

Minutes of the 30th GST Council Meeting held on 28th September 2018

The thirtieth Meeting of the GST Council (hereinafter referred to as 'the Council') was held on 28th September 2018 through video conferencing under the Chairpersonship of the Hon'ble Union Finance Minister, Shri Arun Jaitley (hereinafter referred to as the Chairperson). A list of the Hon'ble Members of the Council who attended the meeting is at **Annexure 1**. A list of officers of the Centre, the States, the GST Council and the Goods and Services Tax Network (GSTN) who attended the meeting is at **Annexure 2**.

2. The following agenda items were listed for discussion in the 30th Meeting of the Council:

1. Confirmation of the Minutes of 29th GST Council Meeting held on 04th August 2018
2. Deemed ratification by the GST Council of Notifications, Circulars and Orders issued by the Central Government
3. Decisions of the GST Implementation Committee (GIC) for information of the GST Council
4. Decisions/recommendations of the IT Grievance Redressal Committee for information of the Council
5. Review of Revenue position
6. Analysis of Revenue Gap of select States and Union Territory of Puducherry for information of the Council
7. Status report on Anti-profiteering measures under GST for information of the Council
8. Proposal of State of Kerala for imposition of Cess on SGST for rehabilitation and flood affected works
9. Proposal of State of Punjab to address difficulties arising out of recent amendment to rule 96 of the CGST/SGST Rules relating to exports
10. IGST exemption to imported goods supplied for relief and rehabilitation of people affected by floods in the State of Kerala for information of the Council
11. Any other agenda item with the permission of the Chairperson
 - i. Addendum to Agenda Item 6 (Analysis of Revenue Gap of select States and Union Territory of Puducherry for information of the Council) – Report on Bihar
 - ii. Minutes of 10th Meeting of Group of Ministers (GoM) on IT Challenges in GST Implementation for information of the Council and discussion on GSTN issues
12. Date of the next meeting of the GST Council

3. The Hon'ble Chairperson welcomed all the Hon'ble Ministers and the officers to the Council Meeting. He remarked that although he had missed the last two meetings of the Council, he had gone through the proceedings and noted that significant decisions were taken during these two Council Meetings. With these preliminary remarks, he invited Dr. Hasmukh Adhia, Union Finance Secretary and Secretary to the Council (hereinafter referred to as the Secretary) to take up discussion on the Agenda items.


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Discussion on Agenda items

Agenda Item 1: Confirmation of the Minutes of 29th GST Council Meeting held on 04th August 2018

4. The Secretary stated that the Minutes of the 29th Council Meeting had been circulated well in advance of this Council Meeting which gave adequate time to the Hon'ble Members and the officers to examine it. No written comments on the Minutes had been received so far. He invited comments, if any, from the Hon'ble Members. No Hon'ble Member gave any comments.

5. **For Agenda item 1**, the Council decided to adopt the Minutes of the 29th GST Council Meeting without any change.

Agenda Item 2: Deemed ratification by the GST Council of Notifications, Circulars and Orders issued by the Central Government

6. Introducing the Agenda item, the Secretary proposed that the notifications, circulars and orders issued by the Central Government after 21st July, 2018 and till 20th September, 2018 under the GST law, as mentioned in the agenda notes and the two additional notifications namely Notification Nos. 24/2018 - Integrated Tax (Rate) and 23/2018 – Union Territory Tax (Rate) as mentioned in the presentation circulated to all States (attached as **Annexure 3** to the Minutes), may be ratified. The Council approved the same.

7. **For Agenda item 2**, the Council approved the deemed ratification of the following notifications, circulars and orders, which are available on the website, www.cbic.gov.in:

Act/Rules	Type	Notification Nos.
CGST Act/CGST Rules	Central Tax	30 to 52 of 2018
	Central Tax (Rate)	13 to 23 of 2018
IGST Act	Integrated Tax	2 of 2018
	Integrated Tax (Rate)	14 to 24 of 2018
UTGST Act	Union territory Tax (Rate)	13 to 23 of 2018
GST (Compensation to States) Act	Compensation Cess (Rate)	2 of 2018
Circulars	Under the CGST Act	50 to 65 of 2018
Orders	Under the CGST Act	4 of 2018

7.1. The notifications, circulars and orders issued by the Member States, which are *pari materia* with the above notifications, circulars and orders were also deemed to have been ratified.

Agenda Item 3: Decisions of the GST Implementation Committee (GIC) for information of the GST Council

8. The Secretary stated that the GST Implementation Committee (GIC) took certain decisions between 21st July, 2018 (when the 28th Council Meeting was held) and 17th September, 2018 (before the 30th Council Meeting scheduled on 28th September, 2018). He stated that due to urgency, certain decisions were also taken by obtaining approval of the GIC

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by circulation amongst the GIC Members. He stated that this Agenda item was also discussed during the Officers meeting held on 27th September, 2018 and there were no comments from the officers on the subject (presentation covering the issues is attached as **Annexure 3** to the Minutes). He invited comments, if any, from the Hon'ble Members of the Council.

8.1. Shri Manpreet Singh Badal, Hon'ble Minister from Punjab stated that the role of GIC was to mostly issue clarifications on procedural issues and it should avoid approving amendment to Rules with retrospective effect. He stated that the notification regarding Rule 96 (10) and such other decisions involving retrospective amendments should have been brought before the Council and it was only about 10 days before the Council Meeting that the notifications were issued. He cautioned that GIC should not subsume the role of the Council.

8.2. The Secretary explained that amendment to Rule 96(10) of the CGST Rules was brought before the GIC, as double benefit was being taken by the exporters in the form of import of goods on advance license in addition to claiming IGST refund. Hence, it was an urgent matter on which decision had to be taken quickly by the GIC in order to plug the revenue leakage. He also pointed out that once the Hon'ble Minister from Punjab highlighted certain concerns regarding amendment to Rule 96 of the CGST Rules, an Agenda note was now placed before the Council to rectify the inadvertent mistake and to permit refund of IGST paid on export goods made from capital goods imported under the EPCG scheme. He added that the GIC decisions were circulated to all the States before it is implemented and the mistakes could be pointed out by any of the States. The Hon'ble Minister from Punjab stated that they would send a written communication on this matter.

9. For **Agenda item 3**, the Council took note of the decisions taken by the GIC during the period from 21st July, 2018 to 17th September, 2018.

Agenda item 4: Decisions/recommendations of the IT Grievance Redressal Committee for information of the Council

10. The Secretary informed that this Agenda item related to decisions of the IT Grievance Redressal Committee for information of the Council. He stated that this item had also been discussed during the Officers meeting held on 27th September, 2018 and was being placed before the Council for information (Presentation covering the issues is attached as **Annexure 3** to the Minutes). The Council took note of the decisions/recommendations of the I.T. Grievance Redressal Committee.

11. For **Agenda item 4**, the Council took note of the decisions taken during the second meeting of the IT Grievance Redressal Committee held on 21st August, 2018.

Agenda Item 5: Review of Revenue position

12. Introducing this Agenda item, the Secretary informed that during the Officers meeting held on 27th September, 2018, a detailed State-wise review of revenue situation was undertaken. It was noted that all-India total revenue collection under CGST, SGST, IGST and Compensation Cess for the month of July, 2018 was Rs.96,483 crore and for August, 2018, it had come down to Rs.93,960 crore. He stated that approximately Rs.49,000 crore was being collected in terms of IGST Revenue out of which, normally, every month Rs.35,000 crore went into settlement and about Rs.5,000 crore went as refund leaving a balance of approximately Rs. 10, 000 crore. He stated that in accordance with the decision of the Council, the practice of provisional settlement of the IGST amount lying in balance would


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continue in the current year, which would help to bring down the revenue shortfall. As could be seen from the Agenda notes, the average revenue shortfall for the country as a whole during the period August, 2017 and March, 2018 was 16% and it had reduced to 13% during the period April, 2018 to August, 2018. He noted that except one State, no State's shortfall had increased during this period. He added that 6 States, namely, Mizoram, Arunachal Pradesh, Manipur, Nagaland, Sikkim and Andhra Pradesh had gained more in terms of revenue than the amount to be protected. He noted that the State of Mizoram had gained 50% more than the protected revenue amount. He stated that even a big State like Andhra Pradesh had also gained more revenue than the amount of revenue to be protected. After these States, there was a category of middling States, namely, Telangana, Maharashtra, Uttar Pradesh, Tamil Nadu, Assam, West Bengal and Rajasthan, whose revenue collection shortfall was less than the national average (between 3% to 12%) and were thus doing relatively well in terms of low revenue gap. Thereafter, there was a category of States, namely, Gujarat, Rajasthan, Haryana, Meghalaya, Madhya Pradesh, Jharkhand, Kerala, Tripura and Delhi, which had suffered a marginally higher revenue shortfall as compared to the national average (14% to 19%). Further, there was a category of States, which had suffered high revenue shortfall of 20% or more than the national shortfall average and these States were Bihar, Karnataka, Odisha, Goa, Chhattisgarh, Jammu & Kashmir, Uttarakhand, Himachal Pradesh, Punjab and UT of Puducherry. He stated that he would discuss the reasons for revenue shortfall of the highest deficit States during discussion on the next Agenda item.

13. For Agenda item 5, the Council took note of the revenue position of the States.

Agenda Item 6: Analysis of Revenue Gap of select States and Union Territory of Puducherry for information of the Council

14. Introducing this Agenda item, the Secretary informed that it was decided during the 28th Council Meeting held on 21st July, 2018, that a study would be conducted regarding the large revenue gap as compared to the national average of the States of Punjab, Himachal Pradesh, Uttarakhand, Jammu & Kashmir, Puducherry and Bihar. He informed that he had visited five of the top six revenue losing States and his report was presented before the Council. He stated that reports on the revenue gap analysis of the States of Jammu & Kashmir, Punjab, Himachal Pradesh and UT of Puducherry was in the main Agenda notes whereas the report on Bihar was part of Additional Agenda notes [Agenda Item 11(i) of the Additional Agenda Notes]. He broadly summarised the main reasons for the shortfall.

14.1. The Secretary stated that for Punjab and Puducherry, the pre-GST rate of growth of VAT collection was only about 6%, and therefore, the assured growth rate of 14% during GST would cause a persistent shortfall of 8% unless this gap was bridged through extra effort of revenue collection. For Jammu & Kashmir and Himachal Pradesh, the average growth rate of VAT revenue was about 11%, which would lead to a gap of about 3%. Bihar had a higher than the assured 14% growth rate (about 18%). This was due to certain specific reasons, namely increase in VAT rate by one per cent preparatory to introduction of Prohibition in the State during 2016-17. He further stated that there were certain State specific reasons for revenue shortfall. For instance, Punjab got about Rs.3,000 crore revenue from tax on food grains by way of Purchase Tax and Infrastructure Development Fee, and this constituted 27% of their subsumed revenue in 2015-16. He stated that he had given certain suggestions to augment revenue, such as to increase tax collection in services sector and to promote certain industries. He stated that the industry base of Punjab was low, as indicated by the fact that as

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against average 8% share of CST in the total subsumed revenue of all States in 2015-16, Punjab's share of CST in its total subsumed revenue for 2015-16 was 3.9%. He suggested that Punjab should try to set up more industries and devise policies to give boost to services sector, such as tourism, Information Technology etc.

