery services does not appear to be fair.

5.45 Chairman, CBIC stated that there is a deeming fiction created by law for restaurant services supplied through ECOs. He added that even if the delivery services are billed separately it would be treated as composite supply because of the deeming fiction and in such cases the rate applicable is the rate applicable to the main supply. He further stated that in case of other services through ECOs which are not notified under Section 9 (5) and where this deeming fiction has not been created they would have to be treated differently. He mentioned that in the present case the main supply was restaurant services and the delivery service included in such restaurant service is recommended by the Fitment Committee to be proposed to charged GST at rate of 5%.

5.46 The Hon'ble Member from Karnataka stated that in this case where the same person is providing the restaurant services and the delivery service it should be treated as a composite supply. However, he clarified that in cases where separate persons are providing these two services it is better to look into the issue in detail.

5.47 The Hon'ble Member from Uttar Pradesh stated that he did not agree with the views expressed by the Hon'ble Member from Karnataka. He stated that when the supply being made is food then the applicable rate for its delivery should be the rate applicable on food and similarly, for supplies of other goods, delivery charges should be taxed at the rate of underlying supplies. He added that he is in full agreement with the views expressed by Hon'ble Member from Chhattisgarh.

5.48 The Hon'ble Member from Kerala stated that although the agenda item was mainly related to delivery services made in relation to food items but at present there are many other products that are getting delivered through ECOs. He stated that therefore, a detailed deliberation is required on this agenda item to examine its implication on other similar services.

5.49 The Hon'ble Member from Telangana mentioned that more deliberation is required on the agenda item and suggested referring it back to Fitment Committee for an in-depth analysis.

5.50 The Hon'ble Member from West Bengal stated that they are in agreement with the views expressed by Hon'ble Members from Uttar Pradesh and Chhattisgarh and that the rate applicable on the delivery services made in relation to restaurant services through ECOs should be the rate applicable on food items. However, she added that they are also in agreement if the item is referred back for a detailed deliberation.

5.51 The Hon'ble Chairperson stated that the States of Uttar Pradesh, West Bengal and Chhattisgarh are of the view that the delivery of food should be charged the same rate as applicable to food i.e. 5% and that in case of other deliveries also it should be charged similarly whereas the States of Telangana, Haryana, Kerala and Punjab want to have a detailed deliberation whereas the State of Karnataka is in partial agreement. The Hon'ble Chairperson proposed that, if the Council agrees, the agenda item could be referred back to Fitment Committee for a detailed deliberation and bring it back to the next Council meeting.

5.52 The Hon'ble Member from Uttar Pradesh mentioned that they were in agreement with the views expressed by the Chairperson but added that the re-examination would be done in regard to what is meant by 'composite supply'. He reiterated the view that there was no ambiguity with respect to levy of 5% on delivery services made for restaurant services but nevertheless he was in agreement with the view of the Chairperson to refer the agenda item back to Fitment Committee.

5.53 The Hon'ble Chairperson stated that there was clarity among few of the Members on the rate applicable on the delivery services made for restaurants however many of the Members felt that the aspect of delivery through ECOs or quick commerce needs to be deliberated in detail.

Decision: The Council agreed to refer back the issue of delivery services made in respect of supply of restaurant service through ECOs for further examination by the Fitment Committee.

5.54 JS, TRU-II presented the agenda item relating to the applicability of GST on penal charges levied by Regulated Entities (REs) such as banks and NBFCs. He stated that the Regulated Entities are required to levy penal charges, effective from 01.01.2024, for non-compliance with material terms and conditions of loan agreements in terms of RBI instructions dated 18.08.2023. He stated that the Fitment Committee had considered the proposal to clarify the applicability of GST on such penal charges and it has recommended that penal charges are in the nature of liquidated damages and that no GST is payable on



such penal charges. He also informed the Council that the agenda was discussed during the Officers' meeting and there was agreement on the proposed recommendation.

Decision: The Council recommended to clarify that 'penal charges' levied by Regulated Entities such as banks and NBFCs are in the nature of liquidated damages and that no GST is payable on the same.

5.55 JS, TRU-II presented the agenda item relating to the request to bring sponsorship services rendered by a body corporate to anybody corporate or partnership firm from Reverse Charge (RCM) basis to forward charge basis. He added that this will allow them to avail input tax credit on their inputs or input services. He informed that the Fitment Committee had considered the proposal and it had recommended that sponsorship services provided by body corporates may be brought under forward charge. This was discussed in the Officers' Meeting and agreed.

Decision: The Council recommended to bring the sponsorship services provided by body corporates under forward charge basis.

5.56 JS, TRU-II presented the agenda item relating to request to clarify that exemption under entry at Sr. No. 34 of Notification No. 12/2017-CTR dated 28.06.2017, pertaining to services in relation to settlement provided by acquiring banks for an amount upto Rs. 2,000 in a single transaction through cards, is available to payment aggregators. He informed the Council that at present some of the field formations are of the view that payment aggregators are not covered under this exemption. He stated that the issue was deliberated in detail by the Fitment Committee and it had recommended to clarify that RBI regulated Payment Aggregators are eligible for exemption under entry at Sr. No. 34 of the notification No. 12/2017-CTR dated 28.06.2017, since they fall within the ambit of '*acquiring bank*'. Fitment Committee had also recommended to clarify that the exemption under Sl. No. 34 is limited to settlement function only which involves handling of money and does not cover payment gateway functions. This was discussed in the Officers' Meeting and agreed.

Decision: The Council recommended to clarify that RBI regulated Payment Aggregators are eligible for exemption under entry at Sr. No. 34 of the notification No. 12/2017-CTR dated 28.06.2017, since they fall within the ambit of '*acquiring bank*', and that the exemption under Sl. No. 34 does not cover payment gateway functions as the exemption is limited to settlement function only.

5.57 JS, TRU-II presented the agenda item relating to taxability or otherwise, of research carried out for the wider public good and the request to clarify the distinction between research and consulting activities. He informed that in the 54th Meeting of the Council an exemption was given to research activities carried out by the government entities and entities notified under section 35 of the Income Tax Act, 1961 provided the grant was received from the Government or private entities. He added that to check the practice of consultancy services being provided under the garb of research activities, it was proposed to clarify the distinction between research and consulting services. The issue was deliberated by the Fitment Committee and it had recommended to clarify that if the research is carried out for public good, it shall not be considered as a supply as there is no consideration involved and that a clarification may be issued distinguishing between

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research and consultancy services. He added that the agenda item was discussed during the Officers' meeting and the view that emerged during the meeting was to defer the issue for comprehensive re-examination.

5.58 The Secretary informed the Council that in the 54th meeting of the Council it was recommended that grants given for research carried out by the government entities and entities notified under section 35 of the Income Tax Act, 1961 should not be subject to tax, as the research carried out against these grants would generally be in the nature of a public good. He added that in cases where a private body is providing grant to a private entity it will be difficult to ascertain the extent of public good and that this needs further deliberation. He further mentioned that there is a distinction between research and consultancy and that the Fitment Committee had deliberated on the potential misuse of the exemption if this distinction is not properly explained. He informed the Council that it was felt that commercial transaction between private entities need to be examined in detail and that there doesn't *prima facie* arise a reason for exempting such transactions. He informed the Council that there was agreement in the Officers' meeting that these issue needs reconsideration. He thereafter mentioned that the next issue for consideration was whether the grants received from the government to government entities for past period be regularized on 'as is where is' basis. He stated that the Council could consider this for approval while the other issues could be considered for referring back to the Fitment Committee for reconsideration. He sought the guidance of the Council.

5.59 The Hon'ble Member from Meghalaya stated that innovation and research are the foundation of every economy for its growth and that this in turn takes forward the industry and it helps in further development. He suggested that the Council should take a view in favor of research whether it is government to government or private to private as ultimately tax will be levied on the products emerging from research that leads to further development of the industry and economy. He stated that taxing research will send out a message that we are not in favor of innovation. He emphasized that innovation should be encouraged irrespective of whether it is government to government or private to private. He added that distinction between research and consultancy needs to be looked into detail by the Fitment Committee as it is currently a grey area.

5.60 The Hon'ble Member from Chhattisgarh stated that research and development needs to be encouraged if we aspire to make the country a developed nation by 2047. He added that any product emerging from research would be subject to tax and therefore, one needs to encourage R&D irrespective of whether it is government to government or private to private as it can increase the competitiveness of the sector. He mentioned that the technical aspects, if any, can be looked in detail by the Fitment Committee.

5.61 The Hon'ble Member from Uttar Pradesh stated that are two issues under consideration – consultancy and research. He mentioned that there is no objection to imposing tax on consultancy however, research in cases where the government is the recipient or the provider should not be made subject to tax. He stated that the issue relating to private funded research can be looked into detail by the Fitment Committee as to whether it is for private good or public good.

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5.62 The Hon'ble Member from Goa stated that research irrespective of whether it is government sponsored or private agency sponsored should be exempted as it will result in innovation. He also stated that only consultancy services need to be subjected to tax.

5.63 The Hon'ble Member from Himachal Pradesh stated that research and innovation needs to be encouraged irrespective of the agency that is sponsoring the research. He also mentioned that majority of innovation has come from privately funded research and it is not in the interest of the country to discourage such research. He added that the Fitment Committee can deliberate in detail on the aspect of private - to - government funding or private - to - NGO funding.

5.64 The Hon'ble Member from Mizoram stated that outcome of the exempted research funding should be made public except when it is detrimental to national safety or will have negative impact on society. He felt that this condition needs to be added.

5.65 The Hon'ble Member from Maharashtra stated that as emphasized by other States they also reiterate the view that research and innovation are very important for the society. She added that she agreed with the views expressed by the Hon'ble Member from Uttar Pradesh that wherever government is involved in research either as a provider of grants or recipient of grant, the same needs to be exempt. She stated that the issue relating to private entities can be further looked into detail.

5.66 The Hon'ble Member from Manipur stated that as far as R&D is concerned it should be supported irrespective of whether it is done by government or private. He agreed with the view expressed by the Hon'ble Member from Meghalaya.

5.67 The Hon'ble Member from Gujarat stated that research whether it is funded by the government or private should be exempted as new product emerging from such research would be subject to tax.

5.68 The Hon'ble Member from Punjab stated that research funded by the government for government needs to be exempted however, cases of private research for private use needs to be subject to tax. He also added that GST needs to be levied on consultancy services. The matter requires further deliberation with regard to private funded research.

5.69 The Hon'ble Member from Arunachal Pradesh stated that research is the basis for innovation and therefore, it needs to be exempted. He added that States like Arunachal Pradesh have a lot of scope for research in medicinal plants etc, and a lot of innovation are already underway. He expressed the view that research whether for government or private needs to be exempted.

5.70 The Hon'ble Member from Andhra Pradesh stated that research whether it is government or private needs to be exempt as it is ultimately for improving the economy and quality of life. Our policy should be to encourage research.

5.71 The Hon'ble Member from Jammu & Kashmir stated that GST needs to be levied on consultancy as there is no physical product at the end of such service on which GST can be levied as opposed to research and development which generally results in a physical product which will then be taxed. He also mentioned that there should be no distinction

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between private and public funded research and we should not disincentivize private research.

5.72 The Secretary clarified that based on the recommendations made in the 54th Council meeting, notification has already been issued in October providing that grants given by government or private entity to government institutions or notified private institutions for the purpose of research are exempt. Today the deliberations are for providing some clarity to the notifications so that there is no misuse.

5.73 The Hon'ble Chairperson clarified that the notification issued pursuant to the recommendations made in the 54th Meeting of the Council remains valid as on date. However with respect to the grey areas which require further clarification, the Council needs to deliberate in detail for clear instructions. She added that Fitment Committee can look in detail into these areas including whether consultancy service are being disguised in the name of research. She reiterated that the decision taken in the 54th Meeting of the Council and the notification issued pursuant to the recommendation is not being taken up for reconsideration. She stated the intent of the Council is to encourage research. The requirement for clarification has arisen to clearly lay down how consultancy will be treated and to deal with cases where consultancy is mixed with research. The Fitment Committee can look into the same and also look at cases where private entities are providing consultancy to private entities and calling it research. She also drew the attention of the Council to the recommendation of the Fitment Committee to regularize the payment of GST on research and development services carried out by Government entities against grants received from the Government or Government entities for the past period on 'as is where is basis' and stated that institutions receiving grants from government were also issued notices in the past prior to the 54th Meeting of the GST Council. She mentioned that notices issued in the past are nearing their time limit and in case GST Council not meeting again before that the said time limit expires, a decision needs to be taken on these notices as they are having wider repercussions. She requested Chairman, CBIC to place before the Council the issue and to highlight the area on which he needed guidance from the Council.

5.74 Chairman, CBIC informed the Council that in the past notices were issued to institutions like IIT for research funded by government and that these need to be adjudicated by February, 2025. He added that if a decision is not taken for the past period by the Council then these notices will be adjudicated as per the prevailing law at that time and demands may be raised against these institutions. He stressed that in view of this there is an urgency to take a decision with respect to the treatment to be accorded to the research and development services carried out by Government entities against grants received from the Government or Government entities for the period from 01.07.2017 to 09.10.2024.

5.75 The Hon'ble Member from Uttar Pradesh felt that when notification has been issued, the notices should be revoked.

5.76 The Secretary clarified that the Council has already decided in its 54th Meeting to exempt the research and development services carried out by Government entities against grants received from the Government or Government entities however a decision needs to be taken with respect to the past period i.e. the period before the date on which the Notification came into force as the notification was prospective in nature.

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5.77 The Hon'ble Chairperson clarified that this issue arose on account of the fact that the notification issued was prospective in nature and therefore a decision needs to be taken as to whether to regularize the research and development services carried out by Government entities against grants received from the Government or Government entities for the past period.

5.78 The Hon'ble Member from Gujarat agreed that the past period needs to be regularized.

5.79 The Hon'ble Member from Himachal Pradesh also stated that the past period needs to be regularized. He added that this issue has arisen on account of lack of clarity as to what constitutes research and consultancy. He mentioned that therefore a clear definition must be provided as to what constitutes consultancy or research.

5.80 The Hon'ble Member from Goa stated that government to government funded research for past period needs to be regularized.

5.81 The Hon'ble Members from Punjab, Madhya Pradesh and West Bengal also agreed with the proposal to regularize the past period.

5.82 The Hon'ble Member from Uttar Pradesh stated that the past period can either be regularized on 'as is where is' basis or notices can be withdrawn.

Decision: The Council recommended to regularize the payment of GST on research and development services carried out by Government entities against grants received from the Government or Government entities for the period 01.07.2017 to 09.10.2024 on 'as is where is' basis. The Council further agreed to defer the other issues to avoid any misuse, including the issues regarding differences between research and consulting activities, for further examination by the Fitment Committee.

5.83 JS, TRU-II presented the agenda item relating to the request to clarify the applicability of GST on insurance service provided by the Motor Vehicle Accident Fund, constituted under the Motor Vehicles Act, 1988 and to consider exemption from GST on such services provided by the Fund. He mentioned that the contributions made to the fund are out of the premiums collected by general insurance companies on the third-party motor vehicle insurance policies on which applicable GST has already been paid. He stated that the issue was considered by the Fitment Committee and it had recommended to exempt such insurance service provided by the fund for which the consideration is represented by the contributions made by general insurance companies, out of the premium collected for third party insurance of Motor Vehicles. This was discussed in the Officers' meeting and agreed.

Decision: The Council recommended to exempt the services of insurance provided by the Motor Vehicle Accident Fund, constituted under the Motor Vehicles Act, 1988, for which the consideration is represented by the contributions obtained from general insurance companies as a share of mandatory third party insurance of motor vehicles.

5.84 JS, TRU-II presented the agenda item relating to request to restore the tax exemption for Training Partners (TPs) approved by the National Skill Development Corporation (NSDC). He informed the Council that subsequent to the recommendations of

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the 54th GST Council meeting this exemption got withdrawn while recasting the relevant entry of Notification No. 12/2017-CTR vide Notification No. 08/2024-CT(Rate) dated 08.10.2024 to synchronize the GST exemption structure on skill development and training with the new regulatory architecture under National Council of Vocational Education and Training (NCVET). He stated that the issue was considered by Fitment Committee and it had recommended to reinstate the exemption and to regularize the interim period from the date of implementation of Notification No. 08/2024-CT(Rate) i.e. 10.10.2024, till the date of issue of effective implementation of amending notification on 'as is where is basis'. This was discussed in the Officers' meeting and agreed.

Decision: The Council recommended to reinstate the exemption given to Training Partners (TPs) approved by the National Skill Development Corporation by inserting item (f) in Sl. No. 69 of Notification No. 12/2017-CTR and also to regularize the interim period from the date of implementation of Notification No. 08/2024-CT(Rate) i.e. 10.10.2024, till the date the above entry is reinstated on 'as is where is basis'.

5.85 JS, TRU-II presented the next agenda item relating to request to clarify whether GST is applicable on charges or fees like Floor Space Index (FSI)/additional FSI paid by builders to local authorities under Reverse Charge (RCM) basis. He stated that the issue was considered by the Fitment Committee and it had recommended that GST is applicable on charges/ fees paid for FSI including additional FSI by builders to local authorities under RCM. He informed the Council that the issue was discussed during the Officers' meeting and was deferred for more examination. It was viewed that granting of FSI as the function of municipality is to be examined. He informed that there was also a view that premium FSI may be taxed as the builders are required to pay an additional cost for the same to the municipality.

5.86 The Secretary clarified that some of the municipalities for orderly development of cities along the mass transit corridor allow for additional FSI and they collect a premium on it. He stated that one view that emerged during the Officers' meeting was that this is in the domain of municipality and that it is a significant source of revenue for them for purpose of infrastructure development. Therefore, the fiscal space of municipality should not be encroached upon. He added that another view that emerged was that normal FSI may not be subject to GST but the additional/premium FSI against the consideration received from builder needs to be taxed. He informed the Council that in view of these two competing views it was felt that the Fitment Committee can look into this issue in detail and further deliberate on it from the perspective of mobilising more resources for orderly development of cities. He sought the guidance of the Council on the agenda item.

5.87 The Hon'ble Member from Karnataka stated that he agreed with the first suggestion made by the Secretary i.e. in the spirit of decentralisation, if there is further scope for optimisation of resources, it should be left to the municipalities for strengthening themselves. With respect to the second suggestion he stated that more time is required for giving it a second thought. He suggested that this can be analysed in detail after taking inputs from the Advocate General or legal experts. He added that his view is that if premium FSI is a factor of land then it should be left to the States to regulate.

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5.88 The Hon'ble Member from Chhattisgarh stated that vertical growth should be maximised and therefore, FSI/premium FSI should be encouraged. Therefore, detailed deliberation is required before deciding whether GST is to be levied on these charges.

5.89 The Hon'ble Member from Uttar Pradesh also stated that the issue under consideration requires more deliberation.

5.90 The Hon'ble Chairperson stated that the agenda item will be deliberated further.

Decision: The Council recommended to defer the issue for detailed examination by the Fitment Committee.

5.91 JS, TRU-II presented the agenda item relating to request to clarify that as long as the entire transportation of goods is undertaken by road and the person transporting the goods issues consignment note, the said service would be treated as Goods Transport Agency (GTA) service instead of courier services. He stated that the issue was considered by the Fitment Committee and it had recommended to clarify that the delivery services ensuring door-to-door instant delivery through two-wheeler is more appropriately classifiable as courier service (in terms of explanatory notes to the scheme of classification of services) and not as GTA and therefore, the rate applicable to courier service should be made applicable to them. He informed the Council that the agenda item was discussed during the Officers' meeting and the considered view emerged during the meeting was to defer the item for re-examination of the rate applicable on this entire sector.

Decision: The Council recommended to defer the issue for further detailed examination by the Fitment Committee.

5.92 JS, TRU-II presented the agenda item relating to request to clarify the levy of GST towards lease rentals payment made to National Highways Authority of India (NHAI) by Oil Marketing Companies (OMCs) for developing way side amenities. He stated that the issue was considered by the Fitment Committee and it had recommended to clarify to NHAI that GST is applicable on renting of land by NHAI to OMCs at applicable rate i.e. 18%. This was discussed in the Officers' meeting and agreed.

Decision: The Council recommended to clarify to NHAI that GST is applicable on renting of land by NHAI to OMCs at applicable rate i.e. 18% .

5.93 JS, TRU-II presented the agenda item relating to request to amend entry at Sr. No. 25A of Notification No. 12/2017-CTR dated 28.06.2017 and to regularize the GST for the period from 10.10.2024 to the effective date of implementation of amending notification. He stated that subsequent to the recommendations of the GST Council in its 54th meeting held on 09.09.2024, an Entry at Sr. No. 25A was inserted in Notification No. 12/2017-CTR vide notification No. 08/2024-CTR dated 08.10.2024 so as to exempt some services ancillary or incidental to the supply of transmission and distribution of electricity provided by electricity transmission and distribution utilities to their consumers. He mentioned that the terminology used in at Sr. No. 25A was 'transmission and distribution of electricity' but the entry at Sr. No. 25 of the notification mentions 'transmission or distribution utilities'. He mentioned that Fitment Committee has recommended that the entry at Sr. No. 25A needs to be aligned with the entry at Sr. No. 25 so as to maintain uniformity and therefore has recommended that the words 'transmission and distribution utilities' at Sr. No. 25A

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may be replaced with 'transmission or distribution utilities'. He added that the Fitment Committee has also recommended that the intervening period i.e. from effective date of implementation of entry at Sr. No. 25A in notification No. 12/2017-CTR dated 28.06.2017 up to the effective date of implementation of amending notification may be regularized on 'as is where is' basis. This was discussed in the Officers' meeting and agreed.

Decision: The Council recommended that the new entry at Sr. No. 25A be aligned with the entry at Sr. No. 25 of Notification No. 12/2017-CTR dated 28.06.2017 so as to maintain uniformity and the words "transmission and distribution utilities" may be replaced with "transmission or distribution utilities". It was also recommended to regularize the intervening period i.e. from effective date of implementation of entry at Sr. No. 25A in notification No. 12/2017-CTR dated 28.06.2017 up to the effective date of implementation of amending notification may be regularized on 'as is where is' basis.

5.94 JS, TRU-II presented the agenda item relating to request to notify Delhi Development Authority (DDA) as a Local Authority and to remove the reference of DDA from the answer to question #5 of the "FAQs on GST in Government Services Sector" wherein DDA is listed as 'not a local authority'. He informed the Council that the issue was deliberated by the Fitment Committee and it has recommended that DDA does not meet the requirement of local authority as per section 2(69) of the CGST Act, 2017 and therefore, it cannot be treated as local authority under GST law. He added that the Fitment Committee has also recommended to refer the definition of the term 'Local fund' and 'Municipal fund' to Law Committee as they are closely linked to the term "local authority". This was discussed in the Officers' meeting and agreed.

Decision: The Council recommended to clarify that that DDA does not meet the requirement of local authority as per section 2(69) of the CGST Act, 2017 and therefore, it cannot be treated as local authority under GST law. It also recommended to refer the definition of the term 'Local fund and Municipal fund' to Law Committee. Law Committee has presented the required changes before the Council.

5.95 JS, TRU-II presented the agenda item relating to request to clarify that GST is not applicable on facility management services provided to Municipal Corporation of Delhi (MCD) HQ. He stated that MCD is using the services of facility management agency for the upkeep of their headquarters building and this is not related to performing functions entrusted under 12th schedule of the Constitution of India. He informed the Council that the issue was deliberated by the Fitment Committee and it has recommended to clarify that GST is applicable on facility management services provided to MCD HQ for upkeep of its head quarter building at applicable rates and no exemption is available to them as these services are not covered under the scope of entry at Sr. No. 3A of the notification No. 12/2017-CTR dated 28.06.2017. This was discussed in the Officers' meeting and agreed.

Decision: The Council recommended to clarify that GST is applicable on facility management services provided to MCD HQ for upkeep of its headquarters building at applicable rates and that no exemption is available to them.

5.96 JS, TRU-II presented the agenda item relating to request to review the levy of GST on Reverse Charge (RCM) basis on renting of commercial property by unregistered person



to a registered person. He stated that renting or leasing of commercial property by unregistered person to registered person was brought under reverse charge basis based on the recommendations of the 54th GST council. He stated that the Fitment Committee has recommended that the taxpayers registered under composition levy scheme may be excluded from Reverse Charge(RCM) basis mechanism under Sr. No 5AB introduced vide Notification No. 09/2014-CTR dated 08.10.2024 as they are not entitled to avail the ITC of the same. It was further recommended that the intervening period from the date when the Notification No. 09/2024-CTR dated 08.10.2024 became effective (i.e 10.10.2024) till the date the proposed notification is issued may be regularized on 'as is where is' basis. He added that a request was also received from Ministry of New and Renewable Energy (MNRE) to comment on the applicability of the GST on the leasing of Commercial Property under Reverse Charge (RCM) basis for the renewable energy projects. He informed the Council that it was examined by the Fitment Committee and it was recommended that it may be clarified to MNRE that GST has to be paid by them at applicable rates on renting of commercial property for renewable energy projects from unregistered persons under Reverse Charge (RCM) basis. This was discussed in the Officers' meeting and agreed.

5.97 The Hon'ble Member from Punjab stated that there is a possibility of misuse of these provisions by composition dealers. He mentioned that there are more than 15,000 dealers registered in Punjab and the possible revenue loss on account of misuse of this provision is high therefore, he suggested that the Fitment Committee needs to deliberate on this agenda item in detail.

5.98 The Hon'ble Member from Kerala enquired as to whether the proposal covers the government buildings that are rented out by individuals.

5.99 Chairman, CBIC clarified that the issue pertaining to composition dealers was raised in various forums. He stated on account of this provision the composition dealers would have to pay GST on renting of commercial property under RCM but they are not entitled to take ITC. Therefore, this becomes an added cost for the small businesses. He added that most of such composition dealers fall under the MSME sector and therefore, a request was received to carve out an exception for them.

5.100 The Hon'ble Member from Kerala stated that as per his understanding, the composition dealers who has taken buildings on rent from government should also be getting exemption but that clarification as it is not mentioned specifically in the agenda item.

5.101 The Hon'ble Member from Punjab stated that the revenue loss on account of such an exemption needs to be analyzed and details of the revenue loss should also be given for each State.

5.102 Chairman, CBIC stated that it needs to be seen whether we treat this exemption as a step to remove the additional burden on small business under MSME sector or as a loss of revenue for the State.

5.103 The Hon'ble Member from Punjab stated it is the view of the State that the revenue loss accruing to the States on account of this exemption needs to be looked into in detail and that the issue needs to be reconsidered in light of that data.



5.104 Chairman, CBIC stated that he would like to bring to the knowledge of the Council that there was a strike in Tirupur, Tamil Nadu three days ago by small traders on this issue of levy of GST under RCM on the renting or leasing of commercial property by unregistered person to registered persons. The concern of these small business owners who are composition dealers was that this has become an additional cost to them as they cannot claim ITC. He added that if the Council decides not to carve out such an exemption for taxpayers registered under composition levy scheme then it may have similar repercussions.

5.105 The Hon'ble Member from Tamil Nadu stated that this exemption should be allowed as it will help the local traders. He also added that at this point it is difficult to calculate the revenue loss.

5.106 The Hon'ble Member from West Bengal stated that they are also of the view that this exemption with respect to taxpayers registered under composition levy scheme should be allowed.

5.107 The Hon'ble Member from Meghalaya stated that they are in favor of this exemption as it will send out a very positive message.

5.108 The Secretary mentioned that with respect to the concern raised by Hon'ble Member from Punjab he would like to clarify that an unregistered person renting out property was not under the ambit of tax. The law has created a deeming fiction to tax it on Reverse Charge (RCM) basis. He added that this deeming fiction had certain fall outs as it brought composition dealers under this RCM mechanism and the present agenda item is attempting to rectify the same by carving out an exception for these small business owners.

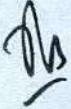
5.109 The Hon'ble Member from Punjab stated that their apprehension is that this exemption may be misused by others and therefore, it needs to be seen whether any check can be made for the same.

5.110 The Secretary clarified that at the time of issuing the relevant Notification, efforts would be made to put some safeguards to check such misuse of this exception.

5.111 The Hon'ble Member from Goa supported the recommendation.

Decision: The Council recommended to notify that the taxpayers registered under composition levy scheme may be excluded from the entry at Sr. No. 5AB introduced vide Notification No. 09/2024-CTR dated 08.10.2024. It further clarified that the intervening period from the date when the notification No. 09/2024-CTR dated 08.10.2024 became effective (i.e 10.10.2024) till the date of the proposed notification may be regularized on 'as is where is' basis. It was also recommended that it may be clarified to MNRE that GST has to be paid at applicable rates on renting of commercial property for renewable energy projects from unregistered persons under RCM.

5.112 JS, TRU-II presented the agenda item relating to request to revise the definition of 'specified premises' which refers to declared tariff of any unit of accommodation above Rs 7500 per unit per day or equivalent, for the purpose of determining the GST rate on supply of restaurant service in such premises and also to clarify the period for which GST



@18% is to be charged for restaurant located in specified premises. He stated that at present if the declared tariff of accommodation in a hotel is above Rs 7500 per unit per day then the applicable GST on the restaurant service provided from such hotel is 18% with ITC. However, if the declared tariff of accommodation in a hotel is below Rs 7500 per unit per day then the applicable GST on the restaurant service provided from such hotel is 5% without ITC. The concept of 'declared tariff' was earlier used to determine the rate of taxability of hotel accommodation but was later replaced with the term 'value of supply'. However, it is continuing to cause hardship to hotels and restaurants, who are uncertain about the rate of GST applicable to restaurants operating in such hotel premises. The issue was deliberated by the Fitment Committee and it has recommended that the term 'declared tariff' may be deleted and the definition of specified premises may be suitably amended to make the rate of GST applicable on restaurant services in hotels, for a given financial year, dependent upon the 'value of supply' of units of accommodation made in the preceding financial year, i.e. (i) 18% with ITC for restaurant services for the entire financial year, if the 'value of supply' of hotel accommodation exceeded Rs. 7500 for any unit of accommodation in the preceding financial year, and (ii) 5% without ITC otherwise. He added that the Fitment Committee had also suggested giving an option to the supplier of hotel accommodation services to declare its hotel/premises as 'specified premises' thereby levying GST on restaurant services supplied from such premises at the rate of 18% with ITC, provided the said declaration is given before the beginning of the financial year or on obtaining registration. It was also proposed by the Fitment Committee that these changes may be made effective from 01.04.2025 to avoid any transition difficulties. It was also recommended to examine the possibility of amending the law to provide for a mechanism for availability/reversal of ITC for the taxpayer who would be going from 5% without ITC to 18% with ITC and vice versa and accordingly, Fitment Committee had recommended to refer the issue of providing this mechanism to the Law Committee for comprehensive examination. He informed the Council that this was discussed in the Officers' meeting and there was agreement.

5.113 However, the State of Kerala had requested to re-examine whether the threshold of Rs. 7500 be continued for the future and also the modalities for determining the rate of tax applicable to restaurant services in such hotels.

5.114 The Hon'ble Member from Jammu & Kashmir welcomed the recommendation but he suggested that in future the Council may consider delinking the GST rate of restaurants from the room tariffs. He added that room tariffs are dynamic, reacting to the market forces and limiting the hotels to charge Rs. 7500 actually reduces their options. He elaborated that in Jammu many of the hotels are forced to limit their tariff to below Rs. 7500 so as to reduce the applicable GST on their attached cafes as it is a price sensitive market. He added that it is better to give them an option to decide whether they want 18% with ITC or 5% without ITC otherwise.

5.115 The Hon'ble Member from Puducherry stated that it is better to delink the rate applicable on restaurant services from the room tariff. He stated that he agreed with the view expressed by the Hon'ble Member from Jammu & Kashmir that the room tariffs are seasonal. He mentioned that if in a financial year the hotel has charged more than Rs. 7500 for any unit of accommodation for a day they would have to charge 18% with ITC for

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restaurant service for the entire financial year. He mentioned that there is also the issue of group bookings, families staying in a dormitory type room where tariffs go up. He also added that in Puducherry there are a lot of day visitors and if they want to go to a good restaurant, they will also be charged 18%. He mentioned that for these reasons the Council may consider delinking the rate applicable on restaurant services from the room tariff. For the past period, an 'as is where is' decision may be taken, as there was some confusion in the rate of GST applicable for restaurant services supplied from such premises.

5.116 The Hon'ble Member from Kerala stated that he supports the recommendation but as pointed out by the Hon'ble Members from Jammu & Kashmir and Puducherry, the hotel prices are dynamic and respond to seasonal changes and local factors. He added that its impact on tourism industry also needs to be considered and in Kerala this issue has also impacted the house boats providing the accommodation services who are dealing with tax notices. He added that the recommendation is acceptable to the State but in future the aspects of dynamic pricing and tourism also need to be considered.

5.117 The Secretary stated that the guidance given by the Council will be taken into consideration while moving forward. He added that in the present meeting it is being decided to do away with the 'declared tariff' and this will bring ease in taxation of such services to the industry. He added that the aspects raised during the discussions will be duly considered by the Fitment Committee viz., the limit of Rs. 7,500/- per day be looked into and the aspect of variation in prices for a brief period in a year be looked into.

5.118 The Hon'ble Member from Jharkhand stated that the recommendation to amend the definition of 'specified premises' will also have an impact on outdoor catering as outdoor catering made available to specified premises is charged at 18%. He suggested that therefore the impact of this recommendation on outdoor catering also needs to be looked into by the Fitment Committee.

5.119 The Hon'ble Member from Himachal Pradesh stated that Airbnb service providers are not levying GST despite them charging high tariffs for accommodation. This is affecting the existing hotels also. He added that these institutions are also availing power and water at concessional rates. He suggested that they need to be brought under the ambit of GST.

5.120 The Hon'ble Member from Goa stated that he agrees with the views expressed by Hon'ble Member from Himachal Pradesh, and he added that these Airbnb's are utilizing residential flats for tourism without any levy of GST. In view of the same, he suggested that Airbnb service needs to be brought under the ambit of GST.

5.121 The Hon'ble Member from Maharashtra stated that with respect to the VAT applicable on liquor consumed in hotels it is categorized as per the star rating of the hotels in Maharashtra. Four and five-star rated hotels pay higher tax. She enquired as to whether any similar mechanism can be considered for determining the GST applicable to restaurants rather than linking them with the room tariff.

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5.122 The Secretary informed that the suggestion made by Hon'ble Member from Maharashtra will be looked into but he also mentioned that apart from premier hotels a large number of restaurants do not have a bar attached to them. With respect to the suggestions made in relation to Airbnb he stated that if the annual turnover of these suppliers crosses Rs 20 lakhs they will have to take GST registration and pay all the applicable charges.

Decision: The Council recommended the following:

- a. The definition of declared tariff may be deleted and the definition of specified premises may be suitably amended to make the rate of GST applicable on restaurant services in hotels, for a given financial year, dependent upon the 'value of supply' of units of accommodation made in the preceding financial year, i.e. (i) 18% with ITC on supply of restaurant service in hotels for the entire financial year if the 'value of supply' of hotel accommodation exceeded Rs. 7500 for any unit of accommodation in the preceding financial year, and (ii) 5% without ITC otherwise.
- b. An option may be given to the supplier of hotel accommodation to declare its hotel as 'specified premise' so that GST on restaurant service supplied from such premises is leviable at the rate of 18% with ITC, provided the declaration is given before the beginning of the financial year or at the time of applying for registration.
- c. The above changes may be made effective from 01.04.2025 to avoid any transition difficulties.
- d. The issue may be referred to the Law Committee to examine the possibility of amending the law to provide for a mechanism for availability/reversal of ITC for the taxpayer who would be moving from 5% without ITC to 18% with ITC and vice versa.

Agenda Item 4 (d): JS, TRU-II presented the agenda item pertaining to recommendations of Fitment Committee where no change has been proposed in relation to Services as mentioned at Annexure V in the Agenda Volume I.

5.123 JS, TRU-II presented the agenda item relating to request to exempt GST on Lighthouse dues collected by Directorate General of Lighthouses & Lightship (DGLL) for the period 01.07.2017 to 31.08.2022. He stated that the issue was deliberated by the Fitment Committee, and it had recommended that the request may not be accepted. He informed the Council that this was discussed during the Officers' meeting and there was agreement to not accept this request from DGLL.

Decision: The Council recommended to not exempt GST on Lighthouse dues collected by Directorate General of Lighthouses & Lightship (DGLL) for the period 01.07.2017 to 31.08.2022

5.124 JS, TRU-II presented the agenda item relating to request to examine the inclusion of services under the Notification No. 17/2017-CTR dated 28.06.2017 under

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which four services (Passenger transport services, Hotel accommodation services, Restaurant services and Housekeeping services) have been notified on which GST is paid by Electronic Commerce Operator under Section 9(5) of CGST Act, 2017. He stated that the issue was considered by the Fitment Committee, and it had recommended that services presently notified under section 9(5) may continue and no further change was recommended. He informed the Council that this was discussed during the Officers' meeting and the decision was agreed upon.

