

### Minutes of the 12<sup>th</sup> GST Council Meeting held on 16<sup>th</sup> March 2017

The twelfth meeting of the GST Council (hereinafter referred to as 'the Council') was held on 16 March 2017 in Vigyan Bhavan, New Delhi under the Chairpersonship of the Hon'ble Union Finance Minister, Shri Arun Jaitley. The list of the Hon'ble Members of the Council who attended the meeting is at **Annexure 1**. The list of officers of the Centre, the States, the GST Council and the Goods and Services Tax Network (GSTN) who attended the meeting is at **Annexure 2**.

2. The following agenda items were listed for discussion in the 12<sup>th</sup> Meeting of the Council

1. Confirmation of the Minutes of the 11<sup>th</sup> GST Council Meeting held on 4 March 2017
2. Approval of the Draft Model SGST Law as modified in accordance with the decisions of the GST Council and as vetted by the Ministry of Law & Justice, Government of India
3. Approval of the Draft UTGST Law as vetted by the Ministry of Law & Justice, Government of India
4. **Additional Agenda Items**
  - 4.1. Amendments to the draft IGST Law
  - 4.2. Amendments to the draft Goods and Services Tax (Compensation to the States) Bill, 2017
  - 4.3. Constitution of a Task Force to suggest measures for creating an eco-system for seamless freight movement (Based on an agenda note received from MoRTH)
5. Any other agenda item with the permission of the Chairperson
6. Date of the next meeting of the GST Council

3. In his opening remarks, the Hon'ble Chairperson welcomed all the Members of the Council. He noted that representation in the Council would undergo a change after the recent State elections and that the Hon'ble former Ministers from Punjab (Shri Parminder Singh Dhindsa), Uttarakhand (Ms. Indira Hridayesh) and Uttar Pradesh (Shri Abhishek Mishra) would no longer be attending the meetings of the Council. He placed on record the positive contribution of the outgoing Ministers in the Council's deliberations which the Council fully endorsed.

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## Discussion on Agenda Items

### Agenda Item 1: Confirmation of the Minutes of the 11<sup>th</sup> GST Council Meeting held on 4 March, 2017:

4. The Hon'ble Chairperson invited comments of the Members on the draft Minutes of the 11<sup>th</sup> Meeting of the Council (hereinafter referred to as 'Minutes') held on 4 March 2017 before its confirmation. The Members suggested the following amendments to the draft Minutes.

4.1. The Hon'ble Minister from Jammu & Kashmir stated that in paragraph 8.3 of the Minutes, in the second sentence, the expression 'Article 5 of the Constitution of Jammu & Kashmir' should be replaced by the expression 'Section 5 of the Constitution of Jammu & Kashmir'. The Council agreed to this suggestion.

4.2. Shri R.K Tiwari, Additional Chief Secretary, Uttar Pradesh stated that in paragraph 6.2.8 of the Minutes, the version of the Secretary to the Council (hereinafter referred to as 'Secretary') was recorded as 'if the refund was not given within a certain period of the passing of an adjudication or appellate order where the order had acquired finality, the rate of interest for delayed refund would be 9%...' and that it appeared odd that the same principle did not apply to a refund arising out of an assessment order. The Secretary stated that the word 'adjudication' also included an assessment order. He further observed that this was a discussion summary and based on the decision taken on this subject, the relevant amendment had been incorporated in Section 56 of the CGST Law and circulated to all the States. He suggested that at this stage, the Minutes need not be amended on this issue. The Council agreed to this suggestion.

5. In view of the above discussion, for **Agenda item 1**, the Council decided to adopt the Minutes of the 11<sup>th</sup> Meeting of the Council with the change as recorded below:

5.1. In paragraph 8.3 of the Minutes, in the second sentence, the expression 'Article 5 of the Constitution of Jammu & Kashmir' to be replaced by the expression 'Section 5 of the Constitution of Jammu & Kashmir'.

### Agenda Item 2: Approval of the Draft Model State Goods and Services Tax (SGST) Law as modified in accordance with the decisions of the GST Council and as vetted by the Ministry of Law & Justice, Government of India:

6. Introducing this agenda item, the Secretary informed that the draft SGST Law was almost a replica of the Central Goods and Services Tax (CGST) Law, with some minor changes. He invited Dr. P.D. Vaghela, Commissioner, Commercial Taxes (CCT), Gujarat to briefly explain the changes in the SGST Law *vis-à-vis* the CGST Law. CCT, Gujarat explained that there were three major changes in the SGST Law as compared to the CGST Law, namely (i) the transitional provisions would be different in each State; (ii) Advance Ruling Authority would be constituted under the SGST Law; and (iii) the repeal and saving clause would be State specific. He further stated that there were other small changes like substituting reference to Central tax in the CGST Law to State tax in the SGST law. He

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informed that all such changes were indicated in 'bold' and 'italics' in the draft SGST Law circulated to the States. The Secretary stated that the draft SGST Law circulated to the States was discussed today in a four-hour meeting with the officers of the States and the Centre and they suggested a few changes which were also circulated for the consideration of the Members as part of the discussion on the draft SGST Law. The Hon'ble Chairperson desired that an officer should explain the changes proposed in the SGST Law that were circulated to the States just before the commencement of the Council meeting. Shri Upender Gupta, Commissioner (GST Policy Wing), CBEC explained these changes and the same are included as **Annexure-3** to the Minutes. The Secretary invited comments of the Members on the draft SGST Law circulated as an Agenda Note and the amendments proposed thereto as contained in Annexure-3.

6.1. The Hon'ble Deputy Chief Minister of Delhi stated that in Section 67(1) of the draft SGST Law, it was provided that a proper officer not below the rank of Joint Commissioner could authorise inspection or search of a premise. He observed that this power should only vest with the Commissioner as otherwise, all officers of the rank of Joint Commissioner could exercise the power of inspection, search and seizure. The Secretary stated that this provision restricted the power to authorise inspection and search to an officer not below the rank of Joint Commissioner and this did not preclude this power to remain vested only with the Commissioner. Dr. Reeta Vasishta, Additional Secretary, Legislative Department, Ministry of Law explained that an officer below the rank of Joint Commissioner could not be designated as a proper officer under Section 67(1) of the draft SGST Law. The Secretary stated that not all Joint Commissioners would be proper officers under this Section and that only a Joint Commissioner who had been assigned the function under this Section could exercise this power as a proper officer. The Hon'ble Chief Minister of Puducherry observed that under Section 67(1), a proper officer would be one who had been assigned this power by the Commissioner. The Hon'ble Chairperson stated that under this Section, the decision to inspect or search a premise would be taken by an officer not below the rank of Joint Commissioner and then he could authorise any other officer to carry out the inspection or search.

6.2. The Hon'ble Minister from Jammu & Kashmir stated that while all other States would enact their SGST Act by exercising the enabling power under Article 246A(1) of the Constitution of India, for his State, it would be done by exercising the enabling power under Section 5 of the Constitution of the State of Jammu & Kashmir. He stated that on this account, if certain drafting changes were required in the SGST Law of the State of Jammu & Kashmir, it would be done in consultation with the Council. The Hon'ble Chairperson observed that the SGST Legislation of Jammu & Kashmir could be enacted by the Jammu & Kashmir Legislature itself without reference to the Council and that their SGST Law would need to have a provision to integrate it to the GST process of the country. The Hon'ble Minister from Jammu & Kashmir raised an issue that since the SGST Law of his State was to be enacted under its own Constitution, whether it could enact a more ambitious SGST Legislation, like including sectors such as real estate and power under their SGST Law. The Secretary observed that this would not be feasible as a separate

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dispensation on real estate or power sector in the SGST Act of Jammu & Kashmir would create problem in relation to operation of the IGST Law.

6.3. The Hon'ble Minister from West Bengal stated that under Section 51(1) of the draft SGST Law, a department or establishment of the Central Government or a State Government was required to carry out tax deduction at source and the amount so deducted was to be deposited in the CGST and SGST heads of account in equal proportion. He observed that such Government departments would not have an annual turnover, and, therefore, there should be clarity as to which administration would carry out scrutiny or audit of such tax deductor, if required. He suggested that the Central Tax Administration could carry out audit and scrutiny of the departments of the Central Government and the respective State Tax Administration could carry out audit and scrutiny of departments of the concerned State Government. The Secretary suggested that such a provision could be made in the relevant GST Rule. The Council agreed to the suggestion.