14.2. The Secretary further informed that Bihar's share of CST in its total subsumed revenue was only 0.5% as against the national average of 8%. This indicated that it had a low industrial base. The State of Jammu & Kashmir had power to levy Service Tax and it levied tax on works contract services at the rate of 12.6% on which no input tax credit was available for goods or services. Now, the tax rate on works contract had come down to 12% of which the State's share was 6% and input tax credit was also available on it. This accounted for a big share of revenue loss to Jammu & Kashmir amounting to Rs.800 crore, which was 17% of the taxable base. Tax compliance in the works contract sector was also very low but this was expected to improve with the introduction of TDS with effect from 1st October, 2018.

14.3. On Himachal Pradesh, he stated that about 14% of the subsumed revenue came from CST, which was more than the national average of 8%. There was also withholding tax on stock transfer at the rate of 4%, which was gone in the GST regime. These two were the main causes of revenue shortfall. He added that focus on services sector would help to improve revenue collection of the State.

14.4. As regards the UT of Puducherry, the Secretary stated that it had a low VAT rate on many items as compared to neighbouring States, which encouraged a lot of purchases by buyers from neighbouring States. For example, on items like cement and other construction materials, the VAT rate in Puducherry was 8% while in the neighbouring State of Tamil Nadu, it was 14.5%. As against the national share of 8% of CST in the subsumed taxes, Puducherry had 27% share of CST in the subsumed taxes. Products used in IT hardware industries for manufacture of Computers was manufactured in the UT which were mostly getting exported to other States which added to their CST income. Now, the CST income was gone. The revenue base of the UT was also low. He had given specific suggestions for improving the revenue position.

14.5. He stated that Bihar had certain advantage because of a peculiar reason that during 2015-16, preparatory to imposition of Prohibition in 2016-17, there was increase in the rate of VAT by one per cent on all items. This gave them a revenue growth rate of about 28% in 2015-16 but otherwise, the average growth rate of Bihar was about 18%. Due to this higher revenue base, the shortfall of GST collection for Bihar was initially very high (38%) as compared to the national average (16%), but in the current year, it had narrowed to 20%, as against the national average of 13%. He further stated that once the IGST settlement went up, revenue accruing to consuming States would increase, which would benefit not only Bihar but also States like Odisha and Chhattisgarh. He added that during VAT, one of the big sources of revenue for Bihar was Entry Tax to the tune of Rs.1100 crore, for which no input tax credit had been availed. He observed that Bihar's revenue would improve over a period of time.

14.6. The Secretary also highlighted some common reasons for low revenue growth in these States. He observed that in the States that he visited except Punjab and Himachal Pradesh, the percentage of return filing was lower as compared to the national average and e-Way bill compliance was also not up to the mark *vis-à-vis* the national average. He added that some States like Bihar and Punjab had given concessions for intra-State e-Way bills and withdrawal of such concessions given during the initial roll out of e-Way Bill would help in boosting


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revenue. Further, it appeared that Service Tax income was not being accounted for correctly in the States. For instance, it appeared that in Bihar, the tax relating to railway ticketing was being charged as IGST even when passengers boarded the train from railway stations in Bihar. He informed that he had instructed the DG Audit in CBIC to carry out audit of accounting systems of railways, telecoms and Banks to ensure that there was correct accounting of SGST in their system and software. He added that in order to improve the return filing percentage, he had suggested to insert a provision in the GST Rules that the taxpayers who did not file GSTR-3B return for two consecutive tax periods, should be barred from generating e-Way bills. He informed that this issue was discussed during the Officers meeting and there was unanimity to introduce such a provision in the GST Rules. He suggested that the Council could approve this proposal and the Law Committee could work on a suitable draft. The Council approved this proposal.

14.7. The Hon'ble Chairperson invited comments from the Members on the revenue gap analyses of the States visited by the Secretary.

14.8. The Hon'ble Minister from Punjab thanked the Secretary for his visit to Punjab. He stated that a key determinant of the revenue performance of a State was its share of the all-India GDP *vis-à-vis* its share of all-India GST collected. He stated that as per Government of India's statistics, Punjab's share in country's GDP was 2.9% while its share in GST collection was much lower. He stated that a State with high per capita income like Punjab (which was amongst the top 10 States in terms of per capita income) should collect more tax than its share in GDP as Punjab is largely a consuming State and this was an area of concern. He requested for a deeper study on this aspect. He stated that he was not entirely satisfied with the Study Report and one needed to dive deeper into the subject to understand the reasons for the high revenue shortfall for Punjab. He further pointed out that in paragraph 3 at page 134 of the Detailed Agenda Notes, it was indicated that "*some other reasons for revenue shortfall are natural and structural factors such as geographical location, size of economy, endowments of natural resources....*" He raised a question whether these observations in the agenda note could be passed on to the 15th Finance Commission, which has been mandated to look at, *inter alia*, these factors for finalising the devolution of resources. He requested the Hon'ble Chairperson to bring this to the notice of the 15th Finance Commission. The Hon'ble Chairperson stated that sometime back he read a study of different States and how they were rated in terms of their performance on various social and other indicators. He added that the five States namely Kerala, Punjab, Sikkim, Delhi and Himachal Pradesh were right on top based on these indicators. As Punjab ranked high on various indicators, the question was why there was high non-compliance of tax.

14.9. Shri Shashi Bhusan Behera, Hon'ble Minister from Odisha, stated that as a consuming State, they had a revenue shortfall of 24% as against the national average of 13%. He stated that improvement in return filing had narrowed the gap in revenue shortfall. He added that there was also revenue loss to the tune of Rs. 500-600 crore due to loss of tax revenue from consumer goods like food grains, *atta, maida*, etc. which was taxed at the rate of 5% during the VAT regime. Minerals were taxed at the rate of 5% during VAT in addition to 0.5% as entry tax but the SGST revenue accruing to the State at the rate of 2.5%. The VAT rate of 14.5% on goods had also been reduced to SGST rate of 9% and the revenue from CST was also lost. He added that Entry Tax constituted about 15% of their total revenue, which was now subsumed in GST and it was a loss to the State. He informed that his State was trying to improve revenue collection through other means and the revenue shortfall had narrowed down

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from 31% to 24%. Shri Tuhin Kanta Pandey, Additional Chief Secretary (ACS), (Finance), Odisha, stated that revenue loss was on account of some structural factors which were likely to persist. He stated that on minerals they were getting substantial amount of revenue during VAT regime in the form of Entry Tax but now revenue from minerals were accruing to the extent of amount left after utilisation of input tax credit in the value chain for the finished goods. He added that they would need to analyse as to how to tackle the structural factors.

14.10. Shri Sushil Kumar Modi, Hon'ble Deputy Chief Minister of Bihar, thanked the Secretary for going into details and giving a correct assessment of the reasons for revenue shortfall of Bihar. He fully supported the proposal to block the facility of issuing e-Way bills for those taxpayers who had not filed their GSTR-3B returns for two consecutive tax periods. He further stated that the proposal made in the Secretary's report that the DG Audit under CBIC, should audit the centralised accounting software of service providers, like Railways, Airlines, Banks, Telecom and Insurance sectors should be implemented early and audit should be completed within a period of three months. If it was found during audit that the revenue had gone to other States during the last 18 months, it should be restored to Bihar. He suggested that RFID (Radio Frequency Identification) tag should be made mandatory, as it was implemented successfully in the State of Uttar Pradesh. He also suggested that there should be provisional IGST settlement every two months, which would help to boost the revenue of consuming States and narrow the gap between the revenue collected and the revenue to be protected. He added that they had done a detailed analysis of the report of the Secretary and would take steps as suggested by him.

14.11. Shri Suresh Bhardwaj, Hon'ble Minister from Himachal Pradesh, thanked the Secretary for his analysis of the revenue situation in his State. He stated that for the period April, 2018 to August, 2018, they had a revenue gap of 36% despite performing higher than the national average in return filing. He stated that they were taking steps, as suggested in the Report of the Secretary. He added that since Himachal Pradesh was not a consuming State, the goods manufactured in Himachal Pradesh were largely going out and so was the revenue. He further stated that some of the measures suggested in the Report, like boosting tourism, building retail outlets and convention centres were long term measures. He added that increasing tourism was also their priority and they were trying to find new tourist destinations and would try to also increase retail sales in these destinations. However, as these were long term measures, he suggested that a team from the office of the Chief Economic Advisor should be sent to Himachal Pradesh to suggest how to get the revenue due in the short term. He added that during VAT regime, they gained in terms of revenue by encouraging setting up of industries but now major revenue from those industries flowed out because Himachal Pradesh was a small State with small consumption base. There should be a detailed study of his State as otherwise after 2022, the revenue situation would be a matter of worry for them.

14.12. The Secretary stated that four years were still left before the provision of compensation to the States expired and this gave them adequate time to take long term measures to improve services sector, tourism etc. He suggested to take up some mega project to build convention centres and retail centres. The Hon'ble Minister from Himachal Pradesh responded that measures like building convention centres and malls could not be done within four years. He stated that they had submitted memorandum to the 15th Finance Commission and requested that the Central Government could also make a reference to the 15th Finance Commission to address the structural factors for bridging the revenue shortfall, which would


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help their State. With regard to tourism sector, he added that they had experienced unusual heavy rains during the last two to three days in Himachal Pradesh including the regions of Lahaul-Spiti district where almost 5-feet snowfall was witnessed which had affected tourism and washed out the roads connecting to major tourism centres such as Kullu and Manali. Therefore, it was doubtful to consider tourism as a constant source of revenue especially in hilly States such as Himachal Pradesh. In this background he requested for a study by a committee on issues particularly associated with hilly States to suggest ways and means of augmenting revenue for the State in long term as well.

14.13. Shri D. Jayakumar, Hon'ble Minister from Tamil Nadu, stated that he did not agree with the views of the Hon'ble Ministers from Punjab and Himachal Pradesh to convey views to the 15th Finance Commission through the GST Council. He observed that the GST Council and the Finance Commission were separate bodies and specific suggestions to the Finance Commission should be sent to it by the individual States and not through the GST Council.