Decision: The Council recommended to continue with the existing services namely Passenger transport services, Hotel accommodation services, Restaurant services and Housekeeping services which were notified under the Notification No. 17/2017-CTR dated 28.06.2017.

5.125 JS, TRU-II presented the agenda item relating to request to either exempt electric vehicle (EV) charging services at public charging stations or to reduce the rate on EV charging service from 18 % to 5% or to clarify that the activity of charging EVs in a charging station essentially involves supply of electricity and therefore should be chargeable at the same rate applicable to supply of electricity. He informed the Council that the issue was deliberated by the Fitment Committee, and it had recommended to not accept the request. He informed the Council that this was discussed during the Officers' meeting and was agreed.

Decision: The Council recommended to maintain status quo regarding the rate of GST applicable for EV charging services at public charging stations.

Agenda Item 4(e): JS, TRU-II presented the agenda item on the issues deferred by the Fitment Committee for further examination in relation to Services as mentioned at Annexure VI in the Agenda Volume I.

5.126 JS, TRU-II presented the agenda item relating to request to clarify the applicability of GST on the upfront amount/ concession amount paid to NHAI by concessionaire for grant of rights under Toll Operate Transfer (TOT) Model and also on short term toll collection under other models. He informed the Council that the issue was deliberated by the Fitment Committee and it had recommended to defer the matter. He informed the Council that this was discussed during the Officers' meeting. He stated that the Officers from States of Maharashtra and Madhya Pradesh viewed that the amount paid to NHAI by concessionaire for grant of rights under Toll Operate Transfer (TOT) Model may be considered for exemption whereas the Officers from Karnataka and Uttar Pradesh requested to defer the the matter for further examination.

5.127 The Secretary sought the guidance of the Council in this matter as the this issue was not limited to NHAI but will cover any TOT Model of State PWD as well . He cited the examples of expressways/green field corridors in the case of States of Maharashtra, Madhya Pradesh and Uttar Pradesh. He mentioned that funds available with governments are limited whether it is Union or State government and therefore the governments look for asset monetization. If we tax such public private partnerships, it becomes a non-starter. He further clarified that in this case the toll is already exempted and the amount that the concessionaire pays to NHAI is lump sum upfront payment of toll revenue and the



concessionaire gets the right to demand and collect toll for a fixed period. The Secretary stated that it is his considered view that exemption needs to be given on TOT and BOT model and he requested that the Council may take a decision on the item instead of deferring it.

5.128 The Hon'ble Member from Himachal Pradesh stated that he agrees with the view expressed by the Secretary that this should be exempted. He also mentioned that the CGST authorities have issued a demand notice of Rs. 200 crores to Himachal Pradesh government. He sought intervention of the Council to exempt the State from this demand of GST. He also mentioned that the State has limited avenues for raising revenues and that the State has also started collecting toll taxes by setting up state toll tax barriers. It was earlier exempted on par with NHAI.

5.129 The Hon'ble Member from Karnataka clarified that in the agenda circulated it is mentioned that the Fitment Committee recommended to defer the agenda item for further deliberation and on account of this the State has also not further deliberated on this agenda item. He added that he had enquired with his officers as to whether this included only the toll portion or whether it includes other services that go with toll operations and that his officers were also not clear on this aspect. He stated they would like to have further deliberation as the issue had been recommended for deferral by the Fitment Committee.

5.130 The Secretary stated that the issue could be further deliberated by the Fitment Committee and thereafter this can be brought before the Council.

5.131 The Hon'ble Member from Uttar Pradesh stated that the data with respect to this decision needs to be compiled with regard to the financial implications and be brought before the Council.

5.132 The Secretary stated that it will be difficult to collate the exact data as this decision would have an impact on many projects that are in the pipeline. However, he assured that efforts will be made to present the data with respect to the projects that are already underway. He again submitted that levying any tax on the TOT projects would put an end to this model.

5.133 The Hon'ble Member from Chhattisgarh stated that we should promote PPP model in infrastructure. Hence, these models need to be exempted from GST. This will be a small but important reform.

5.134 The Hon'ble Member from Goa stated that for boosting infrastructure development the TOT and BOT models should be given exemption from the levy of GST. He stated that he agreed with the view expressed by the Secretary.

5.135 The Hon'ble Member from Gujarat stated that exemption should be given to the projects that are underway.

5.136 The Hon'ble Member from Karnataka added that the agenda item as circulated includes maintenance expenses for upkeep, toll booth operation, landscaping and other

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necessary activities. He added that there are no two views regarding exempting tax on toll, however the area of concern is maintenance which includes other commercial activities. He mentioned that 'other necessary activities' is a broad term and it needs to be seen what other services are bundled with toll operator.

5.137 The Hon'ble Member from Madhya Pradesh stated that these models should be given exemption from the levy of GST.

5.138 The Hon'ble Member from Himachal Pradesh requested the intervention of the Hon'ble Chairperson to withdraw the notice issued to them by CGST authorities. He reiterated that they support the decision to keep the TOT models exempt from the levy of GST.

5.139 The Secretary informed that the issue raised by Hon'ble Member from Himachal Pradesh will be discussed separately with the State officers and it will be seen as to what course of action can be taken with respect to the notice issued by CGST authorities

Decision: The Council recommended deferring the issue of applicability of GST on the upfront amount/ concession amount paid to NHAI by concessionaire for grant of rights under Toll Operate Transfer (TOT) Model.

5.140 JS, TRU-II presented the agenda item relating to request to clarify the taxability of services provided by NBFCs to banks in co-lending arrangements. He informed the Council that the issue was deliberated by the Fitment Committee, and it had recommended to defer the item. He informed the Council that this was discussed during the Officers' meeting and that this was agreed upon.

Decision: The Council recommended to defer the issue for further examination by Fitment Committee.

Agenda Item 4 (e): JS, TRU-II presented the agenda item on the issues related to Services on which Fitment has not made any recommendations as mentioned at Annexure VII in Agenda Volume I.

5.141 JS, TRU-II presented the agenda item relating to request to exempt GST on the services provided by Goethe Institutes/ Max Mueller Bhavans, funded by the German Federal Foreign Office, in India for the period from 01.07.2017 to 31.03.2023. He stated that from 1st April, 2023, Goethe Institutes have started collecting and paying GST. However, prior to 1st April, 2023, Goethe Institutes did not collect GST nor did they remit the same to Government as they were under the belief that their activities are exempt from GST. He mentioned that the Ministry of External Affairs has requested to re-examine the issue of retrospective exemption. He added that the quantum of GST involved is approx. Rs 52 crores. He informed the Council that this institute has 6 centres in 5 states. The Fitment Committee has not made any recommendation on this issue and was of the view that the Council may take a decision on the same. He informed the Council that this was discussed

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during the Officers' meeting and the considered view was that the past period may be regularized on 'as is where is' basis.

5.142 The Secretary stated that our country is strong in the fields of IT, IT services and English and that the youth have been able to capitalise on these strengths. However, for targeting the European and Japanese markets it is very necessary to know the language specific to those countries such as German, French or Japanese. He added that Goethe Institutes has a long history in the country and an important source for teaching German language. For last one and half years, they are collecting and paying GST. It is also an important diplomatic issue between the two countries. He informed the Council that keeping in view these considerations it was felt during the Officers' meeting that the past period may be regularized on 'as is where is' basis. He sought the views of the Hon'ble Members to this proposal

5.143 The Hon'ble Member from Tamil Nadu stated that they welcome this proposal as a diplomatic goodwill gesture irrespective of the fact that the State has issued demand notice to the institute for the past period.

5.144 The Hon'ble Members from Uttar Pradesh, West Bengal and Punjab also agreed to the proposal.

5.145 The Hon'ble Member from Karnataka agreed to the proposal to regularize the past period on 'as is where is' basis. However, he informed the Council that for the same period Alliance Française, UK cultural attaché and similar other cultural centres of other countries have paid GST.

5.146 The Hon'ble Member from Kerala agreed to the proposal however he cautioned against extending the benefit to large number of institutions that are teaching foreign languages as education is big business. He stated that they agree to this proposal as a special case but also mentioned that there seem to be no reciprocal arrangements for our institutions in place.

5.147 The Secretary clarified that this exemption is not being extended to any other institutions. He thanked all the Hon'ble Members for supporting the proposal.

Decision: The Council recommended to regularize the issue of GST payment by Goethe Institutes/ Max Mueller Bhavans, for the past period from 01.07.2017 to 31.03.2023 on 'as is where is' basis.

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6. Agenda Item 5 : Closure of Group of Ministers (GoM) on Analysis of Revenue

6.1 The Secretary requested the Joint Secretary, GST Council Secretariat (JS, GSTCS) to present the agenda item relating to Closure of the Group of Ministers (GoM) on Analysis of Revenue.

6.2 JS, GSTCS informed the Council that the agenda item pertained to a proposal for closure of GoM on Analysis of Revenue. She stated that this GoM was constituted vide OM dated 01.01.2019 pursuant to the decision of the GST Council in its 31st meeting held on 22nd December 2018. She further stated that the GOM on Analysis of revenue comprised of the following members:

S.No.	Name	Designation	State	
1.	Shri Dushyant Chautala	Deputy Chief Minister	Haryana	Convener
2.	Shri Kanu Bhai Desai	Minister of Finance, Energy and Petrochemicals	Gujarat	Member
3.	Shri Mauvin Godinho	Minister of Transport, Panchayati Raj, Housing, Protocol and Legislative Affairs	Goa	Member
4.	Shri Krishna Byre Gowda	Minister of Revenue	Karnataka	Member
5.	Shri K.N. Balagopal	Minister of Finance	Kerala	Member
6.	Shri Bikram Keshari Arukha	Minister of Finance	Odisha	Member
7.	Shri Harpal Singh Cheema	Minister of Finance	Punjab	Member

6.3 JS, GSTCS stated that the terms of reference of the GoM were to analyse State-wise trends of revenue collection, both pre-GST and post GST; analyse structural patterns emerging out of certain major sectors of economy affecting the revenue collection including the services sector; identify underlying reasons for deviations in revenue collection trends vis-a- vis original assumption arrived at during design and implementation of GST, in particular less than expected revenue collection of some of the major consuming States; undertake data analytics using econometric and statistical tools on the above issues and to suggest suitable measures/policy intervention for course correction for revenue augmentation, particularly for the States suffering high revenue shortfall.

6.4 JS, GSTCS stated that the recommendations made by the GoM on Analysis of Revenue was tabled in the 38th meeting of the GST Council held on 18th December, 2019. She further stated that the recommendations made by the GoM included several key suggestions such as to ask States to propose ways to improve GST compliance, study to be undertaken to examine the rationalization of GST rates and tariffs, including the potential merger of GST slabs etc. It was also recommended by the GoM that there should be an



analysis of GST collection from the real estate sector and that efforts should be made to enhance States' ability to harness the tax potential from services. A comprehensive study on e-commerce, particularly focusing on the impact of deep discounts offered by platforms, to be conducted to explore avenues for augmenting revenue was also suggested by the GoM. She added that the GoM had also recommended that a study should be initiated to investigate the possibility of expanding the scope of the Cess, which could include increasing the Cess rate or bringing additional items under its levy.

6.5 JS, GSTCS then presented the rationale for recommending the closure of the GoM. She that that there is task overlap and that at present the recommendations of the GoM on analysis of revenue are also being addressed by the GoM on Rate Rationalization, GoM for boosting the real estate sector and the newly constituted GoM on Compensation Cess. JS, GSTCS also stated that the revenue collection has stabilized over the past seven years and that requisite mechanisms to address the issues relating to compliance and enforcement are in place. Also, that the Law Committee regularly deliberates on ways to strengthen the compliance mechanisms that would lead to revenue augmentation. She mentioned that in view of these reasons it is being suggested that the requirement of a separate Group of Ministers on analysis of revenue may not exist anymore. The proposal was placed before the GST council for its consideration.

6.6 The Hon'ble Member from Tamil Nadu stated that the Terms of Reference of the GoM specially the ones relating to analyzing the state wise trends of revenue collection, analyzing structural patterns emerging out of major sectors of economy are very much relevant even at present. He stated that this is the first time in recent past that sector-wise revenue has been included in the revenue trend agenda, which would greatly assist State governments in formulating their macroeconomic policies. He further emphasized that this information would provide valuable insights and, therefore, requested that the Group of Ministers (GoM) be retained and reconstituted with additional terms of reference. He proposed that at least two meetings be held each year. The Hon'ble Member from Tamil Nadu expressed his willingness to be part of the GoM and if given the opportunity host the next meeting in Chennai.

6.7 The Hon'ble Member from Gujarat emphasized the importance of data analysis, noting that it could provide valuable insights into the process of rationalization. He suggested that instead of a Group of Ministers (GoM), a team of officers could be formed by the Council to look into the same.

6.8 The Hon'ble Member from Maharashtra highlighted that according to available data, there has been a significant reduction in the year-on-year growth of GST collections in 2024-25, with a particularly sharp decline observed in Maharashtra and other leading states as well. She requested that the Group of Ministers (GoM) be retained to address the issue. She also pointed out that the last GoM was constituted in 2019 and therefore, suggested that the GoM be reconstituted by including the top states experiencing such a drastic reduction in GST growth.

6.9 The Hon'ble Member from Himachal Pradesh expressed concerns over the impact of the end of GST compensation in May 2022, which has significantly affected the state's revenue. In the year 2023-24, the state's GST collection, in the seventh year of GST implementation, was only around 65% of what it was in the fifth year. He highlighted that

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Himachal Pradesh is a producer state, manufacturing significant portion of pharmaceutical drugs. But it has low consumption due to its small population base, particularly in regions like Lahaul-Spiti, which has a population density as low as 2 persons per square kilometer. He requested that a new GST policy framework be developed to better balance production and consumption parameters. Given the state's low carbon footprint, he also suggested that Himachal Pradesh, along with other states, be compensated in a manner similar to low-emission countries under the Kyoto Protocol. He urged that both production and consumption factors be considered for devolution of funds under GST.

6.10 The Hon'ble Member from Punjab stated that the GoM should be continued, and pointed out that since he became a member in 2023, not a single meeting has been held. He emphasized the need for the GoM to be retained and for a time-bound, detailed analysis of revenue and its impact on the economy of the states. He also mentioned that an examination of the effects of the discontinuation of the compensation cess on the revenue of the States also needs to be undertaken.

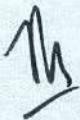
6.11 The Secretary informed the Council that in the Officers' meeting, it was suggested that the States be invited to provide their recommendations on the Terms of Reference for the reconstitution of the Group of Ministers (GoM), in order to avoid any overlap with other existing GoMs. He added that other GoMs were already examining related issues, and that this was agreed upon by the officers. He stated that if agreed to by the Members, suggestions on the proposed Terms of Reference would be sought from all States in the next couple of weeks so that the same could be finalized. He also stated that the willingness of the States to be part of the reconstituted GoM will also be called for prior to reconstituting the GoM.

Decision: The Council recommended that all states share their suggestions for the revised terms of reference (ToR) of the Group of Ministers on Analysis of Revenue from GST and also their willingness to be part of this GoM. The GoM on Analysis of Revenue be then reconstituted based on the feedback obtained from States.

7. [Agenda Item 6: Recommendations of the 22nd meeting of the IT Grievance Redressal Committee for approval/decision of the GST Council](#)

7.1 Joint Secretary, GST Council Secretariat (JS, GSTCS) presented the next agenda item relating to the recommendations of the 22nd meeting of ITGRC which was held on 19.09.2024, for consideration of the GST Council.

7.2 JS, GSTCS stated that in cases taxpayers face any technical glitches because the taxpayers' data has been incorrectly processed in the back-end utilities, GSTN carries out data fixes. She stated that for the 22nd meeting of the IT Grievance Redressal Committee (ITGRC), GSTN brought 21 such issues where data fixes had been carried out/proposed in consonance with the SOP laid down in the 45th meeting of the GST Council, 9 of which were technical issues without financial implications. ITGRC took note of the data fixes that were carried out or were proposed by GSTN in all the 9 issues. In case of 7 technical issues with financial implications, ITGRC recommended waiver of late fee in 2 cases and directed GSTN to inform the ITGRC about the status of recovery amounting to Rs. 41,03,025/- and took note of the data fixes that had been carried out by GSTN. Two similar issues that were



discussed and approved in the previous ITGRC meetings were also taken note of by ITGRC.

7.3 JS, GSTCS further stated that there was a status update on 3 issues which were discussed in previous ITGRC meetings that were brought up before the Committee for information. The first was an update on the data mismatch between the backend data that was being maintained and the ledgers of taxpayers. When it came first before the ITGRC, there were 75,732 such cases but after deduplication, the number came down to 61,763 cases. The ITGRC took note of the reset done by GSTN in 41,315 of these cases and 6,803 returns that had been re-filed subsequent to which an amount of Rs. 2,222 crores had recovered. But issue arose with 15,960 cases of taxpayers who had been cancelled and around 4,470 cases of insufficient ITC balance. The ITGRC recommended that the views of the Law Committee on the way forward in respect of such cases may be obtained. There was also an issue where the refund amount that was supposed to be credited to the Consumer Welfare Fund but was credited in taxpayers' bank accounts. ITGRC took note of the recoveries amounting to Rs.9,74,758/- done so far in such cases and directed GSTN to pursue 7 pending cases of recovery amounting to Rs. 3.17 lakh.

7.4 JS, GSTCS stated that there was one more issue which related to the 20th meeting of ITGRC where a status update was given in the 22nd meeting of the ITGRC. This issue pertained to refund applications had been created on duplicate records in cases of duplicate transmission of shipping bills. An amount of Rs. 1.47 crore has been recovered so far and balance of Rs. 1.29 crore remains for recovery. There was one more request from Tamil Nadu in the 22nd meeting of the ITGRC that States should be given access to taxpayers' tickets that were raised on GSTN so that they could also follow it up and be in a position to resolve the issues. ITGRC had requested GSTN to categorize these complaints or grievances that the taxpayers raised and to maintain the data State wise and keep the records of open and closed tickets State wise.

Decision: The GST Council approved the recommendations made by the ITGRC during its 22nd meeting and took note of the data fixes carried out or proposed by GSTN.

7.5 The Secretary requested the Joint Secretary, TPRU to present the agenda items pertaining to Department of Revenue (DoR).

8. Agenda Item 7: DoR Agendas

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

8.1 Joint Secretary (JS) TPRU presented the first agenda of DoR pertaining to the revenue position for the current financial year from April 2024 to November 2024. He informed the Council that in the last three months since the last meeting in September 2024, gross revenue growth was recorded a YoY growth of 6.5% in September 2024, 8.9% in October 2024 and 8.5% in November 2024 respectively. He noted that on a cumulative basis for the current year till November 2024, gross collections have grown by approximately 9.3%, while net collections have grown at an average rate of 9.1%. He



further highlighted that the month-on-month revenue trend shows that revenue realisation this year is in the same band vis-à-vis last year. He also mentioned that although the growth percentage in recent months may have come down a little bit, but the monthly revenue trend continues to be the same as was there in the earlier years as well.

8.2 JS TPRU then presented the position on IGST settlement, informing the Council that there is an accumulated negative balance of approximately ₹ 32,000 crores as of November 2024. A detailed presentation on this issue has been prepared by the Committee of Officers constituted for this purpose which would separately deliberate further on the matter.

8.3 JS TPRU proceeded to present the state-wise year-on-year revenue growth, highlighting both pre-settlement and post-settlement figures. He stated that the average growth on pre-settlement basis was 9%, with some states performing at or above the national average and many lagging behind the national average which were highlighted. Regarding post-settlement figures, he informed the Council that State revenues have grown by approximately 13%, and 14 states had performed at or above the national average. He emphasized that this disparity in state-wise performance needs further deliberation at the State level.

8.4 JS TPRU informed the Council that for the first time sector-wise revenue trend was being presented, the importance of which was also pointed out by Tamil Nadu earlier. He explained that it was based on the revenue analysis of the top 30 sectors, comparing the revenue growth observed this year with that of the previous year. This detailed breakdown was aimed to provide insights into sectors where revenue growth has not met expectations. He noted that in the support services sector, last year's growth stood at 22.6%, whereas this year, it had decreased to 16.4%. Similarly, in the passenger cars and buses sector, growth had reduced from 20.4% last year to 11.7% this year. He further summarised the revenue trend in the construction sector, pointing out a decline in the growth of supplies of construction materials such as cement, glass, and ceramics, which had registered a negative growth of 8.9% this year compared to a robust 16.3% growth last year. In commercial buildings, he observed that there was a significant reduction in growth, from an impressive 84% last year to just 10.7% this year. Similarly real estate services experienced a growth of 30.5% last year, which had now reduced to 17.9% this year. He noted that this indicates some strain in the construction-related services sector.

8.5 JS TPRU further highlighted the trends in other sectors, like leather, paper and wooden articles sector, noting that there has been a decline of 5.1% this year, compared to a growth of 7.2% in the previous year. He further proceeded to discuss the performance of the top 21 to 30 sectors. He noted that residential buildings have shown a slower growth rate this year, with a growth of 28.2% compared to 65% last year. Similarly, leasing and rental services have also experienced some strain in terms of growth during the current year. He explained that this sector-wise growth analysis is a new initiative started in this Council meeting, which will continue to be refined in the subsequent meetings. This will help in revenue forecasting, better targeted policy formulation, and aid risk assessment and resource allocation. He further presented the relative contribution of the top 30 sectors to the overall collections this year compared to the previous year. He clarified that this analysis is tied to the growth charts presented earlier. The agenda was placed before the Council for consideration.



Decision: The GST Council took note of the revenue position under GST.

Agenda Item 7(b): Status update on issues related to IGST Settlement to States

8.6 JS TPRU requested the Additional Secretary, DoR and the Convenor of the Committee of Officers on IGST Settlement to present the next agenda on IGST settlement.

8.7 Additional Secretary, DoR, informed the Council that several meetings of the Committee on IGST settlement were held in both physical and hybrid modes, with all States participating in a very constructive manner. He further stated that the Committee had reached certain conclusions and made recommendations, which include proposed changes to the settlement rules as well as improvements in the administration of the IGST system through the GSTN network. He then requested CST, Maharashtra, Member of the Committee, to make the first part of the presentation.

8.8 CST, Maharashtra informed that the Committee was set up pursuant to the decision taken in the 54th GST Council Meeting, where many states expressed concerns that the IGST settlements were happening on an ad hoc basis. As the States were not fully satisfied with the IGST revenues accruing to them, a Committee was constituted as per the Hon'ble Chairperson's direction. This Committee was chaired by the Additional Secretary (Revenue) and included officers from Gujarat, West Bengal, Madhya Pradesh, Maharashtra, Tamil Nadu, Kerala, Uttar Pradesh, and Bihar. Other members included the CEO GSTN, Commissioner, GST Policy Wing, DG (Systems) (CBIC), and the Joint Secretary, TPRU. The Terms of Reference for the Committee were to examine the underlying Rules, identify inconsistencies in the rules and their implementation through the IT system, and address flaws that contributed to the States' dissatisfaction with IGST settlements. He stated that the Committee's task was to analyse the processes, identify the root causes of these perceived flaws and provide recommendations. He stated that the Committee reviewed all relevant rules, provisions under the Act, and the IT system developed for IGST settlement which formed the foundation of the Terms of Reference (ToR) given to the Committee. He informed the Council that four meetings were held by the Committee, during which all states were requested to provide their comments. Based on these comments, a draft report was circulated on 30th October 2024, and a final report was now being submitted to the Council.

8.9 CST, Maharashtra then presented a summary of the report. He explained that one of the key issues identified was related to the IGST settlement process, which takes place through two modes. There were no significant concerns with the first mode, which involves cross-utilization of credits. However, the second mode, concerning apportionment, presented challenges. This issue arises when the IGST chain is disrupted due to consumption by unregistered persons in a state due to imports, inter-state supplies, ineligible input tax credits, or unclaimed input tax credits. The primary concern highlighted was with the apportionment component. He further elaborated on the legislative framework, noting that sections 17 and 18 of the IGST Act are central to the process. Section 18 governs cross-utilization, while section 17 pertains to settlement rules. He stated that the Committee began its work by examining the Rules, which define how each component of the apportionment process should be settled. CCT, Maharashtra stated that the primary issue highlighted by all the States was related to IGST settlement. IGST

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settlement is unique in many ways because, unlike other modes of settlement where states have direct access to data showing the revenue they receive, in the case of IGST, the recipient state does not have access to such data. Instead, the data is available or could be available with various entities, such as GSTN, Customs (ICEGATE), exporting states, manufacturing states, or states transferring goods and services to the recipient state. This lack of direct access to data creates confusion for recipient states, leading to perceptions that they are receiving less revenue than they should. He further stated that the main issue is the lack of access to data, which has created doubts. Another issue pertains to the use of secondary data from returns. The system relies on this secondary data from returns to infer how much revenue should be allocated to a particular state during the settlement process. However, many of these forms have undergone changes over the past four to five years, following deliberations in the Law Committee and subsequent approvals from the Council. As a result, there is a gap in how information is captured, that has led to gaps in data. He further stated that several settlement principles rely on voluntary disclosures by taxpayers, which lack statutory backing to enforce disclosure. For instance, taxpayers are generally expected to reverse unavailed IGST credit, enabling the recipient state to receive credit. However, there is no legal provision to compel taxpayers to reverse such credit. This is another significant reason contributing to the challenges in IGST settlement.

8.10 CST, Maharashtra further informed that the Committee identified ten main reasons behind the issues in IGST settlement. For instance, under the apportionment mode, there are approximately eight categories through which revenues accrue to the States. It was observed by all States that, out of these eight categories, three categories consistently reported nil settlements. This meant that none of the States were receiving revenue under these categories, which has become a major cause of concern. Questions were raised by States as to why these three categories were still showing as nil. The second issue highlighted was the need for a legal framework to mandate taxpayers to report ineligible ITC and ITC reversals under the Invoice Management System (IMS). The third issue is related to changes or amendments made over the last four to five years, which were not reflected in the Settlement Rules and Forms. To address this, the need for a more dynamic system was emphasized; one that could adapt to the settlement logic automatically whenever a rule or form undergoes a change, ensuring there is no adverse impact on the settlement process.

8.11 CST, Maharashtra stated that the next issue highlighted by the states was the non-alignment of the settlement forms with the settlement rules. The fifth issue pertained to the sources of data used in the settlement process. Each settlement form derives data from three or four different forms out of the eight available forms. However, the sources used for capturing this data were not transparently known to the states. There were discrepancies in data with regard to specific data reported in a particular form and that reflected in settlement form. To address this concern, it was decided that all data sources would be transparently shared with the States. This transparency would enable States to verify whether the appropriate revenue had been credited to their accounts for each source. To illustrate, in the case of imports by unregistered persons, certain data was shared by ICEGATE with GSTN. Later, it was felt that there were flaws in the arrangement of this data, leading to reversals in settlements. When ICEGATE (Customs) corrected the data, many states experienced reversals without sufficient explanation. Consequently, it was felt that the data shared by Customs with GSTN should also be made available to the States as

this would allow the States to independently verify whether settlements related to imports by unregistered persons were being processed accurately.

8.12 The next issue pertains to the lack of information regarding the place of supply in the case of imports by unregistered persons. This issue was partly discussed during the ongoing meeting's deliberations as well. Whenever an import takes place, the place of supply is not clearly mentioned. It was therefore decided that this data should also be shared with the States. Another issue relates to the settlement of accumulated ITC between the Centre and States upon the cancellation of a taxpayer's registration. The Committee could not arrive at a clear resolution on this matter. When a taxpayer's registration is cancelled, there is no mechanism in place to apportion the credit available in their account. However, the Committee acknowledged that a significant portion of this credit could potentially be fake. As such, the Committee felt that further deliberation and additional time would be needed to address this issue comprehensively. The next issue (No.9) highlights a peculiar problem associated with the reporting of the place of supply. There exists a category called "Other Territory," which was originally designed to cover areas such as the Exclusive Economic Zone (EEZ). Supplies made to the EEZ are meant to be classified under this category. However, it has been observed that this category is often misused. For instance, if someone purchases an insurance policy and provides a foreign address instead of their Indian address, they may incorrectly classify it as "Other Territory." Similarly, if a person transporting goods from India to abroad uses a foreign address, they might also mark it as "Other Territory." The system, as currently designed, interprets "Other Territory" as a Union Territory. This misclassification results in revenue that should have gone to the State (based on the person's actual physical address in India) being credited to a Union Territory instead. To resolve this, it was felt that the definition of "Other Territory" must be clearly articulated and communicated.

8.13 Further, the issue of OIDAR (Online Information and Database Access or Retrieval Services) was also discussed. The States pointed out that they do not have access to data regarding the online services being provided to recipients within their jurisdictions. They emphasized that this data must be shared to ensure transparency. The Committee, therefore, recommended that such data be made available to the States so they can have a complete understanding of the services being received within their jurisdictions.

8.14 The final issue relates to the need for a transparent and objective process for the allocation and recovery of any final accumulated surplus or deficit in the IGST account. This was the eleventh issue raised by the States and is part of the mandate that will be addressed by the Department of Revenue. States have sought greater clarity on the process, particularly regarding how any surplus is to be distributed or how funds are to be withdrawn. As for the resolution objectives taken up by the Committee, the first clear key issue identified was the need to align the settlement rules with the settlement process and to ensure clarity in the settlement mechanisms. The Act, Rules, and IT system must be aligned. Another major objective was to demystify the items in the settlement forms, including ensuring the availability of accurate data, enhancing transparency in GST settlements, and addressing reporting anomalies. For example, issues such as the misclassification of "Other Territory" were highlighted as reporting problems that need resolution. Ensuring the continuous reporting of data to the States was also identified as a critical resolution objective. This would allow states to access data specific to their

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jurisdictions, enabling them to monitor the processes more effectively. Finally, the methodology for apportionment, including positive and negative settlements, needs to be agreed upon. CCT, Maharashtra then requested the Principal Secretary, Tamil Nadu to elaborate on the solutions recommended for each of the problem areas identified.

8.15 Principal Secretary, Tamil Nadu informed that he would present a detailed account of the issues and suggested recommendations, many of which had already been touched upon by CST, Maharashtra. Regarding the issue of unavailed and ineligible ITC settlement, he stated that although the implementation of the Invoice Management System (IMS) would ultimately resolve this issue, interim measures could be adopted. Specifically, until the IMS is implemented, secondary data sources could be utilized. For instance, data from Table 4D and Table 4B in GSTR-3B, which are already populated for unavailed and ineligible ITC, respectively, could be used for monthly settlements with the respective States. Previously, it was decided to base these settlements on annual returns, but the scope of annual returns has been limited to taxpayers above a certain threshold. Therefore, leveraging these two tables would help address the first issue. Principal Secretary, Tamil Nadu further addressed the second issue, which concerns the mandatory reporting of ITC reversals. He mentioned that the Committee had recommended that a legal provision to be introduced to mandate ITC reversals and suggested that the Law Committee evaluate this matter and propose a legal provision to formalize it. Moving to Settlement Rules, he highlighted that while the Rules were framed initially, subsequent changes in the returns process have not been adequately captured. He emphasized the need to align the Rules with the current business processes that have evolved over the last seven to eight years. Additionally, the Rules should be updated to address issues such as modernizing terminology, including replacing "common portal" with "GSTN" and clarifying provisions related to OIDAR. Lastly, he discussed the fourth issue concerning Settlement Forms. He pointed out that the Settlement Forms are not in line with the revised Rules. To address this, the Committee recommended amending the relevant Rules and Forms to clearly categorize the settlement items in the forms. Furthermore, it was suggested that each form should include, in its header, details of any updates or amendments and specify the sources of data used. This would enhance transparency and enable States to cross-check the information effectively. The Principal Secretary, Tamil Nadu then addressed the next issue concerning reversals in settlements related to imports by unregistered persons. He stated that the Committee had observed instances of negative settlements, which were attributed to incorrect classifications - a fact that has since been acknowledged. To resolve this, the Committee suggested that GSTN first share sample data with the Committee. Each State would review this data, and, if feasible, detailed Bills of Entry could also be provided from the ICEGATE system to ensure proper classification and settlement going forward. Principal Secretary, Tamil Nadu further highlighted that the details of the point of supply in the case of imports by unregistered persons are not available in the settlement forms. To address this, the Committee recommended that the Importer Exporter Code (IEC) along with the PAN, wherever available, should be included in the STL forms. Additionally, all States should be provided with detailed Bills of Entry as received from the ICEGATE system. Regarding the seventh issue, which pertains to the settlement of accumulated ITC upon cancellation of registrations, he mentioned that Maharashtra had raised concerns about the potential involvement of bogus or fake registrations. The Committee agreed that this issue requires further deliberation. For now, the status quo may be maintained.

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8.16 Regarding the next issue concerning collections under "97 - Other Territory", Principal Secretary, Tamil Nadu explained that the initial intent behind "97" was to cover territorial waters extending from 12 to 200 nautical miles, which should be treated as other territories. However, the implementation has evolved differently. After reviewing the data, the Committee has decided to evaluate whether a more specific classification could be considered instead of the current "97" category. On the issue of OIDAR, he stated that the topic was also discussed in the Officers' meeting held on the previous day. The Committee has requested that data related to OIDAR be shared on a monthly basis in the form of an MIS. If the Committee requires additional data from jurisdictional officers regarding OIDAR, a centralized source should be established. Additionally, the settlement of OIDAR should be reflected in STL Form 1.04. Finally, he emphasized that the recommendations of the Committee should be implemented by setting a deadline, aiming for the solutions to be in place by the end of the financial year. He suggested that a SRS (System Requirements Specification) document outlining the implementation of the recommended changes be presented to the Committee for approval before moving forward. Principal Secretary, Tamil Nadu further proposed that the Committee may continue its work to examine other IT-related issues.

8.17 Additional Secretary, DoR, thanked the CST, Maharashtra and the Principal Secretary, Tamil Nadu for presenting the Committee's recommendations to the GST Council. He then highlighted one key issue that still needs to be debated and decided i.e., the allocation of surplus or the recovery of deficits. He informed the Council that the current deficit stands at approximately ₹ 32,000 crore. As previously mentioned, the IGST settlement account operates continuously, meaning any positive or negative balance is carried forward to the next financial year, and the account does not lapse at the end of the year. However, the Committee has recommended that any surplus or deficit be settled within the same financial year to the extent possible. Therefore, the Committee suggests that if there is a negative balance, it should be recovered and the account squared off by March 15 of the financial year. Any balance remaining after that date can be carried over to the next year, as the arrangement is continuous. The Additional Secretary also informed that the formula for the distribution of surplus and recovery of any deficit was debated. He explained that the original ad hoc settlement of surplus was based on the 2015-16 base rate, which was part of the system, while recovery was made based on the current IGST settlement proportion. The question now is whether the Council should continue with the base rate or shift to the previous year's proportion of IGST settlement for both recovery and ad hoc settlement. He emphasized that the Council's decision should apply uniformly to both ad hoc settlements and recovery, as having two separate formulas would be improper. He then requested the Hon'ble Chairperson and the GST Council to provide guidance on this matter.

8.18 The Secretary acknowledged the diligent work of the Committee and brought to the notice of the august house that the Committee had thoroughly identified the real issues and proposed solutions. He further commended the Committee for its commitment and outlined that within the next three months i.e., by March 2025, they aim to present specific solutions. He also requested the Council's to endorse and support the Committee's efforts and encourage the team to complete their work. Of the 10 or 11 tasks identified by the Committee, he emphasized that these solutions could include changes in the IT systems, amendments to Forms, or perhaps even changes in organizational procedures. He sought

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the views of the Hon'ble Members on two issues viz.; the adoption of the proposed solutions and the endorsement of the work plan, which will be vital for the Committee's success in addressing these issues.

8.19 The Hon'ble Member from Uttar Pradesh stated that it was agreed to in the Officers' meeting that the recovery would be in the same proportion as the distribution and that base year would be 2015-16. He expressed support for the proposal to square off the account before the closing of the financial year, agreeing that the settlement by March 15th 2025 would be better. He mentioned that, as agreed during the Officers' meeting the previous day, the rate of recovery should be 8.34% (for UP), and it should not be higher than that.

8.20 In response, the Secretary confirmed that during the Officers' meeting, the sense of the house was that for this year, the base year numbers (Option-1) should be continued for the recovery formula. The Secretary stated that once the full recommendations of the Committee are available, a new formula could be adopted for the subsequent year. The Secretary reiterated that the proposed date of 15th March, 2025 seemed appropriate for annual settlement of surplus or deficit and suggested that it could become a fixed date for the future. He mentioned that adopting the base year formula was the general consensus among most states, and he could not recall any other state opposing it. He also stated that the approach could be a starting point, with flexibility for future adjustments based on the Committee's recommendations.