7. For **agenda item 2**, the Council approved the draft SGST Law with the changes as indicated in **Annexure-3** of the Minutes (the changes as suggested in the meeting of the officers of the Centre and the States held on 16 March 2017 in New Delhi). The Council also authorised the Law Committee of Officers to make minor corrections and rectify typographical errors, wherever required, and that the revised draft SGST Law shall be shared with the States. The Council also agreed that the relevant GST Rule shall provide that, if so required, the Central Tax Administration would carry out audit and scrutiny of the departments of the Central Government which deducted tax at source under Section 51(1) of the draft CGST/SGST Law and similarly, the respective State Tax Administration would, if so required, carry out audit and scrutiny of departments of the concerned State Government.

**Agenda Item 3: Approval of the draft Union Territory Goods and Services Tax (UTGST) Law as vetted by the Ministry of Law & Justice, Government of India**

8. Introducing this agenda item, the Secretary informed that the UTGST Law circulated as an agenda note for this meeting was discussed extensively in the meeting of the officers of the Central and the State Governments in the morning of 16 March, 2017 and that they had suggested some changes which were also circulated for the consideration of the Members. He invited Commissioner (GST Policy Wing), CBEC to explain the changes and the changes, as explained, are included as **Annexure-4** of the Minutes.

8.1. The Secretary observed that the UTGST Law was a short law and a large number of provisions under this law were drawn through a cross-referencing to the draft CGST Law. He further stated that the officers from some of the Union Territories had attended the Officers' meeting held earlier during the day and had given their inputs. He invited the comments of the Members on the draft UTGST Law and the changes suggested to the same circulated during the Meeting of the Council. No Member offered any comment on the draft UTGST Law. The Council thereafter approved the draft UTGST Law along with the proposed changes.

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9. For **agenda item 3**, the Council approved the draft UTGST Law with the changes as indicated in **Annexure-4** of the Minutes (the changes as suggested in the meeting of the officers of the Centre and the States held on 16 March 2017 in New Delhi). The Council also authorised the Law Committee of Officers to make minor corrections and rectify typographical errors, wherever required, and that the revised UTGST Law shall be shared with the States.

**Agenda Item 4.1: Amendments to the draft Integrated Goods and Services Tax (IGST) Law**

10. Introducing this agenda item, the Secretary stated that certain changes were proposed in the draft IGST Law due to the strong concerns expressed by the Ministry of Commerce in respect of certain provisions of the draft IGST Law which could adversely affect the export competitiveness of the units working in Special Economic Zones (SEZs). He invited Shri Alok Chaturvedi, Additional Secretary, Department of Commerce to give a brief overview of the concerns regarding the impact of the IGST Law on SEZs.

10.1. The Additional Secretary, Department of Commerce stated that the concept behind SEZs was that they were like zero tax territories with an excellent eco-system to promote exports. He stated that this environment was necessary for India to compete with other countries like Singapore, Dubai, China, Hong Kong, Philippines and Thailand. He stated that SEZs accounted for 27% of total exports from the country and had a total investment of Rs. 4 lakh crore and provided employment to 16.88 lakh persons. He observed that all this could be adversely affected if the existing SEZ concept was not continued under the GST framework. He stated that presently, supplies from the Domestic Tariff Area (DTA) to SEZs were treated at par with physical exports and therefore they enjoyed exemption from Customs and Central Excise duty, Service Tax, Central Sales Tax and also from Value Added Tax in some States. He observed that in the IGST Law, the provision in respect of supplies to SEZs was to pay the tax first and to claim refund later. He added that the provision of refund, within seven days, of 90% of the amount of refund claimed was only provided for physical exports and was not available for supplies to SEZs. He further observed that the procedure of export under bond was not available for supplies from DTA to SEZs. He stated that due to such provisions, supplies from DTA to SEZ would be at a disadvantage *vis-à-vis* physical exports and as a result, SEZ units would be discouraged to source their raw material from DTA. He said that this would adversely affect the 'Make in India' campaign and would also be against the principle of ease of doing business. He therefore strongly suggested that supplies from DTA to SEZs should be treated at par with physical exports and both should be extended the same facilities.

10.2. The Secretary explained that in the GST Law, for a person doing physical export, there were two options – namely to pay IGST and to take refund after export or to give a bond and export without payment of duty. He stated that for supplies from DTA to SEZ, the draft IGST Law gave only one option, namely to pay IGST and then the recipient of the supply located in SEZ to claim refund later. He stated that this put SEZs at a serious disadvantage. He added that like all other countries, India exempted imported goods when used for export and if the domestic supplier did not enjoy a similar benefit, it would

  
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adversely affect his competitiveness. He suggested that physical exports and supply to SEZs should be given similar treatment of zero rating. He added that in the Officers' meeting held earlier that day, this proposition was supported by all officers except from Karnataka. He explained that in view of this, an amendment had been suggested in Section 16 of the draft IGST Law where it was proposed to delete sub-Section 4 and to replace in sub-Section 3 the expression 'exporting goods and services or both' with the expression 'making zero rated supply'. He stated that some other small consequential changes were also suggested in sub-Section 3 of Section 16.

10.3. The Secretary stated that another concern in relation to exports that needed to be addressed related to cascading of input taxes for six products which were not under GST, namely the five petroleum products (petroleum crude, high speed diesel, motor spirit or petrol, natural gas and aviation turbine fuel) and alcoholic liquor for human consumption. He stated that the existing wording in sub-section 1 and sub-section 2 of Section 16 of the IGST Law gave the benefit of zero rating to only taxable supplies and thus exported petroleum products and alcoholic liquor would not be eligible to get refund of GST paid on the inputs used in relation to such exported products. He stated that for petroleum products, input taxes constituted about 1.5% of the value of the final product and if this was cascaded, the Indian petroleum products (which accounted for around 9.3% of country's total export) would lose their competitiveness as the price of petroleum products was benchmarked globally. He stated that alcoholic liquor for human consumption also had a good export potential and India's export in 2015-16 was approximately Rs. 2000 crore. He stated that on account of these considerations, it was proposed to delete the word 'taxable' in sub-Section 1 of Section 16 as also the phrase 'other than non-taxable supply' in sub-Section 2 of Section 16 of the IGST Law. The changes proposed to the IGST Law, including some other editorial corrections, are at **Annexure-5** of the Minutes.

10.4. The Hon'ble Deputy Chief Minister of Gujarat stated that suppliers of raw material from DTA to SEZ should be encouraged and they should get more business as compared to import. The Hon'ble Minister from Karnataka stated that GST was based on a seamless refund mechanism and if time-bound refunds were assured, the changes proposed for supply to SEZ were not required. He stated that the Council should not question the fundamentals of the efficacy of the refund mechanism under GST and the efficient functioning of the Goods and Services Tax Network (GSTN). He stated that an underlying tenet of GST was to get rid of the existing system of declarations, bonds, etc. and this should not be reintroduced for DTA supplies to SEZ. The Secretary pointed out that under the existing tax regime, goods could be bought from DTA for use in SEZ without payment of duty and that the new dispensation under GST should not be disadvantageous for supplies to SEZ. He observed that in order to avoid misuse and diversion of goods when supplied to SEZ, the principle to pay IGST first and then take refund was being introduced under the IGST Law but the old provision was continued for physical exports. He observed that about 75% of India's exports were physical exports and it would be unjustified to keep a different procedure for the remaining 25% of exports accounted for by SEZs.

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10.5. The Hon'ble Minister from Karnataka stated that his State administration had come across large mismatches between Form-I, Form-C and Form-H and this had led to a demand of about Rs. 5,000 crore in the financial year 2015-16. He stated that if he was given some time, he could furnish more disaggregated data of the misuse relating to SEZ. The Hon'ble Chairperson observed that the principle of paying tax first and claiming refund later blocked the working capital of DTA suppliers and this favoured import. The Hon'ble Minister from Karnataka stated that the blocking of fund would only be for 20 days and that it was important to remember that there were other costs like bank credit, etc. for undertaking import. He cautioned that if such a dispensation was allowed for supplies to SEZs, other segments of business might seek a similar dispensation. He further observed that this issue had been debated several times in the Law Committee of Officers before the provision was drafted in the present form and that it should not be changed at this late stage. He suggested that this provision should be retained presently in the IGST Law, and in case it caused severe disadvantage to domestic suppliers, it could be amended later on and that such an amendment would be relatively easy to carry out as it was to be done only by the Parliament and not simultaneously by the State Legislatures.