14.14. Shri Prakash Pant, Hon'ble Minister from Uttarakhand, stated that, as could be seen from the Agenda notes, they suffered a revenue shortfall of 35% as compared to the national average of 13% during April to August, 2018. He stated that Uttarakhand is largely an exporting State and for the period August, 2017 – August, 2018, the total revenue accrued to the State was Rs. 4,028 crore, of which the SGST component was Rs 3,888 crore and IGST settlement was Rs. 140 crore. The IGST settlement was approximately 3% of the State's total revenue which was low as compared to other major revenue shortfall States. He observed that Puducherry accounted for 42%, Jammu & Kashmir 53% and Himachal Pradesh 49% of their revenue by way of IGST settlement. He stated that a comparative analysis for pre-GST regime and GST regime collections indicated that the revenue collected during April to July, 2017 was Rs.9,290 crore whereas after GST implementation, for the period April to July 2018, they had collected revenue of Rs.16,543 crore, which showed that they had collected adequate amount but not getting the proportionate gains in terms of IGST settlement and their revenue shortfall was still high. He added that their return filing percentage was 69.5% in July, 2018 and they accounted for 11% of the country's e-Way bill verification. Hence, they were doing well on the parameters of return filing and e-Way bill but they were still not able to arrest the revenue shortfall. He stated that their revenue shortfall situation was even more difficult as compared to that of Himachal Pradesh. He added that as mentioned by the Secretary, to boost investment in services sector, they had recently organised investors summit. They were concentrating on improving services sector but they felt that they might not gain substantially from the same because of load on the government to incentivise the services sector and requested to support the State through alternate means. The Secretary informed that he would be visiting Uttarakhand shortly to discuss in detail the reasons for revenue shortfall.

14.15. Dr. T.M. Thomas Isaac, Hon'ble Minister from Kerala, congratulated the Secretary for his insightful studies and welcomed Secretary to conduct a revenue analysis study of his State too as they were equally worried. He stated that Kerala had the highest rate of consumption and 80% of consumer products were imported from other States. He stated that, taking this into view, their IGST settlement should be double the SGST collection but it was only 20% higher than the SGST revenue. He observed that the revenue position of consuming States would improve in due course by continuous allocations from IGST settlement. He added that it was important to ensure that cross border movement of goods was accompanied by e-Way bills and these did not under-declare the quantity and value of the goods under movement. He

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added that it was important to prepare for the annual return, which was due in December, 2018 as this would give access to a lot of data and information which was presently not available. He stated that a framework should be developed as to what parameters were to be examined and cross validated in the annual returns. He suggested that GSTN could generate State-wise report and associated annexures of the data available in the annual returns. He added that in the services sector, historically they had been concentrating on big service providers only but there was a scope for expansion of the base. He added that the services sector needed to be analysed more systematically and closely to see how their revenue was getting apportioned and allocated across the States.

14.16. Shri Alok Sinha, ACS (Commercial Tax), Uttar Pradesh, stated that in addition to the blocking of e-Way Bill generation in case of non-filing of returns, there should also be option with the tax administration to block the facility of issuing e-Way bills when misuse of the e-Way bill was seen. He added that the revenue shortfall of his State was only 5% but they were not getting equivalent compensation. Shri Ritvik Pandey, Joint Secretary, Department of Revenue (DoR), explained that the State of Uttar Pradesh had been demanding that the arrears of VAT that they had collected should be kept aside for calculation of compensation whereas it was earlier decided that compensation would be calculated after taking into account all collections of State taxes including arrears of VAT.

14.17. Capt. Abhimanyu, Hon'ble Minister from Haryana, stated that, as could be seen from page 133 of the Agenda notes, Tamil Nadu and Andhra Pradesh were not performing very well in return filing but they were doing well in revenue collection. Therefore, return filing performance might not be directly linked to revenue generation. He stated that, as suggested by Punjab, deeper analysis of the reasons for revenue shortfall was needed. He appreciated the report of the Secretary in analysing the revenue position of high shortfall States and suggested that the Secretary should also analyse the five best performing States in terms of collection of revenue so as to find what better they were doing such as steps taken by them to improve compliance, data analytics and other good practices, which the rest of the States could emulate. He also expressed concern regarding shortfall in revenue faced by Centre and suggested that the Council should also review shortfall in revenue collections of the Central Government.

14.18. Shri Mauvin Godinho, Hon'ble Minister from Goa, stated that he was looking forward to welcoming the Council in Goa and would wait for an opportunity for the same. He stated that as per the data shown in the agenda notes, they suffered a revenue shortfall of 25%. He informed that a major reason for revenue shortfall in his State was stoppage of mining activity which was the mainstay of the State's economy. He observed that mining work should start as soon as possible to improve revenue collection. He added that they also lost 15% of the revenue which earlier came in the form of Entry Tax. Added to this was reduction of tax in restaurant sector to 5%. He stated that taking all this into account, revenue shortfall of his State could have been around 35% but due to their efforts, shortfall was only 25%. He stated that they were trying to improve the revenue situation through various means which should improve from November, 2018 onwards. He observed that the Secretary had done a good analysis of revenue gap of the States. He suggested clubbing of smaller, tourism-based States such as Himachal Pradesh and Goa which were experiencing the same kind of problems for a study by the Secretary and this would help in taking steps to generate more revenue. He again requested to consider holding a meeting of the Council in Goa.



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14.19. Shri Somesh Kumar, Principal Secretary (Revenue), Telangana, stated that presently, provisional IGST settlement was being given based on the proportion of the State in revenue to be protected but now the time had come to change the same. He suggested two approaches for the same. The first could be based on where the material was going based on which a proportionate revenue could be distributed between the States and the second could be based on the percentage of IGST settlement going to the various States in the previous year rather than the guaranteed growth rate of 14%. He stated that either of the two would be a better approach rather than giving the provisional IGST amount on the basis of guaranteed 14% growth rate, which was related to VAT period.

15. **For Agenda item 6**, the Council:

(i) took note of the report of the Secretary on the revenue gap analysis of the States of Jammu & Kashmir, Punjab, Himachal Pradesh, Bihar and the UT of Puducherry; and

(ii) approved that the Law Committee shall frame a proposal to deny the facility of generation of e-Way bills to taxpayers who had not filed returns for two consecutive tax periods.

Agenda Item 7: Status report on Anti-profiteering measures under GST for information of the Council

16. The Secretary invited Shri B.N. Sharma, Chairman of the National Anti-Profiteering Authority (NAA) to give an overview of the action taken so far by the NAA. The Chairman, NAA, stated that from 1st December, 2017, they had issued 9 orders, out of which profiteering was proved in 3 cases and not proved in 6 cases. He informed that investigations of cases were pending with other layers of the hierarchy of the NAA, namely 140 cases were pending with the Standing Committee and 290 cases with the Directorate General of Anti-Profiteering (DG-AP), CBIC. 19 cases had been referred by DG-AP to the NAA, which were in different stages of hearing. He informed that the sectors from which the maximum complaints had been received related to FMCG (Fast-Moving Consumer Goods), construction and restaurant services. He also informed that some State Screening Committees were not as functional as was desirable, which was highlighted in paragraph 7 of the Agenda note. It was indicated in this paragraph that the State Screening Committees of 14 States had not sent a single anti-profiteering complaint which was a cause of worry if there was profiteering happening in those States but not being reported.

16.1. Chairman, NAA referred to Rule 128 of the CGST/SGST Rules under which an interested party or the Commissioner or any other person could also file application against profiteering. He informed that based on review of Finance Secretary on anti-profiteering, he had written to the Commissioners of CGST/SGST to be more watchful to see that profiteering was checked at the first stage of B2B supplies by carefully examining the invoices to ascertain whether the benefit of rate reduction had been passed on. If this was done, then profiteering could easily be plugged in the subsequent stages of supply. He added that a SOP could be considered by the Law Committee regarding action to be taken whenever rate rationalisation took place so that the field officers were little clearer regarding the profiteering. He also stated that he had personally visited Chennai, Mumbai, Lucknow and Chandigarh for detailed

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regional meeting with the trade and industries and for sensitisation of tax officers in issues relating to anti-profiteering work. He also informed that the website of NAA was functional and 293 cases of profiteering came directly from the website. Another 40-50 cases came through the helpline, which was also functional. He informed that Rs.176.90 crore had been deposited in the Consumer Welfare Fund mainly from the two cases of alleged profiteering.

16.2. The Hon'ble Deputy Chief Minister of Bihar observed that the application form for filing anti-profiteering complaint was complicated, which required filling of HSN code, maximum retail price and tax rate, pre and post rate reduction, etc. He suggested to have a more simplified form for filing application against profiteering. The Secretary stated that even if an anti-profiteering complaint was received in a plain paper, the instruction was that the officer concerned would sit with the complainant and help him to fill up the prescribed form. However, the Law Committee could also examine if any further simplification could be done in the application relating to complaint against profiteering.

17. **For Agenda item 7, the Council:**

(i) took note of the work done till date by the National Anti-Profiteering Authority; and

(ii) approved that the Law Committee shall examine further simplification of the application form for filing anti-profiteering complaints.

Agenda Item 8: Proposal of State of Kerala for imposition of Cess on SGST for rehabilitation and flood affected works

18. The Hon'ble Chairperson invited the Hon'ble Minister from Kerala to speak on this Agenda item. The Hon'ble Minister from Kerala stated that the recent floods in his State was a calamity that could also happen in any other State. The FRBM (Fiscal Responsibility and Budget Management) Act placed a limit on the expenditure of the State *vis-à-vis* its revenue receipts, and therefore, flexibility was needed in the GST for the States to collect additional resources for short period. He observed that the States had surrendered most of their elastic sources of revenue to be subsumed in GST and, therefore, it was important to consider how to provide for additional resource mobilisation in times of natural calamities. He stated that his initial proposal was to allow Kerala to collect cess on SGST for all commodities consumed in Kerala. This could have implication on GST software but not on inter-State trade. He stated that in paragraph 7 of the Agenda notes, other issues were raised like availability of credit of cess paid on inward supplies and refund of cess paid in respect of supplies destined outside Kerala and these would need to be decided. He added that such a cess should be kept outside the ambit of compensation as it would not be covered under Section 7(4) of the Compensation Act.

18.1. He suggested that the States should be given flexibility for raising additional resources as such a calamity could happen in other States too. He recalled that earlier there was a thinking to levy cess on sugar at the national level. He suggested that a national cess could be imposed to generate additional resources for natural calamities for a limited period and on limited number of commodities with certain norms as to how much resources could be generated in this account. He stated that this might require change in law. He observed that levy of additional 1% tax was permitted by the Law and this could be levied on certain commodities to raise additional revenue. He stated that these were the possibilities that could


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be discussed. He also thanked all the States for their kindness and solidarity in extending support, both monetary and in kind, to meet the needs of his State. He stated that now his State was in the stage of reconstruction where money was required to pay compensation and for repair and maintenance of various infrastructure. This could not be done from borrowed funds. He stated that the present funds could be used for payment of compensation and the revenue coming later could be used for reconstruction. He requested the Council to decide on this issue.

