

**Minutes of the 53rd Meeting of the GST Council held on 22nd June, 2024
at Bharat Mandapam, New Delhi**

The 53rd meeting of the GST Council was held on 22nd June, 2024 under the Chairpersonship of the Hon'ble Union Finance Minister, Smt. Nirmala Sitharaman at Bharat Mandapam, New Delhi. The list of Hon'ble Members of the Council who attended the meeting is at **Annexure-1**. The list of the officers of the Centre, States, Union Territories, GST Council Secretariat and GSTN who attended the meeting is at **Annexure-2**.

1.2 The following agenda items were listed for discussion in the 53rd meeting of the GST Council:

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

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

ii) Law Amendment regarding time of filing appeal in GST Appellate Tribunal

iii) Law Amendment regarding GST Appellate Tribunal

(a) Providing for sunset clause for Anti-Profiteering provisions under the GST laws and the handling of Anti-Profiteering cases under Section 171 of the Central Goods and Services Act, 2017 by Appellate Tribunal.

(b) Providing for enabling provision for notifying the scope of cases that can be heard by the Principal Bench of GSTAT only.

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

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

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

vii) Insertion of Section 128A in CGST Act, to provide for conditional waiver of interest or penalty or both relating to demands raised under Section 73, for FY 2017-18 to FY2019-20.

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

ix) Insertion of new forms FORM GSTR-1A for the amendment and declaring additional details to FORM GSTR-1, for enabling locking of FORM GSTR-3B based on FORM GSTR- 1.

x) Issue of liability of payment of interest under Section 50 of CGST Act in case of delayed payment of tax, even though credit is available in Electronic Cash Ledger (ECL).

xi) Reduction in rate of TCS to be collected by the ECOs for supplies being made through them.

xii) Clarifications on various issues pertaining to special procedure for the manufacturers of the specified commodities, like pan masala, tobacco etc.

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

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

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

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

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

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

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

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

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

2. Agenda item 1: Confirmation of the Minutes of 52nd meeting of the GST Council held on 7th October, 2023

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4.26 Law Committee observed that as the restriction provided by second proviso to sub-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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mandatory registration.

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

4.37 He stated that representations have been received from trade seeking clarification on the applicability of these penal provisions in respect of ECOs who are not required to collect tax at source from suppliers under section 52 of the CGST Act.

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

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

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

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

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

4.41 The Pr. Commissioner, GST Policy Wing informed that the issue was deliberated by the Law Committee. The Law Committee felt that transitional credit should be available to ISDs even for such cases where inputs and input services have been received along with invoices prior to 30.06.2017. Law Committee recommended that an amendment may be made in Section 140(7) of CGST Act, 2017, as detailed in the agenda note, **retrospectively with effect from**

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01st July 2017, so as to enable the taxpayers to avail transitional credit of eligible CENVAT credit on account of input services received by an ISD prior to the appointed day, for which invoices were also received prior to the appointed date.

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

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

Section 140 of CGST Act, 2017:

...

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

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

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

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

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

4.46 The Pr. Commissioner, GST Policy Wing added that Law Committee also recommended that the said date, to be notified, can be decided based on the readiness of the functionality in respect of Tribunal on the portal as well as based on the status of appointment of Members of various Benches as well as operational readiness of the Benches of the Tribunal. Besides, it was also recommended by the Law Committee that the amendments proposed

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in sub-section (1) and sub-section (3) of section 112 of CGST Act, may be brought into effect before the completion of three months from the date on which the President of the Appellate Tribunal has entered into office.

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

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

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

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

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

4.49 The issue was deliberated by the Law Committee and the Law Committee recommended amendment in sub-section (2) of section 171 of the CGST Act, as detailed in the agenda note, by inserting a proviso in the said sub-section to provide for power to the Government to notify the date from which the Authority under section 171 of the CGST Act will not accept any request for examination for anti-profitteering, also by inserting an Explanation in the said sub-section that "request for examination" in the said proviso means the written application filed by an applicant for such examination. Law Committee also

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recommended notifying 1st April, 2025 as the date from which the Authority under section 171 of the CGST Act would not accept any request for examination regarding anti-profiteering.

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

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

4.52 Law Committee recommended amendment of section 109 of CGST Act (amendment of sub-section (1) and insertion of sub-section 5A), as detailed in the agenda note, to provide that Principal Bench of the Tribunal shall also adjudicate or examine such other matters as may be notified by the Government on the recommendations of the Council. Law Committee also recommended amendment in sub-section 5 & 6 of section 109 of CGST Act, as detailed in the agenda note, to provide for the power to notify other cases or class of cases which shall be heard only by the Principal Bench of GST Appellate Tribunal.

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

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

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

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

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

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

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

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

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

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

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

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

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

4.64 He also mentioned that consequential amendments may also need to be done in multiple sections of CGST Act, 2017, as detailed in the agenda note. He mentioned that one of the consequential amendment recommended by the Law Committee pertain to that in section 17(5) of the CGST Act so as to restrict clause (i) of section 17(5) in respect of tax paid upto FY 2022-23. He mentioned that after insertion of proposed section 74A in CGST Act for determination of tax demands for FY 2023-24 onwards, there shall be no distinction between the tax demanded and paid in terms of section 73 and section 74, and therefore, there will be no need to block input tax credit on the tax paid in accordance with section 74 in the said clause for FY 2023-24 onwards. Besides, it was felt that this will also help in recovery of taxes demanded under Section 74A of the CGST Act, 2017.

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

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

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

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

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

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

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

4.70 He informed that the Law Committee recommended that FORM GSTR-7 may be made mandatory to be filed each month, irrespective of whether any deductions have been made by the TDS deductors in the said month or not, by way of amendment to section 39(3) of CGST Act. Law Committee also recommended that no late fee should be payable in respect of delayed filing of such nil FORM GSTR-7 returns. Also, GSTN may provide functionality for single click filing of a nil return in FORM GSTR-7 on the common portal and/ or a mobile application. Law Committee also recommended that the time limit to furnish FORM GSTR-7 return within 10 days of the end of such month may be brought under the Rule 66(1) of CGST Rules instead of Section 39(3) of CGST Act.

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

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

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

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

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

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

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4.74 He informed that in respect of cases at (b) above, the Law Committee observed that as such return for the period from date of cancellation of registration/ effective date of cancellation of registration till the date of revocation of cancellation of registration cannot be filed on the portal by such taxpayers till their cancellation of registration is revoked, there is a need to extend the time lines for section 16(4) of CGST Act in such cases, subject to certain conditions. Law Committee felt that relaxation is warranted in respect of time limit for availment of input tax credit under section 16(4) of CGST Act in cases where the returns for the period from date of cancellation of registration/ effective date of cancellation of registration till the date of revocation of cancellation of registration are filed after revocation of cancellation of registration, but where the due date to avail input tax credit under section 16(4) of CGST Act is already over. It was proposed that the time limit to avail input tax credit under Section 16(4) of CGST Act in respect of any invoice or debit note, may be extended till the date of filing return in cases where the returns for the period from date of cancellation of registration/effective date of cancellation of registration till the date of revocation of cancellation of registration are filed within 30 days of revocation of cancellation of registration, subject to the condition that the time limit to avail input tax credit in respect of the said invoice or the debit note under section 16(4) of CGST Act had not already expired on the date of cancellation of registration. This could be done by retrospective amendment of section 16(4) of CGST Act, with effect from 01.07.2017, as detailed in the agenda note.

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

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

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

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

Option 2: The time limit to avail input tax credit under Section 16(4) of the CGST Act for the financial years 2017-18, 2018-19, 2019-20 and 2020-21, in any FORM GSTR 3B return

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of the month upto September following the financial year to which such invoice or debit note pertains, which is filed upto 30.11.2021, may be extended upto 30.11.2021.