10.6. The Secretary stated that one difference between the existing procedure and the procedure under GST would be that the existing Forms like I, H, C etc., were issued manually and this lent them to greater misuse whereas in the GST regime, there would be an all-India record of movement of goods through GSTN and that the Customs ICEGATE (Indian Customs Electronic Commerce/Electronic Data Interchange (EC/EDI) Gateway) would also monitor the receipt of goods in SEZs. He stated that greater use of technology would make diversion of goods meant for SEZs more difficult and that in this background, it would not be fair to withdraw a facility which was presently available to SEZs. He added that as regards the apprehension that many other segments might demand similar concessions, it needed to be kept in mind that several new provisions were being introduced for domestic suppliers which were different from and more stringent than the presently followed system like tax on stock transfer, but it was important to draw a distinction between domestic supply and exports. He strongly urged that this proposal be accepted. The Hon'ble Minister from Karnataka stated that insertion of such a provision would re-introduce audit of forms and would increase the workload of officers. He reiterated that this issue could be revisited after GST implementation if it caused a serious bottleneck. The Hon'ble Chairperson stated that it would not be advisable to discriminate between domestic supplies and imports to SEZs.

10.7 The Hon'ble Chief Minister of Puducherry stated that exports through SEZs should be encouraged. He further stated that if a refinery was outside SEZ and they were given certain special facility, others would also claim the same. The Secretary stated that the facility of refund of input taxes on exported goods which were outside GST related to only 6 products and that, in the absence of such a provision, these goods would suffer loss of international competitiveness in the GST regime due to tax cascading. After further discussion, the Council approved the proposed changes to Section 16 of the draft IGST Law as contained in Annexure 5 of the Minutes.

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10.8. The Secretary stated that as supply to SEZs was to be treated at par with physical exports, it would be desirable to carry out another consequential change in Section 54(6) of the CGST Law by replacing the word 'export' with the words 'zero rated supply' so that supplies to SEZs also qualified to get 90% of the claimed refund amount in a shorter time frame as envisaged for physical exports. The Council agreed to this suggestion.

10.9. The Commissioner (GST Policy Wing) stated that there was an inadvertent omission in Section 20 of the IGST Law approved by the Council where the 'scope of supply' was not listed as one of the topics which was to be cross-referenced to the CGST Law and accordingly, an amendment was proposed in Section 20 of the IGST Law. The Council agreed to this suggestion.

11. For **agenda item 4.1**, the Council approved certain additional changes to the IGST Law which were earlier approved by the Council in its 11<sup>th</sup> Meeting (held on 4 March 2017). These approved changes are shown in **Annexure-5** of the Minutes. The Council also approved the consequential change in Section 54(6) of the CGST Law, approved earlier by the Council in its 11<sup>th</sup> Meeting (held on 4 March 2017), by replacing the word 'export' with the words 'zero rated supply'.

**Agenda Item 4.2: Approval of the amendments to the draft Goods and Services Tax (Compensation to the States) Bill, 2017**

12. Introducing this agenda item, the Secretary informed that in light of the approval of the CGST Law and the IGST Law with certain changes by the Council in its 11<sup>th</sup> Meeting (held on 4 March 2017), certain consequential changes were required in the Goods and Services Tax (Compensation to the States) Bill, 2017. He further stated that ceiling rates for imposition of cess were also to be provided in the Compensation Law and on this account, certain consequential changes were proposed to Section 8 of the Goods and Services Tax (Compensation to the States) Bill, 2017 and a Schedule of ceiling rates of cess was presented for the approval of the Council. The Hon'ble Chairperson asked an officer to explain the method of arriving at the ceiling rates of cess. The Secretary invited Shri Alok Shukla, Joint Secretary (TRU-I), CBEC to explain the method of arriving at the ceiling rates for cess.

12.1. Joint Secretary (TRU-I) explained the rationale behind the various ceiling rates. He stated that the proposed ceiling rate for Pan Masala (135%) was arrived at by summing up the existing rate of Central Excise and the highest existing rate of VAT, subtracting from it the GST rate of 28% and then adding to it an additional 25% as a cushion. He stated that for Tobacco products, the ceiling rate (Rs. 4,170 per thousand sticks or 290% *ad valorem* or a combination thereof) was arrived at by taking into account the highest prevailing specific rate and the *ad valorem* rate and subtracting from each the GST rate of 28%. He added that as the rates were already very high, no cushion had been kept while proposing the ceiling rate of cess on Tobacco products. He stated that for coal, lignite etc. the existing rate of clean energy cess of Rs. 400 per tonne had been retained because this rate was already quite high and any further increase would have negative effect on other sectors of

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the economy. He stated that for aerated waters containing added sugar, there was a large dispersion of VAT rates and for calculating the ceiling rate of cess, the average of the highest and the second highest rate of VAT was taken and this was added to the existing rate of Central Excise and then, like in other cases, 28% of GST rate was subtracted and an additional 25% was added as a cushion and the resultant rate of 13% was rounded off to arrive at the ceiling rate of 15%. He stated that for motor cars, the proposed ceiling rate (15% *ad valorem*) was arrived at by summing up the existing rate of Central Excise and the highest existing rate of VAT, subtracting from it the GST rate of 28% and then adding to it an additional 25% as a cushion. He stated that another residuary category of 15% ceiling rate was kept for all other supplies which would also include supply of services. The proposed amendments to the Goods and Services Tax (Compensation to the States) Bill, 2017 and the Schedule of the proposed ceiling rates for cess is at **Annexure-6** of the Minutes.

12.2. Starting the discussion on this agenda item, the Hon'ble Minister from West Bengal stated that the decision of the Council in its 4<sup>th</sup> Meeting (held on 3 and 4 November, 2016) was to levy cess on cigarette and chewing tobacco, but now the product indicated in the Schedule was tobacco and manufactured tobacco substitute, including tobacco products and that this would also include '*Bidi*'. He suggested that '*Bidi*' should not be subject to cess. The Hon'ble Chief Minister of Puducherry supported the suggestion of the Hon'ble Minister from West Bengal. He observed that lakhs of workers were employed in the '*Bidi*' industry and only poor people smoked '*Bidi*'. The Hon'ble Minister from Rajasthan stated that in his State, '*Bidi*' was taxed at a rate of 65%. He observed that for 'sin' goods, there should be no special categorisation for poor people and that it was, in fact, more harmful for the poor people. The Hon'ble Chief Minister of Puducherry stated that the issue of employment was equally important. The Hon'ble Minister from Madhya Pradesh stated that he did not support the view of the Hon'ble Minister from Rajasthan. He observed that as '*Bidi*' was a handmade product, it was a source of employment for a large number of people and that it was also smoked by the poor people. The Hon'ble Minister from Bihar stated that no cess be levied on '*Bidi*' as it was a source of employment and also that it was smoked by poor people. The Hon'ble Minister from West Bengal pointed out that the Hon'ble Minister from Kerala had written a letter to the Hon'ble Chairperson pointing out that cess on '*Bidi*' would affect about 3 crore '*Bidi*' and '*Tendu Leaf*' collectors and pointed out that his State also had about 10 lakh persons working in the '*Bidi*' industry. The Hon'ble Minister from Maharashtra stated that in his State, '*Tendu*' leaves were used by the tribal community and therefore, he did not support levy of cess on '*Bidi*'.

12.3. The Hon'ble Minister from Karnataka stated that his State had a large number of tobacco leaf growers and that the Mysuru region produced some of the finest quality of tobacco leaves. He further stated that the farmers' income from this crop was so high that they were unwilling to shift to growing some other crop despite the State Government's effort in this direction. He stated that by this logic, in order to protect the livelihood of the farmers growing tobacco leaves, no cess should be imposed on cigarettes too. He further stated that his State had banned '*Pan Masala*' as it posed a health hazard though such a

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ban went against the livelihood interests of the areca nut farmers. He observed that it was wrong to give a favourable treatment to '*Bidi*' vis-à-vis cigarettes on the ground that it was a poor man's 'puff' as it caused greater harm than cigarettes. He observed that if a poor man got cancer due to his '*Bidi*' smoking habit, his family would be ruined as there was no social health care system for the poorer sections of the society whereas a cigarette smoker, being relatively better off, could still afford medical treatment for cancer. He warned that a huge burden was being cast on the poor man by allowing him his 'puff' and that this burden finally fell on the society. He therefore suggested that the existing schedule covering both cigarette and '*Bidi*' should be retained.