18.2. The Hon'ble Deputy Chief Minister of Bihar stated that the proposal of the State of Kerala to levy additional cess was examined during the 10th meeting of the GoM on IT Challenges in GST held on 22nd September 2018 in Bengaluru. It had then transpired that about six months' time would be required to change the GST software. Invoice module and challan module, GSTR-1 and GSTR-3B etc. would need to be changed in order to distinguish the current Compensation Cess and the proposed levy. He stated that it might be difficult for GSTN to make such a drastic change in the software. He pointed out that Article 279A (4) (f) of the Constitution permitted levy of any rate or special rate for a specified period to raise additional resources during any natural calamity or disaster. He raised a question as to why the people of Kerala should pay additional tax who were already in distress. This burden should be shared by the whole country. He suggested two options: First to raise the rate of cess by amending Section 8 of the Compensation Act i.e. raising the rate of cess on existing commodities and secondly by bringing other luxury items under its ambit. He suggested that the incremental amount so collected could be deposited in a separate Fund. He stated that earlier, the issue of relief to cane growers of Uttar Pradesh was discussed in the context of levy of a sugar cess. He stated that there should be a permanent fund for calamities based on severity and Council could lay criteria and guidelines regarding its disbursement to the States. He recalled that there was severe flood in Bihar in 2017 in which 649 people had died and the State had spent Rs.1,754 crore from its own kitty in addition to the help received from the Centre. This permanent Fund could be used to disburse money to those States which suffered a natural calamity. He also suggested that once the Fund was created, the States which had faced calamities since the GST rollout, should be compensated through this Fund. He also placed on record the solidarity of the State of Bihar with the suffering of the people of Kerala and informed that Bihar was among the first State to donate Rs.10 crore for flood relief to Kerala.

18.3. The Hon'ble Chairperson observed that changes were possible in an ordinary legislation. However, it would be difficult to amend the Constitution and the suggestion of the Hon'ble Deputy Chief Minister of Bihar regarding creation of a permanent Fund might not be permissible within the existing provision of Article 279A (4) (f) of the Constitution which provided for levying any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster. He stated that under this provision, there has to be a special rate, imposed only for a specified period and for a specified calamity or disaster. Amending the Constitution would not be easy to implement the proposal of the Hon'ble Deputy Chief Minister of Bihar.

18.4. Dr. Himanta Biswa Sarma, Hon'ble Minister from Assam, stated that he was a Member of the GoM working on Cess on Sugar. A reference had been sent to the Attorney General (AG) of India for clarification whether it was legally permissible under GST to impose additional Cess or any Cess. The comment from the AG had not yet been received as the issue was also under challenge before the Hon'ble Supreme Court. He stated that the

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proposal of the State of Kerala would have a bearing on a matter which was presently *sub judice*. He stated that even lower Assam was in the grip of flood as of today also. He stated that it was not clear whether law allowed to levy additional Cess or not but if Cess has to be levied for helping in case of calamity or disaster, then it should be levied only on the commodities which attracted Cess and not for all the commodities. He wondered whether one could also increase some percentage of Cess already being levied on certain commodities to create a separate Fund for calamities or disasters. He stated that they supported the proposal in principle and expressed his solidarity with the State of Kerala in its hour of crisis and stated that it should be helped in every possible way. However, he wondered whether, in the absence of opinion of AG, any cess could be imposed.

18.5. The Hon'ble Minister from Tamil Nadu stated that the Hon'ble Chairperson had mentioned regarding the Constitutional provision for levy of additional tax by the Centre and the State on the recommendation of the Council during natural calamity or disaster and that too temporarily. He supported the proposal of the Kerala Government to impose cess in the State of Kerala. However, he did not support the proposal of the Hon'ble Deputy Chief Minister of Bihar to create a separate disaster Fund at national level by imposing a levy of Cess on all States. He further added that there was already a separate Disaster Fund at national level and any State in times of such calamity or disaster could approach for additional fund.

18.6. Shri Yanamala Ramakrishnudu, Hon'ble Minister from Andhra Pradesh, stated that he supported the proposal of the Government of Kerala to levy cess in the State of Kerala. He observed that the issue of imposing cess on sugar at national level was a separate matter but the present question related to natural disaster and distress in Kerala. The issue raised by Bihar was also a separate matter. He stated that in situations of crop failure, no cess could be imposed throughout the Country. He stated that the proposal of Kerala could be supported on humanitarian ground.

18.7. Shri Sudhir Mungantiwar, Hon'ble Minister from Maharashtra stated that the issue of sugar cess was not finalised because the legality of cess was *sub judice* in the Hon'ble Supreme Court in the case of M/s Mohit Minerals. He added that there was a need to help the State of Kerala and this could be done by increasing cess by 1% or 2% on the products on which cess was already applied. He stated that due to roll-out of GST, number of people filing Income Tax Returns had increased substantially and suggested that a surcharge could be imposed on income-tax return filers to help the State of Kerala. He observed that help for Kerala was needed now but any change in the software by GSTN would take time.

18.8. The Hon'ble Minister from Punjab raised the question whether it was legally feasible to impose cess and, if so, under what law it could be imposed. He observed that Hon'ble Deputy Chief Minister of Bihar had stated that it would take about six months to change the GST software. He also observed that if higher tax was imposed in Kerala, then trade could shift from that State. He stated that while new provision could be enacted later to make compensation available in case of natural calamities and disaster, as an immediate act, for Kerala, tax waiver should be granted on damaged goods which the insurance companies were not compensating. He added that Kerala should be compensated and rehabilitated quickly through National Disaster Response Fund (NDRF) or any other way by the Centre.

18.9. Dr. P.D. Vaghela, CCT, Gujarat, stated that Kerala should be helped. He added that though Compensation Act was under legal challenge, the Council had power under Article 279A for levy of any special rate or rates for a specified period during any natural calamity or



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disaster. This provision was preferable compared to the option of cess. He suggested to have a separate IT system for Kerala by allowing increase of 1% tax on SGST component in the State of Kerala. He observed that for supply made from Kerala, the cost would be passed on to the consumers of other States which would make the supply from Kerala less attractive, but this was the case even in the earlier regime. The ACS, Uttar Pradesh, stated that the issue of sugar cess had been referred to a GoM and this issue should also be referred to the same GoM.

18.10. The Hon'ble Minister from Uttarakhand stated that his State suffered a calamity in the year 2013-14 which was also declared as a national calamity and more than 12,000 lives were lost and additional funds were received from the Central Government. He observed that Article 279A (4) (f) permitted to impose tax for a brief period in the case of natural calamity. He stated that his State often suffered such calamities. He further stated that during the period January-September, 2018, due to climatic factors, 1805 roads were destroyed, 1577 water-based projects were affected, 5064 electricity related projects were affected, 2715 houses were destroyed and 100 lives were lost. He stated that this had not been declared as a calamity. He stated that his State suffered very heavy rainfall and frequent landslides and there should be a mechanism within States to raise additional resources even if it were not declared as national disaster and this should be done even if Constitutional amendment was required for it.

18.11. Shri V. Narayanasamy, Hon'ble Chief Minister of Puducherry stated that all the States and Central Government stood by Kerala during this unprecedented natural calamity and disaster. Two things emerged from discussion in the Council. First was an explanation by the Hon'ble Chairperson that changes to be done in GST software would take about 5 to 6 months and second that creation of a Disaster Fund under Article 279A (4) of the Constitution would require Constitutional amendment. He observed that Article 279 A (4) (f) could be used to help the State of Kerala. He stated that proposal for imposing sugar cess had seen lots of opposition from various quarters in view of legal issues and that levy of various cesses was totally removed in GST regime. He also observed that some Members had pointed out that NDRF was the right forum for such support. However, Kerala needed support for re-building and the support of the Government of India was not enough as reported by the State of Kerala. Hence, the issue was whether they could raise resources through levy of cess and this needed to be examined legally. He expressed that instead of going into technicality, the Council should find a mechanism to help Kerala by the Central Government and the State Governments.

18.12. Shri Manish Sisodia, Hon'ble Deputy Chief Minister of Delhi, stated that there were two options emerging from the ensuing discussion. One was that all States should contribute to Kerala by an increase in the rate of tax and consequent changes in the rules should be carried out. The second option was to increase the rate of SGST in Kerala only. He supported the proposal as proposed by Hon'ble Minister from Kerala to increase the rate of tax in Kerala only.

18.13. Summarising the discussion, the Hon'ble Chairperson stated that five issues arose out of the discussion in the Council on this issue. First issue, which was supported by the Hon'ble Minister from Tamil Nadu and the Hon'ble Deputy Chief Minister of Delhi, was that the State of Kerala may be allowed to levy a special cess. The second issue, which was supported by the Hon'ble Deputy Chief Minister of Bihar and some other States, was that the State of Kerala had already suffered and whether a further special tax should be imposed on the people of Kerala. The third issue was raised by the Hon'ble Minister from Punjab that trade might

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shift from Kerala due to increase in taxation if the special tax was levied only in Kerala and this could have a spiral effect on increasing the suffering of the people of Kerala. The fourth issue was raised by the Hon'ble Minister of Tamil Nadu that the funding to States in times of natural calamity was already available under SDRF (State Disaster Response Fund) and NDRF. The Central team assesses and then grants the NDRF fund. The fifth issue was that under Article 279A, the States and the Centre had surrendered their sovereignty and the question was whether States fully lost their right to impose additional tax or did they possess this right to be exercised with the approval of the Council.

18.14. The Hon'ble Chairperson further observed that the State of Kerala would get funding from NDRF but if it also started getting funding from GST, then the issue was what proportion should be paid from NDRF and what should go from GST. The other issue was how to distinguish between a major calamity and a lesser calamity and whether one has to levy special tax on each count or only in the case of major calamity. In the past, there were cyclones in Odisha, Tsunami in Tamil Nadu and Andaman & Nicobar Islands, tragedy in Kedarnath, flooding in Srinagar and similar calamity could happen in future. The question was how to reconcile the disbursement from NDRF and GST. He stated that as per the existing Constitutional provision, GST could be levied for each natural calamity but then the question was it should be for what period and what quantum. The other issue was whether this increase in rate of tax should apply to all States or only to the State in which natural calamity occurred. Earlier, the practice was that money was given from NDRF and additional resources were generated through VAT to meet the contingency. Another issue to be considered would be as to on what items tax could be increased for this purpose. He observed that two obvious items were tobacco and luxury vehicles. He suggested that keeping in view the fact that there were regular natural calamities occurring in the coastal States, in the Hill States and North-eastern States, a small Group of Ministers (GoM) could deliberate on this issue in more detail and then come to the Council with their recommendations within a reasonable period of time. He stated that all the States could give their views to this GoM. He sought the view of the Hon'ble Minister from Kerala whether the issue should be decided now or after consideration by the proposed GoM.

18.15. The Hon'ble Minister from Kerala stated that discussion in the Council showed bonding of the States. Everyone was very considerate during the discussion. He stated that raising additional 1% cess at all-India level could raise issues as highlighted by the Hon'ble Chairperson and therefore in his view levying special tax in Kerala would have been the easier approach. But, looking at the Constitutional provision and the spirit of discussion in the Council, one could consider levy of all-India tax for a limited period after considering all the views expressed by the Council Members. He supported the proposal to have a small Group of Ministers to take a considered view on this issue and bring it to the next Council meeting. The Hon'ble Chairperson stated that rescue and relief in Kerala was almost over and it was in a state of rehabilitation which could take several months and the funding would keep coming from various sources. So, the funding through GST route would be an addition and a little delay would not make much of a difference. He observed that the coastal States, Hill States and North-eastern States often faced calamity. He added that keeping this in view, he suggested to constitute a Seven-Member GoM instead of traditional five-member GoM, where representation could be from the coastal States, Hill States and North-eastern States plus some other States having senior Ministers. The Hon'ble Minister from Kerala agreed to this suggestion. The Hon'ble Minister from Andhra Pradesh observed that if cess was imposed on



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sin products including tobacco, then farmers growing tobacco would be in distress and the GoM should also look into this issue. After deliberation, the Council agreed to constitute a Seven-Member GoM for which names would be approved by the Hon'ble Chairperson.