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

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

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

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

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

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

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

4.83 The Secretary clarified that several late fee amnesty schemes were notified for the initial years, as per which the waiver/ reduction of late fee for delayed filing of returns was provided after detailed deliberation in the Council. The reduction in late fees was a small amount. Despite this, taxpayers still had to file returns, pay tax and interest @18% per annum. However, no parallel relaxation of conditions under Section 16(4) of the CGST Act was

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extended for returns filed pursuant to such schemes. Consequently, all the input tax credit availed in such delayed filed returns is being denied and demanded as irregularly availed ITC. This is because the ITC was taken in returns filed after the due date to avail ITC in terms of Section 16(4) of the CGST Act. He stated that denying ITC in such cases would be very harsh on taxpayers.

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

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

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

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

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

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

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

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

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

4.91 The Pr. Commissioner, GST Policy Wing stated that a large number of representations

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have been received seeking relief from interest and penalties, considering the challenges faced by taxpayers during the initial years of implementation of GST, and to encourage compliance and support businesses to move forward.

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

4.93 Law Committee also recommended that in case, where demand notice has been issued under section 74 of CGST Act, but during the appellate or court proceedings, it is concluded that charges of fraud or wilful misstatement or suppression of facts to evade tax are not established against the noticee, and the tax is required to be determined by proper officer under section 73 of CGST Act as per section 75(2) of CGST Act, the benefit of such waiver of interest and penalty may be made available in such cases as well. He further stated that the Law Committee has also recommended that in cases where interest and penalty have already been paid in respect of any demand/ proceedings for the said financial years, no refund shall be admissible for the same. To implement the said recommendations for waiver of interest and penalty, the Law Committee recommended insertion of Section 128A in the CGST Act as detailed in the agenda note.

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

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

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

4.97 The Hon'ble Member from Tamil Nadu supported the proposal, highlighting that it encourages taxpayers to settle their dues, thus enabling the government to realize the full tax amount. He further suggested that enhancing the IT system to distinguish the demand raised under section 73 of the CGST Act, 2017, and the payment made towards it in the demand collection register to study the revenue implications as this data is crucial for accurately

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assessing revenue implications. Currently, the amount paid through FORM GST DRC-03 towards the demands raised is not readily available in MIS reports.

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

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

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

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

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

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

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

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

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

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the first appeal has been decided in favor of the taxpayer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4.120 Law Committee observed that as the amount credited in Electronic Cash Ledger is already available with the Government, it would be desirable to modify the interest provisions to provide that interest is not payable in respect of the amount available in the Electronic Cash Ledger of the taxpayer on the due date of filing return, where GSTR 3B return for a tax period is filed beyond the due date. Accordingly, Law Committee recommended that rule 88B of CGST Rules, 2017, which provides for the manner for calculation of interest on delayed payment of tax, may be amended by inserting a proviso to the sub-rule (1) of rule 88B of CGST Rules, 2017 to provide that in cases of delayed filing of return, any amount which is already available in the Electronic Cash Ledger on the due date of filing of the said return and which is subsequently debited from the said ledger along with the return, shall not be included while calculating the interest under section 50 of the CGST Act.

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

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

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

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

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

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

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

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

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

4.126 He further stated that the Law Committee felt that certain issues raised by industry in representations need to be clarified through a Circular. The Law Committee recommended issuance of a Circular for inter alia clarifying the following:

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

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if the job worker/ contract manufacturer is unregistered, then the liability to comply with the said special procedure will be of the concerned principal manufacturer.

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

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

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

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

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

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

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

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

4.131 The Principal Commissioner, GST Policy Wing mentioned that when a taxpayer makes a payment vide FORM GST DRC-03, in respect of an amount to be paid against a demand, either voluntarily or on persuasion of the tax authorities, currently, there is no mechanism to

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adjust the payment so made through DRC-03 against the payment to be made towards a particular demand. This is causing difficulty to the taxpayers to pay the amounts required to be paid as pre-deposit for filing appeals, as well. There may be a need to provide for a functionality for adjustment of the said amount paid for a demand through DRC-03 against the amount to be paid as pre-deposit for filing appeal or for adjustment of liability created by a demand in Electronic Liability Register. He added that a need has also been felt for conclusion of proceedings initiated vide FORM GST DRC- 01A, in cases where the reply or the payment or both submitted by the taxpayer is found satisfactory by the proper officer. Further, it has also been felt that FORM DRC-03 may be auto-acknowledged on the system.

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

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

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

Decision: The Council agreed with the recommendations of the Law Committee and approved proposed amendments in Rule 142 of CGST Rules, FORM GST DRC- 03, FORM GST DRC-04, along with insertion of FORM GST DRC-03A, and also issuance of the proposed draft Circular.

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

4.134 The Pr. Commissioner, GST Policy Wing informed that representations have been received from the trade stating that demands are being raised by field formations on taxability of certain activities undertaken by the related person based outside India, without any consideration, in the hand of the related person in India as import of services based on the deeming fiction in S. No. 4 of Schedule 1 of CGST Act, 2017. It has been requested that the same treatment, which is being given to domestic related parties as per clarification provided by Circular No. 199/11/2023-GST dated 17.07.2023, may also be provided in all such cases where a foreign entity is providing service to its related party located in India and where full ITC is available to the recipient located in India.

4.135 He informed that the matter was deliberated by the Law Committee and the Law

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

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

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

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

4.137 The matter was deliberated by the Law Committee and the Law Committee recommended to clarify through a circular that in cases of supplies received from unregistered suppliers, where tax has to be paid by the recipient under reverse charge mechanism (RCM) and where invoice is to be issued by the recipient of the supplies in accordance with section 31(3)(f) of CGST Act, the relevant financial year for calculation of time limit for availment of input tax credit under the provisions of section 16(4) of CGST Act will be the financial year in which the invoice has been issued by the recipient under section 31(3)(f) of CGST Act, subject to payment of tax on the said supply by the recipient and fulfilment of other conditions and restrictions of section 16 and 17 of CGST Act. In case, the recipient issues the invoice after the time of supply of the said supply and pays tax accordingly, he will be required to pay interest on such delayed payment of tax. Further, in cases of such delayed issuance of invoice by the recipient, he may also be liable to penal action under the provisions of Section 122 of the CGST Act.

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

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

4.138 The Pr. Commissioner, GST Policy Wing informed that on the recommendations of 52nd GST Council Meeting, sub-rule (2) was inserted in rule 28 of CGST Rules, 2017 vide Notification No. 52/2023-Central Tax dated 26.10.2023 to provide for a specific clause for valuation of supply of services of providing corporate guarantee to any banking

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company or financial institution by an entity on behalf of a related person. Further, Circular No. 204/16/2023-GST dated 27.10.2023 was issued to provide clarity regarding applicability of the said sub-rule.

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

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

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

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

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

4.142 The Pr. Commissioner, GST Policy Wing informed that in cases where a discount is given by the supplier to the recipient, subsequent to the supply of goods or services or both (post-sale discount), by issuing a tax credit note under section 34 of the Central Goods And Services Tax Act, 2017, the taxable value of the said supply can be reduced by the supplier to the extent of discount as per Section 15(3)(b) of the CGST Act only if the recipient of supply has proportionately reversed the input tax credit (ITC) in respect of the said discount. However, no system functionality is presently available on the common portal to enable the supplier or the tax officers to verify electronically whether the recipient has reversed the proportionate ITC in respect of such discount or not. Also, no alternate mechanism has been provided in CGST Act or CGST Rules or otherwise to enable the supplier as well as the tax officers to verify such reversal of input tax credit by the recipient. In absence of such functionality or any other mechanism to verify such reversal of input tax credit by the recipient, demands are being raised by the field formations on the suppliers alleging that they have failed to produce evidence of compliance of Section 15(3)(b)(ii) of CGST Act. Representations have been received from trade and industry to provide for a suitable mechanism for providing evidence of the compliance of the conditions of Section 15(3)(b)(ii) of CGST Act.