12.4. Shri P. Mara Pandiyan, Additional Chief Secretary, Kerala stated that the Hon'ble Minister from Kerala had written a letter dated 16 March, 2017 to the Hon'ble Chairperson stressing that '*Bidi*' should be exempted from cess on tobacco. He stated that about 60 lakh workers were involved in the '*Bidi*' industry and a large number of them were women and their earnings were quite meagre. He stated that imposing cess on '*Bidi*' would harm their interest and, therefore, requested that no cess be imposed on '*Bidi*'. Shri Sanjeev Kaushal, Additional Chief Secretary, Haryana stated that the present proposal before the Council was only to fix the maximum rate of cess which could be kept as proposed and that it could be decided later whether cess should be imposed on '*Bidi*'. The Hon'ble Minister from Assam also suggested to keep the provision of cess on tobacco products in its present form.

12.5. The Hon'ble Chief Minister of Puducherry stated that '*Bidi*' was less harmful than cigarettes. The Hon'ble Minister from Karnataka disagreed with this observation and stated that '*Bidi*' was actually tobacco wrapped in tobacco leaf and therefore it was doubly harmful. The Hon'ble Chairperson informed that the Central Government had power to levy Central Excise duty on '*Bidi*' but due to considerations like large number of tobacco growers and workers involved in the '*Bidi*' trade, during the last 8 to 9 years, it had refrained from imposing Central Excise duty on '*Bidi*', though the Union Ministry of Health and the cigarette lobby had always argued for parity in the treatment of cigarette and '*Bidi*' as the latter was equally harmful. He further stated that the decision to levy cess on '*Bidi*' could be kept with the Council. The Hon'ble Minister from Assam stated that the enabling provision to levy cess on '*Bidi*' should be retained in the law. The Hon'ble Minister from West Bengal reiterated that in the 4<sup>th</sup> Meeting of the Council (held on 3 and 4 November, 2016), it was decided to levy cess only on cigarette and chewing tobacco and therefore '*Bidi*' should be left out of the scope of cess. He further stated that most States did not charge VAT on '*Bidi*' though society was aware of the health issues. He requested that this meeting itself should decide not to levy cess on '*Bidi*' instead of postponing the decision to a later date. The Hon'ble Chairperson observed that if such a decision was taken in this meeting, it would be commented upon adversely by the civil society organisations and health organisations. He stated that the potential health cost due to '*Bidi*' smoking could also be high. He suggested that the decision whether or not to levy cess on '*Bidi*' could be taken by the Council at a later date. The Hon'ble Deputy Chief Minister of Delhi suggested to keep this issue open at this stage.

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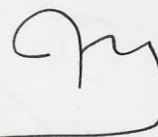


12.6. The Hon'ble Deputy Chief Minister of Gujarat stated that States imposed tax on 'Bidi' in the range of 25% to 30% and wondered whether States could be given flexibility to keep different rates of tax on 'Bidi' in the GST regime. The Secretary observed that presently, the rate of Central Excise duty on 'Bidi' was Rs. 28 per thousand which translated to an *ad valorem* rate of 5% to 6% and that different States charged varying rates of VAT, for example Rajasthan (65%), Himachal Pradesh and Gujarat (22.5%), Tamil Nadu and Uttar Pradesh (14.5%) and Haryana (12.5%). He stated that the rate of tax on 'Bidi' and the issue of imposing cess on it could be addressed at a later date. The Hon'ble Minister from West Bengal suggested that the Council could take a decision to keep 'Bidi' in the Schedule of cess but not impose any cess on it. The Hon'ble Minister from Karnataka stated that the Council should not arrive at any conclusion regarding leviability of cess on 'Bidi' at this stage. He stated that both awareness and the stick of taxation was required to combat the scourge of cancer. He observed that livelihood of one person could not be at the cost of life of another person. The Hon'ble Minister from West Bengal stated that all views expressed during the meeting should be clearly recorded. The Hon'ble Chairperson stated the all views would be recorded to convey the deep concern of both sides and that the issue of leviability of cess on 'Bidi' could be considered by the Council at a later date. The Council agreed to this suggestion.

12.7. The Hon'ble Minister from Assam stated that Entry at Serial No. 4 of the Schedule of cess conveyed an impression that cess would be levied even on normal water. The Secretary stated that under this Entry, cess would be levied only on water which had added sugar. The Hon'ble Deputy Chief Minister of Delhi stated that 'sherbet' was also water with added sugar but no cess should be imposed on it. The Hon'ble Minister from West Bengal stated that adopting the description of relevant Harmonised System of Nomenclature (HSN) Code created some confusion and suggested that the Entry should be limited to aerated water with added sugar. The Secretary stated that cess could be limited to aerated water with added sugar and no cess be put on packaged water as people should be encouraged to drink clean water. Shri Arvind Subramanian, Chief Economic Advisor, Government of India suggested that cess should also be charged on mineral water but the Hon'ble Minister from West Bengal disagreed with this suggestion.

12.8. The Secretary suggested that in order not to levy cess on lemonade which was covered under the description of the 6-digit HSN Code of 22012, the description under the relevant 8-digit HSN Code, namely 22021010 could be adopted which covered only aerated water. The Hon'ble Minister from West Bengal stated that no cess should be levied on soda water. The Hon'ble Deputy Chief Minister of Gujarat supported this suggestion and observed that soda water was also consumed to relieve gastric trouble. The Secretary stated that the 8-digit Code 22021010 covered only aerated water containing added sugar or other sweetening matter and that the Entry in the Schedule for levying cess could be limited to this 8-digit Code. The Council agreed to this suggestion.

12.9. Dr. C. Chandramouli, Additional Chief Secretary, Tamil Nadu suggested that Serial No. 6 of the Schedule for cess covered all other supplies at the rate of 15% *ad valorem* and, therefore, Entries relating to water and motor car at Serial No. 4 and 5 respectively



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could be deleted. The Hon'ble Chairperson stated that presently items covered under Serial No. 4 and 5 of the Schedule were taxed at a higher rate, and that these Entries should be retained. The Secretary stated that retaining the Entries at Serial No. 4 and 5 would convey a message to the public at large of the Council's intention to levy cess on the goods covered under these two Serial Numbers. The Council agreed not to delete the Entries at Serial No. 4 and 5 of the Schedule of rate for Cess.

12.10. The Hon'ble Deputy Chief Minister of Delhi observed that Entry at Serial No. 6 of the Schedule was a residuary Entry excluding the products covered under Serial No. 1 to 5 and, therefore, a more appropriate description for Entry under Serial No. 6 would be 'Any other supplies' instead of the existing description 'All other supplies'. The Council agreed to the suggestion to change the description for Entry under Serial No. 6.

13. For **agenda item 4.2**, the Council approved certain additional changes to Goods and Services Tax (Compensation to the States) Bill, 2017 which was earlier approved by the Council in its 10<sup>th</sup> Meeting (held on 18 February 2017) and also the Schedule of the rates of Cess to be part of the Goods and Services Tax (Compensation to the States) Bill, 2017. These approved changes are shown in **Annexure-6** of the Minutes, subject to further modifications as recorded below:

13.1. In Serial No. 4 of the Schedule, in column number (3), to replace the existing 6-digit HSN Code 220210 of Central Excise Tariff with the 8-digit Code 22021010 and to replace the description in column number (2) for Serial No. 4 corresponding to that in the 8-digit Code 22021010, namely 'aerated water'.

13.2. To substitute the description for Entry under Serial No. 6 of the Schedule of Cess, namely 'All other supplies' with the description 'Any other supplies'.

**Agenda Item 4.3: Approval for constitution of a Task Force to suggest measures for creating an eco-system for seamless freight movement (Based on agenda note received from MoRTH)**

14. Introducing this agenda item, the Secretary stated that under GST, the check post of the VAT Departments was proposed to be done away with but the Ministry of Road Transport and Highways (MoRTH) had identified several other Departments of the Central and the State Governments which maintained check posts. He stated that MoRTH had requested to take up this agenda in order to work towards a complete, seamless and barrier free freight transport system across the country. He recalled that in the 11<sup>th</sup> Meeting of the Council (held on 4 March, 2017), Ms. Sujata Chaturvedi, CCT, Bihar had also suggested to consult with MoRTH while developing the e-Way Bill System in the GST regime. He stated that this agenda item was only to seek the approval of the Council to set up a Task Force of officers from the State Government Departments like Indirect Tax, Road Transport, State Excise and the Union Ministry of Road Transport and Highways and the Department of Revenue. This Task Force of officers, after their deliberations, could make a presentation to the Council suggesting measures to achieve seamless transport connectivity across the country. He added that subsequently, if

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required, there could be a joint meeting of the Hon'ble Ministers of Taxation and Transport to deliberate on this issue. He stated that those States which wanted to be represented in this Task Force should send a formal communication to the Council. The Council agreed to this suggestion.

