



Minutes of 27th GST Council Meeting held on 04th May, 2018

The Twenty Seventh Meeting of the GST Council (hereinafter referred to as 'the Council') was held on 04 May, 2018 through video conferencing under the Chairpersonship of the Hon'ble Union Finance Minister, Shri Arun Jaitley (hereinafter referred to as the Chairperson). The list of the Hon'ble Members of the Council who attended the meeting through video conference is at **Annexure 1**. The list of officers of the Centre, the States and the GST Council who attended the meeting through video conference is at **Annexure 2**.

2. The following agenda items were listed for discussion in the 27th Meeting of the Council:

1. Confirmation of the Minutes of 26th GST Council Meeting held on 10 March, 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 Council
4. Review of Revenue position
5. Clarification regarding applicability of Integrated Goods and Services Tax on goods supplied while being deposited in a warehouse
6. Change in the shareholding pattern of GSTN
7. Incentivizing Digital Payments in GST regime (Carry forward item from the 25th Council Meeting)
8. Imposition of Cess on Sugar under GST and reduction of GST rate on Ethanol
9. New System of Returns Filing
10. Any other agenda item with the permission of the Chairperson --Implementation Schedule of Intra State e-Way Bill in the States
11. Date of the next meeting of the GST Council

3. The Chairperson welcomed all the members present in the meeting. Before the beginning of the meeting, the Chairperson placed on record the appreciation for very active participation of Dr. Haseeb Drabu, Ex-Finance Minister of J&K State in the Council meetings during his membership of the Council. He informed that there were 3-4 main agenda items for discussion while others were of procedural nature. After these preliminary observations, discussion on the Agenda items was taken up.

Discussion on agenda items

Agenda Item 1: Confirmation of the Minutes of 26th GST Council Meeting held on 10 March 2018.

4. The Union Finance Secretary, Dr. Hasmukh Adhia (hereinafter referred to as 'Secretary') informed that the Minutes of the 26th Meeting of GST Council were circulated


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among members well in advance and just a day before there was Officers' meeting wherein all State officials were also requested to send comments, if any, on the draft minutes in writing. However, no comments were received. Thus, the draft minutes could be taken as approved. The Hon'ble Chief Minister of Puducherry supported the proposal and all the Council members agreed.

5. For **Agenda item 1**, the Council decided to adopt the Minutes of the 26th Meeting of the Council without any changes.

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

6. Secretary introduced the Agenda item and informed that the PowerPoint presentation of Commissioner GST (Policy), CBIC containing the gist of this agenda item and GIC decisions, had been circulated to members (enclosed as **Annexure 3**) and was discussed in the Officers' meeting. During discussion, some States were of the view that deemed approval for State notifications should also be sought along the same lines as the Central Government Notifications. He further stated that despite repeated requests, the GST Council Secretariat had not received all copies of notifications issued by the States. Thus, it was not possible to approve notifications partially for some States leaving other States. As all Central Government notifications were being put on record and ratified by the Council, the purpose was being served as State notifications were mirror images of Central Notifications and hence notification language used in the State Notifications would be deemed approved.

6.1. The Chairperson suggested that to avoid any legal challenge to the State notifications, when deemed approval was given by the Council to the Central Government notifications, a line might be added that the State notifications which were *pari materia* with the Central notifications were also deemed to be ratified. Hon'ble Chief Minister of Puducherry agreed with the suggestion and stated that State Government notifications were in line with the Central notifications. The suggestion was accepted by all the members of the Council.

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

| Act/Rules | Type | Notification Nos. |
|---------------------|----------------------------|-------------------|
| CGST Act/CGST Rules | Central Tax | 14 to 21 of 2018 |
| | Central Tax (Rate) | 10 of 2018 |
| IGST Act | Integrated Tax (Rate) | 11 of 2018 |
| UTGST Act | Union territory Tax | 02 to 06 of 2018 |
| | Union territory Tax (Rate) | 10 of 2018 |
| Circulars | Under the CGST Act | 36 to 43 of 2018 |
| Orders | Under the CGST Act | 01 and 02 of 2018 |

The Notifications, Circulars and Orders issued by all the member States which are *pari materia* with the above notifications, circulars and orders were also deemed to be ratified.