8.21 While accepting the principle (Option-1) agreed to the Officers' meeting, the Hon'ble Member from Kerala stated that they have been continuously raising the issue of IGST settlement. He raised concerns about the ongoing IGST settlement issues, particularly the negative balance of around ₹ 32,000 to ₹37,000 crore. He expressed his concern that despite continuous efforts of the GST Council, anomalies persist in the system. He suggested that any anomalies identified with any State should be adjusted directly within those States, rather than trying to recover the money from the entire system. The Hon'ble Member stated that at a time when we have precision in billing small amounts such as those for mobile phone charges etc., it is surprising that we have unidentified huge amounts in IGST settlement. He suggested that six years might not have been enough for the system to stabilize and properly identify and resolve these issues, leaving room for vendors to take undue benefits and take more tax reversals. Kerala, like other states, is facing stagnation in revenue growth. He pointed out that if the 14% annual increase principle had been maintained, Kerala's revenue gap would have been over ₹ 15,000 crores. The closure of the GST compensation system after five years further exacerbated the problem. He requested that no money should be recovered from the States this year, as the issue is still being studied. He highlighted that there are corrections to be made, particularly in online trading and IGST, and that modern technology could play a role in addressing these problems. He expressed confidence that the GST Council is working on solutions, with key issues already identified. He reiterated that a thoughtful approach, rather than a shortcut, needs to be adopted to resolve these systemic problems that are impacting revenue.

8.22 The Hon'ble Member from Telangana agreed with the suggestion to continue with Option-1, using the base rate of 2015-16 for the ad-hoc apportionment of IGST amounts, as recommended by the Secretary. However, he proposed that any recovery related to this



settlement should be deferred to the next financial year rather than being carried out in the current year.

8.23 The Hon'ble Member from Tamil Nadu highlighted that an ideal system would be having a central IGST pool with a minimum positive balance to cover any exigencies related to ad hoc apportionment or recovery. Since the current negative balance in the central IGST pool is attributed to systemic issues, he recommended that recovery should be stopped for now. To avoid disruptions in the States' budgeting process and their welfare measures, he suggested that any recovery should be deferred to the first half of the next financial year. He pointed out that settlement based on actual returns would be a better approach than relying on ad hoc settlements. For instance, by March 2024, the central IGST pool had a positive balance of ₹ 38,265 crore, which indicates that recovery could be done in April 2025, after considering the IGST collected in March 2025. This inter-governmental transfer could still be accounted for in the 2024-25 financial year, even if it occurs in April 2025. He also suggested that by delaying recovery until April 2025, it would allow for a more accurate settlement based on actual returns, preventing the need for ad hoc settlements before March 15th.

8.24 The Hon'ble Member from Karnataka commended the Committee's efforts in addressing the complex issue of IGST ad hoc settlement, recognizing it as a significant challenge that still remains unclear for many states. He acknowledged the progress made by the officers in identifying the problem and expressed hope that their work would continue until all unsettled surpluses and negative balances are resolved. He also appreciated the Committee's identification of errors in the current IGST ad-hoc settlement process and their suggested fixes, but emphasized that more flaws might still need to be identified. He stressed the importance of addressing these issues rationally and to find a lasting solution. Regarding the decision points, he strongly advocated moving away from using the base year for ad hoc settlements, as recent contributions offer a much clearer picture of the current reality. The base year values may no longer reflect the evolving economic landscape. He also agreed with the opinions of the Hon'ble Members from Kerala and Tamil Nadu that making ad-hoc settlements in March, 2025 could have significant implications. He stressed the need to have negative balance accompanied with revenue-positive decisions. He suggested that when negative balances are shared, steps should also be taken to increase revenue, such as through rate rationalization. This would help mitigate financial challenges and create a buffer to absorb any deficits. By diversifying revenue sources, states would be better equipped to manage fiscal shocks, and that taking a bundled approach towards these issues would make them more manageable and sustainable.

8.25 The Hon'ble Member from Maharashtra expressed appreciation for the work done by the appointed Committee and acknowledged the positive impact of the Committee's recommendations; which are expected to be implemented by 31st March, 2025. She believed this would help in reducing the negative deficit and provide a clearer financial picture. She requested that any decision to pull back money should be made after 31st March, 2025. She strongly recommended choosing option two, as it would allow them to work with the latest information and provide a dynamism to the exercise. This approach, in her view, would be better compared to sticking to just one particular year.

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8.26 The Secretary emphasised on the need to address the current IGST deficit, noting that it signals potential issues in the system, and that a large deficit should not arise if the system is functioning correctly. Historically, surpluses of ₹ 1,67,000 crore have been distributed among the Central and State governments over the past seven to eight years of GST implementation. Typically, IGST is first paid by the supplier and later claimed as input tax credit by the next purchaser. He also explained that 50% of the IGST surplus is adjusted against CGST, meaning the Government of India does not claim the entire adjustment. This adjustment is done on an adhoc basis, depending on when the dealer or supplier claims the input tax credit. The 50% adjustment is split between the central and state governments based on the formula they adopt. He further pointed out the negative balance impacts the Consolidated Fund of India as well and therefore it is critical to resolve this negative balance by 31st March, 2025 as it cannot remain unresolved by year-end. He also assured that the issue is being closely monitored, and a time-bound approach is necessary to identify and resolve any problems quickly. In light of this, he requested that the current year's issue be settled by 15th March, 2025 using the existing formula. The Secretary further stressed the importance of finding a permanent solution before the next financial year to avoid relying on ad-hoc settlements in the future. He also urged that the committee explore long-term solutions for IGST settlement and related issues.

8.27 The Hon'ble Member from Uttar Pradesh stated that he agreed with the views expressed by the Secretary.

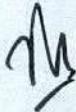
8.28 The Hon'ble Member from Kerala inquired about the total IGST amount distributed to the States and the methodology used for allocating it to each State. He emphasized the need for data on how much each State is receiving and requested that this information, if available, be shared with the States and the Council. He further requested that if the IGST amount is reclaimed by March, 2025 it will cause difficulties for the states.

8.29 The Hon'ble Chairperson clarified that all data on IGST settlement and the amounts allocated to the States are available on the GST portal. This information is available to both State authorities and the Central authorities.

8.30 Additional Secretary DoR stated that all IGST settlement information, including the amounts allocated to each State, is publicly available on the GST portal.

8.31 The Secretary stated that Council has assigned three tasks to improve the IGST system. Firstly, the IGST Committee has been instructed to intensify their efforts and complete the task of improving the system. The Committee has volunteered to provide specific suggestions on necessary improvements by March end. Secondly, he requested that while reviewing the system, the committee should also investigate whether negative balances may be arising from other factors. A thorough review of this aspect is essential. Thirdly, regarding the annual adjustment, he highlighted that on 15th March, 50% of the adjustment will be made from the Government of India and 50% from the States. He stated that this will be done for the balance as of this year on March 15, 2025, with the expectation that next year, a more structured and improved solution will replace the ad-hoc distribution method.

8.32 Additional Secretary DoR submitted that the recommendations made by the Committee are proposed to be implemented by 31st March, 2025. He stated that, in



addition, the Committee is receiving other concerns from the States regarding the IT system and data, which need to be addressed from the States' perspective. He sought the Council's approval to allow the Committee to continue its work, addressing any issues raised by the States regarding the data, systems, or any other concerns where there may be gaps. He stated that the Committee may continue to address these issues as they arise and would keep the Council informed about the progress of its work.

8.33 The Secretary noted that the Committee requires an additional three to three and a half months to continue its work on IGST and may continue to look at the IT related issues. He stated that during the discussions in the Officer's meeting, several States suggested that *further improvements are necessary not only in the IT system but also in operations and overall governance*. He further stated that the Government of India shares this view and believes that more work is needed in this area. The Secretary invited the State Governments to submit suggestions. Also, the idea is to avoid creating another new Committee. Instead, this Committee may be repurposed to focus on these improvements in operations and governance issues. He requested that, over the next two weeks, States provide their suggestions on what further needs to be done regarding operations and overall governance issues to help frame the terms of reference appropriately.

8.34 The Hon'ble Member from Telangana raised a concern regarding the recovery plan, stating that attempting to recover the amount this year could create problems for the States, especially towards the end of the quarter. He requested to reconsider the recovery timeline and suggested that it might be more feasible to carry out the recovery in the next financial year rather than in the current one. The states are already facing various challenges and that the proposed recovery this year could further complicate the situation.

8.35 The Secretary explained that the issue of recovery is problematic for both the Government of India and the States. He clarified that the money in question does not belong to any particular government. When there was a surplus in the past, the suggestion was made that any surplus should be shared. He noted that while surpluses have been shared in previous years, this year there is a deficit of approximately ₹ 26,000 crore, bringing the total amount of deficit to about ₹ 32,000 crore. If not adjusted, this could impact the Government of India's budget. He further explained that the adjustment should be made on a 50:50 basis between the Government of India and the States, as the money should be shared equally among all GST members, including both the Central and State governments. He stated that the ₹ 16,000 crore deficit would be adjusted, with 50% of the amount being applied against the Central GST (CGST) tax, which would reduce the CGST collection for the Government of India. This adjustment would help bring the IGST balance to nil or closer to zero, with the remaining ₹ 16,000 crore being adjusted against the State governments.

8.36 The Hon'ble Member from Karnataka raised a concern regarding fraudulent registrations that have claimed Input Tax Credit (ITC), particularly through IGST transactions. He suggested that the Committee could look into this issue, as many fraudulent companies have claimed ITC, resulting in significant financial losses for states like Karnataka. He highlighted that while these fraudulent registrations have been identified and cancelled, the state has already absorbed the financial impact. He requested that the committee look into ways to trace and track such fraudulent claims including the use of data analytics and biometric-based Aadhar authentication. He stated that while he



was unsure if this issue falls within the committee's basic mandate, he expressed hope that the committee could provide valuable insights into the matter and help understand what is happening to strengthen the GST system and prevent further losses.

8.37 The Secretary acknowledged that the issue raised by the Hon'ble Member from Karnataka should be a high priority. He emphasized that the committee must focus on these areas and investigate further.

8.38 The Hon'ble Chairperson acknowledged the importance of the issue raised, but suggested that the current committee, given its limited timeframe, should focus on its core tasks and not be burdened with this additional responsibility. She stated that while the matter is relevant, it was appropriate that an alternative group or committee could be formed to specifically address this issue, ensuring a long-term solution. This new group could examine the problem not just in one or two states, but across a broader spectrum, to understand how the system is being gamed and identify ways to prevent such fraudulent activities in the future. This approach would provide a long-term solution, rather than just addressing the current year's issues. Meanwhile, the current committee should conclude its ongoing work by the set deadline.

Decision: The GST Council took note of the Status update on issues related to IGST Settlement to States and approved the following:

- a. Report of the Committee.
- b. The Committee shall complete the implementation by March 2025.
- c. The amendment to the Settlement Rules as proposed by the Committee which may be vetted by the Law Committee and notified with the approval of GIC.
- d. The Committee shall continue to address the IT/GSTN issues and provide periodic update to the Council. States to submit issues and suggestions pertaining to IT systems, operations and overall governance to the Committee
- e. A Committee of Officers may be constituted to look into the issue of claims of fraudulent ITC, how to use the IT system to identify the same and come up with solutions to prevent such fraudulent activities.

The Council also agreed that any recovery for the deficit in the IGST Account as of March 15, 2025 may be recovered in the ration of 50:50 from Centre and States within this financial year. Recovery from the states may be effected in the ratio of base year revenue (i.e) in the same ratio as the surplus was distributed in the earlier years.

Agenda Item 7 (c): GSTAT Procedure Rules to regulate the procedure for functioning of the GSTAT

8.39 JS TPRU presented the agenda concerning the GST Appellate Tribunal procedural rules. He informed that the copy of the procedural rules, received from the GSTAT



Principal Bench, had been circulated to all the Hon'ble Members and States and is placed for information before the Council. He also informed that a suggestion was received that the Rules are to be notified only under Section 111 of the CGST Act, 2017 and not under section 106 of the CGST Act, 2017. JS TPRU informed that change will be incorporated. JS TPRU informed that this would be notified by the GST Appellate Tribunal itself, after being vetted by the Law Committee and approved by GIC. Since these are not Rules to be notified by the Government, approval of the Council may not be required and is being placed only for information. This is a formal agenda aimed at facilitating the operationalization of the GST Appellate Tribunal at the earliest. The agenda was placed before the Council for information.

Decision: The GST Council took note of the Goods and Services Tax Appellate Tribunal (GSTAT) Procedural Rules, 2024 subject to vetting by the Law Committee and delegated the final approval of the GSTAT Procedural Rules to GST Implementation Committee.

Agenda Item 7(d): Relaxation in eligibility criteria for selection to the post of Technical Member (State) of GSTAT for officers of the State of Goa

8.40 JS TPRU then presented the agenda concerning a request from Goa for an amendment to the earlier approval regarding the relaxation of eligibility conditions for the Technical Member (State). He informed that this request had been discussed in the Officers' meeting the previous day and was agreed upon. The agenda was placed before the Council for consideration and approval.

Decision: The GST Council approved the agenda on relaxation in eligibility criteria for selection to the post of Technical Member (State) of GSTAT for officers of the State of Goa.

Agenda Item 7(e): Relaxation in eligibility conditions for appointment of Technical Member (State) in GSTAT for the State of Jharkhand

8.41 JS TPRU presented the agenda concerning the request of Jharkhand for relaxation in the eligibility criteria for Technical Member (State) which had already been approved by the GIC subject to post-facto approval of the GST Council. He informed that the agenda was brought up and discussed in the officers' committee, and agreed upon in line with previous approvals. The agenda was placed before the Council for consideration and approval.

Decision: The GST Council granted post-facto approval to the agenda item regarding relaxation in eligibility conditions for the appointment of a Technical Member (State) in the GST Appellate Tribunal (GSTAT) for the State of Jharkhand.

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Agenda Item 7(f): Status Report of GoM on restructuring Compensation Cess

8.42 JS, TPRU requested Additional Secretary, DoR to present the next agenda. Additional Secretary, DOR requested the Hon'ble Minister of State for Finance (MoS) and the Chairman of the GoM on restructuring Compensation Cess to present the agenda on the Group of Ministers (GoM) concerning restructuring Compensation Cess before the Council. The Hon'ble MoS informed that the GST Council in its 54th meeting held on 9th September 2024, had constituted a GoM to propose a mechanism of taxation post abolition of Compensation Cess. The first and second meetings of the GoM were held on 16th October 2024 and 12th December 2024 respectively. The Hon'ble MoS placed the recommendations of the GoM before the Council stating that regarding the levy and collection of cess for the financial year 2025-26, the GoM had recommended continuing the Compensation Cess at the current rates until 31st March 2026. In addition to it, GoM had proposed that if any amount collected in the Cess Account remains surplus at the end of the transition period after meeting the obligations of back-to-back loan (including interest thereon), the same may be distributed equally between the Centre and the States in the ratio of 50:50, as provided under Section 10(3) of the GST (Compensation to States) Act, 2017. The Hon'ble MoS submitted this proposal to the GST Council for approval. On the second issue concerning the future course of action post-abolition of the cess, the Hon'ble MoS informed that the Members felt that the matter requires more time for analysis of the impact of constitutional, legal, and operational issues on State revenues. Consequently, the GoM has decided to request an extension of time until 30th June 2025. The Hon'ble MoS placed the proposal before the GST Council and extending the tenure of the GoM for approval.

Decision: The GST Council approved the proposal to extend the tenure of the GoM on restructuring Compensation Cess up to 30th June 2025. Additionally, the Council approved the proposal to continue the present rates of Cess until 31st March 2026 and to distribute the surplus if any in the Cess Account, at the end of the transition period (March 31, 2026), equally between the Centre and the States in a 50:50 ratio as provided in Section 10(3) of the GST (Compensation to States) Act, 2017.

9. Agenda Item 8: Issues recommended by Goods and Services Tax Network (GSTN)

9.1 The Secretary then presented the agenda item relating to issues recommended by Goods and Services Tax Network (GSTN) and asked the EVP, GSTN to present the agenda.

Agenda Item 8(a): B2C e-Invoicing Project

9.2 EVP, GSTN presented the agenda item relating to the B2C e-Invoicing Project. He informed that in the 54th meeting of the GST Council, B2C e-Invoicing implementation on a voluntary basis was accorded in-principle approval by the GST Council, and GSTN had started working on designing and developing the technology stack for the same in consultation with various stakeholders.



9.3 EVP, GSTN stated that considering the high volume of B2C e-Invoicing compared to B2B e-Invoicing, it was suggested by the then Secretary to the Council that, before developing the technological stack, it would be desirable to organise a global technology and policy evaluation of B2C e-Invoicing systems in countries like South Korea, Brazil, Chile, Russia, Mexico, Saudi Arabia, and others which have successfully implemented B2C e-Invoicing. He stated that accordingly, a proposal was prepared for the global technology and policy evaluation of B2C e-Invoicing before its rollout.

9.4 He also stated that the expenditure related to the study visit would be borne by GSTN. He further informed that different compositions of delegates would visit each country, and the delegations would generally comprise members from GSTN, CBIC, DoR, and Commercial Tax departments of the States/UTs. He also stated that GSTN has already circulated emails inviting nominations from DoR, CBIC, and Commercial Tax departments of the States/UTs for the said study. He informed the Council that, so far, GSTN has received around 17 nominations from the States.

9.5 EVP, GSTN stated that the proposal to conduct the global technology and policy framework evaluation of B2C e-Invoicing implementation in other countries is being placed before the Council for its approval.

Agenda Item 8(b): Status on Invoice Management System (IMS) and Planned enhancements

9.6 EVP, GSTN informed the Council about the successful rollout of the Invoice Management System (IMS) for the October 2024 return period, as planned. He highlighted key functionalities, including recipient actions (accept, reject and pending) on invoices and facility for re-computation of GSTR-2B. He also outlined upcoming enhancements, such as credit note handling, bulk data tools, and additional features to improve usability, which are expected to be implemented by the end of the financial year.

9.7 The Secretary informed the Council that this was an important step taxpayer facilitation measure. He stated that IMS had already been rolled out for the October 2024 return period, has been in use for the past two months, and that GSTN would make further enhancements based on user feedback.

Decision: The GST Council

- i. Approved the proposal to conduct a study tour to understand the global technology and policy framework evaluation of B2C e-Invoicing implementation in other countries.
- ii. Took note of the updated status on the successful rollout of IMS along with the proposed enhancements.

10. Agenda Item 9: Performance Report of Competition Commission of India (CCI), State Level Screening Committee (SLSC), Standing Committee (SC) and DG

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(Anti-Profiteering) for 2nd Quarter (July-September) of the F.Y 2024-25 for information of the GST Council.

10.1 Joint Secretary, GSTCS presented the agenda pertaining to the Performance Report of the Competition Commission of India (CCI), State Level Screening Committee (SLSC), Standing Committee (SC) and DG (Anti-Profiteering) for the 2nd quarter of the F.Y.2024-25 for the information of the GST Council

10.2 She informed that the details of the closing balances at each level for the second quarter had already been circulated. Further she informed that a major change from 01.10.2024 was that the mandate to examine anti-profiteering cases had shifted to the Principal Bench of GSTAT and the closing balance with the CCI was 46 cases to be examined, which would now be transferred to the Principal Bench of GSTAT.

Decision: The Council took note of the performance report of CCI, SLSC, SC and DG(AP) for the second quarter of the financial year 2024-25.

11. Agenda Item 10: Ad-hoc Exemption Orders issued under section 25(2) of the Customs Act, 1962 to be placed before the Council for information

11.1 The Secretary introduced the agenda item relating to adhoc exemption orders issued under Section 25(2) of the Customs Act and invited the Joint Secretary, GSTCS to present the agenda.

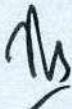
11.2 Joint Secretary, GSTCS informed the Council that two ad-hoc exemption orders had been issued since last meeting of the GST Council. The first order No. 06 of 2024 dated 18/10/2024 pertained to a request from MEA for exemption from export duty for humanitarian assistance to Zimbabwe, Malawi, Zambia and Namibia in the form of food grains and the second exemption order No. 7 dated 27.11.2024 was a request for ad hoc exemption for import of instruments for implementation of pilot project on Glacial Lake Outburst Flood (GLOF) risk in Sikkim. She further stated that these two orders are being placed before the Council for information.

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

12. Agenda Item 11: Report of Group of Ministers (GoM) on Life and Health Insurance.

12.1 The Hon'ble Member from Bihar and Convener of the GoM stated that a decision was taken in 54th GST Council Meeting regarding constitution of GoM on Life and Health Insurance. He stated that the GoM had made significant progress in its meeting and had moved towards a consensus. However, some States have requested for inclusion of additional issues. He, therefore, requested the Hon'ble Chairperson to allow time so that a more detailed report could be presented in the next Council meeting. He further stated that a preliminary report has been prepared, but more suggestions were received, and the GoM

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intends to submit a comprehensive report with the consensus of all the Members in the next meeting.

12.2 The Secretary mentioned that during the discussion in the Officers' meeting, at least one State had suggested that more deliberations are needed on two key points. First, that there is a need to consult the regulator (IRDAI). Second, the State of Chhattisgarh raised the point of health insurance for senior citizens, pointing out that families often take group insurance policies that cover all members, including senior citizens. This makes it impractical to single out senior citizens for separate insurance, as premiums would likely be very high. Additionally, Odisha also suggested the need for more deliberations on this matter. The Secretary sought the Council's guidance on the way forward.

12.3 The Hon'ble Member from Uttar Pradesh stated that the inputs from IRDAI were still awaited on this issue.

12.4 The Hon'ble Member from Madhya Pradesh stated that additional time be given to the GoM.

12.5 The Hon'ble Member from Goa stated that more time should be given to the GoM and some more deliberation may be needed.

12.6 The Hon'ble Members from Gujarat, Punjab and West Bengal also agreed to have more discussions on the subject.

12.7 The Hon'ble Member from Jharkhand also agreed that opportunity should be given for more deliberations. Noting that it was proposed to exempt premium paid for health insurance up to Rs 5 lakh for senior citizens from GST, he suggested that 18% GST on health insurance for non-senior citizens should also be reduced to 5%.

12.8 The Hon'ble Member from West Bengal stated that the request made by the Hon'ble Convener of the GoM for additional time to finalize the details could be agreed, however, there was unanimous agreement on the proposal to provide relief to citizens and that there had been unanimity on relief on health insurance for senior citizens irrespective of coverage and individual health insurance policies up to a coverage of Rs. 5 Lakhs and also that individual policies include group policies. She stated that coverage for families was understood to include senior citizens as well, and if a citizen was already part of a family plan, they could still take separate coverage for themselves.

12.9 The Hon'ble Member from Himachal Pradesh stated that the country is moving towards universal healthcare through initiatives like Ayushman Bharat and State health policies. Therefore, GST on Life and Health Insurance premiums be either made nil or reduced to ensure that everyone is brought under some form of health coverage.

12.10 The Hon'ble Member from Chhattisgarh stated that individuals typically purchase insurance for their families, and only in a few cases do they opt for separate policies for individual family members. He stated that if health insurance benefits were applied exclusively to senior citizens, the law of adverse selection would come into play, leading to

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higher premiums. He emphasized that health and term insurance should be made more affordable. Additionally, the proposed coverage limit of ₹5 lakhs per individual, as suggested by the GoM, was too less. He also noted that health insurance premiums are influenced by factors such as top-ups and no-claim bonuses. Therefore, the implementation of the decision should be carried out with greater clarity.

12.11 The Hon'ble Member from Meghalaya stated that given the Convener himself had requested additional time and that this is a very sensitive issue which impacts the lives of people and the future of the health sector some more discussions will be helpful. He highlighted the importance of addressing both preventive and insurance aspects.

12.12 The Hon'ble Member from Karnataka stated that under the leadership of the Hon'ble Convener, extensive deliberations were conducted by the GoM, and lot of unanimity was achieved during those discussions. However, new issues have been raised on which some members believe that further deliberation was required, including the issues of composite policies and the views of IRDAI. As an additional session has been proposed by the Hon'ble Convener, he agrees with the same. He strongly recommended that rate rationalization be introduced alongside the insurance decision. He emphasized that while rate rationalization appears to be revenue-positive, the decision on insurance might impose certain costs on both the Central and State governments. He stated that he believed that a positive decision on health insurance should be accompanied by revenue compensation through rate rationalization. He reiterated the need to address both issues together. Noting that rate rationalization might not be discussed in the current meeting, he urged that the decision on insurance be deferred until it can be considered alongside rate rationalization.

12.13 The Hon'ble Member from Puducherry stated that the GST Council's intention to give an exemption for individuals under health insurance should also be considered for group insurance policies covering workers. He stated that the aim was to provide coverage for individuals, and many workers, along with their families, are already covered under health insurance in various factories. He further stated that when the Council considers exemptions for individual health insurance, it may also consider group insurance coverage for workers and laborers in factories, because at times, government also takes group insurance schemes for groups.

12.14 The Hon'ble Chairperson stated that at least one more round of deliberations be held and that Karnataka's point regarding the need to address rate rationalization and insurance together, rather than separately, is well taken. She expressed hope that the GST Council will align with the suggestion put forward by Karnataka.

Decision: The GST Council recommended that the GoM submit the report on Life and Health Insurance after further deliberations.

13. Agenda Item 12: Bringing Aviation Turbine Fuel (ATF) under GST

13.1 The Secretary then requested Joint Secretary, TRU to present the issue of bringing Aviation Turbine Fuel (ATF) under GST.

13.2 Joint Secretary, TRU-I stated that as per clause 5 of article 279A, GST Council shall recommend the date on which the goods and services tax be levied on petroleum crude, high speed diesel, motor spirit, natural gas and aviation turbine fuel. Currently, these products are subject to both central excise duty and VAT. The challenges in the current system in the context of ATF are that capital goods and services required to produce ATF are subject to GST but ATF itself is subject to central excise duty and VAT. ATF is not subject to GST, but the output service of the airline industry, passenger and goods freight are subject to GST. ATF is chemically a variant of kerosene oil. ATF is outside GST whereas kerosene is within the ambit of GST. This results in blockage for the oil industry also. Another point is the cascading impact as VAT is chargeable on value which includes central excise duty. She also presented the current tax structure on ATF. The central excise duty is 11% while for the Regional Connectivity Scheme (RCS) scheme the central excise duty is only 2% and the volume handled at RCS flights is just around 0.1%. The VAT rates vary across states with minimum rate of 0% in Meghalaya, 1% in states like Uttar Pradesh, Andhra Pradesh, Arunachal Pradesh etc. The States with rates higher than 5% include Bihar, Rajasthan, Delhi, Assam, Chandigarh and Karnataka. It was also observed that VAT rates vary within the states also where there were different AFS with different rates. Out of a total ATF production of 21,654 TKL last year, taxes are collected only on 5,567 TKL on domestic run flights. The central excise duty revenue collected from ATF in 2023-24 was Rs 3,927 crore while VAT collected was Rs. 4,350 crore that makes it a total of Rs. 8,277 crore. As a percentage of total tax on petroleum products this constitutes about 1.49%. The issue placed before the Council is whether a structured deliberation on the issue of bringing ATF under GST or otherwise is to be initiated and if yes, in what manner.

13.3 The Secretary informed the Council that the issue had been discussed in Officers' meeting wherein different views were expressed. He proposed initiating a structured deliberation to comprehensively assess the potential implications of the proposed changes on various stakeholders, including the aviation industry, air passengers, and government revenue. The Secretary sought guidance from the Council on the most appropriate format for conducting this structured deliberation.

13.4 The Hon'ble Member from Chhattisgarh stated that while the impact of excluding items like petrol and alcohol from GST is mainly felt within the states where such revenue is collected, ATF affects people across the country. He emphasized that the core principle of GST is "One Nation, One Tax" to simplify the tax system and eliminate cascading effects. Including ATF in GST is crucial for a growing economy, even if immediate implementation is not necessary. The Hon'ble Member suggested forming a Group of Ministers to start discussions on this issue.

13.5 The Hon'ble Member from Telangana pointed out that ATF is derived from crude oil, which is outside the purview of the GST. He, therefore, recommended maintaining the status quo regarding the taxation of ATF. The Hon'ble Member further emphasized that States have limited resources to generate revenue for local needs. Including ATF within the GST regime would deprive them of a crucial revenue source. The state of Telangana opposed the proposal to bring ATF under GST.

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13.6 The Hon'ble Member from Madhya Pradesh suggested that a GoM be constituted to examine the proposal of bringing ATF under the GST regime and subsequently present its recommendations to the GST Council for consideration.

13.7 The Hon'ble Member from Maharashtra stated that the inclusion of ATF within the GST regime is a major policy issue. She underscored the need for proper data to take an informed decision. She recommended referring the matter back to the Fitment Committee to gather relevant data, including an assessment of the potential repercussions, implications, and financial burden on consumers, states, and the Central Government. She proposed that the Fitment Committee present its findings to the Council, facilitating a well-informed decision regarding the future course of action, whether it be the establishment of a GoM or any other suitable mechanism.

13.8 The Hon'ble Member from Kerala stated that the inclusion of ATF within GST regime is a policy issue. He highlighted that with only petroleum products and liquor remaining with the State outside the GST ambit after its implementation, the removal of ATF would undermine the overall understanding and agreement reached by all States regarding the GST framework. He opposed the inclusion of ATF within GST. He emphasized the need to maintain the status quo regarding the taxation of these products and deemed any further discussion on this matter unnecessary.

13.9 The Hon'ble Member from Jharkhand pointed out that as a manufacturing state, Jharkhand primarily benefits consuming states, while its own economic gains remain limited. He stated that VAT on petroleum products constitutes a crucial source of internal revenue for Jharkhand. The proposed inclusion of petroleum products under the GST regime would diminish the state's rights and significantly reduce its revenue streams.

13.10 The Hon'ble Chairperson clarified that the proposal under discussion specifically pertained to ATF and did not cover other petroleum products. She stated that proposals presented before the GST Council, whether from state governments or the Central Government, originate from various sources and do not necessarily represent official initiatives of the Central Government. These proposals could advocate for the inclusion, exclusion, or modification of specific goods and services within the GST framework. She further clarified that the current discussion did not involve a proposal from the Central Government to bring petrol and diesel under the GST regime.

13.11 The Hon'ble Member from Jharkhand expressed concern over the insufficient financial support received from the Central Government following the implementation of GST. Despite contributing Rs. 41,000 crore to the Central Government through GST from 2017 to 2022, Jharkhand received only Rs. 14,000 crore in return and therefore, Jharkhand opposed the proposal. Furthermore, he requested an extension of the five-year compensation period for smaller states and manufacturing states for another five years.

13.12 The Hon'ble Member from Tamil Nadu supported keeping ATF under the VAT regime. He stated that since all other petroleum products such as petrol, diesel, and gas are

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currently taxed under VAT, it would be consistent and appropriate for ATF to also remain within the VAT framework.

13.13 The Hon'ble Member from West Bengal stated that subsection 5 of Article 279A does not necessitate the immediate application of the provision. Aligning with the stance of Hon'ble Members from Telangana, Kerala, and Tamil Nadu, the Hon'ble Member stated that the scope for charging VAT in this area is limited and therefore, deemed it unnecessary to remove this provision at the present time and suggested maintaining status quo.

13.14 The Hon'ble Member from Punjab did not agree to the inclusion of ATF under GST. He stated that this could set a precedent for bringing all petroleum products under GST, which he strongly opposed. The Hon'ble Member highlighted that States have already experienced significant revenue losses since the implementation of GST, estimating the gap between pre-GST VAT revenues and current revenues at approximately Rs. 20,000 crore. While acknowledging the commitment of all states to the "One Nation One Tax" principle, the Hon'ble Member emphasized the substantial revenue losses incurred. He suggested an extension of the compensation cess to offset the impact of GST on state finances and that ATF should continue to be taxed under the VAT regime.

13.15 The Hon'ble Member from Karnataka stated that this matter constituted a policy decision. He stated that there are numerous other related issues requiring attention. He felt that a GoM might be convened only when a consensus emerges regarding the feasibility of bringing the subject under the purview of the GST. He questioned the rationale of a GoM in the absence of consensus and in the face of substantial disagreements surrounding the inclusion of this matter within the GST framework. Furthermore, the Hon'ble Member expressed concerns regarding the consequences of such a policy change. He advocated maintaining the current status quo, stating that it represented a stable and well-understood regime for all stakeholders.

13.16 The Hon'ble Member from Mizoram emphasized the challenges faced by small states like Mizoram in attracting airlines. He highlighted that Mizoram, like other smaller states, currently levies a 1% tax on ATF. Recognizing that ATF constitutes approximately 40% of an airline's operational costs, the Member expressed concern that subsuming ATF under the GST regime could potentially lead to an increase in airline ticket prices, significantly impacting the State finances. Furthermore, he requested that, even if ATF is eventually included under GST, the specific needs and concerns of smaller states like Mizoram be carefully considered. He advocated maintaining status quo on this matter.

13.17 The Hon'ble Member from Puducherry explained that in accordance with directives from the Ministry of Civil Aviation, Puducherry levies only a 1% tax on ATF. He further suggested that continuing ATF under the VAT regime would facilitate the development of both the tourism and civil aviation sectors at the state level.

13.18 The Secretary stated that the guidance received from the Council has been noted.

Decision: The guidance received from the Members of Council was noted.

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14. Agenda Item 13. Any other issue with the permission of the Chair:

14.1 The Secretary stated that during the Officers' meeting the previous day, the officer from Andhra Pradesh had put forth a request that they might be permitted to use a provision in the SGST Act, 2017 to levy 1% cess in the light of floods that the State had faced and the proposal also included levy on intra-state B2B supplies. It was discussed that some guidelines are required to be evolved and further deliberations are required. He sought the permission of the Chair for the request of the State of Andhra Pradesh to be presented before the Council.

14.2 The Hon'ble Member from Andhra Pradesh put forth a request to allow a levy of cess of 1% on GST as 'Andhra Pradesh Flood Reconstruction and Rehabilitation Cess' for a period of two years.

14.3 The Hon'ble Member from Andhra Pradesh stated that the proposal was to allow the State of Andhra Pradesh to levy a cess of 1% on GST as 'Andhra Pradesh Flood Reconstruction and Rehabilitation Cess' for a period of two years. He stated that there has been a disaster due to floods caused by a massive cloud burst in the State of Andhra Pradesh during August and September 2024. There has been severe damage, and it is estimated that around Rs.15,000 crores are required to restore the State to normalcy. He further stated that the towns and fields in Andhra Pradesh had remained inundated for nearly 10 - 12 days. The people of the state had seen an unprecedented suffering and that there is an immediate requirement of resources to alleviate their suffering. He also stated that the financial situation of the State does not permit the allocation of resources. Further, the legacy of unjust bifurcation of the state had led to inheritance of huge financial liabilities and that they do not have any other way to mobilise the resources in a short term. He also recalled that the GST Council in its 32nd meeting had allowed the state of Kerala to levy a state-specific disaster cess on the intra-state supply of goods and services at 1% for a period of 2 years when the state had faced a similar situation in 2018 due to floods.

14.4 The Hon'ble Member requested to consider the situation of the state on similar lines and urged the Council to allow the state of Andhra Pradesh to levy and collect a state specific flood cess at the rate of 1% on the supplies made within the state for a period of 2 years. Referring to the concerns expressed in the Officers' meeting on levy of cess on B2B supplies, he stated that levying cess for a longer period on B2B supplies would not only lead to export of taxes but may also lead to shifting of tax base which would not be in their interest. Their studies shows that the impact will be very minimal as the entire ambit of the planned tax is within the state. He reiterated his request to permit to levy and collect cess on GST at the rate of 1% and that any suggestions from other states for similar levy may be debated subsequently as their requirement is of an urgent nature.

14.5 The Hon'ble Member from Uttar Pradesh stated that the request of the Hon'ble Minister of Andhra Pradesh may be accepted on humanitarian grounds in view of the circumstances explained by him. Earlier also when a similar request had come from the State of Kerala, they were allowed to levy a cess of 1% on intra-state transactions for 2 years. He however felt that this should not be a matter of right and that a mechanism may be developed for addressing such issues.

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14.6 The Hon'ble Member from Karnataka stated that he supported the request of the state of Andhra Pradesh and that the state had faced natural challenges in addition to structural challenges. He also suggested that this decision should be the outcome of policy discussion rather than vide ad hoc mechanism, as pointed out by the Hon'ble Member from Uttar Pradesh. There should be triggers at which a state could be allowed to take advantage of this policy and a structure devised on what could be covered and what could not be covered in this. He further stated that a considered option must be available to states regarding when there is a genuine need and what should be done, what should not be done, whether it should be B2B or B2C and for which sectors etc. for levy of cess in case of natural disasters. Some thought out structure has to be made available so that there is no cascading effect on the stake holders and on the neighbouring states or the trading states. However, as evolving a mechanism may take time and that may not really solve the problem of Andhra Pradesh, they may be allowed to levy 1% cess on GST for the time being.