15. The Council approved the proposal under **agenda item 4.3** to set up a Task Force of officers from the State Government Departments like Indirect Tax, Road Transport, State Excise and the Union Ministry of Road Transport and Highways and the Department of Revenue, which after its deliberation, shall make a presentation to the Council suggesting measures to achieve seamless transport connectivity across the country.

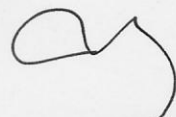
**Agenda Item 5: Any other agenda item with the permission of the Chairperson**

16. The Hon'ble Deputy Chief Minister of Delhi stated that presently, tax exemptions were given to certain types of cinemas. He observed that educational cinemas needed support to keep their cost low to encourage viewership. He stated that there was a need to discuss in the Council the ways to provide a mechanism for granting tax exemption to certain kinds of cinemas like educational cinema.

**Agenda Item 6: Date of the next meeting of the GST Council**

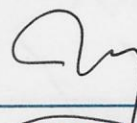
17. The Hon'ble Chairperson observed with satisfaction that the five primary legislations, namely the CGST Law, the Model SGST Law, the IGST Law, the UTGST Law and the Compensation Law had been approved by the Council and that the next item of work would be to approve the GST Rules. The Secretary stated that earlier, five GST Rules were approved relating to Registration, Return, Payment, Refund and Invoice but due to changes made in the CGST, SGST and IGST Laws, these would require some amendments. He further stated that in addition, Rules on Input Tax Credit, Valuation, Composition and Transitional Provisions were being framed by the Law Committee of officers. On an enquiry by the Hon'ble Chairperson regarding the likely date for completing this task, CCT, Gujarat stated that these Rules were likely to be completed by 25 March, 2017. The Secretary stated that it was important that all GST Laws and Rules should be known to the trade at least three months before the implementation of the GST. He suggested that a short meeting could be called before the end of March, 2017. After deliberation, the Council agreed to hold its next meeting on 31 March 2017 in New Delhi.

18. The meeting ended with a vote of thanks to the Chair.



(Arun Jaitley)

Chairperson, GST Council



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## Annexure 1

### List of Ministers who attended the 12<sup>th</sup> GST Council Meeting on 16 March 2017

<u>S No</u>	<u>State/Centre</u>	<u>Name of the Minister</u>	<u>Charge</u>
1	Govt. of India	Shri Arun Jaitley	Finance Minister
2	Govt. of India	Shri Santosh Kumar Gangwar	Ministry of State, Finance
3	Puducherry	Shri V. Narayanasamy	Chief Minister
4	Delhi	Shri Manish Sisodia	Deputy Chief Minister
5	Gujarat	Shri Nitinbhai Patel	Deputy Chief Minister
6	Assam	Dr. Himanta Biswa Sarma	Finance Minister
7	Bihar	Shri Bijendra Prasad Yadav	Minister - Commercial Taxes Minister - Forest, Law & Legislative Affairs
8	Chhattisgarh	Shri Mahesh Gadha	
9	Jammu & Kashmir	Dr. Haseeb A. Drabu	Finance Minister
10	Jharkhand	Shri C.P. Singh	Minister - Urban Development & Housing
11	Karnataka	Shri Krishna Byregowda	Minister - Agriculture
12	Madhya Pradesh	Shri Jayant Malaiya	Finance Minister
13	Maharashtra	Shri Deepak Kesarkar	Minister of State - Finance
14	Nagaland	Shri Y. Vikheho Swu	Minister - Roads & Bridges
15	Odisha	Shri Pradip Kumar Amat	Finance Minister
16	Rajasthan	Shri Rajpal Singh Shekhawat	Minister - Industries
17	West Bengal	Dr. Amit Mitra	Finance Minister

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**Annexure 2**

**List of officers who attended the 12<sup>th</sup> GST Council Meeting on 16 March 2017**

<b><u>S No</u></b>	<b><u>State/Centre</u></b>	<b><u>Name of the Officer</u></b>	<b><u>Charge</u></b>
1	Govt. of India	Dr. Hasmukh Adhia	Revenue Secretary
2	Govt. of India	Shri Arvind Subramanian	Chief Economic Adviser
3	Ministry of Law	Shri Suresh Chandra	Secretary, Legal Affairs
4	Ministry of Law	Dr. G. Narayana Raju	Secretary, Legislative Department
5	Govt. of India	Shri Najib Shah	Chairman, CBEC
6	Govt. of India	Ms. Vanaja N. Sarna	Member (P&V), CBEC
7	Govt. of India	Shri Ram Tirath	Member (GST), CBEC
8	Ministry of Home Affairs	Shri Satish Kumar Singh	Under Secretary (UTL)
9	Ministry of Home Affairs	Shri Vijay Shankar Tiwari	Section Officer (UTL)
10	Chandigarh	Shri Parimal Rai	Adviser to Administrator
11	Daman & Diu and Dadra Nagar Haveli	Shri Umesh Kumar Tyagi	Development Commissioner
12	Andaman & Nicobar	Shri Sanjeev Khirwar	Commissioner & Secretary
13	Chandigarh	Shri Munish Nayyar	Excise & Taxation Officer
14	Chandigarh	Shri Ajit Balaji Joshi	Deputy Commissioner
15	Ministry of Law	Dr. Reeta Vasishta	Additional Secretary, Legislative Department
16	Ministry of Law	Shri R. Sreenivas	Additional Legislative Counsel
17	Ministry of Law	Dr. R.J.R. Kasibhatla	Deputy Legal Adviser
18	Ministry of Commerce & Industry	Shri Alok Chaturvedi	Additional Secretary, SEZ
19	Ministry of Commerce & Industry	Shri T.V. Ravi	Director, SEZ
20	Ministry of Road Transport & Highways	Shri Abhay Damle	Joint Secretary
21	Govt. of India	Shri Mahender Singh	Director General, DG-GST, CBEC
22	Govt. of India	Shri P.K. Jain	Principal Commissioner, (AR), CESTAT, CBEC
23	Govt. of India	Shri P.K. Mohanty	Advisor (GST), CBEC
24	Govt. of India	Shri D.S. Malik	ADG, Press, Ministry of Finance

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S No	State/Centre	Name of the Officer	Charge
25	Govt. of India	Shri Alok Shukla	Joint Secretary (TRU-I), Dept. of Revenue
26	Govt. of India	Shri Upender Gupta	Commissioner (GST), CBEC
27	Govt. of India	Shri Udai Singh Kumawat	Joint Secretary, Dept. of Revenue
28	Govt. of India	Shri Amitabh Kumar	Joint Secretary (TRU-II), Dept. of Revenue
29	Govt. of India	Shri G.D. Lohani	Commissioner, CBEC
30	Govt. of India	Shri Hemant Jain	Advisor to MoS (Finance)
31	Govt. of India	Ms. Aarti Saxena	Deputy Secretary, Dept. of Revenue
32	Govt. of India	Shri Vishal Pratap Singh	Deputy Commissioner, GST Policy
33	Govt. of India	Shri Paras Sankhla	OSD to FM
34	Govt. of India	Shri Siddharth Jain	Assistant Commissioner, GST Policy
35	Govt. of India	Shri Vipin Kumar Singh	Assistant Director, Press
36	GST Council	Shri Arun Goyal	Additional Secretary
37	GST Council	Shri Shashank Priya	Commissioner
38	GST Council	Shri Manish K. Sinha	Commissioner
39	GST Council	Shri G.S. Sinha	Joint Commissioner
40	GST Council	Ms. Himani Bhayana	Joint Commissioner
41	GST Council	Ms. Thari Sitkil	Deputy Commissioner
42	GST Council	Shri Rakesh Agarwal	Assistant Commissioner
43	GST Council	Shri Kaushik TG	Assistant Commissioner
44	GST Council	Shri Shekhar Khansili	Superintendent
45	GST Council	Shri Manoj Kumar	Superintendent
46	GST Council	Shri Sandeep Bhutani	Superintendent
47	GST Council	Shri Amit Soni	Inspector
48	GST Council	Shri Anis Alam	Inspector
49	GST Council	Shri Ashish Tomar	Inspector
50	GST Council	Shri Alok Bharti	Inspector