4.143 He added that in view of the above, there is a requirement to develop a functionality on the common portal by GSTN for enabling verification of such reversal of ITC by the recipients. One of the mechanism can be provided for acceptance/ rejection of such credit notes by the recipients on the portal. The tax liability of the supplier may be reduced only in those cases, where such credit notes have been accepted by the recipients, and in such cases,

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input tax credit of the recipient may be reduced/ reversed in hard lock manner on the portal in FORM GSTR-3B return. Alternate functionality/ mechanism could also be explored by the GSTN on the portal for enabling verification of such reversal of ITC by the recipients.

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

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

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

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

4.146 The Pr. Commissioner, GST Policy Wing informed that the GST Council in its 52nd meeting recommended a one-time relief to taxpayers for filing of appeals against demand orders passed till specified period i.e., orders passed up to 31.3.2023, subject to the condition of payment of an amount of pre-deposit of 12.5% of the tax under dispute by the said person. This scheme was implemented through Notification No. 53/2023-CT dated 02.11.2023, which allowed filing of appeals until 31.01.2024, for those taxpayers who could not file appeals against demand order issued under section 73 and 74 of CGST Act upto 31.03.2023 in due time period. However, Hon'ble High Court, Allahabad in the case of M/s Risansi Industries Ltd. (No. 275 of 2021) has directed the Government to consider inclusion of section 129 and section 130 of CGST Act in the said notification.

4.147 He informed that Law Committee deliberated on the issue and was of the view that said amnesty scheme was considered by the Council only in respect of orders passed under Sections 73 and 74 of the CGST Act, on the basis that a number of such orders under Sections 73 and 74 were issued online on the common portal, without any physical serving to the

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taxpayers and in a large number of such cases, the common portal was not accessed by the taxpayers. Hence, taxpayers were not aware of the notices/ orders issued to them through the common portal. Accordingly, a one-time opportunity was recommended by the Council to provide relief to the taxpayers to file appeal in such cases. However, the Law Committee felt that this rationale would not be applicable to orders passed under Sections 129 and 130 of the CGST Act, 2017, as those orders were relating to confiscation/ seizure of goods and conveyances in transit, and essentially the taxpayers would have had the knowledge of such orders being passed. Therefore, Law Committee recommended that there is no need to extend the scope of the amnesty scheme notified vide Notification No 53/2023-Central Tax dated 02.11.2023, to include orders passed under Sections 129 and 130 of the CGST Act.

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

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

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

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

4.150 He further informed that during the Officers' meeting held on 21.06.2024, a suggestion was made that in cases where appeals are filed manually on the special orders of Registrar of Tribunal, such appeals should be uploaded on the system within a reasonable time period. For such cases, Circular/ rule may also be required in order to specify a time limit to upload the manually filed appeals so as to make entire process online. It was suggested that Law Committee may separately examine this matter.

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

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

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

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

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

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

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

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

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availed in respect of the said amount is required to be reversed or not.

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

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

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

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

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

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

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

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

4.159 Pr. Commissioner, GST Policy Wing informed that Circular No. 195/07/2023-GST dated 17.07.2023 was issued to clarify certain issues regarding availability of ITC in respect of warranty replacement of parts and repair services during warranty period. However, subsequent to the issuance of the said Circular, queries have been raised by trade and Industry on some other issues.

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

- a. Clarification in Circular No. 195/07/2023-GST regarding the liability to pay GST and liability to reverse ITC also applies in cases involving warranty replacement of entire

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goods' (i.e. where goods as such are replaced).

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

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

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

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

4.162 The Law Committee deliberated on the issue and observed that the expenditure, which is incurred in repair of the vehicle, is integrally connected to the provision of insurance services. Such costs incurred as repair are, therefore, input services to the insurance companies used in the course and furtherance of their business. A mere change in the mode of claim settlement i.e., reimbursement over cashless settlement cannot alter the underlying nature of transaction. Thus, in both cashless mode as well as reimbursement mode, insurance company is the "recipient" of the services of vehicle repair provided by the garage, to the extent of approved repair liability. However, there may be cases, where the invoice also includes an amount in

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excess of the approved repair liability, wherein the insurance company only pays or reimburses the approved repair liability to the garage after considering the standard deductions viz. the compulsory deductibles to be borne by the insured, depreciation, improvements outside the coverage, value of salvage of the damaged parts of the motor vehicles, etc. The remaining amount is to be paid by the insured to the garage. In such cases, the input tax credit may be available to the insurance company only to the extent of payment made by them to the garage directly, or through reimbursement to the insured, and not on the full invoice value. Also, in cases, where the invoice for the repair of the vehicle is not issued in name of the insurance company, the condition of clause (a) and (aa) of section 16(2) of CGST Act, 2017 may not be satisfied and accordingly, input tax credit may not be available to the insurance company in respect of such an invoice.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4.171 He further stated that all FPIs are statutorily obligated to appoint a local custodian i.e. Banks to manage transactions in 'securities' that are undertaken in India as per the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019. He also mentioned that 'Custodial Services' in relation to securities means safekeeping of securities of a client and providing services incidental thereto, and includes maintaining accounts of securities of a client, collecting the benefits or rights accruing to the client in respect of securities, keeping the client informed of the actions taken or to be taken by the issuer of securities having a bearing on the benefits or rights accruing to the client, and maintaining and reconciling records of the services referred above. As per section 13(8) of IGST Act, 2017, the place of supply of the services provided by banks or financial institutions etc. to its account holders in relation to account bearing interest to the depositor, would be the location of the bank. In

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all other services provided by banks to its customers (other than holders of interest-bearing accounts), place of supply would be governed by the default provision under section 13(2) of IGST Act, i.e. the location of recipient.

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

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

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

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

4.174 Law Committee in its meeting dated 09.02.2024 deliberated on the issue. The Law Committee observed that under the HAM contract, the contract is a single contract for construction as well as operation and maintenance of the highway, and the payment terms are so staggered that the concessionaire is held accountable for the repair and maintenance of the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4.204 The Pr. Commissioner, GST Policy Wing further informed that according to Circular

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No. 167/23/2021-GST dated 17.12.2021, liability under section 9(5) for E-commerce operators must be discharged in cash. However, in the current FORM GSTR-3B, this liability is auto-populated under the "other than reverse charge" section, allowing payment through cash or ITC. Thus, the "reverse charge" section in FORM GSTR-3B needs to be renamed to "Reverse charge & supplies made under sec 9(5)" to ensure that section 9(5) liability is discharged in cash only.

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

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

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

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

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

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

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

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

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

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

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

4.211 The Pr. Commissioner, GST Policy Wing further informed that in the Officers' Meeting held on 21.06.2024, State of Maharashtra requested that there may be a need to make modifications in the existing functionality on the portal to provide that applications for registration are distributed between Centre and States before biometric authentication process, instead on present allocation on generation of ARN, after biometric authentication,, so that the

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same can be processed separately by the Centre and State tax officers in their separate GST Suvidha Kendras. He added that it was suggested in the Officers' Meeting that roll out of biometric authenticated may be implemented presently as per existing functionality on the portal. In the meantime, GSTN may examine and make the requisite changes in the functionality for this as well as regarding any other requests.

4.212 The Hon'ble Member from Tamil Nadu welcomed the introduction of Biometric based Aadhar Authentication of registration. While discussing the data pertaining to FY 2023-24 for Tamil Nadu, Hon'ble Member highlighted that approximately 80% of applications necessitated officer interface for Aadhar authentication compliance. The Hon'ble Member expressed concerns regarding Ease of Doing Business under GST and other associated administrative challenges.