14.7 The Hon'ble Member from Kerala stated that they were in support of the demand of Andhra Pradesh. He also stated that the Council had allowed the State of Kerala to collect flood cess on B2C transactions and that it was very helpful. Observing that only 1% is allowed under the GST system as a cess, he stated that the states are better judges of their own economic aspects.

14.8 The Secretary pointed out that the proposal is for levy of 1% cess for B2B transactions. This has an impact of exporting the cess and this was discussed in the Officers' meeting yesterday.

14.9 While supporting the proposal from the State of Andhra Pradesh, the Hon'ble Member from Telangana stated that natural calamities are unexpected and states are generally not prepared for such situations. He stated that both Telangana and Andhra Pradesh had faced the floods. He requested to include Telangana also in the proposal and allow them to levy a cess of 1%.

14.10 The Hon'ble Member from Punjab supported the proposal of Andhra Pradesh and also stated that such calamities happen anywhere and hence, a separate mechanism or policy as suggested by the Hon'ble Member from Karnataka may be evolved.

14.11 The Hon'ble Member from Himachal Pradesh stated that he supported the request of Andhra Pradesh. He further stated that they also have similar request as they have incurred severe loss in the current and previous year due to floods, landslides, cloudbursts etc. He stated that the state of Himachal Pradesh was located in the seismic zone 4 & 5. He requested to frame some SOPs and that till then, they may also be allowed to impose 1% cess on GST for rehabilitation and reconstruction purpose.

14.12 The Hon'ble Member from West Bengal stated that she appreciated the agony of Andhra Pradesh. It was a severe flood and that their State also had experienced such floods. However, she felt that cess may not fall within the ambit of State collections i.e. the States cannot collect cess. Cess collections may be legally only in the hands of the Central Government. She also stated that though the State of Kerala was earlier allowed to levy 1% cess on GST for flood rehabilitation, now thinking prospectively, the legal aspect has to be looked into whether levy of Cess by a State is permissible. If so, then the state of West

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Bengal would also be demanding, not as a matter of right but if they experience such floods. She felt that the nomenclature 'cess' can be changed but the GST Council cannot supersede what is there in the statute. Hence, she requested that the legal aspect may be looked into.

14.13 The Hon'ble Member from Madhya Pradesh stated that, they supported the proposal given by Andhra Pradesh and that a policy for natural disasters should be devised for future.

14.14 The Secretary stated that this is a complicated matter. Several states have faced such challenges which cannot be foreseen and at the same time there has to be some orderliness or a policy on how to handle such issues. The matter cannot be decided without deep examination on the impact it would have on the taxpayers in that State as well as what impact it will have on the entire GST chain. He stated that the strength of GST is its uniform procedure, uniform rate, and that if at any point of time there are different cesses operating in different states, then that creates a very complicated system like that in the pre-GST era. Hence, having done a huge reform with the partnership of all States and Govt of India, we should not move in a direction which we decided to leave for good. Solutions have to be found for the problems of individual states while not creating problems for the structure of GST. He further reiterated the suggestion in the Officers' meeting that help can be provided in other ways also and that at this point of time these concerns are taken note of and that a better way of addressing every problem of calamity must be found. He also stated that the officers would mull over the guidance provided by the Members and then come back after discussions on this aspect.

14.15 The Hon'ble Member of Andhra Pradesh stated that he thoroughly understood what the Secretary was saying and that GST is in fact a one nation one tax and if the consequences are to be thought about, then the state of Kerala is one example. He again requested the Council to permit the levy of cess on GST which can be a case study for consequences etc. He again requested for permission keeping in view the urgent nature of the issue.

14.16 The Hon'ble Member from Jharkhand, while supporting the proposal from Andhra Pradesh, stated that it must be made clear regarding which subjects will come under the category of disaster and whether the drought affected state or district will also fall under the category.

14.17 The Hon'ble Chairperson stated that Andhra Pradesh had requested to make a presentation on the issue before the Council, however, taking Sikkim as a precedent, Andhra Pradesh had been requested to mention the issue. She further stated that there is a difference between the cases of Andhra Pradesh and Kerala- minor in terms of definition but major in terms of tax repercussions. In the case of Kerala, only B2C supplies were covered, however, Andhra Pradesh's request is for all supplies including B2B supplies as well. She also stated that the Council is answerable for every taxpayers' money that was collected. She further stated that there were requests from other States also and that the Council has to make a clear decision on what it wants and let there not be ambiguity on whether to entertain the request of Andhra Pradesh for levy of cess on B2B supplies also, or whether the decision is to follow Kerala model and whether the requests of other States

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will also be considered. She requested the Council not to allow ad-hocism and take the decision with a discerning mind.

14.18 The Hon'ble Member from Karnataka stated that he agreed with the view of the Hon'ble Chairperson and the Secretary, and that calamities should be covered and that there should not be adhocism. He also agreed that Kerala is a tested example and deviating from that would also mean that the issue must be deliberated, which would delay and not help the state of Andhra Pradesh. He further stated that if Andhra Pradesh is willing to follow Kerala model then it will be rightful to allow Andhra Pradesh also. He reiterated that a proper structure needs to be evolved regarding how the cess would be administered, when will be the expiry and what are the triggers etc.,

14.19 The Hon'ble Member from Himachal Pradesh stated that theirs is a smaller state and their request also should be addressed and they also must be allowed to levy cess on GST for rehabilitation and reconstruction of landslide and flood affected areas.

14.20 The Hon'ble Chairperson stated that when Kerala requested to be allowed to levy cess in 2018, the proposal was initially sent to a GoM and the GoM went through it and came back with recommendations to the Council which were agreed to by the Council and it got notified subsequently.

14.21 Additional Secretary, DoR stated that it was implemented based on the recommendations of a Group of Ministers formed for this purpose.

14.22 The Hon'ble Chairperson stated that the template of Kerala included this process and that template had not been at that time suggested as the template to be followed by any State which subsequently has had a similar experience and would want to have that 1% cess levied. She however, suggested that the Council is duty bound to follow its own rules and laid procedures. She further suggested that a Group of Ministers (GoM) be formed as quickly as possible and that the GoM shall take up this matter, take up every request from the States and include every state which would want to join in now and then decide on the procedure or template to be followed and come back to the Council with its recommendations. She then invited comments from the Council members.

14.23 The Hon'ble Members from Telangana, Uttar Pradesh, Punjab and West Bengal supported the suggestion to form a GoM to take a call on this issue.

14.24 The Hon'ble Member from Andhra Pradesh stated that he was only trying to make it clear that even if the cess is allowed to be collected on B2B transactions, it is confined only within the state. He agreed that the GST council is duty bound and ultimately responsible to the people. He stated that the Council cannot deviate from any rule and that the suggestions of the Hon'ble Chairperson are taken in the right spirit. He further requested that if the decision is taken in a time bound manner, it would be helpful for the State.

14.25 The Hon'ble Member from Mizoram stated that Andhra Pradesh has come up with the request to take 1% on GST on B2B transactions and that as per the report that was presented, collection of Andhra Pradesh from April to November was around Rs. 21,000 crore and so even taking liberal approach on this, even if it is Rs.10,000 crore, 1% of that will be only around Rs. 100 crore. As per the estimates, the disaster was expected to the

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tune of around Rs. 6,880 crore. He further stated that the amount involved is very small and hence supported the request of Andhra Pradesh. He also stated that this gesture will show that the States irrespective of political affiliations can stand together in the face of disaster.

14.26 The Secretary requested that apart from the amount involved, there are legal and structural issues that have to be looked in to and hence, it is better that a GoM analyse these issues. The case of Kerala was different as they are a high consumption state in view of large remittances coming into the State. He further stated that there is no precedent in the Council where the request from a state for legislative action is taken just based on a request from the states without deep examination. He also stated that a GoM can get into those issues which can consider the request of Andhra Pradesh as well as any other State and what the GoM is going to recommend is left thereafter to the GoM: whether a policy approach or single issue approach or an ad hoc approach, but the deliberations by a GoM are very much required as was done in 2018.

14.27 The Hon'ble Members from Uttar Pradesh, West Bengal and Telangana requested that they may be included in the GoM to be formed to discuss the issue.

14.28 The Hon'ble Chairperson stated that any State which wanted to volunteer can be included in the GoM.

Decision: The Council approved the constitution of a Group of Ministers to examine the legal and structural issues and recommend a uniform policy on imposition of levy in case of a natural disaster/calamity in the State.

15. The Secretary thanked the Hon'ble Chairperson and all the Hon'ble Members for a very fruitful discussion on the agenda items.

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Annexure-I

List of Hon'ble Ministers from States/UTs who participated in the 55th Meeting of the GST Council held on 21st December, 2024

S. No.	Name of States	Name of Hon'ble Ministers/ Member of GST Council	Designation of Hon'ble Ministers/Member of GST Council
1	GOI	Smt. Nirmala Sitharaman	Union Finance Minister
2	GOI	Shri Pankaj Chaudhary	Minister of State for Finance
3	Andhra Pradesh	Shri Payyavula Keshav	Minister for Finance, Planning, Commercial Taxes and Legislative affairs
4	Arunachal Pradesh	Shri Chowna Mein	Deputy Chief Minister / Finance Minister
5	Assam	Smt. Ajanta Neog	Finance Minister
6	Bihar	Shri Samrat Choudhary	Deputy Chief Minister (Commercial Tax Minister)
7	Chhattisgarh	Shri O.P. Choudhary	Minister of Finance and Commercial Tax
8	Goa	Dr. Pramod P Sawant	Chief Minister/Finance Minister
9	Gujarat	Shri Kanubhai Desai	Minister for Finance
10	Haryana	Shri Nayab Singh	Chief Minister
11	Himachal Pradesh	Shri Rajesh Dharamani	Minister of Technical Education
12	Jammu &Kashmir	Shri Omar Abdullah	Chief Minister (Minister In-charge Finance department)
13	Jharkhand	Shri Radha Krishna Kishore	Minister for Finance / Commercial Tax Department
14	Karnataka	Shri Krishna Byre Gowda	Minister for Revenue
15	Kerala	Shri K N Balagopal	Minister for Finance
16	Madhya Pradesh	Shri Jagdish Devda	Deputy Chief Minister, Minister of Finance, Commercial Tax, Planning, Economics and Statistics

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17	Maharashtra	Ms. Aditi Tatkare	Minister for Women and Child Development
18	Manipur	Dr. Sapam Ranjan Singh	Minister for Medical, Health & Family Welfare Department and Publicity & Information Department
19	Meghalaya	Shri Conrad K Sangma	Chief Minister
20	Mizoram	Dr. Vanlalthlana	Minister for Taxation, School Education, Higher & Technical Education
21	Odisha	Shri Mohan Charan Majhi	Chief Minister
22	Puducherry	Shri K. Lakshmi Narayanan	Minister for Public Works
23	Punjab	Shri S. Harpal Singh Cheema	Finance Minister
24	Rajasthan	Shri Gajendra Singh	Minister for Medical and Health Services
25	Tamil Nadu	Shri Thangam Thennarasu	Minister for Finance and Environment and Climate Change.
26	Telangana	Shri Mallu Batti Vikramarka	Deputy Chief Minister and Minister for Finance
27	Tripura	Shri Pranajit Singha Roy	Finance Minister
28	Uttar Pradesh	Shri Suresh Kumar Khanna	Minister Finance & Parliamentary Affairs
29	Uttarakhand	Shri Premchand Aggarwal	Finance Minister
30	West Bengal	Smt. Chandrima Bhattacharya	Finance Minister

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Annexure – 2

List of Officers from Centre and the States/UTs who participated in the 55th Meeting of the GST Council held on 21st December, 2024

S. No.	Name of State/CBIC/ GSTC/GOI/GSTN/DoR/ TRU/Policy Wing	Name of Officers	Designation
1	DoR	Shri Ajay Seth	Revenue Secretary
2	CBIC	Shri Sanjay Kumar Agarwal	Chairman
3	CBIC	Shri Shashank Priya	Member (GST)
4	CBIC	Shri Vivek Ranjan	Member (Tax Policy)
5	CBIC	Shri Surjit Bhujabal	Member (CM)
6	DoR	Shri Vivek Aggarwal	Additional Secretary (Revenue)
7	GST Council Secretariat	Shri Pankaj Kumar Singh	Additional Secretary
8	DGGST (CBIC)	Ms. Seema Arora	Pr. Director General
9	GST Policy Wing	Shri Gaurav Singh	Commissioner
10	TRU	Ms. Limatula Yaden	Joint Secretary
11	TRU	Shri Sachin Jain	Joint Secretary
12	DoR	Shri Naval Kishore Ram	Joint Secretary (Revenue)
13	DoR	Shri Balasubramanian Krishnamurthy	Joint Secretary (TPRU / DoR)
14	GST Council Secretariat	Ms. B. Sumidaa Devi	Joint Secretary
15	GSTN	Shri Alok Kumar	EVP, Services
16	GST Council Secretariat	Dr. Shaifali G. Singh	Director
17	GST Council Secretariat	Shri Anil Kumar	Deputy Secretary
18	DoR	Shri Vikash Kumar	Deputy Secretary (State Taxes, DoR)
19	TRU	Dr. Puneeta Bedi	Director
20	TRU	Ms. Amreeta Titus	Deputy Secretary

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21	TRU	Shri Satvik Dev	OSD
22	GST Policy Wing	Ms. Kangale Shrunkhala Motiram	Deputy Secretary
23	GOI	Shri Anirudh Shravan	PS to Union FM
24	GOI	Shri Ankit Jalan	Addl. PS to Union FM
25	GOI	Shri Sernya Bhutia	Addl. PS to Union FM
26	GOI	Shri Rishirendra Kumar	PS to MoS
27	GOI	Shri Alkesh Uttam	OSD to MoS
28	DoR	Shri Deepak Kapoor	OSD to RS
29	CBIC	Shri Aditya Bhardwaj	OSD to Chairman
30	GST Policy Wing	Ms. Saumya Gupta	Deputy Commissioner
31	GST Policy Wing	Ms. Sakshi Garg	Deputy Commissioner
32	GST Policy Wing	Shri Prashant Sharma	Assistant Commissioner
33	GSTN	Shri Mohammad Saim	VP
34	TRU	Shri Nitish Karnatak	OSD
35	TRU	Shri Dilmil Singh Soach	Under Secretary
36	TRU	Shri Stanzin Wangyal	OSD
37	GSTN	Shri Naveen Agrawal	OSD to CEO
38	PIB	Ms. Nanu Bhasin	ADG (M&C)
39		Shri Kush Mohan Nahar	Assistant Director (M&C)
40	GST Council Secretariat	Ms. Reshma R Kurup	Under Secretary
41		Ms. P. R. Reshma	Under Secretary
42		Ms. Swati Nokhwal	Deputy Commissioner
43		Shri Anil Kumar Moria	Deputy Commissioner
44		Shri Vineet Kumar	Superintendent
45		Shri Mohan Lal	Superintendent
46		Shri Sandeep Kumar	Superintendent
47		Shri Himanshu Bhardwaj	Superintendent
48		Shri Anand Singh	Inspector
49		Shri Karan Arora	Assistant Section Officer

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50	Andhra Pradesh	Shri Peeyush Kumar	Principal Secretary, Finance (CT)
51		Shri Babu.A	Chief Commissioner of State Taxes
52		Shri K. Ravi Sankar	Commissioner of State Taxes
53		Shri M. Jayakrishna	OSD to Hon'ble Minister for Finance
54	Arunachal Pradesh	Ms. Y.W. Ringu	Commissioner (Finance, Tax & Excise)
55		Shri Lobsang Tsering	Commissioner of State Taxes
56	Assam	Shri Pallav Gopal Jha	Principal Commissioner of State Tax
57		Shri Md. Shakeel Saadullah	Special Commissioner of State Tax
58	Bihar	Shri Sanjay Kumar Singh	Commissioner- cum-Secretary, Commercial Taxes Department
59		Shri Krishna Kumar	Joint Secretary, Commercial Taxes Department
60	Chhattisgarh	Shri Mukesh Bansal	Secretary, Finance and Commercial Tax
61		Shri Pushpendra Kumar Meena	Commissioner of State Taxes
62	Delhi	Ms. Chanchal Yadav	Commissioner of State Taxes
63		Shri S.K Singh	Special Commissioner of State Taxes
64	Goa	Shri S. S. Gill	Commissioner of State Taxes
65		Shri Upendra Joshi	OSD to Hon'ble CM
66		Shri Vishant S. N. Gaunekar	Addl. Commissioner of State Taxes (HQ)
67	Gujarat	Dr. T. Natarajan	Principal Secretary, Finance Department

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68		Shri Rajeev Topno	Chief Commissioner of State Taxes
69		Shri Milind Kavatkar	Joint Commissioner
70	Haryana	Shri Devinder Singh Kalyan	Principal Secretary
71		Shri Harsh Singh	Additional Excise & Taxation Commissioner
72	Himachal Pradesh	Dr Yunus	Commissioner of State Taxes and Excise
73		Shri Rakesh Sharma	Addl. Commissioner of State Tax and Excise
74	Jammu & Kashmir	Shri Santosh D. Vaidya	Principal Secretary
75		Shri P.K Bhat	Commissioner, State Taxes Department
76	Jharkhand	Shri Ameet Kumar	Commissioner of Commercial Taxes
77		Shri Brajesh Kumar	Assistant Commisioner
78	Karnataka	Shri Vipul Bansal	Commissioner of Commercial Taxes
79		Shri Meghannavar R D	Addl. Commissioner of Commercial Taxes.
80	Kerala	Dr.A.Jayathilak	Additional Chief Secretary
81		Shri Patil Ajit Bhagwatrao	Commissioner of State Taxes
82		Shri Abraham Renn S	Special Commissioner
83	Madhya Pradesh	Shri Dhanaraju S	Commissioner, Commercial Taxes
84		Shri Manoj Kumar Choubey	Addl. Commissioner, Commercial Taxes
85	Maharashtra	Ms. Shaila A	Secretary Financial Reforms
86		Shri Asheesh Sharma	Commissioner of State Taxes
87	Manipur	Ms. Mercina R. Panmei	Commissioner of Taxes

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88		Shri Y. Indrakumar Singh	Joint Commissioner of Taxes
89	Meghalaya	Shri Ramakrishna Chitturi	Commissioner of Taxes
90		Shri V. R Challam	Joint Commissioner of Taxes
91	Mizoram	Shri R. Zosiamliana	Commissioner of State Taxes
92		Shri H.K. Lalhawngliana	Addl. Commissioner of State Taxes
93	Nagaland	Shri Abhinay Shivam	Commissioner of State Taxes
94		Shri N. Areni Patton	Addl. Commissioner of State Taxes
95		Smt. Tokatoli Sohe	Deputy Commissioner of State Taxes
96	Odisha	Shri Saswat Mishra	Principal Secretary
97		Ms. Yamini Sarangi	Commissioner of Commercial Taxes
98		Shri Nihar Ranjan Nayak	Addl. Commissioner of Commercial Taxes
99	Puducherry	Shri M. Adharsh	Dy. Commissioner of State Taxes
100		Ms. S. Rewathi	Assistant Commissioner (A&I) of State Taxes
101	Punjab	Shri Varun Roojam	Commissioner of State Taxes
102		Shri HPS Ghotra	Additional Commissioner of State Taxes
103	Rajasthan	Dr Ravi Kumar Surpur	Secretary , Finance (Revenue)
104		Shri Prakash Rajpurohit	Chief Commissioner
105		Shri Rajeev Kumar	Additional Commissioner
106	Sikkim	Shri Manoj Rai	Commissioner, Commercial Taxes
107	Tamil Nadu	Shri Brajendra Navnit	Principal Secretary, Commercial Taxes and Registration Department

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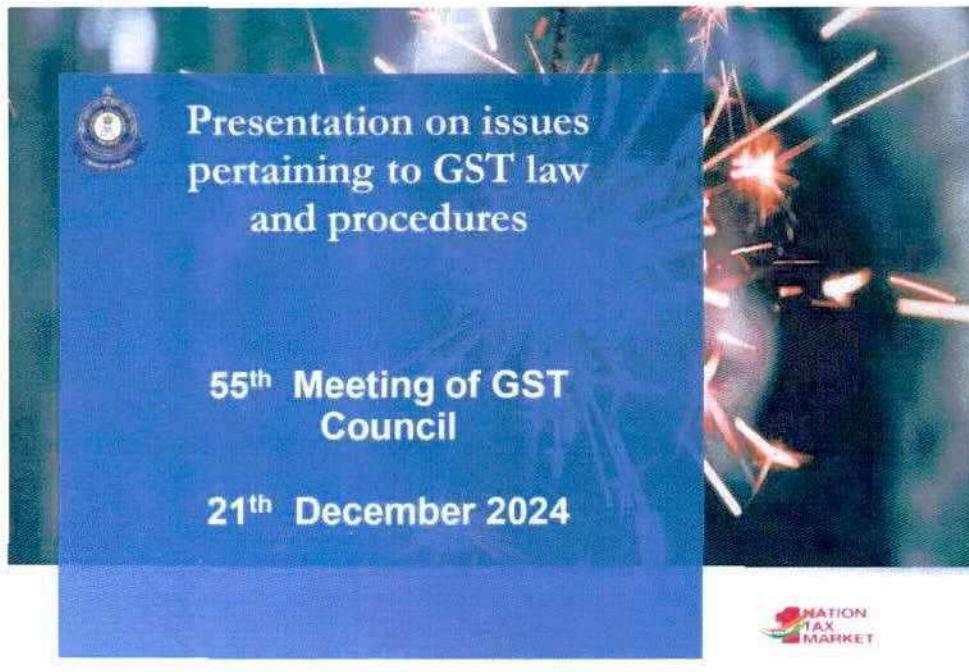


108		Dr. D. Jagannathan	Commissioner of Commercial Taxes
109		Shri Subash Chandra Bose	Additional Commissioner P & PR
110		Shri S. E. Prabhu	Deputy Commissioner P & P
111	Telangana	Shri S.A.M Rizvi	Principal Secretary and Commissioner (CT)
112		Shri K. Ravi	Joint Commissioner (ST) Policy
113	Tripura	Shri Vivek H.B.	Chief Commissioner of State Taxes
114		Shri Ashin Barman	Assistant Commissioner of State Taxes
115	Uttar Pradesh	Shri M Devaraj	Principal Secretary
116		Dr. Nitin Bansal	Commissioner, State Taxes
117		Shri Paritosh Kumar Mishra	Deputy Commissioner (GST)
118	Uttarakhand	Dr. Ahmed Iqbal	Commissioner State Taxes
119		Shri Anil Singh	Additional Commissioner, State Taxes
120		Shri Anurag Mishra	Joint Commissioner State Taxes
121	West Bengal	Shri Prabhat Kumar Mishra	Additional Chief Secretary, Finance
122		Shri Devi Prasad Karanam	Commissioner of Commercial Taxes
123		Shri Santanu Naha	OSD to Hon'ble Member
124		Shri Rajib Sengupta	Additional Commissioner

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Annexure-3



Ratification of Notifications and Circulars

CHAIRMAN'S
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Agenda 02: Ratification of Notifications, Circulars etc. (1/1)

[Vol 1- Pg. 178-189]

Act/ Rules	Notifications/Circulars Nos.	Status during Officers Meeting
CGST Act/U TGST Act/ CGST Rules	<p>Thirteen (13) Central Tax Notifications issued [No. 17/2024 to 30/2024 & S.O. 5063(E)]</p> <p>Five (05) Central Tax (rate) Notification issued (No. 05/2024 to 09/2024)</p> <p>Five (05) Union Territory Tax (rate) Notifications issued (No. 05/2024 to 09/2024)</p> <p>Five (05) Integrated Tax (rate) Notifications issued (No. 05/2024 to 09/2024)</p> <p>Nine (09) Circulars issued (Circular No. 250/24/2024-GST dated 11.09.2024 to Circular No. 238/32/2024-GST dated 15.10.2024)</p>	Agreed

**Summary of discussions on
Agendas in Officers' Meeting held on
20th December 2024**

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Agenda No	Issue/Proposal	Status during Officers Meeting
3(i) [Vol. I Pg. 190 196]	<ul style="list-style-type: none"> Amendment in Section 17(5) (d) of CGST Act, 2017 consequent to judgement of Hon'ble Supreme Court dated 03.10.2024 in the case of M/s Safari Retreats Pvt. Ltd. Retrospective amendment in clause (d) of Section 17(5) of the CGST Act, 2017, with effect from 01.07.2017, to replace the phrase "plant or machinery" in the said clause with the phrase "plant and machinery". The said amendment may be done notwithstanding anything to the contrary contained in any judgment, decree or order of any court or any other authority. 	Agreed

Agenda No	Issue/Proposal	Status during Officers Meeting
3(ii) [Vol. I Pg. 197 201]	<ul style="list-style-type: none"> Amendment in Schedule III of the CGST Act regarding supply of goods warehoused in a FTWZ/SEZ before clearance to DTA/ for Exports Clause (aa) may be inserted in paragraph 8 of Schedule III of CGST Act, 2017 w.e.f. 01.07.2017, to provide that the supply of goods warehoused in a SEZ or in a FTWZ to any person before clearance for exports or to the DTA shall be treated neither as supply of goods nor as supply of services. Explanation 5 may be inserted in Schedule III of CGST Act, 2017 to define the terms 'Special Economic Zone', 'Free Trade Warehousing Zone' and 'Domestic Tariff Area'. Consequential change may be made in Explanation 2 of Schedule III of CGST Act, 2017. No refund to be admissible in respect of any tax which has already been paid in respect of transactions/supplies covered under Entry 8(aa) of Schedule III of CGST Act before the said amendment is notified. 	Agreed

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Agenda No	Issue/Proposal	Status during Officers Meeting
3(iii) [Vol. 1 Pg. 202 2017]	<ul style="list-style-type: none"> ▪ Amendment in CGST Act, 2017 for incorporation of provisions relating to Track and Trace Mechanism for specified commodities ▪ Insertion of an enabling provision in CGST Act through section 148A so as to empower the Government to bring in Track and Trace Mechanism for specified commodities ▪ Insertion of the definition of Unique Identification Marking under section 2 of the CGST Act, 2017 by inserting a clause (112B) in the said section. ▪ Insertion of a new section 122B in the CGST Act, 2017 to provide for penal provisions for failure to comply with the provisions of Track and Trace mechanism in respect of the specified commodities 	<u>Agreed.</u>

Agenda No	Issue/Proposal	Status during Officers Meeting
3(iv) [Vol. 1 Pg. 208 220]	<ul style="list-style-type: none"> ▪ Amendment in section 9(5) of Central Goods and Services Act, 2017 for providing clarity regarding determination of tax liability of the electronic commerce operator in respect of specified services. ▪ Section 9(5) of CGT Act, 2017 may be prospectively amended to cover various types of business models being followed by ECOs in respect of supply of such specified services. ▪ Similar amendments required in section 5(5) of IGST Act, 2017 and section 7(5) of the UTGST Act, 2017 as well as in various State GST Acts 	<p><u>Kerala requested for differential treatment based on say the cash flow pattern and the role of the ECO in price determination. It gave example of a Government launched app named 'Kerala savaari', which only connects the suppliers and recipients but does not charge any commission or partakes in pricing of service.</u></p> <p><u>West Bengal sought differential treatment to a similar app 'Yatri sathi' managed by the Government of West Bengal.</u></p> <p><u>Maharashtra objected to the proposal as it felt that there is no end to new models emerging and statute being amended only to tax the same does not appear to be right way of approaching the issue.</u></p> <p><u>In light of the concerns raised it was recommended to defer the proposal to be deliberated further.</u></p>

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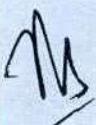


MINUTE BOOK

Agenda No	Issue/Proposal	Status during Officers Meeting
3(v) [Vol 1 Pg 221 22] [Vol 1 Pg 221 22]	<ul style="list-style-type: none"> Clarification regarding requirement of reversal of input tax credit by electronic commerce operators in respect of supplies made under section 9(5) of CGST Act, 2017. To issue a circular clarifying that: <p>ECOs are required to pay the full tax liability on account of supplies under section 9(5) of the CGST Act, 2017 only through electronic cash ledger.</p> <p>ECOs may avail ITC in relation to the inputs and input services used to provide supplies on their own account and can utilize the same to discharge their tax liability on such supplies.</p> <p>No proportional reversal of such ITC under section 17 (1) of section 17 (2) is required to be made by the ECO in respect of supplies for which they are required to pay tax under section 9(5) of CGST Act.</p> 	<u>Agreed.</u>

Agenda No	Issue/Proposal	Status during Officers Meeting
3(vi) [Vol 1 Pg 228 22] [Vol 1 Pg 228 22]	<ul style="list-style-type: none"> Amendment in Rule 89 of CGST Rules, 2017 for providing the scope and computation of the refund on account of inverted duty structure as provided in sub-section (3) of section 54 of CGST Act, 2017. New sub-rule (6) of rule 89 may be inserted to provide for formula for calculation of refund of accumulated ITC on account of inverted duty structure in above to clearly provide that such ITC, accumulated due to subsidies, is not monetized by claiming a refund. The existing Explanation after sub-rule (5) of rule 89 of CGST Rules, 2017 may be omitted. New Explanation may be inserted after sub-rule (6) of rule 89 so as to clarify the terms provided in the formula provided in sub-rule (5) and sub-rule (6) of rule 89 of CGST Rules, 2017. 	<p><u>The officers were of the view that the proposal may have larger economic implications, such as impact on prices, subsidy bill etc.</u></p> <p><u>Accordingly, it was recommended that the proposal may be deferred for comprehensive examination of the matter.</u></p>

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Agenda No	Issue Proposal	Status during Officers Meeting
3(vii)(I) [Vol 1 Pg. 235 239]	<ul style="list-style-type: none"> ▪ Amendment in section 107(6) and section 112(8) of CGST Act, 2017 to provide for payment of pre-deposit for filing an appeal in respect of an order passed which involves only penalty amount. ▪ Amendment in the proviso to section 107(6) of CGST Act and insertion of a proviso in section 112(8) of CGST Act, 2017 to provide for the requirement of pre-deposit of ten percent of the penalty amount for filing an appeal before Appellate Authority and Appellate Tribunal respectively. ▪ Consequential amendments to be made in the FORM APL-01 and FORM APL-05 	<u>Agreed</u>

Agenda No	Issue Proposal	Status during Officers Meeting
3(viii)(II) [Vol 1 Pg. 240 245]	<ul style="list-style-type: none"> ▪ Agenda regarding removal of levy of late fee under sub-section (1) of section 47 of the CGST Act, 2017 in respect of furnishing of details of outward supplies in FORM GSTR-1. ▪ Amendment in section 47(1) of CGST Act to dispense with the late fee for delayed filing of details of outward supplies in FORM GSTR-1 	<p>▪ Tamil Nadu and Telangana opposed the proposal citing that removal of levy of late fee on FORM GSTR-1 may affect the discipline in filing of FORM GSTR-1, which will affect the passing of ITC to the recipients.</p> <p><u>Accordingly, it was recommended that the proposal may be revisited.</u></p>

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Agenda No	Issue/Proposal	Status during Officers Meeting
3(vii)(III) [Vn61] Pg. 244 245]	<ul style="list-style-type: none"> ▪ Amendment in Section 2(69)(c) of CGST Act, 2017 to insert an Explanation regarding definitions of Local Fund and Municipal Fund. ▪ Amendment in clause(c) of section 2(69) of CGST Act, 2017 and to insert an Explanation after the aforesaid clause to provide for definitions of the terms 'Local Fund' and 'Municipal Fund' used in the said clause 	<u>Agreed</u>

Agenda No	Issue/Proposal	Status during Officers Meeting
3(vii)(IV) [Vn61] Pg. 245 247]	<ul style="list-style-type: none"> ▪ Agenda for Amendment in provisions pertaining to Input Services Distributor mechanism under CGST Act, 2017 and CGST Rules, 2017.. ▪ To amend Section 2(61) and Section 20(1) of the CGST Act, 2017, to explicitly include inter-state RCM transactions under the ISD mechanism, by including supplies (under section 5(3) and 5(4) of IGST Act, 2017) in the said provisions. ▪ Consequential amendment may also be made in section 20(2) of CGST Act, 2017 and Rule 39(1A) of the CGST Rules, 2017. ▪ That amendments in Section 2(61) and Section 20 of the CGST Act, 2017 may be made with effect from 01.04.2025, i.e. the date on which amendments in section 2(61) and section 20 of CGST Act, 2017 made through Finance Act of 2024 (No. 8 of 2024) will come into effect 	<u>Agreed</u>

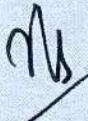
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Agenda No.	Issue/Proposal	Status during Officers Meeting
3(viii)(I) [Vol. I Pg. 248 155]	<ul style="list-style-type: none"> ▪ Provision for grant of Temporary Identification Number by Tax Officers to persons not liable to be registered otherwise. ▪ Insertion of a new rule 16A in CGST Rules, 2017 to provide for a separate provision for generation of temporary identification number for such persons, so as to discharge their liabilities, without getting themselves registered ▪ Amendment in FORM GST REG-12 for this purpose. 	<u>Agreed</u>

Agenda No.	Issue/Proposal	Status during Officers Meeting
3(viii)(II) [Vol. I Pg. 258 257]	<ul style="list-style-type: none"> ▪ Agenda for allowing amendment in the field 'category of registered person' for taxpayers who opted for composition levy through FORM CMP-02. ▪ Amendment may be made in sub-title (1) of rule 19 of CGST Rules, 2017 to allow non-core amendment of "Category of registered person" by composition taxpayers in cases where they had opted for Composition Scheme through FORM CMP-02 	<u>Agreed</u>

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Agenda No	Issue Proposal	Status during Officers Meeting
3(vi) ii)(I II) [Vol. 11 Pg. 252 261] [2017]	<ul style="list-style-type: none"> ▪ Agenda on requirement of signature or digital signature of the supplier or his authorized representative in respect of e-invoice. ▪ Amendment in fourth proviso to rule 46 of the CGST Rules, 2017 to dispense with the requirement of signature or digital signature by the supplier or his authorized representative in respect of an invoice which is issued in the manner prescribed in subrule (4) of rule 48 of the CGST Rules, 2017. 	<ul style="list-style-type: none"> ▪ <u>Odisha supported the proposal on the grounds that the IRN contains the key details of an invoice.</u> ▪ <u>Tamil Nadu and Telangana opposed the proposal on the grounds that the fake bill traders may misuse the facility.</u> ▪ Kerala agreed to the proposal in-principle, but suggested <u>that a middle path may be considered keeping in view the ease of doing business, especially for small taxpayers, as well as to address the concerns of misuse of the proposed exemption.</u> Gujarat was also in agreement with Kerala's view and proposed that the issue may be further deliberated upon. ▪ <u>It was also suggested to examine the proposal for consistency with the Information Technology Act and admissibility in court for such e-invoices.</u> <p><u>Accordingly, it was recommended to deliberate the issue further.</u></p>

Agenda No	Issue Proposal	Status during Officers Meeting
3(ix) [Vol. 11 Pg. 262 2017] [2017]	<ul style="list-style-type: none"> ▪ Clarification on availability of Input tax credit as per clause (b) of sub-section (2) of section 16 of CGST Act in respect of goods which have been delivered by the supplier at his (supplier's) place of business. ▪ To clarify through a circular that wherever the contract between the supplier and recipient is an Ex-Works (EXW) contract, the said goods can be construed to have been "received" by the recipient at the time of handing over the said goods to the recipient or the transporter, as the case may be, as per provisions of section 16(2)(b) of CGST Act and the said recipient may avail the ITC on such goods, subject to fulfilment of other conditions stipulated in section 16 and section 17 of the CGST Act. 	<u>Agreed.</u>

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Agenda No	Issue/Proposal	Status during Officers Meeting
3(x) [Vol 1 Pg 270 201]	<ul style="list-style-type: none"> Clarification regarding mentioning of correct details of name of the State of the unregistered recipient as well as correct declaration of place of supply in respect of supply of 'Online Services' To clarify to mandatorily record the name of the State of the unregistered recipient on the tax invoice, in accordance with proviso to rule 46(l) of CGST Rules, in cases of online services specified in the aforesaid proviso. 	<u>Agreed.</u> <p>However, Maharashtra mentioned that the issue would be addressed better through amendment of the IGST Act.</p> <p>Accordingly, it was recommended that the proposal of issuing a circular may be approved and it was suggested that the need to amend Act/Rules in the future may be further deliberated.</p>