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S No	State/Centre	Name of the Officer	Charge
51	GST Council	Shri Sharad Kumar Verma	Stenographer Grade-I
52	GST Council	Shri Sher Singh Meena	Tax Assistant
53	Andhra Pradesh	Shri J. Syamala Rao	Commissioner, Commercial Taxes
54	Andhra Pradesh	Shri T. Ramesh Babu	Additional Commissioner, Commercial Taxes
55	Andhra Pradesh	Shri D.Venkateswara Rao	OSD, Revenue
56	Arunachal Pradesh	Shri Nakut Padung	Superintendent, VAT
57	Assam	Shri Anurag Goel	Commissioner, Commercial Taxes
58	Bihar	Ms. Sujata Chaturvedi	Principal Secretary & Commissioner, Commercial Taxes
59	Bihar	Shri Arun Kr. Mishra	Addl. Secretary, Commercial Taxes
60	Chhattisgarh	Ms. Sangeetha P	Commissioner, Commercial Taxes
61	Delhi	Shri H. Rajesh Prasad	Commissioner, VAT
62	Delhi	Shri Anand Kumar Tiwari	Additional Commissioner, GST
63	Goa	Shri Daulat Hawaldar	Finance Secretary
64	Goa	Shri Dipak Bandekar	Commissioner, Commercial Taxes
65	Gujarat	Dr. P.D. Vaghela	Commissioner, Commercial Taxes
66	Gujarat	Ms. Mona Khandhar	Secretary (Economic Affairs)
67	Gujarat	Shri Riddhesh Rawal	Deputy Commissioner, Commercial Taxes
68	Haryana	Shri Sanjeev Kaushal	Additional Chief Secretary
69	Haryana	Shri Shyamal Misra	Commissioner, Excise & Taxation
70	Haryana	Shri Vidya Sagar	Joint Commissioner, Excise & Taxation
71	Haryana	Shri Rajeev Chaudhary	Deputy Commissioner, Excise & Taxation
72	Himachal Pradesh	Shri Pushpendra Rajput	Commissioner, Commercial Taxes
73	Jammu & Kashmir	Shri Navin Choudhary	Commissioner Secretary, Finance
74	Jammu & Kashmir	Shri P.I. Khateeb	Commissioner, Commercial Taxes
75	Jammu & Kashmir	Shri P.K. Bhat	Additional Commissioner, Commercial Taxes

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S No	State/Centre	Name of the Officer	Charge
76	Jharkhand	Shri Sanjay Kr. Prasad	Joint Commissioner (HQ)
77	Jharkhand	Shri G.S. Kapardar	Assistant Commissioner
78	Karnataka	Dr. M.P. Ravi Prasad	Joint Commissioner, Commercial Taxes
79	Kerala	Shri P. Mara Pandiyan	Additional Chief Secretary (Taxes)
80	Kerala	Dr. Rajan Khobragade	Commissioner, Commercial Taxes
81	Madhya Pradesh	Shri Manoj Shrivastav	Principal Secretary, Commercial Taxes
82	Madhya Pradesh	Shri Raghwendra Kumar Singh	Commissioner, Commercial Taxes
83	Madhya Pradesh	Shri Sudip Gupta	Deputy Commissioner
84	Maharashtra	Shri Dhananjay Akhade	Joint Commissioner, Sales Tax
85	Manipur	Shri R.K. Khurkishor Singh	Assistant Commissioner, Commercial Taxes
86	Manipur	Shri Y. Indrakumar Singh	Superintendent, Commercial Taxes
87	Mizoram	Shri L.H. Rosanga	Commissioner, Taxes
88	Mizoram	Shri R. Zosiamliana	Deputy Commissioner, Taxes
89	Nagaland	Shri Asangba Chuba Ao	Commissioner, Commercial Taxes
90	Odisha	Shri Tuhin Kanta Pandey	Principal Secretary (Finance)
91	Odisha	Shri Saswat Mishra	Commissioner, Commercial Taxes
92	Odisha	Shri Sahadev Sahu	Joint Commissioner, Commercial Taxes
93	Puducherry	Dr. V. Candavelou	Secretary (Finance)
94	Puducherry	Shri G. Srinivas	Commissioner, Commercial Taxes
95	Punjab	Shri Rajeev Gupta	Advisor (GST), Govt. of Punjab
96	Punjab	Shri Pawan Garg	Deputy Commissioner, Commercial Taxes
97	Rajasthan	Shri Praveen Gupta	Secretary, Finance
98	Rajasthan	Shri Alok Gupta	Commissioner, Commercial Taxes
99	Rajasthan	Shri Ketan Sharma	Deputy Commissioner, Commercial Taxes
100	Sikkim	Shri Manoj Rai	Joint Commissioner, Commercial Taxes

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S No	State/Centre	Name of the Officer	Charge
101	Tamil Nadu	Dr. C. Chandramouli	Additional Chief Secretary
102	Tamil Nadu	Shri K. Gnanasekaran	Additional Commissioner, Commercial Taxes
103	Telangana	Shri Somesh Kumar	Principal Secretary (Revenue)
104	Telangana	Shri Anil Kumar	Commissioner, Commercial Taxes
105	Telangana	Shri Laxminarayan Jannu	Joint Commissioner, Commercial Taxes
106	Tripura	Shri Debapriya Bardhan	Commissioner, Commercial Taxes
107	Uttarakhand	Shri Ranveer Singh Chauhan	Commissioner, Commercial Taxes
108	Uttarakhand	Shri Amit Singh Negi	Secretary, Finance
109	Uttarakhand	Shri Piyush Kumar	Addl. Commissioner, Commercial Taxes
110	Uttarakhand	Shri Yashpal Singh	Deputy Commissioner, Commercial Taxes
111	Uttar Pradesh	Shri R. K. Tiwari	Additional Chief Secretary
112	Uttar Pradesh	Shri Mukesh Kumar Meshram	Commissioner, Commercial Taxes
113	Uttar Pradesh	Shri Vivek Kumar	Additional Commissioner, Commercial Taxes
114	Uttar Pradesh	Shri Niraj Kumar Maurya	Assistant Commissioner, Commercial Taxes
115	West Bengal	Ms. Smaraki Mahapatra	Commissioner, Commercial Taxes
116	West Bengal	Shri Khalid A. Anwar	Senior Joint Commissioner, Commercial Tax
117	GSTN	Shri Navin Kumar	Chairman
118	GSTN	Shri Prakash Kumar	CEO
119	GSTN	Shri Jagmal Singh	Vice President

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Annexure 3

Amendments suggested to the circulated draft SGST Law in the 12<sup>th</sup> Meeting of the GST Council

(All suggested changes indicated in 'bold', 'italics' and in 'strikethrough' mode):

	<p>Section 2 (4)</p> <p>"adjudicating authority" means any authority, appointed or authorised <del>competent</del> to pass any order or decision under this Act, but does not include the Commissioner, Revisional Authority, the Authority for Advance Ruling, the Appellate Authority for Advance Ruling, the Appellate Authority and the Appellate Tribunal;</p>	
	<p>Section 2 (24)</p> <p>"Commissioner" means the Commissioner of State tax appointed under section 3 <i>and includes the Principal/Chief Commissioner of State tax appointed under section 3;</i></p>	
	<p>Section 2 (48)</p> <p>"existing law" means any law, notification, order, rule or regulation relating to levy and collection of duty or tax or cess on goods or services or both passed or made before the commencement of this Act by <i>the Legislature or any authority or person having the power</i> to make such law, notification, order, rule or regulation;</p>	
	<p>Section 2 (95)</p> <p>"regulations" means the regulations made by the <del>Commissioner</del> <i>Government</i> under this Act on the recommendations of the Council;</p> <p><b>Similar change to be carried out in sections 165 and 166</b></p> <p><u>Reason for change:</u></p> <p>Power to lie with the Government and not the Commissioner</p>	