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

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

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

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

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

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

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

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

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21.06.2024 and it was proposed that Section 11 and 12 of the Finance Act, 2024 may be notified with effect from 1st April 2025 and Section 13 of the Finance Act, 2024 may be notified with effect from 1st October, 2024.

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

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

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

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

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

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

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

Decision: The Council approved the recommendations of the Fitment Committee to provide exemption from Compensation Cess leviable on the imports of goods in SEZ by

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SEZ Unit/developer for authorized operations prospectively from the date of issue of Notification and also provide retrospective exemption for the period from 1st July, 2017 till the date of such notification.

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

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

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

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

5.7 Joint Secretary, TRU presented the agenda item pertaining to GST exemption for Scientific Equipment required for Research Moored Array for African-Asian-Australian Monsoon Analysis and Prediction (RAMA) programme. She stated that the Ministry of Earth Sciences has requested to exempt IGST on research instruments/buoys imported under RAMA programme which is an inter-governmental technical cooperation programme between India & USA which is valid till July 2026. Earlier, imports under the RAMA programme were availing benefit of concessional IGST rate under Notification No. 47/2017-Integrated Tax (Rate) dated 14.11.2017 and Notification No. 51/96-Customs. On the basis of recommendations of the GoM on Rate Rationalization, which were accepted by the GST Council in its 47th Meeting, the IGST concession to scientific and technical instruments supplied to public funded research

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institutes was withdrawn and therefore, the research buoys and moorings imported under the RAMA programme now attract 18% GST, which is being borne by the National Oceanic and Atmospheric Administration, USA. The Fitment Committee has recommended to extend GST exemption to research equipment/buoys imported under the RAMA programme for a period of 3 years i.e. till July 2026 subject to the condition that such imports are certified by Ministry of Earth Sciences and that such goods are re-exported within 2 years, extendable by further period of 1 year.

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

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

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

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

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

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

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

5.12 Joint Secretary, TRU presented the agenda item relating to the request to clarify whether fire water sprinklers are covered under entry 195B of Schedule-II of Notification No.1/2017-CT(R) (as amended). She stated that the matter was also considered by the CESTAT, New Delhi and the Tribunal held that Sl. No.195B of Schedule-II of the Notification 1/2017-CTR as it stands does not restrict the sprinklers to any category. She stated that the matter was examined by the Fitment Committee and to rule out future disputes, the Fitment Committee has recommended to clarify that all types of sprinklers including fire water sprinklers are covered under Sl. No. 195B of Schedule II and thereby, attract 12% GST rate and to regularise past practice on 'as is where is' basis in view of genuine interpretational issues.

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

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

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

5.14 Joint Secretary, TRU presented the agenda item pertaining to pulses and cereals supplied to or by any agency engaged by Government prior to 17.07.2022. She stated that for the period from 01.07.2017 up to 17.07.2022, supplies of any goods falling under heading 0713 (pulses) or chapter 10 (cereals) attracted GST at the rate of 5%, when such goods were put up in a unit container and bore a registered brand name. She stated that the issue has arisen since agencies and Government Cooperatives such as NAFED stock these goods with their name to ensure the stock of Government is identified in warehouses and that no

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special price is realized by these agencies by putting its name on the bags. The issue was examined by the Fitment Committee and the Fitment Committee has recommended to regularize on 'as is where is' basis all supplies of pulses and cereals made for the past period i.e. 01.7.2017 to 17.7.2022 when supplied to or by any agency engaged by Union/State Govt/Union Territory for procurement and sale, under any programme/scheme duly approved by the Central/State government that intends to supply such goods free of cost or at subsidized rate subject to certification and non-utilization of ITC/reversal of ITC by supplier, if availed. Regarding the applicability of GST on such supplies made after 18.7.2022, JS, TRU informed that clarification has been sought from the Department of Consumer Affairs as to whether such supplies would qualify as supply to institutional consumer.

Decision: The Council approved the recommendation of the Fitment Committee to regularize on 'as is where is' basis all supplies of pulses (HS 0713) and cereals (chapter 10) made for the past period i.e. 01.7.2017 to 17.7.2022 when supplied to or by any agency engaged by Union/State Govt/ Union Territory for procurement and sale under any under any programme/ scheme duly approved by the Central Government or any State Government that intends to distribute such goods at free of cost or at subsidised rate to the eligible beneficiaries like economically weaker sections of the society subject to the condition that the concerned supplier shall submit a certificate from an officer not below the rank of the Deputy Secretary to the Government of India or the State Government/ Union Territory, within 180 days from the date of issuance of the Circular, and Input Tax Credit shall not be availed on such inputs, and if availed on such inputs, shall be reversed within a period of 180 days from the date of issuance of the Circular if the supplier intends or takes the benefit under the proposed regularisation.

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

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

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

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

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

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

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

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

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

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

5.20 Joint Secretary, TRU presented the agenda item relating to reduction of GST rate on micronutrients in view of the recommendations made by Standing Committee on Chemicals & Fertilizers in its 43rd Report and 52nd Report that micronutrients are considered as essential

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plant nutrients. The matter was examined by the Fitment Committee. Micronutrients have multiple uses across various industries. Since the matter has been discussed in various GST Council meetings including the 25th, 31st and 37th meetings, the Fitment Committee has recommended to refer the issue to the GoM on Rate Rationalization to take a holistic view.

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

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

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

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

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

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

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of the GST Council, the Fitment Committee recommended that suitable amendment may be made in the definition of the expression 'pre-packaged and labelled' in the concerned GST rate notifications to exclude the supply of agricultural farm produce in packages of more than 25 kg or 25 litre from the scope of pre-packaged and labelled for the purpose of taxation. Further, it was also recommended that the issue for the past period may be regularised on 'as is where is' basis.

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

5.25 Joint Secretary, TRU presented the agenda item pertaining to the direction of Hon'ble Chhattisgarh High Court wherein they have requested the Council to reconsider the exclusion of small-scale manufacturers of ice cream from the benefit of Section 10(1) of the GST Act. She stated that the GST Council in the 17th GST Council meeting had approved to exclude manufacturers of ice cream and other edible ice, whether or not containing cocoa, from the composition scheme. The issue was re-examined by the Council in the 43rd meeting as per directions of Hon'ble Delhi High Court and no change was recommended by the Council. She stated that the matter was examined by the Fitment Committee and the Fitment Committee has recommended to maintain status quo.

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

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

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

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

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

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

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

5.29 Joint Secretary, TRU presented the agenda pertaining to Services as mentioned at Annexure-IV in the Agenda Volume-II. She presented the recommendations made by the Fitment Committee for making changes in the GST rates and for issuing clarifications in relation to the services.

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

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

5.31 Joint Secretary, TRU presented the agenda item pertaining to a request to clarify the GST taxability on re-insurance commission. She stated that reinsurance commission is an amount deducted by an insurance company from the reinsurance premium payable to a reinsurer to cover administrative costs, underwriting and business acquisition expenses. The

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issue was examined by the Fitment Committee and it was observed that the arrangement between the insurance companies and the reinsurer in this transaction is only sharing of expenses. In view of these deliberations, the Fitment Committee has recommended that transaction of ceding commission between insurer and reinsurer may be declared as no supply under Schedule III of CGST Act, 2017 and also to regularize the past cases on 'as is where is' basis by way of issuance of a Circular.

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

5.32 Joint Secretary, TRU presented the agenda item relating to a request received from Ministry of Railways to restore GST exemptions on outward supplies made by railways and exemption on intra-railway supplies. She stated that the matter was examined by the Fitment Committee and the Fitment Committee has recommended that following specific services provided by Ministry of Railways (Indian Railways) to general public may be exempted from GST: (i) Platform tickets, (ii) Facility of retiring rooms/waiting rooms, (iii) Cloak room services and (iv) Battery-operated car services. Fitment Committee also recommended to restore exemption on the intra-railway supplies i.e the supply of services made between various zones/ divisions under Ministry of Railways (Indian Railways) and that the intervening period i.e., from 20.10.2023 till date of notification of exemption on above services be regularized on 'as is where is' basis.