Agenda No	Issue/Proposal	Status during Officers Meeting
3(xi) [Vol 1 Pg 278 201]	<ul style="list-style-type: none"> Issues pertaining to taxability of Vouchers under GST. To issue circular in respect of the said issues to provide clarity and certainty in the matter, as follows: <p>Supply of vouchers itself is neither supply of goods nor supply of services and therefore not taxable under GST. However, the underlying supply of goods or services, in respect of which vouchers are used as consideration, may be taxable.</p> <p>Distribution of vouchers on a principal-to-principal basis is neither supply of goods nor supply of services and therefore not taxable under GST. However, in case of distribution of vouchers on a principal-to-agent basis, the commissions/fees charged by agents for distribution is supply of services and taxable under GST.</p> <p>Additional services related to vouchers, such as co-branding, technical support etc. are taxable under GST.</p> <p>Income accrued from unredeemed vouchers (breakage) is not a consideration pertaining to any supply of goods or services and therefore is not taxable under GST.</p> To omit section 12(4) and section 13(4) from CGST Act, 2017. To omit rule 32(6) from CGST Rules, 2017. 	<u>Agreed.</u>

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Agenda No	Issue/Proposal	Status during Officers Meeting
3(xi) [Vol. 1 Pt. 202 200]	<ul style="list-style-type: none"> Amendment in section 13(8)(b) of the IGST Act, 2017 in respect of place of supply of intermediary services. Clause (b) may be omitted from sub-section (8) of section 13 of IGST Act, 2017 for providing that the place of supply for "intermediary services" will be determined as per the default provision under section 13(2) of the IGST Act i.e. the location of the recipient of such services so as to avoid the legal disputes arising out of the said specific provision for place of supply of intermediary services and to provide certainty in the matter of taxation of such services. 	<ul style="list-style-type: none"> Karnataka objected to the proposal citing revenue implications and requested to issue further clarifications, as required. Kerala opposed the proposal citing example of intermediary services provided by educational consultant in relation to admission of students to pursue courses outside India. Maharashtra agreed to the proposal highlighting the interpretational challenges of the provision and ensuing litigation due to the same. <p>In light of the objections, it was agreed that a group of officers comprising of officers from CBIC and States of Maharashtra, Karnataka, Kerala, Telangana, Haryana, Gujarat may be constituted to further deliberate on the issue in a time bound manner for taking a considered view on the matter.</p>

Agenda No	Issue/Proposal	Status during Officers Meeting
3(xiii) [Vol. 1 Pt. 200 200]	<ul style="list-style-type: none"> Clarification regarding applicability of late fee for delay in furnishing of FORM GSTR-9C. To issue a circular, clarifying that : The late fee under Section 47(2) of the CGST Act, 2017 is leviable for the delay in filing the complete annual return under Section 44 of the CGST Act, 2017, which includes both FORM GSTR-9 and FORM GSTR-9C (where applicable). The late fee is not separately applicable for the delay in filing FORM GSTR-9 and FORM GSTR-9C but will be computed from the due date of the annual return until the date on which the complete annual return (FORM GSTR-9 and FORM GSTR-9C, where applicable) is filed. Notification to be issued under Section 128 of the CGST Act, 2017 providing that: Late fee for delayed filing of FORM GSTR-9C for the past period up to the Financial Year 2022-23, shall be waived, which is in excess of the amount of late fee payable till the date of filing of FORM GSTR-9 for the said financial year, provided the said FORM GSTR-9C is filed on or before 31st March 2025. No refund may be available in respect of late fee already paid in respect of FORM GSTR-9C for the said financial years. 	<u>Agreed.</u>

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Agenda No	Issue/Proposal	Status during Officers Meeting
3(xiv) [Vol 1 Pg 309 332]	<ul style="list-style-type: none"> ▪ Amendment in CGST Act, 2017 and CGST Rules, 2017 in respect of functionality of Invoice Management System (IMS). ▪ Amendment in Section 38 of CGST Act, 2017 and rule 60 of CGST Rules, 2017. ▪ Amendment in sub-section (2) of section 34 of the CGST Act, 2017. ▪ Amendment in sub-section (1) of section 39 of CGST Act, 2017 and rule 61 of CGST Rules, 2017. ▪ Consequential amendment in Rule 88D of CGST Rules, 2017 and FORM GSTR-2B. 	<u>Agreed.</u>
3(xv) [Vol 1 Pg 333 336]	<ul style="list-style-type: none"> ▪ Concept note for implementing different categories of GST registration based on Risk Assessment and aligning the registration process with passing on of Input Tax Credit. ▪ In-principle approval of the concept note may be sought from the GST Council. ▪ Further Law Committee was of the view that the concept can be implemented at the earliest for category of 'New/Small Businesses' to begin with. ▪ It was further deliberated that the detailed guidelines and parameters as well as requirement of amendment in GST Act and Rules, as well as the processes on GSTN system, may be deliberated by the Law Committee in due course after receiving in-principle approval of the Council. 	<p><u>It was recommended that the concept note may be agreed to in-principle.</u></p> <p><u>It was further recommended that a group of officers from the States of Delhi, Gujarat, Andhra Pradesh, Goa, Telangana and Tamil Nadu may be formed to provide their inputs to the Law Committee for formulation of the detailed guidelines and parameters in respect of the proposal.</u></p>

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55th GST Council Meeting

Agenda Item 4

Recommendations of Fitment Committee
on
Goods and Services

21st December, 2024

Agenda Items

- Total **38** issues examined

- Goods : 17
- Services: 21

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Goods

• Total 17 issues examined

- Recommendations for making **changes** in GST rates/ issuing clarifications- 13

[Vol-I, Agenda 4(a), Annexure-I, pages 338-348]

- Recommendations for making **no change** - 4

[Vol-I, Agenda 4(b), Annexure-II, pages 349-353]

Services

• Total 21 issues examined

- Recommendations for making **changes** in GST rates/ issuing clarifications- 15

[Vol. I, Agenda Item 4(c), Annexure-IV, pages 354 to 406]

- Recommendations for making **no change** - 3

[Vol. I, Agenda Item 4(d), Annexure-V, pages 407 to 413]

- Issues **deferred** for further examination - 2

[Vol. I, Agenda Item 4(e), Annexure-VI, pages 414 to 418]

- Issues on which Fitment Committee has **not made any recommendations** and decision may be taken by the GST Council- 1

[Vol. I, Agenda Item 4(f), Annexure-VII, pages 419 to 420]

Goods- Change recommended (13)

Agenda No.	Issue/Proposal	Status after officers' meeting
4 (a) (Annexure-I) S. No. 1 Vol-I Page Nos. 338-349	<p>Issue</p> <ul style="list-style-type: none"> ➤ To clarify the GST rate on ready to eat popcorn which are mixed with spices and oil <p>Fitment Committee recommended</p> <ul style="list-style-type: none"> ➤ To clarify that ready to eat popcorn which is mixed with salt and spices are classifiable under HS 2106 90 99. However, when the popcorn is mixed with sugar thereby changing its character to sugar confectionary (eg. caramel popcorn), it would be classifiable under HS 1704 90 90 attracting 18% GST ➤ To clarify that ready to eat popcorn mixed with salt and spices classifiable under HS 2106 90 99 attracts 5% GST, if other than pre-packaged and labelled and 12% GST if supplied as pre-packaged and labelled, as it has the essential character of namkeens ➤ To regularize the issues for the past on "as is where is" basis. 	Agreed

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Goods- Change recommended (13)

Agenda No.	Issue/Proposal	Status after officers' meeting
4(a) (Annexure-I) <u>S. No. 2</u> Vol-I Page Nos. 339	<p>Issue</p> <ul style="list-style-type: none"> To extend the exemption to Systems, sub-systems, equipment, parts, sub-parts, tools, test equipment, software meant for assembly/ manufacture of LRSAM in place of Long Range surface to Air Missile system in the existing entry at S. No. 21(l) of the notification No 19/2019-Customs. Currently, exemption from basic customs duty (BCD) and IGST is available on imports of long-range Surface to Air Missile system (LRSAM). <p>Fitment Committee recommended :</p> <ul style="list-style-type: none"> To amend the existing entry to extend IGST exemption to include systems, sub-systems, equipment, parts, sub-parts, tools, test equipment, software meant for assembly/ manufacture of LRSAM system in place of long-range Surface to Air Missile system (LRSAM). 	Agreed

Goods- Change recommended (13)

Agenda No.	Issue/Proposal	Status after officers' meeting
4(a) (Annexure-I) <u>S. No. 3</u> Vol-I Page Nos. 339-341	<p>Issue</p> <ul style="list-style-type: none"> To reduce GST rate on sale of old and used Electric Vehicles (EVs) from 12% to 5%. Vide entry at S. No. 4 of the notification No. 08/2018-Central Tax (Rate) dated 25.01.2018, all old and used vehicles including EVs, other than petrol vehicles of engine capacity of 1200 cc or more and of length of 4000 mm or more, diesel vehicles of engine capacity of 1500 cc or more and of length of 4000 mm and SUVs attract 12% GST. Since duty rate is applicable only on the value that represents margin of the supplier, the tax incidence is already on the lower side. <p>Fitment Committee recommended :</p> <ul style="list-style-type: none"> To increase the rate from 12% to 18% for all the other vehicles, including EVs, covered by this entry. 	Agreed

Goods- Change recommended (13)

Agenda No.	Issue/Proposal	Status after officers' meeting
4(a) (Annexure-I) <u>S. No. 4</u> Vol-I Page Nos. 341- 342	<p>Issue:</p> <ul style="list-style-type: none"> To issue clarification on the classification and the tax rate on Autoclaved Aerated Concrete (AAC) blocks containing at least 50% fly ash as raw material constituent. Fly ash bricks, fly ash aggregates and fly ash blocks classifiable under HS 6815 attract 12% GST. Articles of cement, of concrete or of artificial stone, whether or not reinforced, are classifiable under HS 6810 attracting 18% GST. Ministry of Environment & Forests has notified that for the manufacturing of fly ash bricks, blocks, tiles etc, fly ash equivalent to minimum 50% of total input materials is required to be used. <p>Fitment Committee recommended</p> <ul style="list-style-type: none"> To clarify that AAC blocks containing more than 50% fly ash content will fall under HS 6815 and attract 12% GST. 	Agreed

CHAIRMAN'S INITIALS



Goods- Change recommended (13)

Agenda No.	Issue/Proposal	Status after officers' meeting
4(a) (Annexure-I) <u>S. No. 5</u> Vol-I Page Nos. 342	<p>Issue</p> <ul style="list-style-type: none"> To issue clarification on the classification and GST rate on dried pepper of genus piper and whether dried pepper is an agricultural produce and supply from plantations is exempt from GST. <p>Fitment Committee recommended :</p> <ul style="list-style-type: none"> To clarify that,- (i) pepper of genus piper, whether green (fresh), white or black, is covered under HS 0904 and attracts 5% GST; (ii) an agriculturist supplying dried pepper is not liable to be registered under Section 23 (1) of the CGST Act and is exempt. 	Agreed

Goods- Change recommended (13) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(a) (Annexure-I) <u>S. No. 6</u> Vol-I Page Nos. 343	<p>Issue</p> <ul style="list-style-type: none"> To reduce GST rate on raisins from 5% to Nil if supplied other than pre-packaged and labelled and 5% on pre- packaged and labelled as doubts were raised in the context of agriculturists. Fitment Committee was of the view that no change as requested was required as farmers/ agriculturists are not liable to pay tax. <p>Fitment Committee recommended</p> <ul style="list-style-type: none"> To issue a clarification along the lines as recommended on supply of pepper by agriculturist i.e. to clarify that an agriculturist supplying raisins is not liable to be registered under Section 23 (1) of the CGST Act and is exempt. 	Agreed

Goods- Change recommended (13) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(a) (Annexure-I) <u>S. No. 7</u> Vol-I Page Nos. 343,344	<p>Issue</p> <ul style="list-style-type: none"> To issue clarification on what constitutes agricultural farm produce As per amendment to Rule 3 of the Packaged Commodities Rules w.e.f. 1.1.2018, the provisions applicable to packages intended for retail sale do not apply to agricultural farm produce sold in bags above 50 kilograms. However, there is no definition of "agricultural farm produce". The GST Council in its 53rd meeting recommended that the proviso to the GST rate notification be suitably amended such that the supply of agricultural farm produce in packages containing quantity of more than 25kg or 25 litre shall not be considered as a supply made within the expression 'prepackaged and labelled'. <p>Fitment Committee recommended</p> <ul style="list-style-type: none"> To amend the definition of 'pre-packaged and labelled' to cover all commodities that are intended for retail sale and containing not more than 25 kg or 25 litre, which are "pre-packed" as defined under the Legal Metrology Act, or a label affixed thereto, is required to bear the declarations under the provisions of the Act and rules. 	Agreed

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Goods- No change recommended (4) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(b)(Annexure-II) <u>S. No. 3</u> Vol-I Page Nos. 352	Issue: To reduce GST rate from 5% on Rice Bran Oil. Fitment Committee recommended to maintain status quo as reduction in the GST rate may deepen the existing duty inversion.	Agreed
4(a)(Annexure-II) <u>S. No. 4</u> Vol-I Page Nos. 352-353	Issue: To reduce GST rates from 28%/18% to 5 % on Components and Parts used in manufacture of electric vehicles. Fitment Committee did not recommend as parts are of dual use and EV manufacturers are already getting inverted duty refund.	Agreed

Services- Change recommended (15) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Annexure-IV) <u>S.No. 1</u> Vol-I Page No 354-359	Issue ➤ Restaurant services supplied through ECO were brought under section 9(5) of CGST Act w.e.f 01.01.2022 on the recommendations of the 45th GST Council. A proposal to bring restaurant services and delivery provided in relation to such restaurant services, under section 9(5) was presented before the Council in the 45th meeting. Fitment Committee recommended ➤ To insert an explanation that the restaurant service under section 9(5), includes the service of delivery, by any person, of food or any other article for human consumption or drink from the restaurant, eating joints etc, to the recipient of restaurant service. This entails the liability to pay GST @ 5%, without TTC, on delivery services, with effect from 01.01.2022 on ECOs.	Agreed. Haryana raised concerns that the recommendation is not aligned with the views taken earlier.

Services- Change recommended (15) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Annexure-IV) <u>S.No. 2</u> Vol-I Page No 359-362	Issue ➤ Regulated Entities (REs) are required to levy 'penal charges' and not 'penal interest' in terms of RBI instructions dated 18.08.2023, effective from 01.01.2024, for non-compliance with material terms and conditions of loan agreements. Fitment Committee recommended ➤ To clarify that 'penal charges' are in the nature of liquidated damages and no GST is payable on the same.	Agreed

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Services- Change recommended (15):

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Annexure-IV) S.No. 3 Vol- 1, Page No. 162-168	<p>Issue</p> <ul style="list-style-type: none"> To bring the sponsorship services rendered by a body corporate to another body corporate from reverse charge mechanism to forward charge mechanism. <p>Fitment Committee recommended</p> <ul style="list-style-type: none"> To bring sponsorship services provided by body corporates under forward charge 	Agreed
4(c) (Annexure-IV) S.No. 4 Vol- 1, Page No. 165-170	<p>Issue</p> <ul style="list-style-type: none"> To clarify that exemption under entry at Sr. No. 34 of notification No. 12/2017-C/IR dated 28.06.2017, pertaining to services in relation to settlement provided by acquiring banks for transactions below Rs. 2,000 done by cards, is available to payment aggregators. The matter was deferred by the 54th GST Council for further examination. <p>Fitment Committee recommended</p> <ul style="list-style-type: none"> To clarify that RBI regulated Payment Aggregators are eligible for exemption under entry at Sr. No. 34 of the notification No. 12/2017-C/IR dated 28.06.2017, since they fall within the ambit of <i>acquiring bank</i>, and that the exemption under Sr. No. 34 is not for payment gateway functions as the exemption is limited to settlement function only. 	Agreed

Services- Change recommended (15):

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Annexure-IV) S.No. 5 Vol- 1, Page No. 176-177	<p>Issue</p> <ul style="list-style-type: none"> To examine the feasibility, or otherwise, of research carried out for the wider public good and to clarify the distinction between research and consulting activities. To regularise the GST on research and development services carried out by Government entities against grants received from the Government or Government entities for the period from 01.07.2017 to 09.10.2024 on 'as is where is' basis. <p>Fitment Committee recommended</p> <ul style="list-style-type: none"> To clarify the distinction between research and consultancy activity on the following criteria: <ul style="list-style-type: none"> Whether the activity is aimed at generating new knowledge; and Whether the outcome of the activity is uncertain. Also clarify that grants or funding for research for public good, i.e., where benefits of the research do not accrue to a single entity, to the exclusion of others, do not amount to consideration for a supply. The payment of GST on research and development services carried out by Government entities against grants received from the Government or Government entities may be regularized for the period 01.07.2017 to 09.10.2024 on 'as is where is' basis. 	<p>Deferred</p> <p>This issue may be deferred for comprehensive re-examination.</p> <p>The issue as to whether private grants to private bodies should be eligible for the exemption or not is also to be examined.</p>

Services- Change recommended (15):

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Annexure-IV) S.No. 6 Vol- 1, Page No. 177-178	<p>Issue</p> <ul style="list-style-type: none"> To exempt the contributions made into the Motor Vehicle Accident Fund, out of the premiums collected by general insurers on mandatory third-party insurance of motor vehicles, on which applicable GST has already been paid. <p>Fitment Committee recommended</p> <ul style="list-style-type: none"> Exempt the services of insurance provided by the Motor Vehicle Accident Fund, for which the consideration is represented by the contributions received from general insurance companies, as a share of premiums collected on mandatory third-party insurance of motor vehicles. 	Agreed
4(c) (Annexure-IV) S.No. 7 Vol- 1, Page No. 178-179	<p>Issue</p> <ul style="list-style-type: none"> To restore the tax exemption for Training Partners (TPs) approved by the National Skill Development Corporation (NSDC). This exemption was withdrawn as a result of reorienting of the existing exemption to skill development and training, in view of the comprehensive modification of the entire regulatory architecture under NGVII. <p>Fitment Committee recommended</p> <ul style="list-style-type: none"> To reinstate the exemption given to TPs approved by NSDC. To regularize the GST for the period from 10.10.2024, i.e., the date of implementation of Notification No. 08/2024-C/IR dated 08.10.2024, to the date of issue of amending notification, on 'as is where is' basis. 	Agreed

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Services- Change recommended (15) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Annexure- IV) S. No. 8 Vol. 1 Page No. 379, 382	<p>Issue</p> <ul style="list-style-type: none"> To clarify whether GST is applicable on charges fees paid for Floor Space Index (FSI) additional FSI by builders to local authorities under Reverse Charge Mechanism (RCM). <p>Firment Committee recommended</p> <ul style="list-style-type: none"> Clarify that GST is applicable on charges fees paid for FSI including additional FSI by builders to local authorities under Reverse Charge Mechanism (RCM) 	<p>Deferred for more examination.</p> <p>Officers were of the view that granting FSI is a function of Municipality. Hence FSI should be kept outside the purview of GST. It was also viewed that the Premium FSI may be fixed as for same builders pay an additional cost</p>

Services- Change recommended (15) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Annexure-IV) S. No. 9 Vol. 1 Page No. 382, 385	<p>Issue</p> <ul style="list-style-type: none"> To clarify that as long as the entire transportation of goods is undertaken by road and the person transporting the goods issues consignment note, the said service would be treated as goods Transport Agency (GTA) service instead of transport services <p>Firment Committee recommended</p> <ul style="list-style-type: none"> Clarify to the originating agency that the delivery service ensuring door-to-door instant delivery service through two-wheeler network is more appropriately classifiable as e-commerce service (in terms of explanatory notes to the scheme of classification of services) and not as GTA. 	<p>Deferred for comprehensive examination of the applicable GST rates on the sector.</p>
4(c) (Annexure-IV) S. No. 10 Vol. 1 Page No. 382, 388	<p>Issue</p> <ul style="list-style-type: none"> To issue clarification on levy of GST towards lease rentals payment made to National Highways Authority of India (NHAI) by Oil Marketing Companies (OMCs) for developing road side amenities. <p>Firment Committee recommended</p> <ul style="list-style-type: none"> Clarify to NHAI and OMCs that GST is applicable on rental of land to OMCs at applicable rate i.e. 18%. 	<p>Agreed</p>

Services- Change recommended (15) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Annexure-IV) S. No. 11 Vol. 1 Page No. 386, 389	<p>Issue</p> <ul style="list-style-type: none"> To amend entry at S. No. 25A of notification No. 12/2017/CTR dated 28/06/2017 and to regularise FSI for the period from 10/07/2014 to the date of issuing notification. Entry at S. No. 25A was inserted on the recommendations of 34th Meeting of the GST Council. The term "transmission and distribution outlets" was used in the said entry which is at variance with the entry at S. No. 18 which uses the term "transmitter or distributor only". <p>Firment Committee recommended</p> <ul style="list-style-type: none"> The new entry at S. No. 25A may be aligned with the entry at S. No. 25 so as to maintain uniformity. The entry at S. No. 25A was inserted on the recommendations of 34th Meeting of the GST Council. The term "transmission and distribution outlets" was used in the said entry which is at variance with the entry at S. No. 18 which uses the term "transmitter or distributor only". 	<p>Agreed</p>
4(c) (Annexure-IV) S. No. 12 Vol. 1 Page No. 390-393	<p>Issue</p> <ul style="list-style-type: none"> To notify D. I. Is. D. of Authority (DIA) as a Local Authority and to remove the reference of DIA from the answer to question no. 6 of the FAQs on GST in Government Services Sector wherein DIA is listed as a local authority. <p>Firment Committee recommended</p> <ul style="list-style-type: none"> Clarify that in DIA does not meet requirement of local authority as per section 2(9) of the GST Act 2017, it cannot be treated as local authority under GST law. The definition of local land and Municipal land as proposed by Maharashtra referred to Law Committee for making necessary amendment in the CGST Act. 	<p>Agreed</p>

Services- Change recommended (15) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Annexure-IV) S No. 13 Vol- 1 Page No. 393,396	<p>Issue</p> <ul style="list-style-type: none"> To clarify that GST is not applicable on facility management services provided to Municipal Corporation of Delhi (MCD) HQ. <p>Fitment Committee recommended</p> <ul style="list-style-type: none"> Clarify that GST is applicable on facility management services provided to Delhi (MCD) HQ for upkeep of its head quarter building and no exemption is available to them as these services are not covered under the scope of entry at Sr. No. 3A of the notification No. 12/2017-CTR dated 28.06.2017 	Agreed

Services- Change recommended (15) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Annexure-IV) S No. 14 Vol- 1 Page No. 396-402	<p>Issue</p> <ul style="list-style-type: none"> To review the levy of GST on Reverse Charge Mechanism (RCM) basis on renting of commercial property by unregistered person to a registered person. To clarify that no GST is payable on renting of commercial property by unregistered person to Renewable Energy projects under Ministry of New & Renewable Energy (MNRE). <p>Fitment Committee recommended</p> <ul style="list-style-type: none"> Exclude the taxpayers registered under composition levy scheme from the entry at Sr. No. 5AB of Notification No. 13/2017-CTR dated 28.06.2017 introduced vide Notification No. 09/2024-CTR dated 08.10.2024. The period from the date when the notification No. 09/2024-CTR dated 08.10.2024, became effective (i.e. 10.10.2024) till the date proposed notification is issued may be regularized on <i>as is where is</i> basis. Clarify to Ministry of New & Renewable Energy (MNRE) that GST has to be paid by them at applicable rates on renting of commercial property from unregistered persons under RCM. 	Agreed

Services- Change recommended (15) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Annexure-IV) S No. 15 Vol- 1 Page No. 402-406	<p>Issue</p> <ul style="list-style-type: none"> To clarify the rate of GST applicable to restaurants operating in hotels' premises and the period for which GST @ 18% with ITC is to be paid, where the declared tariff crosses the threshold of Rs. 7500 during the year. <p>Fitment Committee recommended</p> <ul style="list-style-type: none"> The definition of declared tariff maybe deleted and the definition of specified premises may be amended to provide for applicable GST rates if the value of supply exceeded Rs. 7500 for any unit of accommodation in any financial year. Give option to the supplier to pay tax on restaurant service at the rate of 18% with ITC, by giving a declaration to that effect on or before the beginning of the financial year or on obtaining registration. The above changes may be made effective from 01.04.2025 to avoid any transition difficulties. Law Committee to examine and provide for suitable legal mechanism for availability reversal of ITC for the taxpayer moving from 5% without ITC to 18% with ITC and vice versa. 	<p>Agreed</p> <p>Kerala suggested to re-examine, in the future, the threshold of Rs. 7500/- and the modalities for determining the rate applicable to restaurant service in hotels.</p>

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Services-No change recommended (3):

Agenda No.	Issue/Proposal	Status after officers' meeting
4(d) (Annexure-V) S.No. 1 Vol. I Page No. 407-409	<p>Issue:</p> <ul style="list-style-type: none"> ➤ To exempt GST on Light dues collected by Directorate General of Lighthouses & Lightship (DGLL) during the period 01.07.2017 to 31.08.2022. <p>Fitment Committee recommended:</p> <ul style="list-style-type: none"> ➤ The request may not be accepted 	Agreed
4(d) (Annexure-V) S.No. 2 Vol. I Page No. 409-411	<p>Issue:</p> <ul style="list-style-type: none"> ➤ To review the inclusion of services under the notification No. 17/2017-CTR dated 28.06.2017 under which four services have been notified on which GST is paid by Electronic Commerce Operator under section 9(5) of CGST Act, 2017 <p>Fitment Committee recommended:</p> <ul style="list-style-type: none"> ➤ The current list of services notified under section 9(5) may continue. No change recommended. 	Agreed

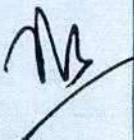
Services-No change recommended (3):

Agenda No.	Issue/Proposal	Status after officers' meeting
4(d) (Annexure-V) S.No. 3 Vol. I Page No. 411-413	<p>Issue:</p> <ul style="list-style-type: none"> ➤ To either exempt electric vehicle (EV) charging services at public charging stations or to reduce the rate on EV charging service from 18% to 5% or to clarify that the activity of charging EVs in a charging station essentially involves supply of electricity and therefore should be chargeable at the same rate applicable to supply of electricity <p>Fitment Committee recommended:</p> <ul style="list-style-type: none"> ➤ The request may not be accepted. 	Agreed

Services- Deferred (2):

Agenda No.	Issue/Proposal	Status after officers' meeting
4(e) (Annexure-VI) S.No. 1 Vol. I Page No. 414-417	<p>Issue:</p> <ul style="list-style-type: none"> ➤ To clarify the applicability of GST on the upfront amount concession amount paid to NHAI by concessionaire for grant of rights under Toll Operate Transfer (TOT) Model and also on short-term toll collection under other models <p>Fitment Committee recommended:</p> <ul style="list-style-type: none"> ➤ The matter may be deferred 	<p>Officers from Maharashtra and Madhya Pradesh viewed that the concession amount paid to NHAI by concessionaire for grant of rights under Toll Operate Transfer (TOT) Model may be considered for exemption</p> <p>However, officers from UP and Karnataka requested to defer the matter for more examination</p>
4(e) (Annexure-VI) S.No. 2 Vol. I Page No. 417-418	<p>Issue:</p> <ul style="list-style-type: none"> ➤ To clarify the taxability of services provided by NBFCs to banks in co-lending arrangements <p>Fitment Committee recommended:</p> <ul style="list-style-type: none"> ➤ The matter may be deferred. 	Agreed

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Services- **No recommendation by Fitment Committee (1)**:

Agenda No.	Issue/Proposal	Status after officers' meeting
4(f) (Annexure-VII) S.No. 1 Vol- 1 Page No 419-420	<p>Issue</p> <ul style="list-style-type: none"> The said agenda was taken to the 54th GST Council held on 09.09.2024 and the council did not accede to the request of M/s Goethe Institutes/Max Mueller Bhawan to exempt GST on the services provided by them for past period from 01.07.2017 to 31.03.2023. M/s Goethe Institutes/Max Mueller Bhawan have six institutes across India which provide linguistic and cultural training to young Indians preparing for their stay in Germany. From 1st April, 2023, Goethe Institutes have started collecting and paying GST. They have paid Rs. 15 crores GST till March, 2024. Prior to 1st April, 2023, the Institutes did not collect GST from their students nor did they remit the same to Government as they were under the belief that their activities are exempt from GST. Ministry of External Affairs has requested to reexamine the issue of retrospective exemption. Quantum of GST involved is approx. Rs 52 crores as informed by the Ministry of External Affairs. <p>Fitment Committee recommended</p> <ul style="list-style-type: none"> Fitment Committee did not make any recommendations on this issue and viewed that the issue may be discussed and decided by the GST Council only. 	<p>Agreed to regularize GST liability of M/s Goethe Institutes for the past period from 01.07.2017 to 31.03.2023, on <i>as is where is</i> basis.</p>

THANK YOU

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Agenda 4 (Annexure-I)**1. Clarification on tax rate on ready to eat popcorn which is mixed with salt and spices.** (page 138/333)

- Ready to heat ready to cook kernels of corn which are mixed with flavours or spices and oil are classifiable under HS 2008 which cover prepared or preserved edible parts of plants and attract 12%.
- HS 1904 covers prepared foods obtained by the swelling or roasting of cereals or cereal products. Ready to eat popcorn when obtained by swelling of cereal (i.e. Maize (corn), which is not mixed with any flavouring agent, colouring agent, spices or other additives would be classifiable under HS 1904/1090.
- Currently, all goods under 1904 attract 18% GST (except puffed rice commonly known as muri, flattened or beaten rice commonly known as chira, parched rice commonly known as khir, parched paddy or rice coated with sugar or gur, commonly known as muri, pre-packaged and labelled which attracts 5% GST).
- Ready to eat popcorn is sold with many variations – salted, plain, caramel etc
- The current issue is regarding tax rate on ready to eat popcorn which is mixed with salt and spices.

Recommendations of Fitment Committee

- To clarify that ready to eat popcorn which is mixed with salt and spices are classifiable under HS 2106 90 99. However, when the popcorn is mixed with sugar thereby changing its character to sugar confectionary (e.g.-caramel popcorn), it would be classifiable under HS 1704 90 90 attracting 18% GST.
- To clarify that ready to eat popcorn mixed with salt and spices classifiable under HS 2106 90 99 attracts 5% GST if supplied other than pre-packaged and labelled and 12% GST if supplied as pre-packaged and labelled, as it has the essential character of confectionery.
- To regularize the issues for the past on “as is where is” basis.

Agenda 4 (Annexure-I)**2. To extend the IGST exemption available on supply of long-range Surface to Air Missile system (LRSAM) to its systems, sub-systems, equipment, parts, sub-parts, tools, test equipment, software meant assembly/manufacture of LRSAM system** (page 336)

- Currently, exemption from basic customs duty (BCD) and IGST is available on imports of Long-Range Surface to Air Missile System (LRSAM) [S. No. 24(H) of Notification No. 19/2019-Customs]
- As per Ministry of Defence, the notification entry in its present form gives the impression that the LRSAM system is eligible for exemption only when imported as a single unit. However, the LRSAM system consists of multiple units like the Weapon Control System (WCS), Multi-Function Surveillance Threat Alerts Radar System (MITSAR) and Vertical Launch Unit (VLU) that are subsequently assembled into a LRSAM system for fitting on the Indian Navy Warship.

Recommendations of Fitment Committee

- To amend the existing entry to extend IGST exemption to include systems, sub-systems, equipment, parts, sub-parts, tools, test equipment, software meant for LRSAM system in place of long-range Surface to Air Missile system (LRSAM).

Agenda 4 (Annexure-I)**3. To reduce GST rate on sale of old and used electric vehicles from 12% to 5%.** (page 749/441)

- Currently, notification No. 08/2018-Central Tax (Rate) dated 25/01/2018 prescribes the GST rates for old used vehicles on the value that represents margin of the supplier, on supply of such goods.
- Vide entry at Sr. No.4 of the notification No. 08/2018-Central Tax (Rate) dated 25/01/2018, all old and used vehicles including EVs, *other than petrol vehicles of engine capacity of 1200 cc or more and of length of 4000 mm or more, diesel vehicles of engine capacity of 1500 cc or more and of length of 4000 mm and SUVs* attract 12% GST.
- Input parts and services which are used for repair or maintenance of all second-hand vehicles attract 18% GST.
- Since the duty rate is applicable only on the value that represents margin of the supplier, the tax incidence is already on the lower side.

Recommendations of Fitment Committee

- To amend Sr. No.4 of notification No. 08/2018-Central Tax (Rate) to increase the rate from 12% to 18% for all the other vehicles, including EVs at par with other vehicles.



Agenda 4 (Annexure-I)**4. To clarify classification and tax rate on AAC blocks containing at least 50% fly ash as raw material constituent.** *(image 147/343)*

- Fly ash bricks, fly ash aggregates and fly ash blocks classifiable under HS 6815 attract 12% GST vide S. No. 1763 of Schedule II of notification No. 1-2017-Central Tax (Rate) dated 28.6.2017.
- Articles of cement, of concrete or of artificial stone, whether or not reinforced are classifiable under HS 6810 and attract 18% GST vide S. No. 181 of Schedule III of notification No. 1-2017-Central Tax (Rate) dated 28.6.2017.
- Autoclaved aerated concrete (AAC) is a technology increasingly being used in building construction.
- Fly ash is a solid waste produced in thermal power plants which is a toxic waste for the environment if left untreated. The manufacturing of fly ash-based AAC blocks require cement, sand, fly ash, lime and expansion agent aerating agent (aluminum powder).
- Vide SO763(F) dated 14.09.1999, Ministry of Environment & Forests has notified that for the manufacturing of fly ash bricks, blocks, tiles etc, fly ash equivalent to minimum 50% of total input materials is required to be used. In this case, the AAC blocks are manufactured by utilizing more than 50% fly ash content and hence cannot be termed as non-fly ash-based product.

Recommendations of Fitment Committee

- To clarify that AAC blocks containing more than 50% fly ash content will fall under HS 6815 and attract 12% GST.

Agenda 4 (Annexure-I)**5. (i) To clarify classification and GST rate on dried pepper of genus piper ; and****(ii) To clarify whether dried pepper is an agricultural produce and supply from plantations is exempt from GST.** *(image 147/343)*

- HS 0904 covers Pepper of the genus Piper; dried or crushed or ground fruits of the genus Capsicum or of the genus Pimenta.
- From the Explanatory Notes it is seen that all varieties of pepper of the genus Piper, whether green (fresh), white or black is covered under HS 0904 and supply of pepper attracts 5% GST.
- Regarding supply by an agriculturist, under Section 23 (1) (b) of the CGST Act, an agriculturist, to the extent of supply of produce out of cultivation of land is not liable to take registration.
- Thus supply of pepper, whether fresh or dried, by persons other than agriculturists attract 5% GST.

Recommendations of Fitment Committee

- To clarify that pepper of genus piper, whether green (fresh), white or black, is covered under HS 0904 and attracts 5% GST, and
- Also, to clarify that an agriculturist supplying dried pepper is not liable to be registered under Section 23 (1) of the CGST Act and is therefore exempt.

Agenda 4 (Annexure-I)**6. To reduce GST rate on raisins from 5% to Nil if other than pre packaged and labelled and 5% if pre- packaged and labelled.** *(image 147/343)*

- Currently raisins attract 5% GST. The request was for prescribing Nil rate if supplied other than pre-packaged and labelled and 5% to apply only if prepackaged and labelled.
- The issue was raised as doubts were raised in the context of whether agriculturists were liable to pay 5% GST.
- The GoM on Rate Rationalisation in its Interim Report had reviewed the exemption on unbranded food cereals, flour, honey, etc and other similar items and recommended that the exclusion condition for such exemptions may be modified by replacing the term "branded" with the deterministic condition of being "pre-packaged and labelled" for retail sale in accordance with the Legal Metrology Act and Rules thereunder. This recommendation was accepted by the GST Council in its 47th meeting.
- However, as per Section 23(1), agriculturists are not liable to get registered under GST. Hence, farmers already enjoy relief from GST.
- Fitment Committee was of the view that no change as requested was required as farmers/ agriculturists are not liable to pay tax.

Recommendations of Fitment Committee

- To issue a clarification along the lines as recommended on supply of pepper by agriculturist.



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Agenda 4 (Annexure-I)

7. To issue clarification on what constitutes agricultural farm produce. (page: 343-344)

- GST rates are linked with the provisions of retail sale under the Legal Metrology Act for the purpose of defining 'pre-packaged and labelled' commodities.
- As per amendment to Rule 3 of the Packaged Commodities Rules w.e.f. 1.1.2018, the provisions applicable to packages intended for retail sale do not apply to agricultural farm produce sold in bags above 50 kilograms. However, the term 'agricultural farm produce' is not defined.
- The GST Council in its 53rd meeting recommended that the proviso to the GST rate notification be suitably amended such that the supply of agricultural farm produce in packages containing quantity of more than 25kg or 25 litre, shall not be considered as a supply made within the expression 'prepackaged and labelled'.