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	<p>Section 2 (119)</p> <p>“works contract” means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (<i>whether as goods or in some other form</i>) is involved in the execution of such contract;</p> <p><b><u>Reason for change:</u></b></p> <p>To align with the wording in the Constitution</p>	
	<p>Section 3</p> <p>The Government shall, by notification, <i>specify appoint</i> the following classes of officers for the purposes of this Act, namely:—</p> <p><b><u>Reason for change:</u></b></p> <p>To align with section 2(24) of this Act</p>	Officers under this Act.
	<p>Section 11(4)</p> <p>(4) Any notification issued by the Central Government under sub-section (1) of section 11 <b>or order issued under sub-section (2) of the said section</b> of the Central Goods and Services Tax Act shall be deemed to be a notification <b>or, as the case may be, an order</b> issued under this Act.</p> <p><b><u>Reason for change:</u></b></p> <p>Above changes have been suggested to ensure uniformity in exemptions issued under various enactment if the same have been recommended by the Council</p>	
	<p>Section 22(4)</p> <p>Notwithstanding anything contained in sub-sections (1) and (3), in a case of transfer pursuant to sanction of a scheme or an arrangement for amalgamation or, as the case may be, de-merger of two or more companies pursuant to an order of a High Court, Tribunal or otherwise, the transferee shall be liable to be registered, with effect from the date on which the Registrar of Companies issues a certificate of incorporation giving effect to such order of the High Court <b>or Tribunal</b>.</p>	
	<p><b>Section 24</b></p> <p>Notwithstanding anything contained in sub-section (1) of section 22, the following categories of <i>persons undertaking taxable supplies</i> shall be required to be registered under this Act, -</p>	Compulsory registration in certain cases.

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	<p><b><u>Reason for change:</u></b> Persons making TDS and acting as ISD are not making taxable supplies</p>	
	<p>Section 71(1) (1) Any officer under this Act, authorised by the proper officer not below the rank of Joint Commissioner, shall have access to any place of business of a registered person to inspect books of account, documents, computers, computer programs, computer software whether installed in a computer or otherwise and such other things as he may require and which may be available at such place, for the purposes of carrying out any audit, scrutiny, verification and checks as may be necessary to safeguard the interest of revenue.</p>	Access to business premises.
	<p>Section 140(3) A registered person, who was not liable to be registered under the existing law or who was engaged in the sale of exempted goods [or tax free goods <i>or goods which have suffered tax at the first point of their sale in the State and the subsequent sales of which are not subject to tax in the State</i>] under the existing law but which are liable to tax under this Act [or where the person was entitled to the credit of input tax at the time of sale of goods], shall be entitled to take, in his electronic credit ledger, credit of the value added tax [and entry tax] in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions namely: —</p> <p><b><u>Reason for change:</u></b> To address the concern of the State of Punjab where approximately 70% of the goods are sold under this scheme</p>	

**Note:**

*Any corresponding changes required in CGST Act may be permitted to be made*

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Annexure-4

**Amendments suggested to circulated draft UTGST Law in the 12th Meeting of the GST Council**

(All suggested changes indicated in 'bold', 'italics' and in 'strikethrough' mode):

	<p><b>Section 8</b></p> <p>(4) Any notification issued by the Central Government under sub-section (1) of section 11 <i>or order issued under sub-section (2) of the said section</i> of the Central Goods and Services Tax Act shall be deemed to be a notification <i>or, as the case may be, an order</i> issued under this Act.</p> <p><b>Reason for change:</b> Above changes have been suggested to ensure uniformity in exemptions issued under various enactment if the same have been recommended by the Council</p>	
	<i>Note: Similar change to be carried out in section 11(4) of the SGST Act</i>	
	CHAPTER - IV PAYMENT OF TAX	
	<p><i>8A The amount of input tax credit available in the electronic credit ledger of the registered person on account of, —</i></p> <p><i>(1) integrated tax shall first be utilised towards payment of integrated tax and the amount remaining, if any, may be utilised towards the payment of central tax, or as the case may be, Union territory tax, in that order;</i></p>	
	<i>(2) the Union territory tax shall first be utilized towards payment of Union territory tax and the amount remaining, if any, may be utilized towards payment of integrated tax;</i>	
	<p><i>(3) the Union territory tax shall not be utilized towards payment of central tax.</i></p> <p><b>Reason for change:</b> This provision being a substantive provision, needs to be incorporated in the law itself instead of only referencing it from CGST Law</p>	
	9. On utilisation of input tax credit of Union territory tax for payment of tax dues under the Integrated Goods and Services Tax Act in accordance with the provisions of sub-section (5) of section 49 of the Central Goods and Services Tax Act, <i>as reflected in</i>	Transfer of input tax credit.

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	<p><i>the valid return furnished under sub-section (1) of section 39 of the Central Goods and Services Tax Act, the amount collected as Union territory tax shall stand reduced by an amount equal to such credit so utilised and the Central Government shall transfer an amount equal to the amount so reduced from the Union territory tax account to the integrated tax account in such manner and within such time as may be prescribed.</i></p> <p><b><u>Reasons for change:</u></b> Alignment of language with that in the CGST Law</p>	
	<p>CHAPTER VI DEMANDS AND RECOVERY</p>	
	<p><i>10A.(1) A registered person who has paid the central tax and the Union territory tax on a transaction considered by him to be an intra-State supply, but which is subsequently held to be an inter-State supply, shall be refunded the amount of taxes so paid in such manner and subject to such conditions as may be prescribed.</i></p>	<p><i>Tax wrongfully collected and paid to Central Government or State Government.</i></p>
	<p><i>(2) A registered person who has paid integrated tax on a transaction considered by him to be an inter-State supply, but which is subsequently held to be an intra-State supply, shall not be required to pay any interest on the amount of the central tax and the Union territory tax payable.</i></p> <p><b><u>Reasons for change:</u></b> This provision being a substantive provision, needs to be incorporated in the law itself instead of only referencing it from the CGST Law</p>	
	<p>CHAPTER IX MISCELLANEOUS PROVISIONS</p>	
	<p><b>18. (4)</b> Subject to the provisions of this Act and the rules made thereunder, the provisions of the Central Goods and Services Tax Act, relating to, –</p> <ul style="list-style-type: none"> <li>i. scope of supply;</li> <li>ii. composition levy;</li> <li>iii. composite supply and mixed supply;</li> <li>iv. time and value of supply;</li> <li>v. input tax credit;</li> <li>vi. registration;</li> <li>vii. tax invoice, credit and debit notes;</li> <li>viii. accounts and records;</li> </ul>	<p>Application of provisions of Central Goods and Services Tax Act.</p>

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	<p>ix. returns;</p> <p>x. payment of tax;</p> <p>xi. tax deduction at source;</p> <p>xii. collection of tax at source;</p> <p>xiii. assessment;</p> <p>xiv. refunds;</p> <p>xv. audit;</p> <p>xvi. inspection, search, seizure and arrest;</p> <p>xvii. demands and recovery;</p> <p>xviii. liability to pay in certain cases;</p> <p>xix. advance ruling;</p> <p>xx. appeals and revision;</p> <p>xxi. presumption as to documents;</p> <p>xxii. offences and penalties;</p> <p>xxiii. job work;</p> <p>xxiv. electronic commerce;</p> <p>xxv. settlement of funds;</p> <p>xxvi. transitional provisions; and</p> <p>xxvii. miscellaneous provisions including the provisions relating to the imposition of interest and penalty,</p> <p>shall, <i>mutatis mutandis</i>, apply,-</p> <p>(a) so far as may be, in relation to Union territory tax as they apply in relation to central tax as if they were enacted under this Act;</p> <p>(b) subject to the following modifications and alterations which the Central Government considers necessary and desirable to adapt those provisions to the circumstances, namely, -</p>	
	<p>(a) references to "this Act" shall be deemed to be references to "the Union Territory Goods and Services Tax Act, 2017";</p> <p>(b) references to "Commissioner" shall be deemed to be references to Commissioner" of Union territory tax as defined in sub-section (3) of section 2 of this Act;</p> <p>(c) references to "officers of central tax" shall be deemed to be references to "officers of Union territory tax";</p> <p>(d) reference to "central tax" shall be deemed to be reference to "Union territory tax" <i>and vice-versa</i>.</p> <p>(e) references to "Commissioner of State tax or Commissioner of Union territory tax" shall be</p>	