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

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

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

5.34 The Hon'ble Member from Tamil Nadu stated that SPV is a separate legal entity and therefore, any transaction between the Ministry of Railways or within SPVs is taxable. He further stated that it was discussed in the 48th GST Council meeting that the transaction between

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two such organizations is taxable and therefore, if any exemption is given for this particular SPVs then same exemption will have to be extended to similarly placed SPVs which are already in existence in Tamil Nadu. He stated that the same needs to be considered.

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

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

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

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

5.39 The Hon'ble Member from Telangana stated that he appreciates the exemption given for transactions between SPVs and railways. He stated that their request for the same exemption to be extended to the States especially where the state governments are building residential schools and integrated residential schools, with a welfare concept, for the children who are

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not able to afford their education. He stated that at present GST at 18% is collected on these services and requested that the same may be considered for reduction on similar lines.

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

5.41 Joint Secretary, TRU clarified that when the agenda was discussed in the 48th Council meeting, the only transaction that were clarified to be taxable were the services which the Indian Railways were providing to the SPVs for maintaining the railway lines and by the SPVs to the Railways for use of the Railway lines. She stated that the present proposal is to only exempt the services provided by SPV to Indian Railways by way of allowing railways to use the infrastructure built and owned by SPV during the concession period against consideration and to exempt the maintenance services supplied by Indian Railways to SPV from GST.

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

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

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to run such SPVs. He stated that such transactions are not being taxed at state level such as a MoU was signed by state government and a corporation created to do public good functions for the government, the transactions are not being taxed.

5.44 The Secretary in response to the question raised by the Hon'ble Member from Kerala as to whether the exempted service is specifically identified in the agenda stated that it is specifically provided for in page 43 of the Agenda Volume II. He stated that it is specifically stated therein that 'Supply of services by SPV to Indian Railways by way of allowing it to use infrastructure built and owned by them during the concession period against consideration in the form of pro rata share of revenue is a taxable supply which are proposed to be exempt. Similarly, maintenance services supplied by Indian Railways to SPV are also taxable'. He further stated that as already mentioned and discussed in the Officers' meeting, if there are similar requests or similar situation in any States it will be examined and considered on case to case basis. He stated that as already clarified by Additional Secretary DoR, if some work is given by the Government of Telangana, Maharashtra or any other State to its SPV then those cases are generally not taxable. However, he further stated that there will be incidence of tax on the supply or the work done by the SPV or by the PSU on behalf of the Government when it does construction work. He stated that in the present case also there is incidence of tax on the construction done by the SPV. Similarly, he stated that we cannot and should not exempt the State PSU or Centre when it is getting the work done. He elaborated that this situation is arising because this is in form of a service and also, because railways is acting as a business entity. Generally, State government is not acting as a business entity and this issue does not arise as it is treated as a grant or a subsidy. Therefore, he clarified that it can be considered on case to case basis as already discussed and agreed to in the Officers' meeting and that such cases will be examined, if there are similar situations whether in Maharashtra or Tamil Nadu or Kerala or Telangana or any other State. The Secretary requested the Members of the Council to approve the agenda with this suggestion to examine similar cases on case to case basis in the future.

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

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

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

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

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

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

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

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

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

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consultation with the participating banks, is not taxable.

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

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

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

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

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

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

5.51 The Secretary clarified that the proposed exemption is Rs. 15,000/- per person per month and there was also a suggestion to raise this limit to Rs. 20,000/- per person per month and also to remove the condition of per bed. He stated that, if the Council agrees, the limit can

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be increased because there can be cases especially in metros like Delhi, Bangalore, Mumbai etc. where the monthly rentals are higher than at smaller places. The Secretary noted that all the Members have agreed to the suggestion of increasing the limit to Rs. 20,000/- per person per month.

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

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

- a. To insert a new entry under Heading 9963 in the exemption notification to exempt supply of accommodation services upto Rs.20,000/- per person per month provided the accommodation service is supplied for a minimum continuous period of 90 days.
- b. To insert an explanation in Sl. No. 12 of Notification No. 12/2017-CT(R) dated 28.06.2017 which exempts services by way of renting of residential dwelling for use as residence as below:

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

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

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

5.53 Joint Secretary, TRU presented the agenda item pertaining to Services as mentioned at Annexure-V in the Agenda Volume-II wherein no change has been recommended by the Committee. She stated that the agenda is relating to a request to give retrospective effect to the amendment carried out in Notification No. 17/2017-CT(R) dated 28.06.2017 vide which bus operators organized as companies were excluded from purview of Section 9(5) of CGST Act, 2017. The GST Council in its 52nd meeting recommended that bus operators organized as companies may be excluded from the purview of section 9(5) of CGST Act, 2017 as this would enable them to pay GST on their supplies using their ITC. She stated that the issue is arising out of interim Order dated 04.04.2024 of the Hon'ble Delhi High Court wherein they have directed to dispose of the representation of the petitioner. The request of the petitioner

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is to give retrospective effect to the amendment carried out vide Notification 16/2023- CT(R) dated 19.10.2023 as recommended by the GST Council in its 52nd meeting and also, to suitably amend the GST portal so that the ITC accumulated during the period 01.01.2022 to 19.10.2023 be transferred to the ECO or refund of the ITC accumulated during the period of 01.01.2022 to 19.10.2023 be given to the applicant/petitioner. The issue was examined by the Fitment Committee and it was recommended that the request of the petitioner may not be accepted.

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

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

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

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

6.3 CEO, GSTN stated that the second agenda is regarding waiver of Interest on delayed receipt of Advance User Charges (AUC) from a few states and CBIC and that this is a regular administrative item. He requested the Council to waive the interest for the year 2022-23, amounting to Rs. 27.61 crore and for 2023-24 amounting to Rs. 15.56 crore. He elaborated that these waivers are necessary as they cannot be shown as outstanding entries in the books of accounts as GSTN is being regularly audited by Comptroller and Auditor General (CAG).

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

6.5 The first change is that the GST council has approved GSTR-1A. This is a very important facilitation measure because taxpayer will be able to correct GSTR-1 and then file GSTR-3B which will ensure that the mismatch between GSTR-1 and GSTR-3B is completely removed. This will reduce the notices which get issued on account of difference between GSTR-1 and GSTR-3B. The second important change/facilitation measure is "invoice management system". He stated that now the recipients of the invoice will be given a facility to accept, reject or keep an invoice pending. He clarified that this will be a facilitation measure and it will be for the taxpayer to either use it or not and it will allow him to better manage his ITC. This will reduce the difference between ITC available in GSTR-2B statement as well as in GSTR-3B thereby the gaps will get reduced and the notices issued

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will also get reduced. He stated that the third important point that he would like to bring to the notice of the Council is that Centre and all the States now have transitioned and have started taking services of GSTN. It allows for improved administrative efficiency in services, sharing of best practices and better guidance to GSTN as CBIC and all states are now on the back office.

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

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

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

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

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

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

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

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

8.3 He also presented the status of Compensation Cess and informed that at the end of last year, there was a negative balance of ₹19,000 crore. After considering the collections for the current year, estimated compensation to be paid to the States, and after accounting for part repayment of back-to-back loans and interest during the year, there will still be balance of

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approximately ₹1,00,000 crore of the back-to-back loan to be repaid. He further informed that based on the current trend, it is expected that the back-to-back loan would be fully repaid during the later part of the FY 2025-26.