Recommendations of Finance Committee

- To amend the definition of 'pre-packaged and labelled' to cover all commodities that are intended for retail sale and containing not more than 25 kg or 25 litre, that are 'pre-packed' as defined under the Legal Metrology Act, or a label affixed thereto, is required to bear the declarations under the provisions of the Act and rules.

Agenda 4 (Annexure-I)

8. To reduce compensation cess to 0.1% when supplied to merchant exporter by domestic supplier. (page: 344)

- In its 22nd meeting, while considering the proposals of the Committee on Exports to help resolve the blockage of working capital faced by merchant exporters, the GST Council had recommended that a reduced GST tax rate of 0.1% be levied on supplies to merchant exporters.
- This was taking into consideration the fact that in States like West Bengal in the earlier scheme of Form II under VAT, no tax was paid when goods were sold to merchant exporter but full tax became payable if the goods were not eventually exported.
- Notification no. 40/2017-Central Tax (Rate) and 41/2017-Integrated Tax (Rate) both dated 23.10.2017 provides concessional rate of GST subject to the fulfillment of specified conditions.

Recommendations of Finance Committee

- The same concessional rate of 0.1% compensation cess rate may be prescribed for supplies made to merchant exporter for the remaining period that the compensation cess is in operation.

Agenda 4 (Annexure-I)

9. To reduce the GST rate on Supply of Fortified Rice Kernels (HS 1904) for ultimate use in PDS/ welfare schemes from 18% to 5%, (page: 345)

- Fortified rice kernel is appropriately classifiable under 1904 and attracts 18% GST.
- Based on recommendations of GST Council, in its 45th Meeting, held on 17.09.2021, the supply of Fortified Rice Kernel (Premix) for ICDS or similar scheme duly approved by the Central Government or any State Government attracts concessional GST rate of 5%, subject to the condition that the supplier of such goods produces a certificate from an officer not below the rank of the Deputy Secretary to the Government of India/ State Government concerned/ UU concerned to the effect that such goods have been distributed free to the economically weaker sections of the society under a programme duly approved by the Central Government or the State Government.
- This entry has been interpreted such that the 5% rate is applicable only on directly supplying FRK for distribution under the PDS scheme.

Recommendations of Finance Committee

- To reduce the GST rate on supply of all fortified rice kernels (HS 1904) from 18% to 5% to avoid giving an end-use based exemption.



CHAIRMAN'S INITIALS

Agenda 4 (Annexure-I)

10. To issue clarification on eligibility of the inputs for the food preparation distributed under a government program for the concessional rate under Notification 39/2017-Central Tax (Rate). *(pages 345-346)*

- Notification No.39/2017-Central Tax (Rate) dated 18.10.2017 prescribes a concessional rate of 5% GST for supply of food preparations put up in unit containers and intended for free distribution to economically weaker sections of the society under a programme duly approved by the Central Government or any State Government subject to obtaining a certificate from the nodal authority that such goods have been distributed free under the scheme.
- This issue has arisen in the context of inputs for food preparations such as weaning food for free distribution under ICDS scheme.
- Currently, the wording of the notification does not allow the inputs of these food preparations to be covered under the concessional rate.

Recommendations of Finance Committee:

- To extend the concessional rate to the inputs of these food preparations also subject to the same conditions as specified in notification No. 39/2017-Central Tax (Rate), dated 18.10.2017.

Agenda 4 (Annexure-I)

11. To issue clarification on regarding effective date of amendment in Entry 52B Notification No.03/2023-Compensation Cess (Rate) regarding ground clearance of SUVs. *(pages 346)*

- Prior to the 50th GST Council meeting, vide S. No. 52B in notification No.1/2017-Compensation Cess (Rate) dated 28.6.2017, motor vehicles of engine capacity exceeding 1500 cc, popularly known as SUVs, including utility vehicles attracted 22% CC.
- SUV was also defined as including a motor vehicle of length exceeding 4000mm and having ground clearance of 170mm and above.
- Following the 50th GST Council meeting, vide Notification No. 3/2023-Compensation Cess (Rate) dated 26th July 2023, the entry was substituted to provide that cess @ 22% will be applicable to all motor vehicles known as utility vehicles by whatever name called, with engine capacity exceeding 1500cc, length exceeding 4000 mm and ground clearance of 170 mm & above. Further, a new explanation was added that ground clearance means ground clearance in unladen condition.
- It has been represented that there are different views in some jurisdictions regarding the effective date of amended entry 52B.

Recommendations of Finance Committee:

- To clarify that the amendment will apply on or after 26.07.2023.

Agenda 4 (Annexure-I)

12. To reduce GST rate CAR-T cell therapy (HS 30) from 12% to Nil. *(pages 346-347)*

- DHR has stated that India's first indigenous gene therapy NeoCAR19 developed by ImmunoACT, a spin-off company of IIT-Bombay in collaboration with Tata Hospital has been launched in April 2024. This innovative new treatment modality has reduced the costs significantly at INR 25 lakhs in India as compared to almost INR 4.5 crores in USA. To enhance access to this life-saving medication, the DHR has requested to exempt CAR-T cell therapy from GST.
- This treatment is customized for each individual patient by collecting T cells from the patient, re-engineering them in the laboratory to produce proteins on their surface called chimeric antigen receptors, or CARs.
- Currently, services provided in the form of Assisted Reproductive Technology (ART) or In vitro fertilization (IVF) is exempt from GST.

Recommendations of Finance Committee:

- To reduce the GST rate on gene therapy from 12% to nil.



CHAIRMAN'S
INITIALS

Agenda 4 (Annexure-I)**13. To provide IGST exemption on Temporary import of equipment and consumable samples by Inspection Team of International Atomic Energy Agency (IAEA). (page 44/ 44)**

- The International Atomic Energy Agency (IAEA) sends Safeguards Inspectors to countries with nuclear plants in the course of their duties, including to India for the facilities under IAEA safeguards.
- Presently, the Inspectors are being charged duty for temporary import of equipment.
- Currently, exemption from HCD and IGST is available for imports of equipment and consumable samples by the inspection team of Organisation for Prevention of Chemical Weapons (OPCW) [notification no. 121/2003-Customs dated 18/2003 as amended by 43/2017-Cus dated 30/6/2017].

Recommendations of Eminent Committee:

- To exempt IGST on imports of all equipment and consumable samples by the inspection team of IAEA as is available to the inspection team of Organisation for Prevention of Chemical Weapons (OPCW) vide notification No. 121/2003-Customs dated 18/2003 as amended by 43/2017-Cus dated 30/6/2017 and subject to the following conditions:**

- the importer shall produce a certificate along with duly certified list of equipment and consumable samples from the Joint Secretary or the Deputy Secretary, Ministry of External Affairs to the effect that such equipment and samples are required for carrying out verification inspections as per terms of IAEA, and
- the Joint Secretary or the Deputy Secretary, MEA shall furnish an undertaking on letter head to the Deputy Commissioner of Customs or the Assistant Commissioner of Customs, as the case may be, to the effect that such equipment shall be exported within six months of their import or within such extended period as may be allowed by the Commissioner of Customs, in this behalf and that consumable samples are required for the intended purpose and shall be accounted for.

Agenda 4 (Annexure-II)**1. To reduce GST rate from 18% to 5%/Nil on Agriculture machinery used for cleaning, sorting or grading, seed, grain or dried leguminous vegetables, machinery used in milling industry or for the working of cereals or dried leguminous vegetables other than farm type machinery and parts thereof. (page 49)**

- Prior to 2022, these products attracted GST rate of 12%. The request to reduce the GST rate was examined in the 37th GST Council Meeting but it was not recommended.
- Based on the interim report of the GoM on Rate Rationalization, the rate was increased from 12% to 18% on these goods to correct the inverted duty structure following the recommendation of the GST Council in its 47th Meeting.
- Reduction in GST from existing 18% to Nil/ 5% may lead to inverted duty structure and cascading of input taxes.

Recommendations of Eminent Committee:

- To maintain status quo.

Agenda 4 (Annexure-II)**2. Regularization of GST rate on Extruded or expanded products; savoury or salted for the past period. (pages 50/55)**

- On the basis of the recommendation of the GST Council in its 48th meeting vide Circular No. 189/01/2023-GST, dated 13/01/2023, it was clarified that the snack pellets (such as 'tryums'), which are manufactured through the process of extrusion, are appropriately classifiable under tariff item 1905/90/30 and thereby attract GST at the rate of 18% (S. No. 46 of Schedule-II of notification No. 1/2017-Central Tax (Rate), dated the 28th June, 2017).
- Thereafter, based on recommendation of the GST Council in the 50th meeting, w.e.f. 27th July, 2023, 5% rate has been prescribed on supply of un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion, falling under HS 1905 (S. No. 99B of Schedule-I of notification No. 1/2017-Central Tax (Rate), dated the 28th June, 2017).
- Additionally, vide Circular No. 200/12/2023-GST, dated 01/08/2023, the issue for past period (up to 27th July, 2023) has been regularized on "as is" basis in view of the prevailing genuine doubts in case of un-fried or uncooked snack pellets.
- Namkeens, bhujia, mixture, chabesa and similar edible preparations in ready-for-consumption form are classifiable under HS 2106/90, and attract GST at the rate of 12% when sold as pre-packaged and labelled (S. No. 46 of Schedule-II of notification No. 1/2017-Central Tax (Rate), dated the 28th June, 2017) and 5% when sold as other than pre-packaged and labelled (S. No. 19/1 of Schedule-I of notification No. 1/2017-Central Tax (Rate), dated the 28th June, 2017).
- The general rate on "Extruded or expanded products; savoury or salted" under tariff item 1905/90/30 is 18% except on un-fried or uncooked snack pellets, by whatever name called, manufactured through process of extrusion, falling under HS 1905 which attracts 5%.
- The issue before the 54th GST Council was whether supply of extruded snack pellets in ready-to-eat form, is covered under the entry covering namkeens.

CHAIRMAN'S INITIALS



2. Regularization of GST rate on Extruded or expanded products, savoury or salted for the past period. *(pages 390-392) contd*

- To obviate disputes arising on the fact that there is no definition of namkeens, GST Council recommended to keep the GST rate of extruded or expanded products, savoury or salted (other than un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion), falling under HS 1905 90 30 to 12% at par with namkeens, bhujia, mixture, chabesa (pre-packaged and labelled) and similar edible preparations in ready for consumption form, classifiable under HS 2106 90.
- Fitment Committee had also recommended to clarify that for the past period 18% rate is applicable, as was clarified by the GST Council in the 48th meeting held on 17th December 2022, and that the 12% rate is applicable only prospectively.
- However, during the Council meeting, Fitment Committee was directed to re-examine the issue for the past period.

Recommendations of Fitment Committee

- Did not recommend regularization of the issue for the past period.



Agenda 4 (Annexure-II)

3. To reduce GST rate from 5% to Nil on Rice Bran Oil. *(page 392)*

- All edible oils attract a concessional rate of 5% as recommended by the GST Council.
- Reduction in GST may deepen the existing duty inversion.

Recommendations of Fitment Committee

- To maintain status quo.



Agenda 4 (Annexure-II)

4. To reduce GST rates from 28%/18% to 5% on Components and Parts used in manufacture of electric vehicles. *(pages 393, 394)*

- 54th GST Council Meeting deferred the issue to re-examine the issue upon receipt of proposal from State of Andhra Pradesh.
- AP has requested for blanket reduction in GST on EV Components/Parts
- Industry Association sought reduction of GST on four parts and aggregates used for manufacture of EVs as below:

1. Lithium Ion Cell for used in manufacture of Lithium-ion accumulator for use in Electric Vehicles;
2. Battery Pack for use in manufacture of electrically operated vehicle;
3. E-Drive assembly/ e-Axle (Motor + Motor Control Unit + Single Reduction Gear Box);
4. Traction Motor
5. Wiring harness

- There are no dedicated EV parts and most parts are having dual use.
- Fitment Committee also observed that the EV manufacturers are already getting inverted duty refund.

Recommendations of Fitment Committee

- To maintain status quo as such parts are of dual use.



CHAIRMAN'S
INITIALS

Agenda 4 (Annexure-IV)

1. (i) To clarify that the delivery services provided by the delivery partners through Electronic Commerce Operator (ECO) are not taxable due to providers being below the threshold of Rs. 20 lakhs; or

(ii) To bring delivery services made in respect of those supplies made through ECOs under section 9(5) of CGST Act, 2017 with prospective effect and these delivery services may be taxed at 5% (pages 152-153)

- Restaurant services provided through ECO were brought under section 9(5) of CGST Act w.e.f. 01.01.2022 on the recommendations of the 45th GST Council - 2022. A proposal to bring delivery under section 9(5) was also presented before the Council but delivery services were not explicitly so notified.
- Demands have been raised to the tune of Rs 747 crores, by DGCGI as there is lack of clarity regarding payment of tax on the service of delivery in relation to restaurant services supplied through an ECO.
- This agenda was taken to the 54th GST Council meeting held on 09.09.2024 and the matter was deferred for further examination.
- The definition of *restaurant service* allows for consumption of the goods (food, drink etc. for human consumption) both on or away from the premises of the restaurant, i.e. a situation wherein food is delivered from the premises of the restaurant to wherever it is finally consumed.
- The supply of restaurant service through an ECO cannot be effectuated without the food, drink articles being delivered from the restaurant to the end consumer.
- The entry at Sl. No. (iv) of notification No. 17/2017- CT(Rate) pertaining to restaurant service supplied through ECO would be rendered ineffective without delivery of food from the restaurant to the consumer.

Recommendations of Finance Committee

- To insert an explanation to the entry Sl. No. (iv) in notification No. 17/2017-CT(R) dated 28.06.2017, to the effect that the restaurant service under section 9(5), includes the service of delivery, by any person, of food or any other article for human consumption or drink from the restaurant, eating joints etc. to the recipient of restaurant service.

Agenda 4 (Annexure-IV)

2. To clarify the GST treatment of penal charges in light of the recent shift in RBI guidelines dated 18.08.2023 from "penal interest" to "penal charges" (pages 359-362)

- RBI has issued various guidelines to Regulated Entities (REs) such as banks and NBFCs to ensure reasonableness and transparency in disclosure of penal interest or penal charges.
- REs have been instructed, vide RBI instructions dated 18.08.2023, effective from 01.01.2024, to discontinue the use of "penal interest" (interest levied over and above the contracted rate) for non-compliance with loan terms.
- Instead of penal interest, REs are to levy "penal charges" for non-compliance with material terms and conditions of loan agreements. The intent of levying penal charges is essentially to inculcate a sense of credit discipline and such charges are not meant to be used as a revenue enhancement tool.
- Vide Circular No. 178/10/2022-GST dated 03.08.2022, it has been clarified that certain payments are not a consideration for tolerating an act or situation. Such amounts are in the nature of liquidated damages and are for preventing breach of contract or non-performance and are thus, mere "events" in a contract. The essence of a contract is its 'performance' and not its 'breach', meaning thereby that parties enter into a contract with the intention of complying with the terms and conditions thereof, and not with the intent of violating them.
- In the case of lending contracts, it cannot be said that either the lender or the borrower enters into the lending contract with the intention of defaulting. Therefore, no GST is payable on the penal charges levied by regulated entities in compliance with provisions of the RBI direction dated 18.08.2023.

Recommendations of Finance Committee

- To clarify the matter by way of a Circular.

Agenda 4 (Annexure-IV)

3. To exclude the sponsorship services rendered by a body corporate to another body corporate from reverse charge mechanism and bring it under forward charge mechanism. (pages 362-363)

- Currently, sponsorship services are classified under SAC 998397 and attract 18% GST as per entry 21(iii) of notification No. 11/2017-TR dated 28.06.2017. With respect to the payment of tax, this service has been notified under RCM 69/ No. 4 of notification No. 13/2017-TR dated 28.06.2017.
- The request to tax the sponsorship services provided by body corporates under forward charge was discussed in the GST Council in its 16th meeting, 28th meeting and 47th meeting. The requests were not accepted primarily on the grounds that the practice is well settled from the service tax regime.
- Sponsorship services have increased manifold owing to the growth of various sporting and other events.
- The scenario has changed from where sponsorship was mostly being provided by smaller entities or individuals who would be difficult to track and collect GST from. As bigger entities are now engaged in providing sponsorship services, it is in line with the principles of GST to allow the flow of credit.
- Body corporates undertaking sponsorship services, unlike other non-commercial establishments, are likely to have utilized input services for the provision of these services, on which the input tax paid is currently required to be reversed.
- A separate dispensation for body corporates, in respect of treatment under reverse charge, has already been provided for in certain cases such as security services and direct selling agents.

Recommendations of Finance Committee

- To bring sponsorship services provided by body corporates under forward charge.



CHAIRMAN'S INITIALS

Agenda 4 (Annexure-IV)

4. To clarify whether exemption under entry 34 of notification No. 12/2017-CTR dated 28.06.2017 is available to payment aggregators for transactions, up to Rs. 2000/-, transacted through credit card, debit card, charge card or other payment cards. (pages 37-37)

- The matter was deferred for reconsideration by the Fitment Committee in the 54th GST Council meeting.
- Payment Aggregators (PAs) are entities that facilitate e-commerce sites and merchants to accept various payment instruments from the customers for completion of their payment obligations without the need for merchants to create a separate payment integration system of their own. PAs facilitate merchants to connect with acquiring banks.
- In the process, they receive payments from customers, pool and transfer them on to the merchants within a specified time-period.
- The definition of 'acquiring bank' at Explanation to Sl. No. 34 of notification No. 12/2017-CTR dated 28.06.2017, includes entities who make a payment to any person who accepts such card.
- In the 54th GST Council meeting held on 09.09.2024, the matter was discussed and it was recommended that the matter may be comprehensively re-examined.
- RBI has also informed that PAs may be covered under the ambit of 'acquiring bank' since PAs settle funds to any person who accepts such cards.
- However, the exemption under Sl. No. 34 is limited to settlement function only, which involves handling of money. Payment Gateway services, which do not involve any handling of money, are not covered within the ambit of the said exemption.

Recommendations of Fitment Committee

- To clarify the matter by way of a Circular.

Agenda 4 (Annexure-IV)

5. (i) To clarify the taxability, or otherwise, of research carried out for the wider public good; and

(ii) To clarify the differences between research and consulting activities. (pages 37-37)

- On the recommendations of the 54th GST Council Meeting, a specific exemption was created, w.e.f. 10.10.2024, for the supply of R&D services by Government entities or entities notified under clauses (ii) or (iii) of sub-section (1) of section 35 of the Income Tax Act, 1961, against consideration received in the form of grants.
- In the same meeting, the Council recommended that the Fitment Committee examine the taxability, or otherwise, of research carried out for the wider public good and the ways of differentiating between research and consulting activities.

Recommendations of Fitment Committee

- Fitment Committee deliberated on the issue and recommended that for a service (by way of any activity) to be considered R&D, and to be eligible for the exemption available to research and development services under heading 9981, it has to satisfy the following two conditions:
 - The activity should be aimed at generating new knowledge, and
 - The outcome of the activity should be uncertain and not determinable at the outset.
- Fitment Committee further recommended that in cases where an entity, whether Government or private, is sponsoring or funding research the benefits of which are neither accruing nor are expected to accrue, either directly or indirectly, to any specific entity to the exclusion of others, a nexus between the consideration (i.e. funding) and the supply (i.e. the research undertaken) would normally not exist. In such cases, the outcome of research, would be in the nature of a 'public good', and such research activities carried out against any kind of grants or funding would not constitute a supply in return for a consideration.
- The matters may be suitably clarified, as above, through separate Circulars.
- The Committee further recommended that the payment of GST on research and development services carried out by Government entities against grants received from the Government or Government entities may be regularized for the period 01.07.2017 to 09.10.2024 on 'as is where is' basis.

Agenda 4 (Annexure-IV)

6. To clarify the applicability of GST on transactions of the Motor Vehicle Accident Fund, established under the Motor Vehicles Act, 1988 and to consider exemption from GST requirements for the Fund. (pages 37-37)

- Sub-section (2) of section 164B of the Motor Vehicles Act, 1988, states that a Fund shall be constituted for the purpose of providing compulsory insurance cover to all road users in the territory of India.
- The Ministry of Road Transport and Highways (MoRTH) has created the Motor Vehicle Accident Fund for providing compensation in the case of hit and run motor accidents, providing cashless treatment to victims of road accident and providing compensation to such other persons as may be specified.
- The contributions made to the fund by the general insurance companies are from the premiums collected by them on third-party motor vehicle insurance policies bought by the general public. Third-party insurance is mandatory for motor vehicles by virtue of Section 146 of the Motor Vehicles Act, 1988 on which applicable GST already stands paid.
- Therefore, charging GST again on this amount, at the stage of transfer to the Motor Vehicle Accident Fund may amount to double taxation and will reduce the corpus available with the Fund to pay out to victims of motor vehicle accidents. Motor vehicle insurance companies are engaged in providing third-party insurance and transfer of part of the insurance premium received by them to these funds is nothing but providing insurance services to the specific categories only.

Recommendations of Fitment Committee

- The services of insurance provided by the Motor Vehicle Accident Fund, by way of compensation or reimbursement of treatment expenses, including cashless treatment, for which the consideration is represented by the contributions obtained from general insurance companies, as a share of mandatory motor third party premiums, may be exempted.



CHAIRMAN'S INITIALS

Agenda 4 (Annexure-IV)**7. To restore the tax exemption for Training Partners (TPs) approved by the National Skill Development Corporation (NSDC) (pages 3, 7, 8, 9)**

- Services provided by the National Skill Development Corporation (NSDC) and the Training Partners (TPs) approved by NSDC have always been exempted from levy of Goods and Services Tax (GST). Such services were exempted during the previous tax period as well.
- On the recommendations of the GST Council in its 54th meeting held on 09.09.2024, the relevant entries of Notification No. 12/2017-CTR (revised) (vide Notification No. 08/2024-C1(Rate) dated 08.10.2024), to synchronize the GST exemption structure on skill development and training with the new regulatory architecture under NCVET.
- It was understood that under the revised framework set up under the NCVET notification, training partner centres are accredited by awarding bodies recognized by NCVET. Accordingly, the exemption to training partners (TPs) approved by NSDC was not provided for in the revised exemption notification as it was felt that these training partners are already covered in the training partners accredited by awarding bodies recognized by NCVET under the new framework. Hence, exemption was given to such partner centers.
- It has now been informed that since NSDC is the implementing agency for the skilling schemes of the Government of India, as well as other skill development programs, the withdrawal of the tax exemption to TPs approved by NSDC would adversely impact skilling ecosystem significantly as the revised exemption is restricted to the Training Bodies accredited with the Awarding Body recognized by NCVET only.

Recommendations of Eminent Committee

- The exemption, as it existed prior to 10.10.2024, may be reinstated. Further, the interim period, from the date of implementation of Notification No. 08/2024-C1(Rate), i.e. 10.10.2024, till the date the above entry is reinstated, may be regularized on 'as is where is' basis.

Agenda 4 (Annexure-IV)**8. To clarify whether GST is applicable on charges/ fees paid for Floor Space Index (FSI)/additional FSI by builders to local authorities under Reverse Charge Mechanism (RCM) (pages 3, 9, 382)**

- Issue was deferred by the 52nd GST Council held on 07.10.2023 and 54th GST Council held on 09.09.2024.
- Municipalities or Local authorities collect various charges including Additional chargeable premium FSI from builders/developers. Additional/chargeable premium FSI is the consideration paid by builders for obtaining additional FSI over and above the base FSI from the Local Authorities.
- These services bestow a direct commercial benefit to the builders/developers as these services are purely of commercial nature and used by the business entities including builders and developers in the course of or furtherance of business.
- There is a clear quid pro quo between the services supplied by the Local Authorities to business entity for which consideration is paid by the builders/developers.
- At present services supplied by any person by way of transfer of developmental rights or FSI (incl additional FSI) for construction of a project by a promoter is currently taxed under RCM (entry at Sr. No. 5B of the notification No. 12/2017-CTR dated 28.06.2017).
- Any supply by Government or any Local Authority to a business entity is also taxable under RCM. (entry at Sr. No. 5 of notification No. 12/2017-CTR dated 28.06.2017)

Recommendations of Eminent Committee

- To clarify that GST is applicable on charges/ fees paid for FSI including additional FSI by builders to local authorities under Reverse Charge Mechanism (RCM).

Agenda 4 (Annexure-IV)**9. To clarify that as long as the entire transportation of goods is undertaken by road and the person transporting the goods issues consignment note, the said service would be treated as Goods Transport Agency (GTA) service instead of courier services. (pages 3, 5, 383)**

- Issue was deferred by the 53rd GST Council held on 09.09.2024 for a more comprehensive examination.
- Tech-enabled companies operating in intra-city goods transport segment sector provide delivery services to customers from one location to another via 2, 3 and 4-wheeler vehicles.
- Request is to clarify that if in such services the entire transportation of goods is by road and the person transporting the goods issues a consignment note it would be classified as GTA service.
- It is seen that one of the companies involved in business of transport of goods is classifying its services, primarily the ones provided via two-wheeler as Goods Transport Agency (GTA) and availing the benefit of exemption under Sr. No. 21 of notification No. 12/2017-CTR dated 28.06.2017 which exempts services provided by GTA to an unregistered person.
- The other players in the identical business are not availing exemption on services provided by a two-wheeler and are paying GST at the rate of 18%.
- It is observed that these services are more appropriately covered in the category of courier services as these services ensure door-to-door delivery having time sensitivity.

Recommendations of Eminent Committee

- To clarify to the investigating agency that the delivery service ensuring door-to-door instant delivery service through two-wheeler network is more appropriately classifiable as courier service (in terms of explanatory notes to the scheme of classification of services) and not as GTA.



CHAIRMAN'S INITIALS

Agenda 4 (Annexure-IV)

10. To issue clarification on levy of GST towards lease rentals payment made to National Highways Authority of India (NHAI) by Oil Marketing Companies (OMCs) for developing way side amenities. (pages 385-388)

- NHAI leases land on national highways to Oil Marketing Companies (OMCs) for development of the way side amenities for existing as well as upcoming projects. The wayside amenities such as restaurant, food court, dhaba, fuel station, hotel etc provide rest and refreshment for highway commuters during their journeys.
- As per current provisions renting or leasing of land is taxable @ 18% under 9972 unless exempted by specific exemption entry.
- NHAI is a Governmental Entity and there is no such exemption available to Govt. Entities in the exemption notification for the services of leasing/renting of land by them to any business entity for commercial activity.
- Even, services of renting of immovable property supplied by the Government or local authority to a unregistered business entity are taxable under Forward Charge Mechanism (FCM) while, other services supplied by the Government or local authority to a business entity are taxable under RCM entry at Sr. No. 7 and 7A of the notification No. 13/2017.
- The entry relied upon by NHAI (*entry at Sr. No. 90 of the notification No. 13/2017, CTR dated 28.06.2017*) is for claiming exemption and is not applicable in this case as it exempts services supplied by a Government Entity to Government, local authority or any person specified by Government or local authority against consideration received from Government, or local authority, in the form of grants. In this case, no grants are involved, hence this entry is not applicable here.

Recommendations of Finance Committee:

To clarify to NHAI and Oil Marketing Companies (OMCs) that GST is applicable on such renting of land by NHAI to OMCs for developing ways side amenities at applicable rate i.e., 18%.

Agenda 4 (Annexure-IV)

11. To amend entry at Sr. No. 25A of notification No. 12/2017-CTR dated 28.06.2017 and to regularize the GST for the period from 10.10.2024 to the date of issue of amending notification. (pages 388-390)

- Entry at Sr. No. 25A was inserted vide notification No. 08/2024-CTR dated 08/10/2024 based on the recommendations of the GST Council in its 54th meeting held on 09.09.2024 to exempt supply of services by way of providing metering equipment on rent, testing for meters/transformers/capacitors etc., releasing electricity connection, shifting of meter/service lines, issuing duplicate bills etc. which are incidental or ancillary to the supply of transmission and distribution of electricity provided by electricity transmission and distribution utilities to their consumers.
- Entry at Sr. No. 25 of notification No. 12/2017-CTR dated 28.06.2017 reads: "Transmission or distribution of electricity by an electricity transmission or distribution utility".
- In the entry at Sr. No. 25A entry words "transmission and distribution utilities" were mentioned. However, the original entry at Sr. No. 25 of the notification No. 12/2017-CTR dated 28.06.2017 mentions "transmission or distribution utilities".
- The agenda is to align the entry at Sr. No. 25A with the other exemption entry at Sr. No. 28.

Recommendations of Finance Committee:

- The new entry at Sr. No. 25A may be aligned with the entry at Sr. No. 25 so as to maintain uniformity and the words "transmission and distribution utilities" may be replaced with "transmission or distribution utilities".
- The intervening period i.e., 10.10.2024 (effective date of implementation of entry at Sr. No. 25A in notification No. 12/2017-CTR dated 28.06.2017) up to the date of issue of amending notification may be regularized on "as is where is" basis.

Agenda 4 (Annexure-IV)

12. To notify Delhi Development Authority (DDA) as a Local Authority and to remove the reference of DDA from the answer to question #5 of the "FAQs on GST in Government Services Sector" wherein DDA is listed as "not a local authority". (pages 390-393)

- Issue was deferred in the 57th GST Council meeting held on 07.10.2023 and 58th GST Council held on 09.09.2024.
- For any authority to be treated as "Local Authority", they must fulfill the requirement of the definition of Local Authority as per Section 2(69) of the GST Act. 2017. Local authority under CGST Act, 2017 has been defined as a "... Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled or entrusted by the Central Government or any State Government with the control or management of a municipal or fiscal fund".
- Finance Committee recommended to clarify that as DDA does not meet the requirement of the Local Authority as per Section 2(69) of the GST Act, and hence cannot be treated as Local Authority under GST law.
- Since Local Fund or Municipal Fund is not defined under CGST/SGST Act, 2017, it was further recommended by the Finance Committee that Local fund and Municipal fund need to be defined in CGST Act. A draft definition of Local Fund and Municipal Fund shared by Maharashtra as below:
 - "Local Fund" means any fund or the control or management of which an authority established for self-government for discharging civic functions, situated in "Panchayat Area", is legally entitled & includes the proceeds of any cess, rate, duty or tax which such authority is legally entitled to impose & any property vested in such authorities.
 - "Municipal Fund" means any fund or the control or management of which an authority established for self-government for discharging civic functions, situated in "Metropolitan Area" or "Municipal Area", is legally entitled & includes the proceeds of any cess, rate, duty or tax which such authority is legally entitled to impose & any property vested in such authority."

Recommendations of Finance Committee:

- It may be clarified that as DDA does not meet requirement of local authority as per section 2(69) of the CGST Act, 2017, it cannot be treated as local authority under GST law.
- The definition of local fund and Municipal fund as proposed by Maharashtra referred to Law Committee for making necessary amendments in the CGST Act.



CHAIRMAN'S
INITIALS

Agenda 4 (Annexure-IV)**13. To clarify that GST is not applicable on facility management services provided to Municipal Corporation of Delhi (MCD) HQ. (pages 393-396)**

- MCD is receiving the services of facility management agency for the upkeep of their office such as housekeeping, civil maintenance, furniture maintenance and horticulture and has sought clarification as to whether such services are exempt in terms of Sr. No. 3A of the notification No. 12/2017-CTR dated 28.06.2017.
- The said entry provides exemption to composite supply of goods and services in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply provided to the Government or local authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution is exempt from GST (Sr. No. 3A of notification No. 12/2017-CTR dated 28.06.2017).
- However, in the instant case MCD is using the services of facility management agency for the upkeep of their office such as housekeeping, civil maintenance, furniture maintenance and horticulture and not related to performing functions entrusted under 12th schedule.
- Such services are not covered under the scope of entry at Sr. No. 3A.

Recommendations of Finance Committee:

To clarify that GST is applicable on facility management services provided to Delhi (MCD) HQ for upkeep of its head quarter building at applicable rates and no exemption is available to them as these services are not covered under the scope of entry at Sr. No. 3A of the notification No. 12/2017-CTR dated 28.06.2017.

Agenda 4 (Annexure-IV)**14. To review the levy of GST on RCM basis on renting of commercial property by unregistered person to a registered person. (pages 396-402)**

- Based on the recommendations of the 54th GST council held on 09.09.2024, renting or leasing of commercial property by unregistered person to registered person was brought under reverse charge basis in order to plug the leakage of revenue.
- After the said notification dated 08.10.2024 was issued, various representations from different sectors have been received requesting to bring the service of renting of commercial property by unregistered person to registered person under Forward Charge Mechanism on the ground that in many cases ITC of such services is not available.
- ITC of GST paid by registered person on renting of commercial property under reverse charge is available provided the recipient of service is a registered person and eligible to avail ITC. However, in certain cases, the recipient is liable to pay GST under reverse charge basis on the renting of commercial property and is not eligible for ITC due to its outward supplies being chargeable to GST without any availability of ITC, or is supplying exempt service or taxpayers who have opted to pay tax under composition scheme.
- Further a request has been received from Ministry of New and Renewable Energy (MNRE) to comment on the applicability of the GST on the leasing of Commercial Property under RCM in case of their renewable energy projects.

Agenda 4 (Annexure-IV)**14. *contd.***

- Entry at Sr. No. 5AB introduced vide notification No. 09/2024-CTR dated 08.10.2024 in case of renting of commercial property by unregistered person to registered person is applicable on all kinds of renting irrespective of the purpose of renting. However, services by way of leasing of land by government/local authority to governmental authority or government entity is already exempt (*entry at Sr. No. 16(i) of notification No. 11/2017-CTR dated 28.06.2017*).
- The composition levy is an alternative method of levy of tax designed for small taxpayers whose turnover is up to Rs. 1.5 crore. The objective of composition scheme is to bring simplicity for the small manufacturers, traders or restaurant service provider who need to pay tax at prescribed percentage of 1%+2%+5% without having any ITC.

Recommendations of Finance Committee:

- The taxpayers registered under composition levy scheme may be excluded from the above entry at Sr. No. 5AB introduced vide Notification No. 09/2024-CTR dated 08.10.2024.
- The period from date when the notification No. 09/2024-CTR dated 08.10.2024 became effective (i.e 10.10.2024) till the date proposed notification is issued may be regularized on 'as is where is' basis.
- It may be clarified to MNRE that GST has to be paid by them at applicable rates on renting of commercial property from unregistered persons under RCM.



CHAIRMAN'S INITIALS

Agenda 4 (Annexure-IV)

15. a) To revise the definition of 'specified premises' which refers to declared tariff of any unit of accommodation above Rs 7500 per unit per day or equivalent, for the purpose of determining the GST rate on supply of restaurant service in specified premises.

b) To clarify the period for which 18% is to be charged for restaurant located in specified premises. (pages 407-408)

- Initially, 'declared tariff' was defined in the context of accommodation services provided in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes etc.
- Vide notification No. 46/2017-CTR dated 14.11.2017, declared tariff was linked with the restaurant service, wherein such supply would attract 5% GST without ITC if the same was supplied from a premise offering accommodation service where declared tariff was less than Rs 7500/-, and 18% otherwise.
- Vide notification No. 13/2018-CTR dated 26.07.2018, in respect of accommodation services, 'declared tariff' was replaced with the terms 'value of supply'. However, 'declared tariff' continued to be used in the context of supply of restaurant service.
- The use of 'declared tariff' is causing hard-ship in hotels and restaurants, who are uncertain about the rate of GST applicable to restaurants operating in hotels' premises. There is also ambiguity over the period for which GST @ 18% with ITC is to be paid, in cases where the declared tariff crosses the threshold of Rs. 7500 during the year.

Recommendations of Finance Committee

- The definition of declared tariff may be deleted and the definition of specified premises may be suitably amended to make the rate of GST applicable on restaurant services in hotels, for a given financial year, dependent upon the 'value of supply' of units of accommodation made in the preceding financial year, i.e. (i) 18% with ITC for the entire financial year if the 'value of supply' exceeded Rs. 7500 for any unit of accommodation in the preceding financial year, and (ii) 5% without ITC otherwise.
- An option may also be given to pay tax on restaurant service at the rate of 18%, with ITC, if the supplier so chooses, by giving a declaration to that effect on or before the beginning of the financial year or on obtaining registration.
- The above changes may be made effective from 01.04.2025 to avoid any transition difficulties in the middle of the financial year.
- A reference may be made to the Law Committee to examine the possibility of amending the law to provide for a mechanism for availability/reversal of ITC for the taxpayer who would be going from 5% without ITC to 18% with ITC and vice versa.