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	<p>deemed to be references to "Commissioner of central tax".</p> <p>(f) references to "State Goods and Services tax Act or Union Territory Goods and Services tax Act" shall be deemed to be references to "Central Goods and Services tax Act".</p> <p>(g) <i>reference to "State tax or Union territory tax" shall be deemed to be reference to "Central tax".</i></p> <p><b><u>Reasons for change:</u></b> To complete the referencing of all taxes and authorities</p>	
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Annexure-5

**Further amendments suggested to the IGST Law approved in the 11<sup>th</sup> Meeting of the GST Council held on 4 March, 2017**

**(All suggested changes indicated in 'bold', 'italics' and in 'strikethrough' mode):**

	CHAPTER VII ZERO RATED SUPPLY	
	<p><b>Section 16 of IGST Act:</b></p> <p>(1) "zero rated supply" means any of the following <b>taxable</b> supplies of goods or services or both, namely: -</p> <p>(a) export of goods or services or both; or</p> <p>(b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.</p>	Zero rated supply
	<p>(2) Subject to provisions of sub-section (5) of section 17 of the Central Goods and Services Tax Act, credit of input tax may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply <b><i>other than non-taxable supply.</i></b></p> <p><b><u>Reason for change:</u></b></p> <p>In order to allow refund of input taxes paid (GST) on export of non-GST goods to prevent export of taxes and maintain export competitiveness</p>	
	<p>(3) A registered person <b><i>making zero rated supply-exporting goods or services or both</i></b> shall be eligible to claim refund under either of the following options, namely: -</p> <p>(a) he may <b><i>export supply</i></b> goods or services or both under bond or Letter of Undertaking, subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax and claim refund of unutilised input tax credit; or</p> <p>(b) he may <b><i>export supply</i></b> goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim refund of such tax paid on goods and services or both <b><i>supplied exported,</i></b></p> <p>in accordance with provisions of section 54 of the Central Goods and Services Tax Act or the rules made there under.</p>	
	<b><i>(4) The Special Economic Zone developer or a Special Economic Zone unit receiving zero rated supply specified in</i></b>	

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~~clause (b) of sub-section (1) shall be eligible to claim refund of integrated tax paid by the registered person on such supply, subject to such conditions, safeguards and procedure as may be prescribed.~~

**Reason for change:**

Proposed to bring supplies to SEZ and physical exports at par in order to avoid blocking of high amounts of working capital in supplies to SEZ

## CHAPTER –IX MISCELLANEOUS *PROVISIONS*

20. Subject to the provisions of this Act and the rules made thereunder, the provisions of Central Goods and Services Tax Act, relating to, –

- i. *scope of supply*;
- ii. composite supply and mixed supply;
- iii. time and value of supply;
- iv. input tax credit;
- v. registration;
- vi. tax invoice, credit and debit notes;
- vii. accounts and records;
- viii. returns, other than late fee;
- ix. payment of tax;
- x. tax deduction at source;
- xi. collection of tax at source;
- xii. assessment;
- xiii. refunds;
- xiv. audit;
- xv. inspection, search, seizure and arrest;
- xvi. demands and recovery;
- xvii. liability to pay in certain cases;
- xviii. advance ruling;
- xix. appeals and revision;
- xx. presumption as to documents;
- xxi. offences and penalties;
- xxii. job work;
- xxiii. electronic commerce;
- xxiv. transitional provisions; and
- xxv. miscellaneous provisions including the provisions relating to the imposition of interest and penalty,

Application of provisions of Central Goods and Services Tax Act.

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	shall apply so far as may be, in relation to integrated tax as they apply in relation to central tax as if they are enacted under this Act:	
	<b><u>Reason for change:</u></b> Inadvertent omission now being corrected	

**Annexure -6**

**Further Amendments suggested to Goods and Services Tax (Compensation to the States) Bill, 2016 approved in the 10<sup>th</sup> Meeting of the GST Council held on 18 February, 2017**

**(All suggested changes indicated in 'bold', 'italics' and in 'strikethrough' mode):**

Section 2(l) "State" shall include –

- (i) for the purposes of sections 3, 4, 5, 6 and 7 the States *as defined under the Central Goods and Services Tax Act*; and the Union territories with Legislature mentioned in the First Schedule to the Constitution; and
- (ii) for the purposes of sections 8, 9, 10, ~~and~~ 11, **12, 13 and 14** the States as defined under the Central Goods and Services Tax Act, and Union territories defined under the Union Territories Goods and Services Tax Act;

Section 7. CALCULATION AND RELEASE OF COMPENSATION.

(3)(b) the actual revenue collected by a State in any financial year during the transition period would be the actual revenue from State tax collected by the State and net of refunds given by the said State under Chapters XI and XX ~~VII~~ of the State Goods and Services Tax Act, the integrated goods and services tax apportioned to that State, and any collection of taxes on account of the taxes levied by the respective State under the Acts specified in sub-section (4) of section 5, net of refunds of such taxes, as certified by the Comptroller and Auditor General of India;

the actual revenue collected by a State till the end of relevant two months period in any financial year during the transition period would be the actual revenue from State tax collected by the State, net of refunds given by the State under Chapters XI and XX ~~VII~~ of the State Goods and Services Tax Act, the integrated goods and services tax apportioned to that State, as certified by the Principal Chief Controller of Accounts of the Central Board of Excise and Customs, and any collection of taxes on account of the taxes levied by the respective State under the Acts specified in sub-section (4) of section 5, net of refunds of such taxes;

Section 8. LEVY AND COLLECTION OF CESS.

(1) There shall be levied a cess on such intra-State supplies of goods or services or both, as provided for in section ~~9 7~~ of the Central Goods and Services Tax Act, and such inter-State supplies of goods or services or both as provided for in section 5 of the Integrated Goods and Services Tax Act, and collected in such manner as may be prescribed, on the

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recommendations of the Council, for the purposes of providing compensation to the States for loss of revenue arising on account of implementation of the goods and services tax with effect from the date from which the provisions of Central Goods and Services Tax Act is brought into force, for a period of five years or for such period as may be prescribed on the recommendation of the Council:

Provided that no such cess shall be leviable on supplies made by a taxable person who has decided to opt for composition levy under section ~~10 8~~ of the Central Goods and Services Tax Act.

(2) The cess shall be levied *on such supplies of goods or services as are specified in column (2) of the Schedule to this Act*, on the basis of value, quantity or on such basis as may be recommended by the Council, at such rate not exceeding *the rate set forth in the corresponding entry in column (4) of the Schedule* ~~per cent as may be notified by~~ as the Central Government *may by notification in the Official Gazette specify*:

Provided that where the cess is chargeable on any supply of goods or services or both with reference to their value, for each such supply the value shall be determined under section 15 of the Central Goods and Services Tax Act for all intra-State and inter-State supply of goods or services or both: Provided further that the cess on goods imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962, on a value determined under the Customs Tariff Act, 1975.

Section 10. CREDITING PROCEEDS OF CESS TO FUND.

The proceeds of the cess leviable under section 8 and such other ~~revenues amounts~~ as may be recommended by the Council, shall be credited to a non-lapsable Fund known as the Goods and Services Tax Compensation Fund, which shall form part of the public account of India and shall be utilized for purposes specified in the said section

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THE SCHEDULE

Notes

1. In this Schedule, reference to a "tariff item", "heading", "sub-heading" and "Chapter", wherever they occur, shall mean respectively a tariff item, heading, sub-heading and Chapter in the First Schedule to the Customs Tariff Act, 1975 (Act No.51 of 1975)
2. The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (Act No.51 of 1975), the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this Schedule.

S No.	Description of supply of goods or services	Tariff item, heading, sub-heading, Chapter, or supply of goods or services, as the case may be	The maximum rate at which GST Compensation Cess may be collected
(1)	(2)	(3)	(4)
1.	Pan Masala	2106 90 20	135% <i>ad valorem</i>
2.	Tobacco and manufactured tobacco substitutes, including tobacco products	24	Rs. 4170 per thousand sticks or 290% <i>ad valorem</i> or a combination thereof
3.	Coal; briquettes, ovoids and similar solid fuels manufactured from coal; Lignite, whether or not agglomerated, excluding jet; Peat (including peat litter), whether or not agglomerated	2701,2702 or 2703	Rs. 400 per tonne
4.	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured	2202 10	15% <i>ad valorem</i>
5.	Motor cars and other motor vehicles principally designed for the transport of persons (other than motor vehicles for the transport of ten or more persons, including the driver), including station wagons and racing cars	8703	15% <i>ad valorem</i>
6.	All other supplies		15% <i>ad valorem</i>

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