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

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

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

8.7 The Hon'ble Member from Kerala highlighted the issues related to the principle of IGST, particularly in a consumer State like Kerala where a significant portion of goods comes from outside of the State. He mentioned that it is no body's case that IGST due to the States has been retained by Centre. He informed that despite an increase in SGST and intra-state trade, IGST collections have only seen a marginal 3% increase this year, indicating discrepancies in the way IGST settlement is made. He pointed out that many States face challenges in accurate IGST accounting, including issues with State-level transfers, input tax credits, and instances of tax evasion, as highlighted in studies conducted with Kerala. He emphasized the need to address these accounting, GSTN and software-related issues to ensure accurate IGST flows and prevent misuse of IGST benefits without underlying transactions. He underscored the importance of proper apportionment and the need to enhance the GST system, as discussed previously regarding e-commerce and place of supply regulations.

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

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

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

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

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

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

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

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

8.15 Joint Secretary, DoR stated that the President of GSTAT has been appointed and that he has assumed office on 06th May, 2024. He further stated that the process of appointment of Judicial Members, Technical Members (Centre) and Technical Member (State) to be done by the Centre is also in progress and expected to be completed by July/ August, 2024. He stated that the process of setting up of physical and digital infrastructure for the State Benches in the different States is ongoing and requested the States to expedite the process. He further requested the States to prioritise the process of appointment of Technical Member (State) in the state benches so as to enable DoR to make the GSTAT functional at the earliest and to ensure that the first hearing of the Tribunal happens in the present year itself and does not get delayed further.

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

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GST Council. He further stated that there has been a request from some States for a draft notification for relaxation of the qualification and eligibility for appointment as Technical Member (State) and for the purpose of ensuring uniformity. The same is being placed before the GST Council for approval.

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

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

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

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

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

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

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

10.1 The Secretary informed the Council that three Ad-hoc exemption orders had been issued since last meeting of the GST Council. The First Order No. 01 of 2024 dated 01/02/2024 pertained to exemption from Customs duty on import of technical documentation by

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M/s Indo-Russian Rifles Pvt. Ltd, the second Order No. 02 of 2024 dated 10/05/2024 was regarding Joint Counter Terrorism Training exercise (TARKASH- VII) between US special forces & NSG at Kolkata during April-May 2024 and the third Order No 03 of 2024 dated 31.05.2024 was regarding Waiver of Customs duty u/s 25(2) of the Customs Act, 1962 for import of 04 armoured vehicles by MEA.

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

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

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

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

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

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

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

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

S. No.	CBIC/State/GSTC/GOI/GSTN/DoR/T RU/Policy Wing/Directorates	Name of the Officer	Designation/Charge
1	DoR	Shri Sanjay Malhotra	Revenue Secretary
2	CBIC	Shri Sanjay Kumar Agarwal	Chairman, CBIC
3	CBIC	Shri Shashank Priya	Member (GST)
4	CBIC	Shri Rajiv Talwar	Member(Compliance Management)
5	CBIC	Shri Vivek Ranjan	Member (Tax Policy and Legal)
6	CBIC	Shri. Aditya Bhardwaj	OSD to Chairman
7	DoR	Shri Vivek Agarwal	Additional Secretary (Revenue)
8	DoR	Shri. Balasubramanian Krishnamurthy	Joint Secretary (TPRU)
9	DoR	Deepak Kapoor	OSD to Revenue Secretary
10	DoR	Shri. Mohd. Suboor Khan	Assistant Secretary
11	DoR	Shri. Yashwant Meena	Assistant Secretary
12	DoR	Ms. Priyanshu Khati	Assistant Secretary
13	Government of India	Shri. S. S. Nakul	PS to FM
14	Government of India	Shri. Anirudh Sravan Pulipaka	PS to Corporate Affairs Minister
15	Government of India	Shri. Alkesh Uttam	OSD to MoS
16	DGGST	Ms. Seema Arora	Pr. Director General
17	DGGST	Shri. T. Manjunath	Additional Director
18	DGGI	Shri. Anil Kumar Gupta	Pr. Director General
19	DG Systems	Shri Yogendra Garg	Pr. Director General
20	GSTN	Shir. Manish Kumar Sinha	CEO
21	GSTN	Shri. Dheeraj Rastogi	EVP

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22	GSTN	Shri. Om Sharma	CTO
23	GSTN	Shri. Naveen Agarwal	OSD to CEO
24	GST Policy Wing	Shri. Sanjay Mangal	Principal Commissioner
25	GST Policy Wing	Shri. Gaurav Singh	Commissioner
26	GST Policy Wing	Shri. Raghavendra Pal Singh	Additional Commissioner
27	GST Policy Wing	Dr. Gurbaz Sandhu	Additional Commissioner
28	GST Policy Wing	Smt. Kangale Shrunkhala Motiram	Additional Commissioner
29	GST Policy Wing	Shri. Nitesh Gupta	Deputy Commissioner
30	GST Policy Wing	Ms. Soumya	Deputy Commissioner
31	GST Policy Wing	Ms. Saumya Gupta	Deputy Commissioner
32	TRU	Ms. Limatula Yaden	Joint Secretary
33	TRU	Dr. Puneeta Bedi	Director
34	TRU	Shri. Rakesh Dahiya	Director
35	TRU	Ms. Amreeta Titus	Deputy Secretary
36	TRU	Shri. Satvik Dev	OSD, TRU-II
37	TRU	Ms. Smita Roy	TO, TRU-II
38	TRU	Ms. Anna Sosa Thomas	TO, TRU-II
39	TRU	Shri. Rahul Kumar	TO, TRU-II
40	TRU	Shri. Dilmil Singh Soach	OSD, TRU-I
41	TRU	Shri. Piyush Kumar Ankit	TO, TRU-I
42	TRU	Shri. Vikram Wanare	US, TRU-I
43	TRU	Shri. Anany Kumar Singh	OSD, TRU-I
44	GST Council Secretariat	Shri. Pankaj Kumar Singh	Additional Secretary (GST Council Secretariat)
45	GST Council Secretariat	Ms. Ashima Bansal	Joint Secretary
46	GST Council Secretariat	Ms. B. Sumidaa Devi	Joint Secretary
47	GST Council Secretariat	Shri. Kshitendra Verma	Director
48	GST Council Secretariat	Shri. S.S.Shardool	Director
49	GST Council Secretariat	Shri. Anil Kumar	Deputy Secretary
50	GST Council Secretariat	Ms. Reshma R Kurup	Under Secretary
51	GST Council Secretariat	Shri. Sridhar Das	Under Secretary
52	GST Council Secretariat	Ms. P. R. Reshmi	Under Secretary

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53	GST Council Secretariat	Shri. Vineet Kumar	Superintendent
54	GST Council Secretariat	Ms. Sonia	Superintendent
55	GST Council Secretariat	Shri. Mohan Lal	Superintendent
56	GST Council Secretariat	Ms. Ambika Rani	Superintendent
57	GST Council Secretariat	Shri. Niranjan Kishore	Superintendent
58	GST Council Secretariat	Shri. Sandeep Kumar	Superintendent
59	GST Council Secretariat	Shri. Khupmang Neihzial	Superintendent
60	GST Council Secretariat	Shri. Himanshu Bhardwaj	Superintendent
61	GST Council Secretariat	Shri. Pankaj Kumar Singh	Superintendent
62	GST Council Secretariat	Shri. Ashwani Sharma	Assistant Section Officer
63	GST Council Secretariat	Shri. Anand Singh	Inspector
64	GST Council Secretariat	Shri. Karan Arora	Assistant Section Officer
65	GST Council Secretariat	Shri. Shyam Bihari Meena	Tax Assistant
66	GST Council Secretariat	Shri. Vikas Kumar	E. A.
67	GST Council Secretariat	Ms. Neha Jainwal	E. A.
68	GST Council Secretariat	Shri. Rantej Singh	T. A.
69	GST Council Secretariat	Shri. Satbir Sah	T. A.
70	Andhra Pradesh	Shri. M. Girija Shankar	Chief Commissioner of State Tax
71	Andhra Pradesh	Shri. K. Ravi Sankar	Commissioner (ST), Policy
72	Andhra Pradesh	Shri. J.V.M. Sarma	Additional Commissioner(ST), Appellate Authority
73	Arunachal Pradesh	Ms. Y. W. Ringu	Commissioner Finance, Tax & Excise
74	Arunachal Pradesh	Shri. Lobsang Tsering	Commissioner, Tax & Excise