19. For Agenda item 8, the Council agreed to constitute a seven-member GoM to examine the issue of imposition of cess on SGST or increase in rate of SGST for rehabilitation and flood affected works of Kerala and to submit its report in the next meeting of the Council.

Agenda Item 9: Proposal of State of Punjab to address difficulties arising out of recent amendment to Rule 96 of the CGST/SGST Rules relating to exports

20. Introducing the Agenda item, the Secretary stated that this issue was discussed during the Officers meeting held on 27th September 2018 and some further amendment was proposed in this Agenda item. He invited Shri Upender Gupta, Commissioner (GST Policy Wing), CBIC, to explain the Agenda item. Giving a background of this issue, Commissioner (GST Policy Wing), CBIC, explained that Rule 96(9) of CGST/SGST Rules was inserted in October 2017 to enable claim of refund of IGST on export of permitted goods and no conditions were attached in the Rule. However, some exporters started misusing the provision and started claiming refund of input tax credit in respect of inputs which were not used for exports. In view of this, provision under Rule 96(9) and 96(10) of CGST/SGST Rules was reintroduced/introduced with retrospective effect from October 2017 on 23rd January 2018. This amendment was meant to block the refund of IGST when inputs were received at nil or lower rate of tax. In view of representation from trade bodies and with a view to bring more clarity, it was further amended with retrospective effect on 4th September 2018. The Hon'ble Minister from Punjab sent a letter raising the issue particularly regarding entitlement of refund of IGST paid on goods exported which are manufactured from capital goods imported under EPCG Scheme. This Agenda was discussed in the Law Committee and it was decided to delete the reference to Notification No.79/2017-Customs with retrospective effect i.e. from 23rd October 2017.

20.1. The Commissioner (GST Policy), CBIC, further stated that after the circulation of the Agenda notes, the issue had been re-examined in consultation with the Law Committee. It is seen that Notification No.79/2017-Customs which was proposed to be deleted in the Agenda note placed before the Council covers not only import of capital goods under EPCG licence but also import of inputs under Advance Authorization (Annual requirement), Special Advance Authorization and Advance Authorization (Export of prohibited goods). If reference to Notification No.79/2017-Customs was removed completely, as proposed in the original Agenda notes, it would make all those exporters eligible to pay IGST and claim refund on goods exported where inputs were imported without payment of IGST under any of the above-mentioned schemes. In view of this, he stated that the Agenda note was proposed to be modified to make only those exporters eligible to claim refund of IGST paid on exported goods who are importing capital goods under the EPCG Scheme. He informed that this issue was discussed in the Officers meeting held on 27th September 2018 and the proposed amendment was approved, keeping in view the fact that excluding the entire Notification No.79/2017-Customs would also exclude capital goods imported under EPCG Scheme and used in manufacture of goods exported, whereas the intention was to only block IGST refund for exporters who had imported inputs under Advance Authorization Scheme. He further explained that such exporters could make exports under the LUT route and claim refund of unutilised ITC.

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20.2. He stated that in view of this, the Agenda placed before the Council was proposed to be modified and in the new formulation, it was proposed not to delete reference to Notification No.79/2017-Customs but to only provide that restriction in the Rule will not apply to exported goods manufactured out of the capital goods imported under EPCG Scheme. Rule 96(10) of CGST/SGST Rules was proposed to be re-worded to give effect to the desired intention to the extent it relates to amendment of Rule 96(10) of the CGST Rules, 2017.

20.3. He further stated that it was also possible for an EPCG licence holder, under an Authorization, to procure capital goods/machinery from a domestic supplier. Such supplies obtained from a domestic supplier by the EPCG licence holder had been given the status of deemed exports vide entry at S.No.2 of Notification No.48/2017-Central Tax dated 18.10.2017. Since Rule 96(10) of CGST/SGST Rules also restricted refund of IGST on exported goods if they had received supplies on which benefit of Notification No.48/2017-Central Tax had been availed, the proposed amendment to the CGST Rules would lead to an artificial distinction between those EPCG licence holders who were importing capital goods and those EPCG licence holders who were procuring capital goods domestically, with only the former being eligible to claim refund of IGST paid on exported goods. Hence, to negate this differential treatment, the Rule was proposed to be further amended.

20.4. He further stated that as the field formations had followed differing practices during the past period and export refunds had been granted in many cases, it would be better not to re-open the earlier sanctioned refunds and the proposed amendment could be done only with prospective effect. It was, therefore, proposed that Notification No.39/2018-Central Tax dated 04.09.2018 be rescinded to then extent it is related to the amendment of Rule 96 (10) of the CGST Rules, 2017.

20.5. Keeping in view the above proposals, the revised formulation of Rule 96(10) of CGST Rules and Rule 89(4B) of the CGST Rules is reproduced as below: -

Suggested formulation for Rule 96(10) of the CGST Rules (proposed deletion in strike through mode and proposed addition in italics and underlined)

“(10) The persons claiming refund of integrated tax paid on exports of goods or services should not have -

(a) received supplies on which the benefit of the Government of India, Ministry of Finance notification No. 48/2017-Central Tax, dated the 18th October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1305 (E), dated the 18th October, 2017 *except so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods Authorisation* or notification No. 40/2017-Central Tax (Rate), dated the 23rd October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1320 (E), dated the 23rd October, 2017 or notification No. 41/2017-Integrated Tax (Rate), dated the 23rd October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321 (E), dated the 23rd October, 2017 has been availed; or

(b) availed the benefit under notification No. 78/2017-Customs, dated the 13th October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1272(E), dated the 13th October, 2017 or notification No. 79/2017-

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Customs, dated the 13th October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1299 (E), dated the 13th October, 2017 except so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods Authorisation.”

Suggested formulation for Rule 89(4B) of the CGST Rules

(4A) In the case of supplies received on which the supplier has availed the benefit of the Government of India, Ministry of Finance, notification No. 48/2017-Central Tax dated the 18th October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i), vide number G.S.R 1305 (E) dated the 18th October, 2017, refund of input tax credit, availed in respect of other inputs or input services used in making zero-rated supply of goods or services or both, shall be granted.

(4B) ~~In the case of supplies received on which the~~ Where the person claiming refund of unutilized input tax credit on account of zero-rated supplies without payment of tax has

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- (a) received supplies on which the supplier has availed the benefit of the Government of India, Ministry of Finance, notification No. 40/2017-Central Tax (Rate) dated the 23rd October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1320 (E) dated the 23rd October, 2017 or notification No. 41/2017-Integrated Tax (Rate) dated the 23rd October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321(E) dated the 23rd October, 2017; or
- (b) availed the benefit of notification No. 78/2017-Customs dated the 13th October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1272(E) dated the 13th October, 2017 or notification No. 79/2017-Customs dated the 13th October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1299(E) dated the 13th October, 2017, or all of them,

the refund of input tax credit, availed in respect of inputs received under the said notifications for export of goods and the input tax credit availed in respect of other inputs or input services to the extent used in making such export of goods, shall be granted.

20.6. The Secretary stated that the issue was discussed in detail during the Officers meeting held on 27th September, 2018 and all had agreed to this amendment. The Hon'ble Minister from Punjab thanked the Secretary for a very quick response to his letter. The Council agreed to the changes as proposed above.

21. **For Agenda item 9**, the Council agreed to amend Rule 96(10) of CGST Rules and Rule 89(4B) of CGST Rules, as indicated in para 20.5. above. The exact wording of the amendment shall be finalised in consultation with the Legislative Department, Union Law Ministry. *Pari materia* changes would also be carried out in the SGST Rules. Further, the Council also agreed to rescind that part of Notification No 39/2018 – Central Tax dated 04.09.2018 which relates to amendment of Rule 96(10) of the CGST Rules, 2017 and the State notifications corresponding to this Central notification.

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Agenda Item 10: IGST exemption to imported goods supplied for relief and rehabilitation of people affected by floods in the State of Kerala for information of the Council

22. Introducing this Agenda item, the Secretary stated that it was a formal item, placing before the Council, Notification No. 59/2018 – Customs dated 21st August 2018 issued to exempt basic Customs duty and IGST for the consignments imported for the supply of aid and relief materials to the affected people in Kerala to be effective till 31st December, 2018. He explained that notification exempted IGST for imported goods supplied for relief and rehabilitation of people affected by floods in the State of Kerala. He stated that this was only for the information of the Council. The Council took note of the Notification.

23. For Agenda item 10, the Council took note of the general exemption Notification No.59/2018-Customs dated 21st August, 2018.

Agenda Item 11: Any other agenda item with the permission of the Chairperson

Agenda Item 11(i): Addendum to Agenda Item 6 (Analysis of Revenue Gap of select States and Union Territory of Puducherry for information of the Council) – Report on Bihar

24. This issue was discussed along with Agenda Item 6 relating to analysis of revenue gap of select States and the discussion therein covered the revenue gap analysis of the State of Bihar. The Council took note of this report along with the reports of the other States and Union Territory of Puducherry.

25. For Agenda item 11(i), the Council took note of the Report on Bihar along with the reports of the States of Jammu & Kashmir, Punjab, Himachal Pradesh and Union Territory of Puducherry.

Agenda Item 11(ii): Minutes of 10th Meeting of Group of Ministers (GoM) on IT Challenges in GST Implementation for information of the Council and discussion on GSTN issues

26. The Secretary invited the Hon'ble Deputy Chief Minister of Bihar to brief the Council on this Agenda item. The Hon'ble Deputy Chief Minister of Bihar stated that the details of the 10th meeting of the GoM held on 22nd September, 2018 at Bengaluru was contained in the minutes and placed as an Agenda note. However, he wanted to highlight one issue concerning the date of making available the software for Annual Returns. He stated that during the 10th meeting of GoM, Infosys informed that they would be able to make the software ready for Annual Return for regular taxpayer (GSTR-9) by 18th December, 2018, the Annual Return for composition taxpayers (GSTR-9A) by 18th February, 2019 and the Reconciliation Statement (GSTR-9C) for normal taxpayers with turnover exceeding Rs. 2 crore would be made available after the finalisation of the SRS (Software Requirements Specification). He stated that the time-line for filing these returns was 31st December 2018 but it appeared that Infosys would not be able to develop this software by 15th November, 2018. He stated that the Council would need to consider whether the date for filing the annual return for normal taxpayers and composition taxpayers should be extended. He further informed that during the meeting of the GoM, it was also explored whether the Form GSTR-9C could be uploaded in .pdf form but it


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transpired that it would then have to be processed manually and system-based validation would not be possible. He observed that the Council would need to decide whether the date should be extended now or it should be discussed in the Council at a later date.