Agenda 4 (Annexure-V)

1. To exempt GST on Light dues collected by Directorate General of Lighthouses & Lightship (DGLL) during the period 01.07.2017 to 31.08.2022. (pages 407-409)

- DGLL have requested to exempt GST on Light dues collected by them during the period 01.07.2017 to 31.08.2022. The GST involved for the period is Rs. 282 crores. The arguments raised by DGLL that they could not collect the GST on light dues was that there was no enabling provision under Lighthouse Act, 1927 for the period from July 1, 2017 to August 31, 2022.
- To implement the provision of GST on Light dues, the Lighthouse Act, 1927 was repealed and the new Marine Aids to Navigation Act, 2021 was enacted on 31.03.2022. The Marine Aids to Navigation (Accounting and Financial Power) Rules, 2022 were notified in May 2022.
- However, in terms of the Government of India (Transaction of Business) Rules, 1967, business allotted to a department is required to be transacted in that Department and therefore any proposal having revenue implications has to be implemented complying with the concerned tax legislation and not in accordance with any other legislation, agreement or MOU etc.
- DGLL has started collecting GST on Light dues from 01.09.2022 and has started remitting to the government after implementation of Marine Aids to Navigation Act, 2021 and notification of relevant rules in 2022.
- DGLL supplies services by way of providing and maintaining lighthouses for the benefit of ships voyaging to or from India or between ports in India which are in the nature of marine navigational services and collecting light-dues in respect of every ship arriving at or departing from any port in India, which is a taxable service.
- DGLL was informed as early as in 2019 and then again in 2023 that their services are taxable under GST Act and they were intimated to pay their dues. However, they did not comply.

Recommendations of Finance Committee

- The request may not be accepted.

Agenda 4 (Annexure-V)

2. To examine the inclusion of services under the notification No. 17/2017-CTR dated 28.06.2017 under which four services have been notified on which GST is paid by Electronic Commerce Operator under Section 9(5) of CGST Act, 2017. (pages 409-411)

- The agenda was deferred by the 54th GST Council held on 09.09.2024.
- As per section 9(5) of the CGST Act, 2017, the Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services.
- Accordingly, the following services have been notified under section 9(5) by way of notification No. 17/2017-CTR dated 28.06.2017:
 - ✓ Passenger transport services
 - ✓ Hotel accommodation services
 - ✓ Restaurant services
 - ✓ Housekeeping services
- The rationale for bringing these services under 9(5) was to ease the compliance burden of small service providers.

Recommendations of Finance Committee

- Services presently notified under section 9(5) may continue. No change recommended.



CHAIRMAN'S
INITIALS

Agenda 4 (Annexure-V)

3. To either exempt electric vehicle (EV) charging services at public charging stations or to reduce the rate on EV charging service from 18 % to 5% or to clarify that the activity of charging EVs in a charging station essentially involves supply of electricity and therefore should be chargeable at the same rate applicable to supply of electricity. (pages 411-413)

- The agenda was deferred by the 54th GST Council dated 09.09.2024 for re-examination by the Fitment Committee on request of state of Andhra Pradesh. The request from Andhra Pradesh has been received.
- The request to reduce the rate of GST on EV charging and battery swapping service to 5% from the current rate of 18% and to exclude the cost of electricity from taxable value while charging GST on EV charging service was placed before the 47th GST Council held in June 2022. However, the Council did not accede to the request.
- Supply of electrical energy is exempt from GST vide entry at *Sl. No. 104 of notification No. 02/2017-CTR dated 28.06.2017*. Service of distribution or transmission of electricity by an electricity transmission or distribution utility is also exempt from GST vide entry at *Sl. No. 25 of notification No. 1/2017-CTR dated 28.06.2019*.
- Vide *Sl. No. 13 of notification No. 11/2017-CTR dated 28.06.2017* rate of 18% on electricity, gas, water and other distribution services (Heading 9966) is notified. As per the Scheme of classification of services, this heading included only services of transmission and distribution of electricity.
- Ministry of Power vide Circular No. 23/08/2018-R&R dated 13.04.2018 has clarified that EV charging service does not qualify as supplier of electricity nor as service of distribution or transmission of electricity by an electricity transmission or distribution utility.

Agenda 4 (Annexure-V)

3. (contd...)

- Hence no exemption from GST is available as per existing provisions.
- As per explanatory notes to the Scheme of classification of services, battery charging of motor vehicles is covered under SAC 998714, attracting GST @ 18%.
- It has also been ascertained that electricity for EV charging stations is already being provided in many states at subsidised rates.

Recommendations of Fitment Committee:

- The request may not be accepted.

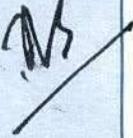
Agenda 4(Annexure-VI)

1. To clarify the applicability of GST on the upfront amount/ concession amount paid to NHAI by concessionaire for grant of rights under Toll Operate Transfer (TOT) Model and also on short term toll collection under other models. (pages 414-421)

- The agenda was deferred by the 54th GST Council held on 09.09.2024.
- NHAI has been authorized for monetization of assets by introducing Toll Operate and Transfer (TOT) model for partnership with private sector for toll collection, operation and maintenance for a period of 15-30 years against an upfront lump sum concession fee quoted.
- Under TOT model bids are invited and the bidding amount is comprised with Initial Estimated Cost Value (IECV) which is the reserved price, which represents the projected upfront toll revenue over the entire concession period.
- For Operation & Maintenance (O&M), the concessionaries usually set up SPV responsible for O&M activities ensuring compliance and transparency.
- NHAI has viewed that the concession amount is lump sum upfront payment of toll revenue which is in the nature of a Capital Receipt used to fund for creation of new assets and therefore, the same is not liable for GST as toll is exempted under *Sl. No. 23 of the notification No. 02/2017-CTR dated 28.06.2017*.
- Currently service by way of access to a road or a bridge on payment of toll charges is exempt from payment of GST. Entry No. 23 of Notification No. 12/2017-CTR.
- Under TOT model, the National Highway Authority of India engages a concessionaire for operation, maintenance and management of already developed, constructed highways projects. The concessionaire is entitled to demand and collect toll from vehicles and users of the highway for a period of 30-30 years.
- The concessionaire assumes full responsibility for road maintenance and toll collection during the concession period.
- The upfront amount paid by the concessionaire is the consideration paid by him for receiving exclusive right of way, access and license to the site including right to demand, collect and appropriate fee from vehicles and users along with the maintenance of the highway etc. by NHAI and regulation of third parties from the appointed day till expiry of agreement.

Recommendations of Fitment Committee:

- The matter may be deferred for comprehensive examination.



Agenda 4(Annexure-VI)**2. To clarify the taxability of services provided by NBFCs to banks in co-lending arrangements (pages 417-418)**

- Co-lending is a Priority Sector Lending (PSL) arrangement where a bank and an NBFC lend together to a borrower on mutually agreed terms. The co-lending model is designed to combine the advantage of lower cost of capital of banks with the greater reach of NBFCs, in order to serve needy borrowers.
- The interest accruing to the NBFC, from the 'blended' rate of interest offered to the borrower, is typically higher than that accruing to the bank. It has been argued that the interest rate difference reflects NBFCs' higher funding costs and that there is no specific additional service being provided by NBFCs to the banks. This is a joint operation focused on providing credit and that the "excess interest" is essentially interest income, not a service charge, and no GST is payable on such "interest income".
- During the examination of the issue, it was seen that there are several types of agreements between banks and NBFCs in co-lending arrangements. The Fitment Committee was of the view that the structures/practices in these agreements need to be examined in more detail before a decision can be taken in the matter.

Recommendations of Fitment Committee:

- The matter may be deferred for comprehensive examination.

Agenda 4 (Annexure-VII)**1. To exempt GST on the services provided by M/s Goethe Institutes/ Max Mueller Bhavans, funded by the German Federal Foreign Office, in India for the period from 01.07.2017 to 31.03.2023. (pages 419-420)**

- The said agenda was taken to the 54th GST Council held on 09.09.2024 and the council did not accede to the request of M/s Goethe Institutes/Max Mueller Bhawan to exempt GST on the services provided by them for past period from 01.07.2017 to 31.03.2023.
- M/s Goethe Institutes/Max Mueller Bhawan have six institutes across India which provide linguistic and cultural training to young Indians preparing for their stay in Germany.
- From 1st April, 2023, Goethe Institutes have started collecting and paying GST. They have paid Rs. 15 crores GST till March, 2024.
- Prior to 1st April, 2023, Goethe Institutes did not collect GST from their students nor did they remit the same to Government as they were under the belief that their activities are exempt from GST.
- Ministry of External Affairs has requested to reexamine the issue of retrospective exemption. Quantum of GST involved is approx. Rs 52 crores as intimated by the Ministry of External Affairs.
- Fitment Committee did not make any recommendations on this issue and viewed that the issue may be discussed and decided by the GST Council only.

CHAIRMAN'S
INITIALS

Closure of Group of Ministers (GoM) on Analysis of Revenue

- Joint Secretary
GST Council Secretariat

Constitution of the GoM on Analysis of Revenue

- GoM on Analysis of Revenue constituted vide OM 01.01.2019 following the 31st GST Council Meeting (22.12.2018).
- Constitution:

S. No.	Name	Designation	State	
1	Shri Dushyant Chautala	Deputy Chief Minister	Haryana	Convenor
2	Shri Kanu Bhai Desai	Minister of Finance, Energy and Petrochemicals	Gujarat	Member
3	Shri Mauvin Godinho	Minister of Transport, Panchayati Raj, Housing, Protocol and Legislative Affairs	Goa	Member
4	Shri Krishna Byre Gowda	Minister of Revenue	Karnataka	Member
5	Shri K. N. Balagopal	Minister of Finance	Kerala	Member
6	Shri Bikram Keshari Arukha	Minister of Finance	Odisha	Member
7	Shri Harpal Singh Cheema	Minister of Finance	Punjab	Member

Terms of Reference

Terms of Reference:

- Analyse State-wise trends of revenue collection, both pre-GST and post GST.
- Analyse structural patterns emerging out of certain major sectors of economy affecting the revenue collection including the services sector.
- Identify underlying reasons for deviations in revenue collection trends vis-a-vis original assumption arrived at during design and implementation of GST, in particular less than expected revenue collection of some of the major consuming States.
- Undertake data analytics using econometric and statistical tools on the above issues.
- Suggest suitable measures/Policy intervention for course correction for revenue augmentation, particularly for the States suffering high revenue shortfall.

CHAIRMAN'S
INITIALS



Proposal for Closure of GoM on Analysis of Revenue

In the 38th GST Council Meeting (18.12.2019), the GoM made the following recommendations:

- i. States should be asked to suggest ways to improve the GST compliance;
- ii. A study should be conducted on **rationalisation of GST rates/ tariff and merger of GST slab**;
- iii. GST collection from **real state sector** should be analysed;
- iv. How States can be better equipped to harness the **tax potential on supplies of services**;
- v. A detailed study should be conducted on **e-Commerce** including deep discounts offered by them with a view to augmenting revenue;
- vi. A study should also be conducted to explore avenues for **expanding the scope of the Cess** being levied including increase in the Cess rate or bringing some new items under the levy of Cess.

Proposal for Closure of GoM on Analysis of Revenue

Rationale for Closure:

➤ Task Overlap:

- Recommendation of the GoM on Analysis of Revenue from GST are being addressed by the GoM on Rate Rationalization, GoM for boosting Real Estate Sector and the newly constituted GoM on Compensation Cess. Most of the areas under purview of the GoM on Analysis of Revenue are already under consideration of GoM on Rate Rationalization and GoM for Boosting the Real Estate Sector.

➤ Stabilized Revenue Collection:

- Over the past seven years, GST revenue collection has stabilized due to enhanced compliance mechanisms and technological advancements.
- Requisite mechanisms to address issues relating to compliance and enforcement are in place.

➤ Strengthened Compliance Mechanism:

- Law Committee regularly deliberates on ways to strengthen the compliance mechanism as would lead to revenue augmentation.

Many steps have been taken for augmenting revenue by improving compliance and the requirement of a separate GoM on Analysis of Revenue may not exist anymore

THANK YOU

CHAIRMAN'S
INITIALS



Recommendations of the 22nd meeting of the ITGRC

22nd meeting of the IT Grievance Redressal Committee held on 19.09.2024

21 issues where data fixes were carried out by GSTN as per the SOP developed and approved in the 45th meeting of the GST Council.

Took note of the data fixes carried out/proposed by GSTN in 9 technical issues without financial implications

In case of 7 technical issues with financial implications:

Recommended waiver of late fee in 2 cases

directed GSTN to inform the ITGRC about the status of recovery

And took note of the data fixes carried out by GSTN

2 agendas on similar issues that were discussed/approved in previous ITGRC meetings.

Status update on 3 previous ITGRC issues also brought before the Committee for information.

ITGRC recommendations

Update on the Data mismatch issue between Hbase & Ledger in GSTR-3B :
61763 cases

ITGRC took note of the reset done by GSTN in 41,315 cases and 6,803 returns which have been re-filed in which amount of Rs 2,222.08 Cr has been recovered.

In 15960 cases of cancelled taxpayers and 4470 cases of insufficient ITC Ledger balance, ITGRC recommended to obtain views of the Law Committee. CWF issue : due to system glitch, instead of parking the amount with consumer welfare fund, amount got deposited into taxpayers' bank accounts. ITGRC took note of the recoveries amounting to Rs.9.75 lakh done so far and directed GSTN to pursue 7 pending cases of recovery amounting to Rs. 3.17 lakh and update ITGRC during the next meeting.

CHAIRMAN'S INITIALS



ITGRC recommendationsDuplicate transmission of Shipping Bills

discussed in the 20th meeting of the ITGRC, duplicate transmission of SBs had occurred and refund applications had been created on those duplicate records.

an amount of around Rs. 1.47 crore has been recovered so far.

directed GSTN to follow up those cases in which an amount of Rs. 1.29 crore has yet to be recovered.

Any other issue with the permission of the Chair:

CCT, Tamil Nadu requested that states could be given access to the taxpayers tickets raised to the GSTN so that they could also follow it up and be in a position to resolve the issues.

GSTN to categorize the complaints/ grievances state wise and also keep the records of opened and closed tickets state wise.

Thank you

CHAIRMAN'S
INITIALS

DOR AGENDAS

55TH GST COUNCIL MEETING

21st December 2024

Department of Revenue

1

PRESENTATION FLOW

2

- Agenda – 7.a.: Revenue position
- Agenda – 7.b.: Recommendations of the CoO on IGST Settlement
- Agenda – 7.c.: GSTAT Procedure Rules
- Agenda – 7.d.: Request of Goa for relaxation in qualification of Technical Member (State)
- Agenda – 7.e.: Post-facto approval of request of Jharkhand for relaxation in qualification of Technical Member (State)
- Agenda – 7.f.: Status report of GoM on Compensation

7.A. REVENUE POSITION

Volume II – Pg. 7 to 15

Monthly Gross and Net GST collection (₹ crore)

GST Collection	Apr'24	May'24	Jun'24	Jul'24	Aug'24	Sep'24	Oct'24	Nov'24
CGST	43,846	32,409	32,627	32,386	30,862	31,422	33,821	34,141
SGST	53,538	40,265	40,715	40,289	38,411	39,283	41,864	43,047
IGST	99,623	87,781	87,310	96,447	93,621	90,594	99,111	91,828
Domestic	61,797	47,902	47,270	49,437	44,593	46,087	54,878	50,093
Imports	37,826	39,879	40,040	47,009	49,028	44,807	44,233	41,736
Comp. Cess	13,260	12,284	13,160	12,983	12,068	11,941	12,550	13,253
Domestic	12,282	11,207	12,188	11,923	11,120	11,058	11,688	12,388
Imports	1,008	1,076	972	1,029	948	883	862	855
Gross Collection	2,10,267	1,72,739	1,73,812	1,82,075	1,74,962	1,73,240	1,87,346	1,82,269
YoY Growth	12.4%	10.0%	7.6%	10.3%	10.0%	8.5%	8.9%	8.5%
Less – Refunds (Domestic + Imports)	18,507	28,410	19,946	16,283	24,460	20,458	19,306	19,259
Net Collection	1,91,760	1,44,329	1,53,866	1,65,792	1,50,502	1,52,782	1,68,040	1,63,010
YoY Growth	15.5%	6.8%	6.3%	14.4%	6.5%	3.9%	7.9%	11.1%

3

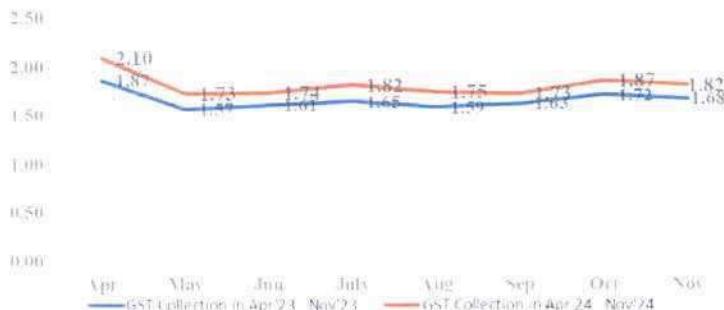
CHAIRMAN'S INITIALS



7.A. REVENUE POSITION

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Monthly gross GST collection Trend chart (₹ lakh crore)



7.A. REVENUE POSITION

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Status of IGST A/c (₹ crore)*

#	Particulars (Figures in Rs. Crore)	2023-24	2024-25 (as of Nov 2024)
1	Collections (+)	10,22,280	7,48,490
2	Recovery from IGST Ad-hoc apportionment (+)	-	-
3	Refunds (-)	1,46,730	1,15,841
4	Settlement (-)	8,99,067	8,59,406
i.	CGST	4,87,039	3,84,754
ii.	SGST	4,12,028	3,04,652
5	Ad-hoc Settlement (-)	-18,000	-
i.	CGST ad hoc	-9,000	-
ii.	SGST ad hoc	-9,000	-
6	Net (1+2-3-4-5)	-5,516	-26,757
	Total as of date	-32,273	

States' Gross GST Revenue (₹ crore)

Particulars	(In Crore)
Pre-settlement (Apr'23-Nov'23)	3,09,003
Pre-settlement (Apr'24-Nov'24)	3,37,412
SGST Growth (%)	9%
Post-Settlement (Apr'23-Nov'23)	5,67,464
Post-Settlement (Apr'24-Nov'24)	6,42,064
SGST Growth Post settlement (%)	13%

* Source: Pr. CCA figures

7.A. REVENUE POSITION STATE'S PRE-SETTLEMENT REVENUE

SGST Pre-settlement: (₹ crore)	(Apr'23-Nov'23)	(Apr'24-Nov'24)	Growth (%)
Lakshadweep	16	6	-60%
Other Territory	156	125	-20%
Sikkim	321	264	-18%
Arunachal Pradesh	418	381	-14%
Nagaland	206	186	-10%
Jharkhand	5,866	5,776	-2%
Andaman and Nicobar Islands	140	140	0%
Jammu and Kashmir	1,960	2,013	3%
Meghalaya	394	407	3%
West Bengal	18,600	16,029	3%
Andhra Pradesh	9,291	9,613	3%
Mizoram	182	189	4%
Tripura	335	352	5%
Chhattisgarh	8,398	5,892	5%
Himachal Pradesh	1,731	1,841	6%
Rajasthan	11,348	12,017	6%
Madhya Pradesh	8,496	9,043	6%
Kerala	9,171	9,743	6%
Telangana	12,994	13,889	7%
Uttarakhand	3,625	3,915	8%
Uttar Pradesh	21,624	23,376	8%
Assam	3,885	4,206	8%
Gujarat	27,871	30,000	8%

SGST Pre-settlement: (₹ crore)	(Apr'23-Nov'23)	(Apr'24-Nov'24)	Growth (%)
Punjab	5,612	6,129	9%
Manipur	223	249	9%
Bihar	5,377	5,913	10%
Odisha	10,626	11,723	10%
Karnataka	28,713	29,814	10%
Puducherry	330	363	10%
Maharashtra	65,983	73,941	12%
Goa	1,487	1,658	12%
Tamil Nadu	27,046	30,282	12%
Chandigarh	439	502	14%
Ladakh	155	176	14%
Haryana	13,415	15,468	15%
Delhi	10,340	11,847	15%
Dadra and Nagar Haveli & Daman and Diu	426	487	17%
Grand Total	3,09,003	3,37,412	9%

CHAIRMAN'S INITIALS

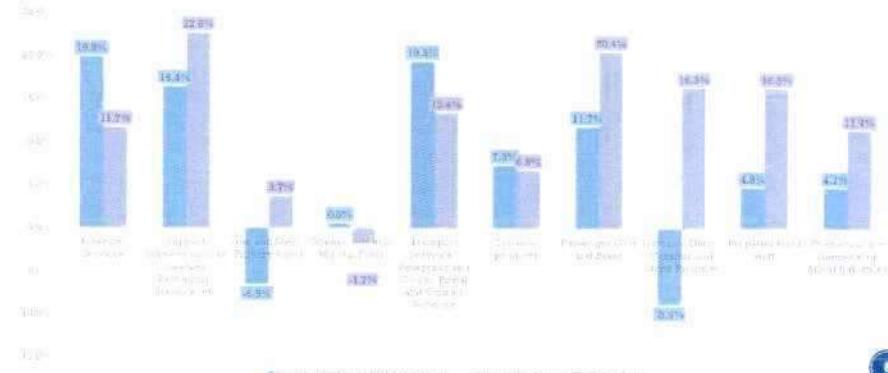
7.A. REVENUE
POSITION
STATE'S
POST-
SETTLEMENT
REVENUE

7.A. REVENUE POSITION STATE'S POST-SETTLEMENT REVENUE	SGST Post-settlement (₹ crore)	(Apr'23 - Nov'23)	(Apr'24 - Nov'24)	Growth (%)	SGST Post-settlement (₹ crore)	(Apr'23 - Nov'23)	(Apr'24 - Nov'24)	Growth (%)
Other Territory	822	554	-33%	Himachal Pradesh	3,701	4,178	13%	
Arunachal Pradesh	1,270	1,188	-7%	Haryana	23,194	26,246	13%	
Sikkim	677	648	-3%	Karnataka	48,766	54,922	13%	
Nagaland	701	699	0%	Delhi	21,037	24,028	14%	
Mizoram	634	633	0%	Uttar Pradesh	49,222	56,687	15%	
Lakshadweep	69	70	2%	Jharkhand	8,116	9,327	15%	
Chandigarh	1,505	1,576	5%	Chhattisgarh	8,831	10,143	15%	
Andhra Pradesh	20,952	21,998	5%	Madhya Pradesh	20,673	23,674	15%	
Kerala	20,523	21,793	6%	Ladakh	437	538	15%	
Manipur	730	783	7%	Gujarat	41,345	48,098	16%	
Meghalaya	1,103	1,187	8%	Maharashtra	96,551	112,174	16%	
Assam	9,553	10,352	8%	Dadra and Nagar Haveli & Daman and Diu	698	845	21%	
Punjab	14,734	16,102	9%	Tamil Nadu	42,473	51,430	21%	
Andaman and Nicobar Islands	347	378	9%	Grand Total	5,87,484	6,42,064	13%	
Telangana	26,691	29,188	9%					
Bihar	16,991	18,735	10%					
Tripura	1,037	1,138	10%					
West Bengal	28,043	30,737	10%					
Goa	2,618	2,873	10%					
Jammu and Kashmir	5,367	5,932	11%					
Odisha	15,515	17,233	11%					
Uttarakhand	5,586	6,275	12%					
Rajasthan	25,699	28,658	12%					
Puducherry	933	1,042	12%					

7.A. REVENUE POSITION

Volume II – Pg. 7 to 15

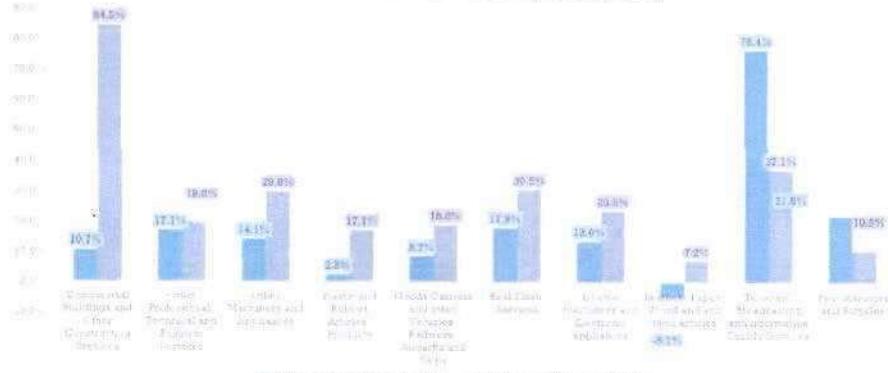
Sector wise cash collection growth (Top 10)



7.A. REVENUE POSITION

Volume II - Pg. 7 to 15

Sector wise cash collection growth (11-20)



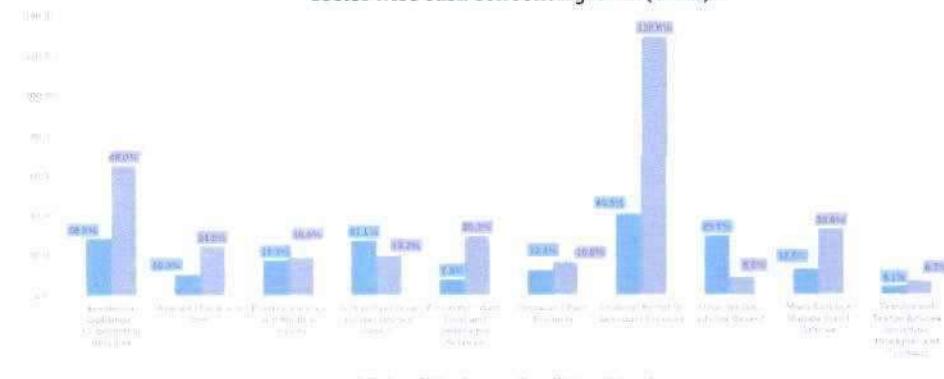
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7.A. REVENUE POSITION

Volume II - Pg. 7 to 15

Sector wise cash collection growth (21-30)*



* This Chart is the correct version of the Figure 5 at page 14 of Agenda Volume II, which may be permitted to be amended

7.A. REVENUE POSITION

Volume II - Pg. 7 to 15

Relative contribution of Top 30 Sectors

Sectors	Relative Contribution in Cash Collection		Sectors	Relative Contribution in Cash Collection	
	FY 25 (upto Oct 24)	FY 24		FY 25 (upto Oct 24)	FY 24
Financial Services	7.1%	6.9%	Electric machinery and Electronic	~2.7%	2.6%
Support Services	7.2%	6.9%	Real Estate Services	2.6%	2.4%
Iron and Steel - Primary forms	8.4%	8.8%	Two-wheeler and Bicycles	1.6%	1.4%
Mineral oils and Mineral Fuels	8.2%	8.6%	Leather, Paper, Wood and their	~1.6%	1.8%
Tobacco products	4.0%	4.8%	Leasing, Rental or Licensing Services	1.6%	1.0%
Passenger Cars and Buses	4.8%	4.7%	Telecom, Broadcasting and		
Transport Services	4.8%	4.4%	Information Supply Services	1.4%	1.1%
Construction Services	4.6%	5.6%	Residential buildings - Construction	1.4%	1.4%
Chemical or Allied Industries	4.2%	4.1%	Articles of Iron and Steel	1.4%	1.4%
Other Professional, Technical and Business Services	4.2%	4.2%	Pharmaceuticals and Medical Devices	1.3%	1.2%
Construction materials	4.1%	4.9%	Gold and precious metals, articles	1.2%	1.0%
Prepared Food stuff	4.1%	3.9%	Accommodation, Food and Beverages	1.1%	1.2%
Other Machinery and Appliances	3.8%	3.4%	Plants and Plant Products	1.1%	1.1%
Vehicles, Railways, Aircrafts and Plastic and Rubber Articles- Products	3.2%	3.3%	Miscellaneous Manufactured Articles	1.1%	1.1%

7.B. RECOMMENDATIONS - COO ON IGST SETTLEMENT

Volume II - Pg. 16 to 82

- Committee of Officers on IGST Settlement was formed to examine and improve the IGST settlement process.
- The Committee made various recommendations.
- On the issue of ad-hoc apportionment / adjustment, a method based on the previous year's IGST settlement ratio was proposed. Finally, the Council has to decide.
- Approval of the GST Council is sought to allow the CoO to function as a standing committee to address ongoing IT-related issues in the GST settlement process.
- Also, the CoO may be allowed to look into IT related issues of the Officers and the Committee on GST System enhancement may be merged with the CoO.

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REPORT OF COMMITTEE ON IGST SETTLEMENT

Comprehensive Review and Recommendations for
IGST Settlement Process

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1. BACKGROUND & TERMS OF REFERENCE

Volume II – Pg. 66 to 82

- A Committee of Officers (CoO) was constituted pursuant to 54th GST Council meeting.
- CoO is chaired by Additional Secretary (Revenue) and has Members from the State of Maharashtra, Tamil Nadu, Gujarat, Karnataka, West Bengal, Madhya Pradesh, Kerala, UP and Bihar. CEO GSTN, Commissioner, GST Policy Wing, DG (Systems) and JS, TPRU are part of the CoO.

Terms of Reference:

- Review legislative provisions and rules for IGST settlement.
- Analyse the current IGST settlement process and identify any unsettled items with reasons.
- Analyse and apprise GST Council with regard to:
 - detailed understanding of workings and process of IGST settlement.
 - identification of circumstances leading to positive/negative IGST balances and the manner of settlement of the same.
 - suggestions for managing and accurately settling these balances.

2. COMMITTEE MEETINGS & PARTICIPATION

Volume II – Pg. 66 to 82

- CoO held its meetings on various dates - 20th September, 10th October, 17th October and 29th October 2024 (in Hybrid format for all meetings)
- Written Comments were also received from representatives of Karnataka, Kerala, Tamil Nadu, Maharashtra, Uttar Pradesh, and Punjab
- Draft report was circulated to all Members on 30th October 2024. Further comments were received which were duly incorporated and final draft was circulated to all Members on 08th November 2024.
- Report Submission: Based on discussions and feedback, report is to be submitted to GST Council.

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3.1 TWO PRIMARY MODES OF SETTLEMENT

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3.2 CURRENT LEGISLATIVE FRAMEWORK

Volume II – Pg. 66 to 82

➤ **IGST Act Provisions:**

- Section 18: Allows cross-utilization of credits in CGST, SGST, UTGST, and IGST accounts.
- Section 17: Settlement rules for ITC based on final consumption in each State (e.g., B2C, imports, ineligible ITC).

➤ **GST Settlement Rules (2017):**

- Define process and provisions for IGST apportionment.

➤ **Key Rules:**

- Rules 4(1)(b)(i), 4(1)(b)(ii), and 5(b) outline specific cross-utilization
- Rules 4(1)(b)(iii) (a to g) apportionment on monthly interval and Rules 4(1)(b)(iv) (a & b) annual apportionment.
- These are elaborated in the [Annexure](#)

4.1 BASIC ISSUE IN IGST SETTLEMENT

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➤ IGST settlement to a state is unique in many ways. It depends on a number of factors beyond the control of the concerned state.

➤ Depends on :

- Data submitted or available with agencies say GSTN, ICEGATE (customs), other states etc. - Recipient States do not have access to this data.
- Secondary data captured from other returns say GSTR 3B, GSTR 9 etc.
- Many of these forms themselves undergo changes from time to time making the settlement faulty.

➤ Many settlement principles are not backed by legal provisions e.g. Un-availed or Ineligible ITC has to be settled to states provided it is reported correctly by TPs but there is no legal stipulation for TPs to report it correctly.

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4.2 ISSUES RAISED BY STATES (1/2)

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1. A total of 3 apportionment categories out of 8 are consistently reporting Nil Settlement since the beginning of IGST Settlement process. These categories are relating to un-availed ITC on both domestic and imports and ineligible ITC on both domestic and imports.
2. Requirement of legal framework for mandating the taxpayer to report ineligible ITC and ITC reversals under IMS or otherwise.
3. Over a period of time changes have been introduced in CGST rules / GSTR forms. Corresponding changes in settlement rules and forms have not been done.
4. Settlement Forms are not aligned to the Settlement Rules.
5. Source for capturing data for each of these forms are not well delineated. It is expected to be done through SRS, which was never ratified through a formal mechanism.

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4.2 ISSUES RAISED BY STATES (2/2)

Volume II - Pg. 66 to 82

6. In case of imports by unregistered persons, there were credits which were reversed without any explanation.
7. Information regarding place of supply in case of imports by unregistered persons is not made available to States.
8. Issues in settlement of accumulated ITC between centre and states upon cancellation of GST registration.
9. Wrong reporting of POS as 'Other Territory' (state code 97) by many taxpayers leading to a possibility of state revenue being allocated to Center.
10. Details pertaining to 'online information data access retrieval services' (OIDAR) regarding place of supply not available to states.
11. Transparent and objective process of allocation and recovery of final accumulated surplus/deficit in the IGST account.

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5. RESOLUTION OBJECTIVES

Volume II - Pg. 66 to 82

- Focus was on creating a balanced, transparent approach for consistent IGST settlements across states.

Objectives:

- Align the current settlement rules to the settlement process and bring clarity in the process of settlement.
- Demystify items in settlement forms, ensuring accurate data and enhancing transparency in IGST settlements.
- Resolve the anomalies in reporting and ensure accurate reporting.
- Ensure continuous reporting of data / MIS to the States.
- Agree on a methodology for apportionment of positive/negative balance in IGST Account.

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6.1 ALIGN CURRENT RULES (1/4)

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Issue 1: Blank forms with no settlement on un-availed ITC and ineligible ITC:

- Input tax credit (ITC) remaining un-availed is expected to be settled to States annually in STL Forms 1.07 (domestic) and 1.11 (imports).
- Similarly, certain ITC which is not not eligible is expected to be settled in STL Forms 1.06 (domestic) and 1.10 (imports).
- These settlements were originally envisaged to be made annually based reporting by taxpayers on annual return (GSTR 9).
- Annual reports were subsequently made mandatory only for larger taxpayers (turnover above Rs.2 cr). Hence GSTN could not collate this information from available records.
- This information is captured in Table 4D(2) and Table 4B(1) of GSTR-3B in a summary form. From July 2022, reporting of this information has also been mandatory by issuing Circular.
- However, in reality taxpayers are still not reporting correct information in Table 4(D)(2) and 4(B)(1) of GSTR-3B.

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6.1 ALIGN CURRENT RULES (2/4)

Volume II – Pg. 66 to 82

Issue 1: Blank forms with no settlement on un-availed ITC and ineligible ITC (contd.):

Recommendations:

- Settlement based on individual line item-wise information is possible only after implementation of Invoice Management System (IMS).
- Until IMS is implemented,
 - Settle un-availed ITC (on both imports and domestic) in summary form based on reporting in Table 4D in GSTR 3B on a monthly basis in STL Form 1.06.
 - Settle ineligible ITC (on both imports and domestic) in summary form based on reporting in Table 4B in GSTR 3B on a monthly basis in STL Form 1.06.
- Once the IMS is operational, settlement is to be done separately for domestic and imports with line-item wise information in the respective forms.
- Law Committee to frame rules for proper ICST Settlement through IMS and for capturing lapsed credit.

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6.1 ALIGN CURRENT RULES (3/4)

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Issue 2: To make reporting of ITC reversals mandatory

- Currently, reporting of ITC reversals (of both un-availed ITC and ineligible ITC) in the monthly return is mandated through a circular. There is no enforcement mechanism.
- Whenever IMS is implemented with Rules framed, issues related to IGST settlement must be incorporated in the rules.

Recommendations:

- Circular no 170/02/2022-GST dated 6th July, 2022 should be included as a legal provision so that it brings a binding obligation on the taxpayers.
- Law Committee to evaluate and suggest a legal provision which may be introduced for adjudication of taxpayers who have not availed/short availed IGST ITC.
- Under IMS, rules should be framed to make it mandatory for the taxpayers to report un-availed ITC and ineligible ITC. In case of un-availed ITC based on limitation, automatic reversal may also be envisaged in IMS.

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6.1 ALIGN CURRENT RULES (4/4)

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Issue 3: Other changes

- GST Settlement Rules were framed at the time of inception of GST. Many changes to the returns and reporting procedure were implemented to reduce the compliance burden.
- However, the settlement rules were not correspondingly amended while the settlement process in operation was modified.

Recommendations:

Make consequential changes in the rules to align with the current business process.
Rules to be amended for certain issues like updating terms used such as Common Portal for GSTN, OIDAR being included in the settlement process, reference to UN refunds etc.