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

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

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			Expenditure Div-I, Finance
105	Jammu & Kashmir	Namrita Dogra	Additional Commissioner, State Taxes
106	Jharkhand	Smt. Vipra Bhal	Secretary, Commercial Taxes
107	Jharkhand	Pradeep Xalxo	Joint Commissioner
108	Jharkhand	Shri. Brajesh Kumar	Assistant Commissioner of Taxes
109	Karnataka	Ms. C. Shikha	Commissioner Commercial Tax
110	Karnataka	Dr. Ravi Prasad	Additional Commissioner CT
111	Kerala	Dr. A. Jayathilak	Additional Chief Secretary
112	Kerala	Shri. Patil Ajit Bhagwatrao	Commissioner of State Tax
113	Kerala	Shri. Abraham Renn S	Special Commissioner (State Tax)
114	Kerala	Smt. Sreelakshmi R	Additional Commissioner (State Tax)
115	Kerala	Shri. Sreekanth K P	State Tax Officer
116	Madhya Pradesh	Shri. Swatantra Kumar Singh	Commissioner, Commercial Tax
117	Madhya Pradesh	Shri. Manoj Kumar Choubey	Additional Commissioner, Commercial Tax
118	Madhya Pradesh	Shri. Dilip Raj Dewedi	OSD to Hon'ble Minister
119	Maharashtra	Shri O. P. Gupta	Additional Chief Secretary (Finance)
120	Maharashtra	Shri Asheesh Sharma	Commissioner of State Tax

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121	Maharashtra	Shri Kiran Shinde	Joint Commissioner of State Tax
122	Maharashtra	Shri Manojkumar R. Narayanwal	Deputy Commissioner
123	Maharashtra	Shri B M Gore	Deputy Commissioner
124	Manipur	Smt. Mercina R. Panmei	Commissioner of Taxes
125	Manipur	Shri Y. Indrakumar Singh	Joint Commissioner of Taxes
126	Meghalaya	Shri. Ramakrishna Chitturi	Commissioner of State Tax
127	Meghalaya	Shri. V.R.Challam	Deputy Commissioner State Tax
128	Mizoram	Shri. R. Zosiamliana	Commissioner of State Tax
129	Mizoram	Shri. HK Lalhawngliana	Additional Commissioner of State Tax
130	Nagaland	Shri. Sachin Jaiswal	Commissioner of State Tax
131	Nagaland	Shri. C Lima Imsong	Additional Commissioner of State Taxes
132	Odisha	Shri. Vishal Kumar Dev	Principal Secretary, Finance
133	Odisha	Shri. Sanjay Kumar Singh	Chief Commissioner of Commercial Taxes & GST
134	Odisha	Shri. Nihar Ranjan Nayak	Additional Commissioner of Commercial Taxes & GST
135	Puducherry	Shri. Ashish Madhaorao More	Development Commissioner -cum- Secretary to Govt. (Finance)

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136	Puducherry	Shri. L. Mohamed Mansoor	Commissioner of State Tax
137	Punjab	Shri. Vikas Partap	Financial Commissioner (Taxation)
138	Punjab	Shri. Varun Roojam	Commissioner of State Tax
139	Punjab	Smt. Harsimrat Kaur	Deputy Commissioner of State Tax
140	Punjab	Shri. Bharat Sharma	State Tax Officer
141	Punjab	Ms. Amritdeep Kaur	State Tax Officer
142	Rajasthan	Shri. Ravi Kumar Surpur	Chief Commissioner State Tax
143	Rajasthan	Shri. Arvind Mishra	Advisor, State Tax
144	Sikkim	Shri. Pawan Awasthy	Principal Director, Finance Department
145	Sikkim	Shri. Manoj Rai	Commissioner (Commercial Taxes)
146	Tamil Nadu	Shri. Brajendra Navnit	Principal Secretary, Commercial Taxes and Registration
147	Tamil Nadu	Shri Dr.D. Jagannathan	Commissioner of Commercial Taxes
148	Tamil Nadu	Shri. S. Subash Chandra Bose	Additional Commissioner (Policy & Public Relations)
149	Tamil Nadu	Shri. S. Karthick	Joint Commissioner (Policy & Planning)
150	Tamil Nadu	Shri. S.E. Prabhu	Deputy Commissioner (Policy & Planning)
151	Telangana	Shri Krishna Baskar	Special Secretary to Deputy Chief Minister
152	Telangana	Smt. T. K. Sridevi	Commissioner of

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			Commercial Taxes
153	Telangana	Smt. K. Rupa Sowmya	Deputy Commissioner
154	Telangana	Shri. G. Sri. Harsha	Senior Fellow Finance Department
155	Tripura	Ms. Rakhi Biswas	Chief Commissioner of State Tax
156	Tripura	Shri. Ashin Barman	Assistant Commissioner of Taxes
157	Uttar Pradesh	Dr. Nitin Ramesh Gokarn	Principal Secretary, State Tax
158	Uttar Pradesh	Dr. Adarsh Singh	Commissioner, State Tax
159	Uttar Pradesh	Shri. Paritosh Kumar Mishra	Deputy Commissioner, State Tax HQ, Lucknow
160	Uttar Pradesh	Shri. Amit Pandey	PS to Honourable Minister
161	Uttarakhand	Shri Dilip Jawalkar	Secretary Finance
162	Uttarakhand	Shri. B.S Nagnyal	Additional Commissi oner
163	Uttarakhand	Shri. Anurag Mishra	Joint Commissioner
164	West Bengal	Shri. Manoj Pant	Additional Chief Secretary, Finance
165	West Bengal	Shri Devi Prasad Karnam	Commissioner Commercial Tax
166	West Bengal	Shri Rajib Sengupta	Sr. Joint Commissioner
167	West Bengal	Shri. Shantanu Naha	WBCS (Exe), OSD to Hon'ble FM

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Annexure – 3



NEW DELHI

Ratification of Notifications and Circulars

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Agenda 2: Ratification of Notifications, Circulars etc.

[Vol 1- Pg. 132-151]

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

Agenda 2: Ratification of Notifications, Circulars etc.

[Vol 1- Pg. 132-151]

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

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Agenda 2: Ratification of Notifications, Circulars etc.