26.1. The Secretary stated that the GSTN should ensure that the preparation of software was expedited. He observed that the annual return contained several data elements which would facilitate final settlement of IGST. He suggested that the GSTN should engage with the Law Committee to expedite the issue.

26.2. The Hon'ble Minister from Kerala stated that he had been emphasising on furnishing of annual return during the last four meetings of the Council as scrutiny and enforcement actions were dependant on them. He observed that introducing these returns could not be put off indefinitely and there must be a deadline by which these returns should come into force. He suggested that at least annual return for taxpayers with turnover above Rs.1.5 crore should be made available by the stipulated date. The Secretary suggested that GSTN and the Law Committee could look at all the issues involved. Shri Prakash Kumar, CEO, GSTN stated that the Forms GSTR-9 and GSTR-9A (Annual Returns for regular taxpayers and compounding taxpayers respectively) were notified on 4th September, 2018 and the Reconciliation Statement (GSTR-9C) was notified on 13th September, 2018. He stated that the delay in development of software was on account of forms being made available to them very late but they would try to develop the software as early as possible.

27. **For Agenda item 11(ii), the Council:**

- (i) took note of the Minutes of the 10th Meeting of GoM on IT Challenges in GST Implementation; and
- (ii) agreed that the GSTN would engage with the Law Committee to explore ways of expediting completion of software development for Forms GSTR-9 (Annual Return for regular taxpayers), GSTR-9A (Annual Return for compounding taxpayers) and GSTR-9C (Reconciliation Statement).

Other Issues:

28. The Secretary stated that the provisions of Tax Collection at Source (TCS) for e-commerce suppliers and Tax Deduction at Source (TDS) for Government supplies were ready for implementation and FAQs on TCS and Standard Operating Procedure (SOP) for TDS were finalised during the Officers meeting on 27th September, 2018. He requested the Council to approve the same so that these could be forwarded to all the States. The Council approved the FAQs on TCS and SOP for TDS, for circulation to the States.

28.1. The Hon'ble Minister from Uttarakhand stated that under Section 13 of the CGST/SGST Act, 2017, the time of supply of works contract services was when the contractor raised the bill and hence they were liable to pay the tax after issuing the bill. However, it took quite a long time for them to get the payment for the same. He stated that this was causing difficulties to the contractors. He observed that small contractors with annual turnover of less than Rs.1.5 crore should be given benefit of composition scheme for the works contract services so that they could get benefited as well. The Secretary stated that this problem had been raised from many quarters. He suggested that one solution could be for the Government to take a policy decision to expedite payments to Government contractors. Second option

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could be to examine the possibility of raising quarterly bill or raising the invoice only when Government was ready to make payment. He observed that the same provision of law relating to works contract was in force during the Service Tax regime. He added that the Law Committee could also look into all the possibilities to see whether small contractors could be given some relief. The Council agreed to this suggestion.

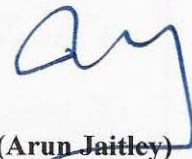
29. **For other issues**, the Council approved the following: -

- i) To circulate FAQs on TCS and SOP for TDS to all States; and
- ii) Law Committee to examine the problem of small contractors executing works contract for the Government due to time of supply provisions under GST.

Agenda Item 12: Date of the next meeting of the GST Council

30. The Hon'ble Chairperson stated that 5 States were going to polls and the Council could possibly meet after the polling was over. The Hon'ble Deputy Chief Minister of Delhi stated that the Council would need to meet earlier to discuss the issue relating to Kerala. The Hon'ble Chairperson stated that Kerala issue as well as any other issue of urgent nature could be discussed earlier in a short meeting of the Council. He stated that the date of the meeting would be fixed in due course and communicated to the Members.

31. 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 30th GST Council Meeting on 28th September 2018

Sl No	State/Centre	Name of Hon'ble Minister	Charge
1	Govt. of India	Shri Arun Jaitley	Union Finance Minister
2	Govt. of India	Shri S.P. Shukla	Minister of State (Finance)
3	Andhra Pradesh	Shri Yanamala Ramakrishnudu	Minister of Finance, Planning, Commercial Taxes and Legislative Affairs
4	Assam	Dr Himanta Biswa Sarma	Finance Minister
5	Bihar	Shri Sushil Kumar Modi	Deputy Chief Minister
6	Delhi	Shri Manish Sisodia	Deputy Chief Minister
7	Goa	Shri Mauvin Godinho	Minister for Panchayats
8	Haryana	Capt. Abhimanyu	Minister for Excise & Taxation
9	Himachal Pradesh	Shri Suresh Bhardwaj	Minister for Education
10	Jharkhand	Shri C.P. Singh	Minister for Urban Development, Housing and Transport
11	Karnataka	Shri Krishna Byre Gowda	Minister of Rural Development, Law & Parliamentary affairs
12	Kerala	Dr. T.M. Thomas Isaac	Finance Minister
13	Maharashtra	Shri Sudhir Mungantiwar	Finance Minister
14	Mizoram	Shri Lalsawta	Finance Minister
15	Odisha	Shri Shashi Bhusan Behera	Minister for Finance & Excise
16	Puducherry	Shri V. Narayanasamy	Chief Minister
17	Punjab	Shri Manpreet Singh Badal	Finance Minister
18	Tamil Nadu	Shri D. Jayakumar	Minister for Fisheries and Personnel & Administrative Reforms
19	Tripura	Shri Jishnu Dev Varma	Deputy Chief Minister
20	Uttarakhand	Shri Prakash Pant	Finance Minister
21*	Jammu & Kashmir	Shri B. B. Vyas	Advisor to Hon'ble Governor (I/c Finance)

Note* - The representative from Jammu & Kashmir attended the Meeting on behalf of the Hon'ble Governor of Jammu & Kashmir. The matter regarding exact status of the Advisor to the Governor in the GST Council was under consideration in consultation with the Union Ministry of Law.

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Annexure 2**List of Officers who attended the 30th GST Council Meeting on 28th September 2018**

Sl No	State/Centre	Name of the Officer	Charge
1	Govt. of India	Dr. Hasmukh Adhia	Finance Secretary
2	Govt. of India	Shri S Ramesh	Chairman, CBIC
3	Govt. of India	Dr. John Joseph	Member (Budget), CBIC
4	Govt of India	Dr. A B Pandey	Chairman, GSTN
5	Govt. of India	Shri B. N. Sharma	Chairman, National Anti-profiteering Authority
6	Govt. of India	Shri J.P.S. Chawla	Pr. CCA, CBIC
7	Govt. of India	Shri P.K. Mohanty	Adviser (GST), CBIC
8	Govt. of India	Shri P.K. Jain	Pr. DG, DG-Audit, CBIC
9	Govt. of India	Shri G.D. Lohani	Joint Secretary, TRU I, DoR
10	Govt. of India	Shri Ritvik Pandey	Joint Secretary, DoR
11	Govt. of India	Shri Upender Gupta	Commissioner (GST), CBIC
12	Govt. of India	Shri S.K. Rehman	ADG, GST, CBIC
13	Govt. of India	Shri Manish Saxena	ADG, DG-Systems, CBIC
14	Govt. of India	Shri Samanjasa Das	ADG, DG (Anti-profiteering)
15	Govt. of India	Shri Rajesh Malhotra	ADG, (Media), MoF
16	Govt. of India	Shri Manoj Sethi	CCA, CBIC
17	Govt. of India	Shri Sanjeev Sanyal	Pr. Economic Adviser
18	Govt. of India	Shri N. K. Vidhyarthi	Director, TRU-II, DoR
19	Govt. of India	Shri Pramod Kumar	Deputy Secretary, TRU-II, DoR
20	Govt. of India	Shri Ravneet Singh Khurana	Joint Comm., GST Policy Wing
21	Govt. of India	Ms Himani Bhayana	Joint Comm., GST Policy Wing
22	Govt. of India	Shri Darpan Amrawanshi	Deputy Commissioner, GST Policy Wing
23	Govt. of India	Shri Paras Sankhla	OSD to Union Finance Minister
24	Govt. of India	Shri Mahesh Tiwari	PS to MoS (Finance)
25	Govt. of India	Shri Debashis Chakraborty	OSD to Finance Secretary
26	Govt. of India	Shri Anurag Sehgal	OSD to Chairman, CBIC
27	Govt. of India	Shri Nagendra Goel	Advisor, CBIC
28	GST Council	Shri Shashank Priya	Joint Secretary
29	GST Council	Shri Dheeraj Rastogi	Joint Secretary
30	GST Council	Shri Rajesh Kumar Agarwal	Addl. Commissioner
31	GST Council	Shri Jagmohan	Joint Commissioner
32	GST Council	Shri Arjun Kumar Meena	Dy. Commissioner
33	GST Council	Shri Rakesh Agarwal	Dy. Commissioner
34	GST Council	Shri Rahul Raja	Under Secretary

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35	GST Council	Shri Mukesh Gaur	Superintendent
36	GST Council	Shri Sandeep Bhutani	Superintendent
37	GST Council	Shri Vipul Sharma	Superintendent
38	GST Council	Shri Sarib Sahran	Superintendent
39	GST Council	Shri Amit Soni	Superintendent
40	GST Council	Shri Anis Alam	Superintendent
41	GSTN	Shri Prakash Kumar	CEO
42	GSTN	Ms Kajal Singh	EVP (Services)
43	GSTN	Shri Vashistha Chaudhary	SVP (Services)
44	GSTN	Shri Jagmal Singh	VP (Services)
45	GSTN	Shri Sarthak Saxena	OSD to CEO
46	Govt. of India	Shri C K Jain	Commissioner, Jaipur Zone, CBIC
47	Govt. of India	Shri B Hareram	Pr. Commissioner, Vishakhapatnam Zone, CBIC
48	Govt. of India	Shri Sanjay Mahendru	Commissioner, Mumbai Zone, CBIC
49	Govt. of India	Shri Kishori Lal	Commissioner, Chandigarh Zone, CBIC
50	Govt. of India	Shri Neerav Kumar Mallick	Commissioner, Bhopal Zone, CBIC
51	Govt. of India	Shri Pradeep Kumar Goel	Commissioner, Meerut Zone, CBIC
52	Govt. of India	Shri G V Krishna Rao	Pr. Commissioner, Bengaluru Zone, CBIC
53	Govt. of India	Shri Nitin Anand	Commissioner, Ranchi Zone, CBIC
54	Govt. of India	Shri M. Srinivas	Commissioner, Hyderabad Zone, CBIC
55	Andhra Pradesh	Dr D.Sambasiva Rao	Special Chief Secretary, Revenue
56	Andhra Pradesh	Shri J. Syamala Rao	Chief Commr, CT
57	Andhra Pradesh	Shri T. Ramesh Babu	CCT
58	Andhra Pradesh	Shri D. Venkateswara Rao	OSD to Spel Chief Secretary, Revenue
59	Arunachal Pradesh	Shri Anirudh S Singh	Commissioner (Tax & Excise)
60	Arunachal Pradesh	Shri Tapas Dutta	SNO
61	Assam	Shri Anurag Goel	Commissioner, CT
62	Assam	Shri Kailash Kartik N	Jt. Secretary, Finance
63	Assam	Shri Shakeel Saadullah	Jt. Commissioner, CT
64	Assam	Shri Gautam Dasgupta	Jt. Commissioner, CT
65	Bihar	Ms Sujata Chaturvedi	Principal Secretary, Finance and CTD