6.2 DEMYSTIFY SETTLEMENT FORMS

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Issue 4: Settlement forms are not aligned with the Rules

- STL Form 1.06 captures various - ineligible ITC (on domestic), ITC lapsed due to shift to composition scheme and ITC lapsed upon cancellation of registration.
- However, the rules are not elaborate enough to cover all these situations.
- Similarly, in STL Form 1.04, while settlement is being made for certain items like OIDAR etc, these are not prescribed explicitly in the rules.
- Sources of each form are also not delineated properly.

Recommendations:

Amend the relevant Rules and Forms to clearly delineate the various categories of settlement items contained in this form.
Sources for all the forms as per the updated amendments are to be specified in the headings of the forms. [See Annexure for samples](#)

6.3 RESOLVE THE ANOMALIES IN REPORTING (1/4)

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Issue 5: Reversals in the settlement pertaining to Imports by Unregistered Persons (STL Form 1.08)

- During the last 2 financial years, negative settlements were made without any line item-wise details / reasons being shared with the States.
- As per GSTN, this is due to incorrect classification of registered importers as unregistered in the first place which was later corrected in the settlement.

Recommendation:

GSTN to share sample data with States for Bills of Entry that were wrongly settled, including month, name, and reverse settlement details. If discrepancies are found, States can request complete data from GSTN, which will be provided as needed.
Going forward the States to be provided with the details of the bills of entry as received from ICEGATE.
Importer Exporter Code to be included in STL Form 1.08.

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6.3 RESOLVE THE ANOMALIES IN REPORTING (2/4)

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Issue 6: Information regarding PoS in case of imports by unregistered persons is not available in the settlement forms (STL Form 1.08)

- For imports by unregistered persons, settlement is done based on inputs received from Customs in ICEGATE systems.
- States have difficulty in verifying the settlement in the absence of place of supply information.

Recommendation:

Importer Exporter Code along with PAN (if possible) to be included in STL Form 1.08.
Going forward the States to be provided with the details of the bills of entry as received from ICEGATE (All imports in a State- along with address of the importer).

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6.3 RESOLVE THE ANOMALIES IN REPORTING (3/4)

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Issue 7: Settlement of accumulated ITC upon cancellation of GST registration

- Upon cancellation of registration, any accumulated ITC needs to be settled to the States.
- Currently, the settlement is done based on final return filed by taxpayer which may not always be forthcoming.
- An automatic mechanism is needed to settle ITC upon registration cancellation.

Recommendation:

Many cancellations may involve fake or non-genuine taxpayers, making ITC settlement inappropriate.
Introducing a mechanism for the 'Proper Officer' to certify credits could also be counterproductive.
Committee felt that this requires further deliberation and status quo can be maintained for now.

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6.3 RESOLVE THE ANOMALIES IN REPORTING (4/4)

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Issue 8: Collections under "97. Other Territory"

- There is lack of clarity on revenue reported in "97. Other Territory".
- Other Territory is intended to capture Exclusive Economic Zone (EEZ) - 200 nautical mile area of the ocean that gives coastal nations jurisdiction over natural resources.
- Presently all transactions where PoS is wrongly mentioned as 'Other Territory' get settled to UT-Centre.

Recommendation:

GSTN to provide sample data on entries appearing in "97. Other Territory".
Based on analysis of the same, States to report back anomalies in reporting in the category "97. Other Territory".
Upon review of the data, Committee to evaluate and recommend if instead of "97. Other Territory", more specific classification can be considered. SRS to be amended appropriately.

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6.4 CONTINUOUS REPORTING/MIS TO STATES

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Issue 9: Data pertaining to Place of Supply of OIDAR (Online Information Database Access and Retrieval Services)

- Limited transparency for States on PoS of OIDAR services.

Recommendation:

- GSTN to share data pertaining to OIDAR (TIN of supplier, Name, PoS, IGST collected etc) as it appears in the return filed in GSTR-5A as an MIS on a monthly basis.
- States may seek further data from the jurisdictional officer for OIDAR (i.e) Bengaluru West Zone of CBIC.
- Settlement for OIDAR would be reflected in STL Form 1.04 and the rules would be amended accordingly.

7. WAY FORWARD & FURTHER ACTIONS

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- Recommendations of the Committee may be implemented by GSTN before March 2025. Committee may review the progress and report to the Council.
- System Requirement Specification (SRS) document for implementing the changes recommended by the Committee may be placed before the Committee and the approval of the Committee be taken before the same is implemented.
- This Committee may continue to review and examine various IT related issues faced by the States and Central formations and provide necessary directions and guidance to GSTN from time to time.

8. SETTLEMENT: BALANCE IN IGST ACCOUNT (1/2)

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Issue 10: Settlement of balance in IGST Account

- There is a negative balance of Rs.5,500 crore for last FY. During the current year, negative balance as of Nov 2024 is estimated to be Rs.26,000 crore.

- Apportionment Challenge:** There is a need to establish a fair method for apportionment of positive and negative balances apportionment to States.

Options:

- Option 1:** Apportion positive and negative balances using base year revenue ratio (FY 2015-16).
- Option 2:** Use actual IGST settlement ratios for both positive and negative balances.

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8. SETTLEMENT: BALANCE IN IGST ACCOUNT (2/2)

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Member States were divided on the method of apportionment.

- UP, Kerala, Punjab supported Option 1.
- Karnataka, Maharashtra, Gujarat, Madhya Pradesh and Tamil Nadu supported Option 2 but felt that negative balance should not be recovered unless it is clear that it would not reverse. They also preferred use of IGST settlement ratio of the previous FY.
- Karnataka opined that positive balance over a threshold can be apportioned but negative balance at the end of the year can be recovered in the first quarter of the subsequent financial year.

Recommendation:

Recovery of negative balance should be a last resort, only when it is clear that the balance won't reverse within the financial year and shall be recovered within the same financial year by March 15th of every year.

Since there is no consensus in the Committee, the GST Council may decide on the option. Majority favoured recovery based on actual IGST Settlement ratio of previous FY.

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ANNEXURES

CURRENT LEGISLATIVE FRAMEWORK

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Report	Code	Frequency	Particulars	Settlement Rules	Section IGST/CGST Act
4.02	ITTC	Monthly	IGST Liability adjusted against SGST/UTGST and CGST ITC (including cross utilization by ISD).	4(1)(b)(i)	Section 17 of IGST Act & 53 of CGST Act
4.03	STTC	Monthly	SGST/UTGST liability adjusted against IGST ITC	4(1)(b)(ii)	Section 17 of IGST Act
2.02	CTTC	Monthly	CGST Liability adjusted against IGST ITC	5(b)	Section 17 of IGST Act
6.02		Monthly	Settlement from Cash Ledger		Section 49(10) of CGST Act & Rule 87(13) and (14) of CGST Rules

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CURRENT LEGISLATIVE FRAMEWORK

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S. No.	Row Labels	Frequency	GSTR Report	Particulars	Settlement Rules	Section IGST/CGST Act
3.	B2B	Monthly	4(34)	CGST/SGST portion on IGST collected on inter-state supplies including (input) Service Tax on sale or distribution, to B2B supplies, imports or exports or SEZ on payment of IGST, including non-taxable persons who have integrated Tax credit availing/with them	4(3)(b)(iii)(i)	17(1)(a) and 17(2) of IGST Act
2.	B2BIO	Monthly	4(35)	4(3) CGST/SGST portion of IGST (inter-state) supplies made to composition taxable person/ Non-resident taxable person/ UIN holders	4(3)(b)(iii)(ii)	17(1)(a) and 17(2) of IGST Act
3.	B2BNS	Monthly	4(36)	CGST/SGST portion of IGST collected on B to B supplies where ITC is declared as ineligible, including export ITC due to opting composition scheme and cancellation of registration	4(3)(b)(iii)(iii)	17(1)(a) and 17(2) of IGST Act
4.	B2BIO	Annually	4(37)	List of registered persons in a State or Union territory who have made inter-State inward supplies, which OA remains unutilized till end of the previous financial year	4(3)(b)(iii)(iv)	17(1)(a) and 17(2) of IGST Act
5.	HS	Monthly	4(38)	CGST/SGST portion of IGST collected on import of goods, and/or services by unregistered persons	4(3)(b)(iii)(v)	17(1)(a) and 17(2) of IGST Act
6.	HS/IO	Monthly	4(39)	CGST/SGST portion of IGST for supplies imported by composition taxable persons/ UIN holders	4(3)(b)(iii)(vi)	17(1)(a) and 17(2) of IGST Act

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CURRENT LEGISLATIVE FRAMEWORK

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S. No.	Code	Frequency	GSTR Report	Particulars	Settlement Rules	Section 1681/GST Act
7	IB2HS	Monthly	4-10	GST/SGST portion of GST collected on goods/services imported by registered person (other than composition scheme) where ITC is declared as negligible	4TR0404R10	Section 1681 and 1681(1)(b) of GST Act
8	IB2B1	Annually	4-11	GST/SGST portion of GST collected on goods imported by registered person where ITC remains undetermined till end of September of the subsequent financial year	4TR0306R10	1681(6) and 1681(9) of GST Act
9	IB1NF	Monthly	4-12	Interest on GST related to returns and feedback after filing advance ruling application under GST	4TR0304R10	
10	IGCA-CMP	Monthly	5-10(1)	SGST/GST portion of GST- Compounding amount paid		
11	IGCA-INT	Monthly	5-10(1)	SGST/GST portion of GST-Interest demand paid		
12	IGCA-COM	Monthly	5-10(10)	SGST/GST portion of GST- Others demand paid		
13	IGCA-PEN	Monthly	5-10(11)	SGST/GST portion of GST-Interest demand paid		
14	IGCA-TAX	Monthly	5-10(12)	SGST/GST portion of GST- Tax demand paid		
15		Monthly	4-13	GST/SGST portion of GST collected where place of supply could not be determined	5(1)(i)	1st proviso to Section 1681(1) of GST Act
16		Monthly	4-14	GST/SGST portion of GST collected where taxable person making supply is not identifiable	5(1)	2nd proviso to Section 1681(1) of GST Act
17		Monthly	5-11-5-200	Reduction due to issued credit notes	8	Section 1681(1)(b) of GST Act

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CURRENT SETTLEMENT PROCESS

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No. No.	Code	GSTR Report	Particulars	Source of settlement reports
1	IB1	4-02	GST liability admitted against SGST, CGST and GST ITC (including cross inflation in ITC)	GSTR-7, GSTR-6, GSTR-10
2	SIB	4-03	SGST/UTGST liability admitted against GST ITC	GSTR-7, GSTR-6, GSTR-10
3	CTC	5-02	CGST liability admitted against GST ITC	GSTR-2, GSTR-4, GSTR-10
4		6-02	SGST/UTGST from cash ledger	PM-10
5	IB2S	4-04	GST/SGST portion of GST collected on inter-state supply excluding Tgst, Tsgst, UTGST, distribution, in B2B supplies, or exports or B2C on payment of GST, including non-filers who have integrated tax credit on sales or imports	GSTR-10, GSTR-6, GSTR-10, GSTR-7
6	IB2B1	4-05	GST/SGST portion of GST for inter-state supplies made to composition taxable person. Non-compliant taxable person (TIN holders)	GSTR-4 and GSTR-10
7	IB2HS	4-06	GST/SGST portion of GST collected on B to B supplies where ITC is declared as negligible, including interest ITC due to opting composition scheme and cancellation of registration	GSTR-6, GSTR-4, GSTR-10, TGST-10, GSTR-10, GSTR-11
8	IB2R1	4-07	List of registered persons in state or Union Territory who have made inter-State inward supplies on which input tax credit remains undetermined till end of September of the subsequent financial year	From August 2020, settling through Table 4B(1) of Form GSTR-1B. Table 4B(1) requires consolidated details of relevant GSTR-1B
9	IB2C	4-08	GST/SGST portion of GST collected on import of goods and/or services by unregistered persons	9(1)
10	IB2B2	4-09	GST/SGST portion of GST collected on import of goods and/or services by composition taxable persons, TIN holders	GSTR-4, GSTR-4X, CMP-08, IOP

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CURRENT SETTLEMENT PROCESS

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S. No.	Row Labels	GSTR Report	Particulars	Source of settlement reports
11	IB2HS	4-10	GST/SGST portion of GST collected on goods/services imported by registered person (other than composition scheme) where ITC is declared as negligible	From August 2020, settling through Table 4B(1) of Form GSTR-1B. Table 4B(1) requires consolidated details of relevant GSTR-1B
12	IB2B1	4-11	GST/SGST portion of GST collected on goods imported by registered person where ITC remains undetermined till end of September of the subsequent financial year	Some logic error
13	IB1NF	4-12	Interest on GST related to returns and feedback after filing advance ruling application under GST	GSTR-7, GSTR-4, GSTR-8, GSTR-7, GSTR-10, CMP-08, IOP, Advance Ruling, GSTR-10, GSTR-11
14	IGCA-CMP	5-01(1)	SGST/GST portion of GST- Compounding amount paid	
15	IGCA-INT	5-01(1)	SGST/GST portion of GST-Interest demand paid	
16	IGCA-COM	5-02(1)	SGST/GST portion of GST- Others demand paid	DRG/DRG1/DRG2/DRG3 and CMP-04
17	IGCA-PEN	5-03(1)	SGST/GST portion of GST-Penalty demand paid	
18	IGCA-TAX	5-04(1)	SGST/GST portion of GST-Tax demand paid	

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SOURCE OF INFORMATION IN FORM

Volume II – Pg. 66 to 82

Report GST S1L - 041.06

List of registered persons who have made inter-State inward supplies for which TDS is declared by an eligible state administered including HCs imposed due to opt-in any compensation scheme and tax paid in lieu of TDS, universal with filing of cancellation application or final return (for ref. 7 of L.91 64(4)(a) & 7(1)(b))
(G.S.R. 1073(E))

(Source: Forms: GSTR-3B, GSTR-4, GSTR-6, ITR-05, RFS-16/GSTR-10)

Report GST S1L - 041.07

List of registered persons who have made inter-State inward supplies in which TDS is imposed by the state in the specified period (for ref. 8 of L.91 64(4)(a) & 7(1)(b))
(G.S.R. 1073(E))

(Source: Forms: GSTR-3B)

Report GST S1L - 041.09

List of corporation taxable person (TIN holder/ceap) who have made import 'Non-peculiar taxable persons' who have received inward inter-State supplies liable to reverse charge (TDS & TCS) holders making imports
(G.S.R. 1073(E))

(Source: Forms: GSTR-4, CMP-08, Bill of Entry)

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State Code	STATE	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24	FY 2024-25	Total
1	Jammu and Kashmir	9.76	1.13	10.81	20.00	4.42	9.25	95.16
2	Himachal Pradesh	3.08	0.73	36.69	28.48	14.84	22.32	99.61
3	Punjab	127.17	5.53	64.29	95.43	11.29	14.20	247.31
4	Chhattisgarh	32.62	7.59	39.38	6.60	8.17	31.67	74.21
5	Uttaranchal	140.25	2.01	76.28	47.56	42.39	45.12	271.90
6	Madhya Pradesh	40.72	38.93	45.88	48.94	4.03	16.41	183.20
7	Delhi	9.95	32.45	61.05	371.60	294.14	166.99	1365.49
8	Rajasthan	30.33	1.82	70.82	45.48	4.12	25.38	122.62
9	Uttar Pradesh	560.83	32.14	369.43	87.48	11.95	87.05	986.20
10	Bihar	13.34	3.82	27.15	18.73	8.47	8.54	57.04
11	Sikkim	0.37	0.02	0.68	3.05	5.45	7.98	16.00
12	Arunachal Pradesh	0.10	0.11	1.29	0.45	0.28	0.49	1.40
13	Nagaland	0.08	0.01	0.05	0.41	0.00	0.16	0.60
14	Manipur	0.82	0.01	0.60	0.98	0.22	0.09	2.12
15	Moorem	0.33	0.03	0.81	1.10	0.00	0.96	4.00
16	Tripura	1.09	0.02	1.35	1.87	0.09	0.10	4.21
17	Meghalaya	1.89	0.12	2.02	5.28	2.16	0.27	12.15
18	Assam	9.81	0.03	10.17	24.23	(24.00)	3.50	34.92
19	West Bengal	246.05	35.49	151.43	212.21	(206.24)	(77.14)	332.16
20	Jharkhand	14.09	0.15	5.89	13.16	(10.98)	1.04	37.24
21	Odisha	9.11	2.17	59.75	36.30	7.15	34.70	99.66
22	Chhattisgarh	32.22	3.16	44.66	25.73	(20.23)	12.49	81.30
23	Madhya Pradesh	206.13	43.91	226.46	71.96	44.71	206.61	620.61
24	Gujarat	284.75	25.97	233.97	383.61	(376.01)	(367.25)	620.18
25	Dharm and Dha.	0.54	0.16	0.15	2.56	0.00	0.00	3.80
26	Dadra and Nagar Haveli	0.34	0.02	0.09	309.98	(21.09)	294.90	329.96
27	Daman and Diu	622.51	60.13	161.19	341.12	(344.33)	(176.83)	4365.03
28	Maheashtra	406.83	26.01	786.77	416.23	(540.41)	(18.23)	1047.12
29	Goa	130.41	5.28	44.02	67.51	(18.36)	(1.14)	208.79
30	Lokhandwew	0.12	0.01	0.01	0.00	0.00	0.12	0.12
31	Narita	244.43	11.08	61.38	12.47	1.98	44.48	287.83
32	Tamil Nadu	544.95	26.86	884.91	1039.53	(254.92)	(46.44)	2088.12
33	Puducherry	0.92	0.00	0.08	0.28	0.00	0.00	0.80
34	Andhra and Andhra Pradesh	0.13	0.00	0.08	0.14	0.00	0.00	0.41
35	Telangana	200.25	27.02	456.21	1,084.54	(512.52)	(405.26)	1,655.60
36	Andhra Pradesh	508.77	6.45	129.48	100.35	(52.11)	91.68	111.03
37	Ladakh	0.00	0.00	0.40	1.83	0.01	0.96	2.63
38	Other Territory	0.18	0.01	27.01	21.81	(1.38)	39.51	93.31

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7.B. RECOMMENDATIONS - COO ON IGST SETTLEMENT

Volume II – Pg. 16 to 82

Sl. No.	Decision Point	Officer's Committee
		Deliberation
1	Approval of the Report of the CoO on IGST Settlement. The proposed amendment in the Rules to be vetted by the Law Committee and notified and consequent changes in the GST system to be implemented.	Most of the States wanted the base year as the ratio to be used for recovery. Recovery to be effected in the relevant FY
2	CoO to function as a standing Committee and include IT related issues of Officers in its ToR. Also, Committee on System enhancement to be merged with the CoO.	Officers' agreed to the

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7.C. GST APPELLATE TRIBUNAL PROCEDURE RULES

Volume II – Pg. 83 to 128

- GST Law provides that the Appellate Tribunal can regulate its own procedure [section 106 and 111 of the CGST Act, 2017].
- Accordingly, the GSTAT has proposed draft GSTAT Procedural Rules.
- These rules prescribe procedure for filing of appeals, conduct of daily business, accepting of appeals, powers of registrar, publishing of daily cause list etc.
- Agenda placed before the GST Council for approval.
- Once approved, the same shall be vetted by the Law Committee and notified.

7.C. GST APPELLATE TRIBUNAL PROCEDURE RULES

Volume II – Pg. 83 to 128

Sl. No.	Decision Point	Officer's Committee Deliberation
1	Placing the Draft GSTAT Procedural Rules before the Officers' agreed to Council for subsequent vetting by the Law Committee the Agenda. With and issuance of notification by GSTAT	reference of section 106 removed. Only section 111 to be referred.

7.D. GOA REQUEST ON TECH MEMBER (STATE)

Volume II – Pg. 129 to 130

- 54th GST Council Meeting, - Approval was granted for relaxation in eligibility criteria of Technical member (State).
- Now, State has requested for amendment in the earlier relaxation, as follows: "Proposal of the State of Goa for notifying an officer of the **Government Commercial Tax Department** of Goa, who has completed at least twenty-five years of service in the Government, as Gazzetted Officer, to be eligible for the appointment as Technical Member (State) in the State Bench".
- Approval would be subject to other terms and conditions of section 110(1)(d) of the CGST Act, 2017.

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7.D. GOA REQUEST ON TECH MEMBER (STATE)

Volume II - Pg. 129 to 130

Sl. No.	Decision Point	Officer's Committee Deliberation
1	Approval of Goa for amending the approval which was Officers' agreed to granted in 54 th GST Council Meeting in respect of the Agenda Commercial Tax Department officers to be extended to any officer of the Goa State for relaxation in eligibility criteria for appointment of Technical Member (State) subject to other conditions which was imposed in the earlier approval	

7.E. POST-FACTO APPROVAL – JHARKHAND

Volume II - Pg. 131 to 141

- On the basis of recommendation by the GIC, approval was granted for relaxation in eligibility criteria of Technical member (State) to the State of Jharkhand to notify
 - "i. an officer of the Commercial Tax Department of Jharkhand, who has completed at least twenty-five years of service in the Government, as Gazetted Officer, to be eligible for the appointment as Technical Member (State); and*
 - "ii. the rank of an officer of the State of Jharkhand, not below the rank of "Joint Commissioner of State Tax", as a minimum qualifying rank of the officer who shall be eligible for Technical Member (State) subject to other conditions of section 110(1)(d) of the CGST Act, 2017."*
- Request similar to the approvals granted by the Council to other States in the 54th Meeting
- Agenda placed before the GST Council for post-facto approval.

7.E. POST-FACTO APPROVAL – JHARKHAND

Volume II - Pg. 131 to 141

Sl. No.	Decision Point	Officer's Committee Deliberation
1	Post-facto approval of the GIC approval to the State of Officers' agreed to Jharkhand regarding relaxation in eligibility criteria for the Agenda appointment as Technical Member (State) in the State of Jharkhand	

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7.E STATUS REPORT – GOM ON COMPENSATION

Volume II – Pg. 142 to 144

- GoM recommended continuing the current Cess collection mechanism and rates until March 2026 and distributing any surplus collection between the Centre and States as provided in the provision of Section 10(3) of the Compensation Act.
- GoM was supposed to conclude its discussion and submit its report to the Council by December 31, 2004.
- However, the GoM needs more time to determine the future course of action post-cess abolition and has requested an extension until June 2025.
- Accordingly, Status update is placed before the Council and approval sought for extending the mandate of the Committee till 30th June 2024.

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7.E STATUS REPORT – GOM ON COMPENSATION

Volume II – Pg. Pg. 142 to 144

Sl. No.	Decision Point	Officer's Committee Deliberation
1	Continuation of the current Cess collection until March 2026; and distribution of any surplus Cess between the Centre and States as provided in Section 10(3) of the GST Compensation Act	
2	Extension the timeline granted to the Committee till 30 th June 2024	the Agenda

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THANK YOU

CHAIRMAN'S INITIALS





Agenda



1. Agenda items for B2C e-Invoicing Project
2. Status on Invoice Management System (IMS) and Planned enhancements



Agenda Items for B2C e-Invoicing



The approval of the GST Council is sought for the following:

- i. GSTN to conduct a global technology and policy framework evaluation for B2C e-Invoicing.
- ii. A delegation consisting of members from GSTN, CBIC, the Department of Revenue (DoR), and Commercial Tax departments from the States/UTs may visit countries identified by GSTN with successful B2C e-Invoicing implementations to conduct the aforementioned evaluation.
- iii. Each team shall submit a report on the findings to GSTN in a standardized format.
- iv. The expenditure for the same shall be borne by GSTN.

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Status on Invoice Management System (IMS)

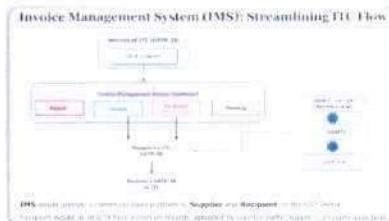


Fig: High level view of IMS

In the 54th meeting of the **GST Council**, it was informed that the **Invoice Management System (IMS)** would be rolled out by GSTN as an optional facility.



In this regard, the functionality has been **rolled out from the October 2024** return period and is now live on the GST portal.

Features made Available in IMS (1/3)



1

S.No.	GSTIN of Supplier	Trade/ Legal Status	Invoice Number	Document Type	Actions
1	GSTR0123456789	Active	ITC001-12345	Invoice	<input type="radio"/> Accept <input type="radio"/> Reject <input type="radio"/> Pending <input type="radio"/> Status
2	GSTR0123456789	Active	ITC001-12346	Invoice	<input type="radio"/> Accept <input type="radio"/> Reject <input type="radio"/> Pending <input type="radio"/> Status
3	GSTR0123456789	Active	ITC001-12347	Invoice	<input type="radio"/> Accept <input type="radio"/> Reject <input type="radio"/> Pending <input type="radio"/> Status
4	GSTR0123456789	Active	ITC001-12348	Invoice	<input type="radio"/> Accept <input type="radio"/> Reject <input type="radio"/> Pending <input type="radio"/> Status
5	GSTR0123456789	Active	ITC001-12349	Invoice	<input type="radio"/> Accept <input type="radio"/> Reject <input type="radio"/> Pending <input type="radio"/> Status

Actions

Accept/Reject/Pending
&
Deemed Accepted

Features made Available in IMS (2/3)



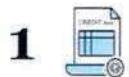
2

S.No.	Heading	No Action	Member of Records
1	R2B - Returns	No Action	<input type="radio"/> Accepted <input type="radio"/> Rejected <input type="radio"/> Pending
2	R2B - Returns (Accepted)	No Action	<input type="radio"/> Accepted <input type="radio"/> Rejected <input type="radio"/> Pending
3	R2B - Returns	No Action	<input type="radio"/> Accepted <input type="radio"/> Rejected <input type="radio"/> Pending
4	R2B - Debit Notes (Accepted)	No Action	<input type="radio"/> Accepted <input type="radio"/> Rejected <input type="radio"/> Pending
5	R2B - Credit Notes	No Action	<input type="radio"/> Accepted <input type="radio"/> Rejected <input type="radio"/> Pending
6	R2B - Credit Notes (Accepted)	No Action	<input type="radio"/> Accepted <input type="radio"/> Rejected <input type="radio"/> Pending
7	R2B - Credit Notes	No Action	<input type="radio"/> Accepted <input type="radio"/> Rejected <input type="radio"/> Pending
8	R2B - Credit Notes (Accepted)	No Action	<input type="radio"/> Accepted <input type="radio"/> Rejected <input type="radio"/> Pending
9	R2B - Credit Notes (Accepted)	No Action	<input type="radio"/> Accepted <input type="radio"/> Rejected <input type="radio"/> Pending

GSTR-2B

Computation
&
Re-Generation

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Features made Available in IMS (3/3)**3**
Supplier View**Enhancements Scheduled in IMS****1 Handling of Credit Notes**

Taxpayers would have the option to keep credit notes pending until a specified time.

**2 Offline Tool**

An offline tool would be introduced to handle bulk data.

**3 Rejected Section in GSTR-2B**

A new section in GSTR-2B would display all rejected records by recipient taxpayers.

**4 Supplier View for GST Suvidha Providers****THANK YOU!!**

CHAIRMAN'S INITIALS

Performance Report of Anti-Profiteering Authorities:
2nd Quarter (July-September 2024)

- Joint Secretary
GST Council Secretariat

Performance Report (CCI) - Quarter 1st July, 2024 to 30th September, 2024

➤ Key points:

- 6 Final Orders and 2 Interim Orders passed during the quarter.
- 2 cases of real estate sector sent back to the DGAP for re- investigation for re-working the profiteered amount in terms of judgement dated 29.01.2024 of Hon'ble Delhi High Court.
- Six Ordinary Meetings held by the CCI.
- One hearing held in Q2.
- Out 11 complaints in Q2, 6 forwarded respective Screening Committees/Standing Committee for further action/examination and 5 complaints which related to other GST/Enforcement issues were forwarded to the Jurisdictional State & Central GST authorities for necessary action.

Competition Commission of India (CCI)

➤ Empowerment of CCI for Anti-Profiteering

- 45th GST Council Meeting: Discussed the possibility of transferring all anti-profiteering cases to CCI.
- Notification No. 23/2022-C.T. (23rd November, 2022):
 - Effective from 1st December 2022, CCI empowered to examine whether **input tax credits** availed by any registered person or the **reduction in the tax rate** have actually resulted in a **commensurate reduction** in the price of the goods or services or both supplied by him.

➤ Empowerment of GSTAT

- Notification No. 18/2024-C.T. (30th September, 2024):
 - From 1st October 2024, the principal bench of the GSTAT empowered to examine profiteering cases.

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Performance Report - Quarter 1st July, 2024 to 30th September, 2024

➤ State Level Screening Committee (SLSC)*

Opening Balance: 175 cases

Receipt: 70

Cases Referred to Standing Committee: 4

Cases Rejected: 162

Closing Balance: 79 cases

➤ Standing Committee (SC)

Opening Balance: 128 cases

Cases Received: 63

Cases Disposed: 97

Closing Balance: 94 cases

➤ DG (Anti-Profiteering)

Opening Balance: 141 cases

Receipt: 18

Cases Referred to CCI for closure: 3

Closing Balance: 156 cases

*Report from the Kerala State Screening has not been received.Performance Report (CCI) - Quarter 1st July, 2024 to 30th September, 2024

➤ Total Cases Managed by CCI:

- Opening Balance: 53 cases
- Investigation Reports received from DGAP: 3 cases
- Disposal of Cases: 10 cases
- Closing Balance: 46 cases

➤ Outcome of Cases:

- Profiteering Established: 4 cases
- Profiteering Not Established: 2 cases
- Cases Referred Back to DGAP: 4 cases (2 in Real Estate sector, 2 in Non-Real Estate sector)

THANK YOU

CHAIRMAN'S INITIALS



Bringing ATF under GST

JAISALMER
21.12.2024

Constitutional Provisions

Article 279A

"2. GST Council shall recommend the date on which the goods and services tax be levied on petroleum crude, high speed diesel, motor spirit, natural gas and aviation turbine fuel."

E 84 List I

- Duties of excise on the following goods manufactured or produced in India, namely:—(a) petroleum crude;(b) high speed diesel;(c) motor spirit (commonly known as petrol);(d) natural gas;(e) aviation turbine fuel; and (f) tobacco and tobacco products."

E 54 List II

- Taxes on the sale of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas, aviation turbine fuel and alcoholic liquor for human consumption, but not including sale in the course of inter-State trade or commerce or sale in the course of international trade or commerce of such goods

Challenges in the Current System

- Most goods and services required for production of ATF are subject to GST but ATF is subject to central excise duty and VAT.
- ATF is not subject to GST but output services of airline industry – passenger and goods freight are subject to GST.
- ATF is a variant of Kerosene oil. Kerosene is in GST.
- Blockage of ITC of the oil industry resulting in loss of working capital.
- Cascading impact as VAT is chargeable on value including Central Excise duty.

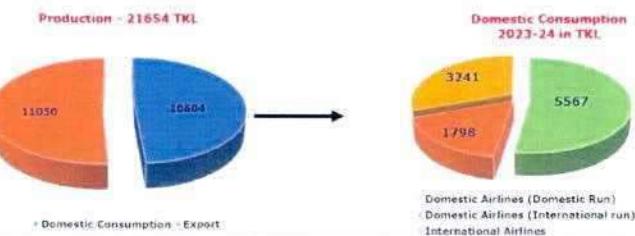
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Current Tax Structure

Central Excise	VAT
<ul style="list-style-type: none"> General Rate – 11% Regional Connectivity Scheme (RCS) – 2% <p>(Volume handled at RCS AFS is around 0.1%)</p>	<ul style="list-style-type: none"> Min rate of VAT is 0% (Meghalaya), 1% (UP, AP, Manipur, Arunachal Pradesh, Mizoram, Sikkim, Tripura) Rates higher than 5%: 29% (Bihar), 26% (Rajasthan), 25% (Delhi), 23.6% (Assam), 20% (Chandigarh), 18% (Karnataka) VAT Rates varies across and within states <ul style="list-style-type: none"> Bihar: Gaya AFS @ 4% against 29% in other AFS Maharashtra: 18% in Mumbai, Pune, Raigad against 5% in Others West Bengal: 12.5% in Bagdogra AFS, 0% to schedule airlines from Coochbehar & Andal, Others 20%+ addl. tax

ATF - SNAPSHOT

Aviation Turbine Fuel (ATF) i.e Jet Kero is a primary fuel for Aircraft



➤ Out of ATF production of 21654 TKL, taxes are collected only on 5567 TKL (25%)

(No duty is charged on supply of ATF to domestic Airlines on foreign Run / International Airlines).

ATF Revenue from Central Excise Duty and VAT

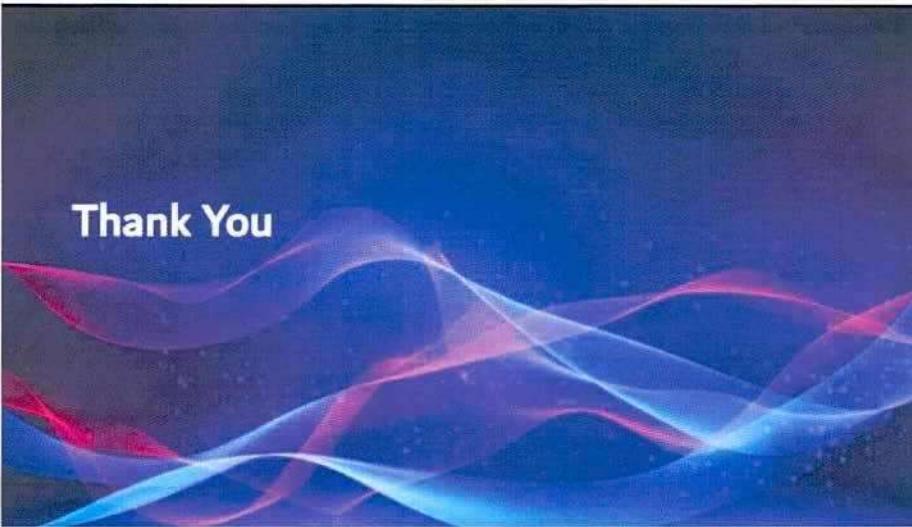
Revenue 2023-24 (Rs Crore)			
	ATF	Total tax on Petroleum Products	ATF %
Excise Duty	3927	272700	1.44%
VAT	4350	283006	1.54%
Total	8277	555706	1.49%

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Issue for Discussion

Whether a structured deliberation on the issue of bringing ATF under GST or otherwise is to be initiated?

If yes, in what manner?



Thank You

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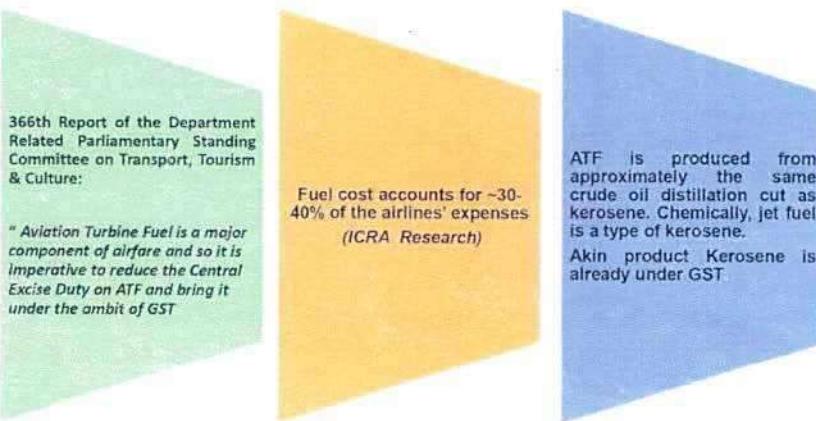
Recent reductions in VAT on ATF

Sl No	State/ UT	VAT Reduction
1	Andaman & Nicobar Islands	From 10% to 1%
2	Uttarakhand	From 20% to 2%
3	Jammu & Kashmir	From 26.25% to 1%
4	Ladakh	From 26.25% to 1%
5	Himachal Pradesh	From 25% to 2%
6	Tripura	From 16% to 1%
7	Madhya Pradesh	From 25% to 4%
8	Haryana	From 20% to 1% (passenger Flight)
9	Karnataka	From 28% to 18%
10	Uttar Pradesh	From 21% to 1%
11	Gujarat	From 25% to 5%

Recent reductions in VAT on ATF

Sl No	State/ UT	VAT Reduction
12	Dadra and Nagar Haveli & Daman and Diu	From 20% to 3%
13	Arunachal Pradesh	From 20% to 1%
14	Manipur	From 20% to 1%
15	Jharkhand	From 20% to 4%
16	Mizoram	From 10% to 1%
17	Goa	From 18% to 15%
18	Rajasthan	From 26% to 2% (commercial flights)
19	Maharashtra (Mumbai, Pune and Raigad)	From 25% to 18%

Rationale For Levying GST on ATF



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