[Vol 1- Pg. 132-151]

Act/Rules	Notifications/Circulars No.	Description/Remarks
Circulars	<p>Five (05) Circulars issued (Circular No. 202/14/2023-GST dated 27.10.2023 to Circular No. 206/18/2023-GST dated 31.10.2023)</p>	<p>Circulars to implement various decisions of GST Council in its 52nd meeting. The issues covered in these circulars are:</p> <ul style="list-style-type: none"> (i) Clarification relating to export of services pertaining to interpretation of sub-clause (iv) of the Section 2(6) of the IGST Act 2017. (ii) Clarification regarding determination of place of supply in various cases (iii) Clarification on issues pertaining to taxability of personal guarantee and corporate guarantee in GST (iv) Clarification regarding GST rate on imitation zari thread or yarn. (v) Clarifications regarding applicability of GST on certain services

**Recommendations of the
Law Committee**

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**Summary of discussions on
Agendas in Officers' Meeting held on
21st June 2024**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Agenda No	Issue/Proposal	Status during Officers Meeting
3(xl) [Vol 3- Pg. 17-18]	<p>Agenda on Change in Payment table of Form GSTR-3B to provide for a separate table for RCM supplies and Section 9(5) supplies</p> <p>The Law Committee recommended that:</p> <ul style="list-style-type: none"> ❖ Net negative liability of a tax period may be shown in Payment Table of FORM GSTR-3B i.e. Table 6 and any adjustment of liability from the Negative Liability Ledger is to be done in said Table. ❖ "reverse charge" section in the existing payment table needs to be changed to "Reverse charge & supplies made under sec 9(5)" to include the E-commerce liability under section 9(5) of the CGST Act, 2017 which shall now be mandatorily discharged in cash only. ❖ Table 6.1 in FORM GSTR-3B may be substituted for the above. ❖ Table 6.2 of FORM GSTR-3B may be omitted. 	Agreed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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Annexure – 4

53rd GST Council Meeting

Agenda Item 4

Recommendations of Fitment Committee
on
Goods and Services

22nd June, 2024

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

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Agenda Items

- Total **31** issues examined

- Goods : 21
- Services: 10

Goods

- Total **21** issues examined

- Recommendations for making **changes** in GST rates/ issuing clarifications- **17**
[Vol-II :Agenda 4 (a): Annexure-I :pages 8-30]
- Recommendations for making **no change** - **03**
[Vol-II: Agenda 4 (b):Annexure-II: pages 31-34]
- Issue for **information** of the Council- **01**
[Vol-II: Agenda 4 (c): Annexure-III :pages 35-36]

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Services

• **Total 10 issues examined**

- Recommendations for making **changes** in GST law/rates/ issuing clarifications- **9**
[Vol. II, Agenda Item 4, Annexure-IV :pages 37 to 61]
- Recommendations for making **no change** - **1**
[Vol. II, Agenda Item 4, Annexure-V :pages 62 to 64]

Goods-Changes Recommended:

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

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Goods-Changes Recommended

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

Goods - Changes recommended

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

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Goods - Changes recommended

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

Goods - Changes recommended

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

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Goods - Changes recommended

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

Goods - Changes recommended

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

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Goods - Changes recommended

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

Goods - Changes recommended

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

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Goods - **Changes recommended**

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

Goods-**No change recommended**

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

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Goods-No change recommended

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

Goods-No change recommended

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

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Issue for Information of the Council

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

Services- Change recommended (9) :

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

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Services- Change recommended (9) :

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

Services- Change recommended (9) :

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

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Services- Change recommended (9) :

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

Services- Change recommended (9) :

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

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Services- Change recommended (9) :

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

Services- Change recommended (9) :

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

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MINUTE BOOK

MINUTE BOOK

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

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

THANK YOU

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Recommendations of the Fitment Committee:
Goods

Changes in GST rates/ issuing clarification

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

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

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

Recommendations of Fitment Committee:

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



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

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

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

Recommendations of Fitment Committee:

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



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

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

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

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3. Contd.

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

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

Recommendations of Fitment Committee:

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



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

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

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

Recommendations of Fitment Committee:

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



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5. Technical documentation related to AK-203 rifle kits :*(Vol.-II: Agenda 4(a):Annexure-I: page 14)*

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

Recommendations of Fitment Committee:

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

**6. Carton, Boxes for packaging apples and other horticulture produce:***(Vol.-II: Annexure-I: page 14-17)*

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

Recommendations of Fitment Committee:

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

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7. Fire Water Sprinklers (HSN 8424):

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

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

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

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

Recommendations of Fitment Committee:

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



8. Parts of Poultry Machinery:

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

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

Recommendations of Fitment Committee:

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



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9. Pulses and cereals supplied to or by any agency engaged by Govt:*(Vol-II: Agenda 4(a): Annexure-I: pages 19-21)*

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

Recommendations of Fitment Committee:

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

**10. Solar Cooker:***(Vol-II: Agenda 4 (a): Annexure-I: page 21-23)*

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

Recommendations of Fitment Committee:

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

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11. Steel/Aluminium Milk Cans used in milk dairies:*(Vol.II: Annexure-I: page 23-25)*

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

Recommendations of Fitment Committee:

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

**12. Aerated beverages & energy drinks (HS 2202) sold by Unit Run Canteens (URCs):***(Vol. II: Agenda 4(a): Annexure-I: pages 25-26)*

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

Recommendations of Fitment Committee:

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

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

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

Recommendations of Fitment Committee:

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

**14. Fertilizer Raw Materials (like Sulphuric Acid and Ammonia):***(Vol. II: Agenda 4(a): Annexure-I: pages 26-27)*

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

Recommendations of Fitment Committee:

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

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15. **Micronutrients :**

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

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

Recommendations of Fitment Committee:

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



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

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

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

Recommendations of Fitment Committee:

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




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17. Agricultural Produce, pre-packaged and labelled:*(Vol. II: Agenda 4(a): Annexure-I: pages 28-30)*

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


Recommendations of Fitment Committee:

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

Recommendations for making no change*(Vol.-II: Agenda 4(b) : Annexure-II: pages 31-34)***1. Ice Cream:***(page 31)*

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

Recommendations of Fitment Committee:

- The Fitment Committee recommended to maintain status quo. 

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2. Pharmaceutical products/equipment for research:*(Vol.-II: Agenda 4 (b): Annexure-II: page 31-33)*

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

Recommendations of Fitment Committee:

- Fitment Committee did not recommend any change.

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

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

Recommendations of Fitment Committee:

- The Fitment Committee did not recommend any change.

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Issue for **information** of the Council*(Vol-II: Agenda 4 (c): Annexure-III :pages 35-36)***1. Updation in list of banks/entities eligible for IGST exemption for import of Gold/Silver:**

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

Recommendations of Fitment Committee:-

- To place it before the Council for information.



Recommendations of the Fitment Committee:
Services

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Agenda 4 (Annexure-IV)

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

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

Recommendations of Fitment Committee:

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



Agenda 4 (Annexure-IV)

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

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

Recommendations of Fitment Committee

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



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Agenda 4 (Annexure-IV)**3. (a) To restore GST exemptions on outward supplies made by Ministry of Railways (MoR) and exemption on intra-railway supplies (those made between different railway zones), (pages 40-45)**

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

Recommendations of Fitment Committee

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

Agenda 4 (Annexure-IV)**3. (a) Contd (pages 40-45)**

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

Recommendations of Fitment Committee

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

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Agenda 4 (Annexure-IV)

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

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

Recommendations of Fitment Committee

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



Agenda 4 (Annexure-IV)

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

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

Recommendations of Fitment Committee

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



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Agenda 4 (Annexure-IV)**5. To clarify that reinsurance services of the insurance schemes for which total premium is paid by the Government (Sl. No. 40 of the notification No. 12/2017 CTR) are exempt from GST for the period 01.07.2017 to 26.07.2018. (pages 47-49)**

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

Recommendations of Fitment Committee

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

Agenda 4 (Annexure-IV)**6. To clarify that the term 'reinsurance' as mentioned at Sl. No. 36A of notification No. 12/2017- CT(Rate) dated 28.06.2017 includes 'retrocession' services and therefore retrocession services of specified insurance schemes are also eligible for exemption from GST. (pages 49-50)**

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

Recommendations of Fitment Committee

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

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Agenda 4 (Annexure-IV)

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

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

Recommendations of Fitment Committee

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



Agenda 4 (Annexure-IV)

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

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

Recommendations of Fitment Committee

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



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Agenda 4 (Annexure-IV)

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

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

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

Agenda 4 (Annexure-IV)

Contd (pages 56-61)

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

Recommendations of Fitment Committee

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



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Agenda 4 (Annexure-V)

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

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

Recommendations of Fitment Committee

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



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