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66	Bihar	Dr Pratima	Commissioner cum Secretary, CTD
67	Bihar	Shri Arun Kumar Mishra	Additional Secretary, CTD
68	Bihar	Shri Ajitabh Mishra	Dy. Commissioner, CTD
69	Chhattisgarh	Smt Sangeetha P	Commissioner, CT
70	Chhattisgarh	Shri S L Agrawal	Special Commissioner, CT
71	Chhattisgarh	Smt. Nimisha Jha	Joint Commissioner, CT
72	Delhi	Ms Renu Sharma	Pr. Secretary, Finance
73	Delhi	Shri H. Rajesh Prasad	Commissioner, State Tax
74	Delhi	Smt. Sonika Singh	Special Commissioner, CT
75	Delhi	Shri Rajesh Goyal	Addl. Commissioner (Policy), CT
76	Delhi	Shri Sadanand Sah	Asst. Commissioner (Policy), CT
77	Delhi	Shri L S Yadav	Asst. Commissioner (Policy), CT
78	Goa	Shri Dipak Bandekar	Commissioner, CT
79	Goa	Shri Ashok Rane	Addl. Commissioner, CT
80	Gujarat	Dr. P.D. Vaghela	ACS/CCT
81	Gujarat	Shri. Sanjeev Kumar	Secretary (Economic Affairs) Finance Department
82	Gujarat	Shri Ajay Kumar	Special Commissioner, CT
83	Haryana	Shri Sanjeev Kaushal	Addl Chief Secretary, E & T Dept
84	Haryana	Ms Ashima Brar	E&T Commissioner
85	Himachal Pradesh	Shri J C Sharma	Principal Secretary (Finance)
86	Himachal Pradesh	Shri Rajeev Sharma	Commissioner of State Tax and Excise
87	Himachal Pradesh	Shri Sanjay Bhardwaj	Addl Comm., State Tax & Excise
88	Jammu & Kashmir	Shri Navin K. Choudhary	Pr. Secretary, Finance Dept.
89	Jammu & Kashmir	Shri M Raju	Commissioner, CT
90	Jammu & Kashmir	Shri P K Bhatt	Addl Comm., CT Tax Planning
91	Jharkhand	Shri K K Khandelwal	ACS, CTD
92	Jharkhand	Shri Rahul Sharma	Commissioner, CT
93	Jharkhand	Shri Ajay Kumar Sinha	Addl. Commissioner of State Taxes
94	Jharkhand	Shri Brajesh Kumar	State Tax officer
95	Karnataka	Shri Srikar M.S.	Commissioner, CT
96	Kerala	Dr. Rajan Khobragade	Pr. Secretary & Commissioner, State GST Dept.

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97	Madhya Pradesh	Shri Pawan Kumar Sharma	Commissioner, CT
98	Madhya Pradesh	Shri Sudip Gupta	Jt. Commissioner, CT
99	Madhya Pradesh	Shri Manoj Kumar Choube	Dy. Comm, CT
100	Maharashtra	Shri Rajiv Jalota	Commissioner, State Tax
101	Maharashtra	Shri Dhananjay Akhade	Jt. Commissioner, State Tax
102	Manipur	Smt Mercina R. Panmei	Commissioner, CT
103	Manipur	Shri R K Khurkishor Singh	Jt. Commissioner, CT
104	Manipur	Shri Y. Indrakumar Singh	Asst. Commissioner, CT
105	Meghalaya	Shri H Marwein	ACS, Taxation Department
106	Meghalaya	Shri L Khongsit	Jt. Commissioner, State Tax
107	Meghalaya	Shri G G Marbaniang	Asst. Commissioner, State Tax
108	Meghalaya	Shri K War	Asst. Commissioner, State Tax
109	Meghalaya	Shri B Wallang	Asst. Commissioner, State Tax
110	Mizoram	Shri Vanlalchhuanga	Commissioner & Secretary, Taxation Department
111	Mizoram	Shri L H Rosanga	Commissioner, State Tax
112	Mizoram	Shri Kailiana Ralte	Addl. Commissioner, State Tax
113	Mizoram	Shri K H Lalhawngliana	Jt. Commissioner, State Tax
114	Nagaland	Shri Mhathung Murry	Addl. Commr, State Tax
115	Odisha	Shri Tuhin Kanta Pandey	ACS, Finance
116	Odisha	Shri Saswat Mishra	Commissioner, CT
117	Odisha	Shri N K Rautray	Additional Secretary, Finance
118	Odisha	Shri Sahadev Sahoo	Addl. Commissioner, CT
119	Puducherry	Shri G. Srinivas	Commissioner, CT
120	Punjab	Shri M. P Singh	Addl. Chief Secretary-cum- Financial Commissioner (Taxation)
121	Punjab	Shri V. K. Garg	Advisor (Financial Resources) to CM
122	Punjab	Shri Vivek Pratap Singh	Excise & Taxation Commissioner
123	Punjab	Shri Pawan Garg	Dy. Excise & Taxation Commissioner
124	Rajasthan	Shri Praveen Gupta	Secretary Finance (Revenue)
125	Rajasthan	Shri Alok Gupta	Commissioner, State Tax
126	Rajasthan	Ms Meenal Bhosle	OSD, Finance
127	Rajasthan	Shri Ketan Sharma	Addl. Commissioner, GST, State Tax Dept
128	Sikkim	Smt. Dipa Basnet	Secretary-cum-Commissioner, CT
129	Sikkim	Shri Manoj Rai	Addl. Commissioner, CT
130	Tamil Nadu	Dr. T.V Somanathan	ACS/CCT
131	Tamil Nadu	Shri K Gnanasekaran	Additional Commissioner, CT
132	Tamil Nadu	Shri C. Palani	Jt. Commissioner (Taxation)

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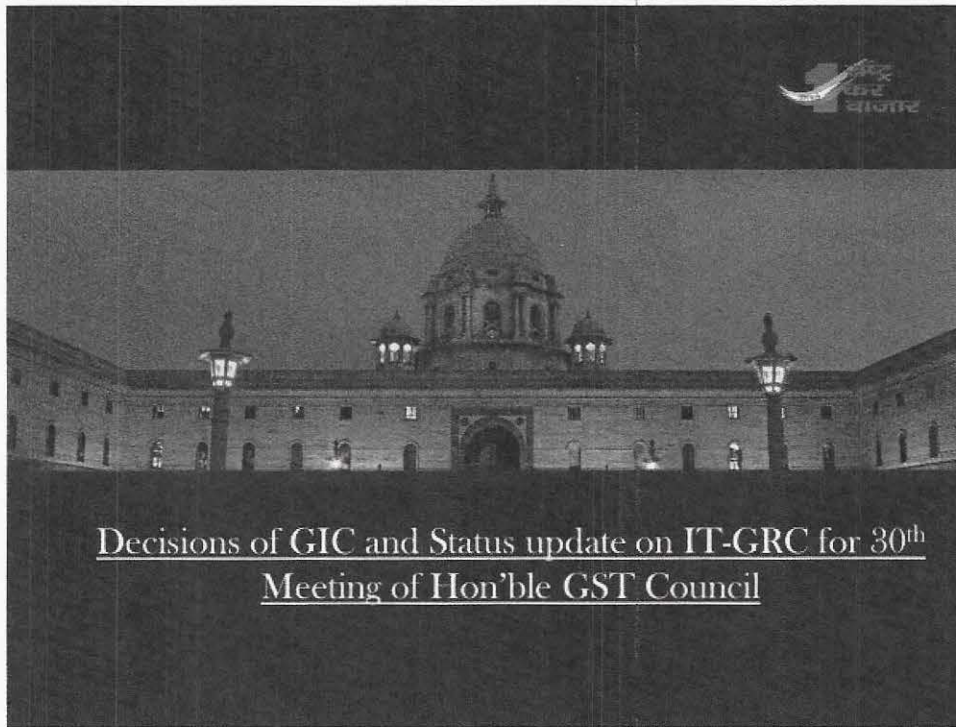
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133	Telangana	Shri Somesh Kumar	Principal Secretary (Finance)
134	Telangana	Shri Anil Kumar	Commissioner of State Tax
135	Telangana	Shri Laxminarayan Jannu	Addl. Commissioner, State Tax
136	Tripura	Shri Nagesh Kumar B	Chief Commr, CT
137	Tripura	Shri Ashin Barman	Superintendent of State Tax
138	Uttar Pradesh	Shri Alok Sinha	ACS, CT
139	Uttar Pradesh	Smt. Kamini Chauhan Ratan	Commissioner, CT
140	Uttar Pradesh	Shri Ajit Kumar Shukla	Addl. Commr. (vidhi, CT
141	Uttar Pradesh	Shri Vivek Kumar	Addl. Commissioner, CT
142	Uttar Pradesh	Shri K P Verma	Addl. Commissioner, CT
143	Uttar Pradesh	Shri C P Mishra	Joint Commissioner, CT
144	Uttar Pradesh	Shri D K Sachan	Joint Commissioner, CT
145	Uttar Pradesh	Shri Sanjay Kumar Pathak	Joint Commissioner, CT
146	Uttarakhand	Ms. Sowjanya	Commissioner, State Tax
147	Uttarakhand	Shri Piyush Kumar	Addl. Commissioner State Tax
148	Uttarakhand	Shri Vipin Chand	Addl. Commissioner, State Tax
149	Uttarakhand	Shri Rakesh Verma	Jt Comm., State Tax
150	West Bengal	Shri Khalid A Anwar	Senior Joint Commissioner, CT

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Annexure 3



Agenda



- Deemed Ratification of Notification / Circulars issued post 28th meeting of GST Council
- Decisions taken by GIC post 28th meeting of GST Council
- Status update on IT Grievance Redressal (IT-GRC)

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Ratification of Notifications, Circulars & Orders



- Ratification of following notifications, circulars & orders issued post 28th meeting of GST Council:

Act/Rules	Type	Notification / Circular / Order Nos.
CGST Act / CGST Rules	Central Tax	30 to 52 of 2018
	Central Tax (Rate)	13 to 23 of 2018
IGST Act	Integrated Tax	2 of 2018
	Integrated Tax (Rate)	14 to 24 of 2018
UTGST Act	Union territory Tax (Rate)	13 to 23 of 2018
GST (Compensation to States) Act	Compensation Cess (Rate)	2 of 2018
Circulars	Under the CGST Act	50 to 65 of 2018
Orders	Under the CGST Act	4 of 2018

Decisions of GIC post 28th meeting of GST Council (1/12)



Decision by Circulation (25.07.2018)

- Extension of due date for filing of return in **FORM GSTR-6** for the months from July, 2017 to August, 2018 from 31.07.2018 to 30.09.2018
 - ✓ Notification No 30/2018 – Central Tax dated 30th July 2018 issued

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Decisions in 21st meeting of GIC (21.08.2018) (2/12)**I. Implementing the recommendations of the IT Grievance Redressal Committee (IT-GRC):**

- Waiver of late fee paid for delayed filing of returns by following classes of registered persons:
 - i. Where **FORM GSTR-3B** for the month of October, 2017 was submitted but not filed and an Application Reference Number (ARN) was generated (24463 cases)
 - ii. Where late fee for filing of **FORM GSTR-4** for the third quarter of 2017-18 [October to December, 2017] was erroneously imposed by the system before the due date due to technical glitches (556 cases)
 - iii. Where late fee for filing of **FORM GSTR-6** was paid by the registered persons between 01.01.2018 & 23.01.2018, i.e., between the notified last due date & due date of issuance of subsequent notification for further extension of due date (608 cases)
- Extension of date for filing **FORM GST ITC-01** for the taxpayers who had opted out of the Composition Scheme by filing **FORM GST CMP-04** between 02.03.2018 and 31.03.2018 but were unable to file **FORM GST ITC-01** due to technical issues
 - ✓ Notification No 41/2018 – Central Tax dated 4th September 2018 issued
 - ✓ Notification No 42/2018 – Central Tax dated 4th September 2018 issued

Decisions in 21st meeting of GIC (21.08.2018) (3/12)**II. Notifying the annual return FORM GSTR-9 for normal taxpayers and FORM GSTR-9A for composition taxpayers:**

- ✓ Notification No 39/2018 – Central Tax dated 4th September 2018 issued

III. Waiver of recording of UIN on invoices for UN Organisations/Foreign Diplomatic Missions:

- To extend the waiver of recording of UINs on the invoices of inward supplies received by the said organisations for another one year that is, for four quarters from April, 2018 to March, 2019
 - ✓ Circular No. 63/37/2018-GST dated 14th September 2018 issued

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Decisions in 21st meeting of GIC (21.08.2018) (4/12)**IV. Changes in FORM GST ITC-04:**

- ✓ Notification No 39/2018 – Central Tax dated 4th September 2018 issued

V. Changes in the CGST Rules, 2017:

- **Rule 22 and FORM GST REG-20:** To provide for option to revoke the proceedings relating to cancellation of registration already initiated by the proper officer on his own motion under rule 22 of the CGST Rules and corresponding amendment in **FORM GST REG-20**
- **Rule 36(2):** To allow that input tax credit should not be denied for minor technical lapses with respect to the particulars mentioned in the invoices
- **Rule 55(5) and FORM GST EWB-01:** To allow for variation in value of goods mentioned in the e-way bill from that mentioned in the bill of entry where the imported goods were transported in batches and consequential changes in the **FORM GST EWB-01**

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Decisions in 21st meeting of GIC (21.08.2018) (5/12)**V. Changes in the CGST Rules, 2017 (contd..) :**

- **Rule 89 (4):** To introduce a revised formulation so as to ensure that in the formula for calculating maximum refund amount admissible, the 'turnover of zero rated supply of services' (i.e. the numerator) and the 'adjusted total turnover' (i.e. the denominator) are defined in the same manner so as to ensure proper refunds
- **Rule 96 (10):** To remove doubts on whether export of goods could be made by a person without payment of integrated tax who had himself availed the benefit of the notifications specified in rule 96 (10) of the CGST Rules
- **Rule 138 A (1):** To specify the "bill of entry" as one of the documents required to be carried by a person in charge of a conveyance
- ✓ Notification No 39/2018 – Central Tax dated 4th September 2018 issued

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Decisions in 21st meeting of GIC (21.08.2018) (6/12)**VI. Extension of due date for filing of FORM ITC-04:**

- ✓ Notification No 40/2018 – Central Tax dated 4th September 2018 issued

VII. Clarification on refund related issues:

- ✓ Circular No 59/33/2018 – GST dated 04th September 2018 issued

VIII. Clarification on e-Way bill related related issues:

- ✓ Circular No 61/35/2018 – GST dated 04th September 2018 issued

IX. Scope of Principal agent relationship in the context of Schedule I under CGST Act, 2017:

- ✓ Circular No 57/31/2018 – GST dated 04th September 2018 issued

Decisions in 21st meeting of GIC (21.08.2018) (7/12)**X. Corrigendum to Circular No. 23/23/2017-GST dated 21st December 2017:**

- ✓ Corrigendum dated 4th September 2018 issued

XI. Circular detailing the procedure for recovery of wrongly availed CENVAT credit under the existing law:

- ✓ Circular No 58/32/2018 – GST dated 04th September 2018 issued

XII. Circular on procedure for filing and processing of refund claims by CSD:

- ✓ Circular No 60/34/2018 – GST dated 04th September 2018 issued

XIII. Introduction of a new return regarding growth of CENVAT credit in pre-GST regime under CGST Act only:

- ✓ Implementing notification yet to be issued

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Decisions in 21st meeting of GIC (21.08.2018) (8/12)

XIV. Exemption from GST on sale of development rights by Gujarat International Finance Tech-City Company Limited (GIFTCL):

- ✓ Notification No 23/2018- Central Tax (Rate), 24/2018- Integrated Tax (Rate) & 23/2018- Union Territory (Rate) all dated 20th September 2018 issued

XV. GST on Priority Sector Lending Certificate (PSLC) for the period 1.7.2017 to 27.5.2018 and GST rate applicable:

- ✓ Circular No 62/36/2018 – GST dated 12th September 2018 issued

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Decisions in 21st meeting of GIC (21.08.2018) (9/12)

XVI. Extension of due date for furnishing of FORM GSTR-1 and FORM GSTR-3B in State of Kerala, Coorg (Kodagu) District of Karnataka & Mahe in Union territory of Puducherry:

- ✓ Notifications No 36/2018 to 38/2018 – Central Tax all dated 24th August 2018 issued

XVII. extend the due date for filing of the return in FORM GSTR-3B for the month of July, 2018 until 24.08.2018:

- ✓ Notification No. 35/2018 – Central Tax dated 21st August, 2018 issued

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Decisions of GIC post 28th meeting of GST Council (10/12)



Decision by Circulation (27.08.2018)

- To settle an additional IGST amount of Rs. 12, 000 crore, 50% to Centre and 50% to States, on ad hoc basis
 - ✓ Order *vide* F.No. S.31013/16/2017-ST-I-DoR Part I dated 29th August 2018 issued

Decision by Circulation (05.09.2018)

- Changes in the CGST Rules, 2017
 - i. Insertion of a new sub-rule (1A) rule 117(1) and insertion of a proviso in rule 117 (4) (b) (iii) in order to extend the due date for filing the said FORMS by those taxpayers who faced technical glitches
 - ii. Insertion of reference to section 125 (which provides for general penalty) in Rule 142
 - ✓ Notification No 48/2018 – Central Tax dated 10th September 2018 issued

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Decisions of GIC post 28th meeting of GST Council (11/12)



Decision by Circulation (05.09.2018) contd..

- Modification of the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances, as clarified in Circular Nos. 41/15/2018-GST dated 13th April 2018 and 49/23/2018-GST dated 21st June 2018
 - ✓ Circular No 64/38/2018 – GST dated 14th September 2018 issued
- Extending the due date for furnishing **FORM GSTR-1** by all registered persons for the period from July, 2017 to September, 2018 till 31st October 2018
- Extending the due date for filing **FORM GSTR-3B** and **FORM GSTR-1** by taxpayers obtaining GSTIN vide notification No. 31/2018-Central Tax dated 06th August 2018 (for whom migration window was opened one more time)
 - ✓ Notifications No 43/2018 to 47/2018 – Central Tax all dated 10th September 2018 issued

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Decisions of GIC post 28th meeting of GST Council (12/12)**Decision by Circulation (05.09.2018) contd..**

- Extension of time for finalising the e-wallet scheme by six months i.e. upto 31st March 2019
- Extension of duty exemptions from IGST and cess, etc. on imports made by holders of AA / EPCG licences / 100% EOUs
 - ✓ Notification No 65/2018- Customs dated 24th September 2018 issued
 - ✓ Notification No 66/2018- Customs dated 26th September 2018 issued

Decision by Circulation (06.09.2018)

- To notify the reconciliation statement in **FORM GSTR-9C**
 - ✓ Notification No 49/2018 – Central Tax dated 13th September 2018 issued

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IT grievance redressal process (1/3)

- Government issued circular 39/13/2018-GST dated 03.04.2018 prescribing the procedure for taxpayers for lodging their grievance on account of technical glitch in the common portal
- It was also decided that the GIC will act as IT Grievance Redressal Committee for resolving problems of the taxpayers who have not been able to file their documents such as TRAN-1, GSTR-3B/GSTR-1 or registration/ migration etc. due to the technical glitches at common portal
- Taxpayers are required to submit their grievance application on account of technical glitch to the designated field nodal officer of State /Centre along with evidences
- Field nodal officer would examine such cases and if it is prima facie found to be a case of technical glitch then send the issues after collating with their remarks/ recommendation to the GSTN Nodal officer by email
- In pursuance of this circular, GSTN sent a Standard Operating Procedure (SOP) on 12.04.2018 which is to be followed by the Nodal officers of the States/Centre while referring the technical glitches to GSTN

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Meetings of ITGRC (2/3)



- 1150 cases of TRAN 1 / TRAN 2 have been received till 25.09.2018 from tax officers at GSTN
- In the first meeting of ITGRC held on 22.06.2018, GSTN presented 170 cases for decision
- 122 cases were approved and the taxpayers were permitted to file their TRAN 1 / TRAN 2 where evidence of technical glitch/system error was there
- Second meeting of ITGRC was held on 21.08.2018 in which GSTN had presented 340 cases of TRAN 1 for decision. Further, 258 cases of TRAN 2 were presented
- 213 cases were approved and the taxpayers were permitted to file their TRAN 1 / TRAN 2 where evidence of technical glitch/system error was there
- Total of 335 cases out of 510 cases have been approved in the two meetings for filing TRAN 1 / TRAN 2. These 510 cases include cases where Writ petitions have been filed
- 258 cases of TRAN 2 were also approved for filing.
- ITGRC also directed the Law Committee to map the consequential issues related to such filing of TRAN 1 / TRAN 2 and suggest ways to handle such situations, wherever required

Implementation of the Decisions of ITGRC & examination of further Lots (3/3)



- Functionality for enabling select taxpayers to complete their TRAN 1 filing is ready
- E-mails have been sent to 315 taxpayers asking them to file TRAN 1
- Another lot of around 300 cases of TRAN 1 have been examined by GSTN and will be presented to the ITGRC for decision shortly
- Rest of the cases are under investigation with respect to the cause and checking of logs in system

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