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

8. Secretary stated that in between 26th and 27th GST Council meetings, certain decisions were taken by the GIC in its 14th, 15th and 16th meetings held on 19.3.2018, 26.3.2018 and 10.4.2018 respectively. He informed that in the Officers' meeting held on 03.05.2018, the officers had no comments on the agenda. However, an important judgement of Hon'ble High Court of Bombay in the case of M/s. Abicor Binzel Technoweld Pvt. Ltd., Pune was also discussed, where the date for completing the process of filing of TRAN 1 was extended by the Hon'ble Court by its order up to 10/5/2018. It was agreed in the Officers' meeting that the order of Hon'ble Court be implemented. The Council took note of the decisions of GIC and agreed to extend the date for completing the process of filing of TRAN 1 up to 10th May 2018 in the case of M/s. Abicor Binzel Technoweld Pvt. Ltd., Pune and other similarly placed cases in terms of the interim order of the Hon'ble High Court of Bombay dated 24.4.2018.

9. For **Agenda Item 3**, the Council took note of the decisions of GIC and approved extending the date for completing the process of filing of TRAN 1 up to 10th May 2018 in the case of M/s. Abicor Binzel Technoweld Pvt. Ltd., Pune and other similarly placed cases in terms of the interim order of the Hon'ble High Court of Bombay dated 24.04. 2018.

Agenda Item 4: Revenue Position

10. Secretary introduced Shri Ritvik Pandey, who had joined recently as Joint Secretary in the Department of Revenue and asked him to make a brief presentation about the revenue position.

10.1. Shri Ritvik Pandey, Joint Secretary (Revenue) stated that the revenue collection figure for the year 2017-18 was Rs.7.4 lakh crores, which had been circulated to the members as part of agenda note. These figures were for nine months of IGST collection on imports and eight months collection of CGST, SGST and Cess on domestic transactions. On an average, it worked out to approx. Rupees ninety thousand crore per month. The figures of revenue collection of April, 2018 were Rs 1.03 lakh crore which included IGST collection on imports for April 2018 and GST collection on domestic transactions for March 2018 including returns filed late pertaining to previous months. The average monthly growth of revenue for April 2018 was almost 15% over average monthly collections of previous year. Revised new revenue base in the FY 2018-19 that had to be protected for the States per month was approx. Rs. 49,000 crore i.e. 14% higher than Rs.43,000 crores (protected monthly revenue for all States put together in the previous year). Shortfall in the revenue was approximately 16% on an average as compared to protected revenue in the previous year. For April 2018, this shortfall was 18% which was mainly due to 14% increase in the protected revenue.

10.2. Joint Secretary (Revenue), informed that revenue gap position of different States has been shared in the Agenda Notes. The States like Himachal Pradesh, Uttarakhand, Punjab and Jammu & Kashmir had more than 30% revenue gap; the States like West Bengal, Gujarat and Karnataka were between 20% -30% and the States like U.P., Rajasthan, Maharashtra and Andhra Pradesh had revenue gap below 20%. Further, North Eastern States like Nagaland, Manipur, Mizoram and Arunachal Pradesh either were at par or were getting more revenue than the protected base revenue whereas States like Assam, Tripura and Meghalaya had


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revenue shortfall. He further informed that return filing was hovering around 64% by due date whereas cumulative returns filed for July 2017 had reached 96% and suggested that some action for enforcing compliance was needed.

10.3. Hon'ble Deputy Chief Minister of Bihar stated that the Centre should send officers to assess reasons of shortfall as revenue gap was 38% in their case. He further suggested that besides Bihar, team of officers might visit other States also where revenue shortfall was more than 30%. He said that GST revenue from the service sector was not as per the expectations.

10.4. Shri Arvind Subramanian, Chief Economic Advisor stated that GST revenue numbers for April excluding IGST on imports were actually for the month of March 2018 and when the March numbers were included in GST revenue for first nine months of GST implementation, it indicated a buoyancy of about 13%. It also implied that tax to GDP ratio was going up in the very first year of GST implementation, which was a disruptive year with complaints of IT etc., by about 0.3% of GDP and therefore, GST was well on track. Further, while the shortfall numbers could be relevant from compensation viewpoint, they were misleading because these numbers did not include unsettled IGST and compensation cess that would have gone to different States, had it been part of GST rate structure. Thus, cess figures were required to be included for making like to like comparison and actual revenue shortfall was much lower than that indicated by numbers. He also agreed to help the States by analyzing the reasons for revenue shortfall.

10.5. Hon'ble Minister from Uttar Pradesh stated that the officials from his State were ready to help Bihar enhance their revenues. He further stated that some member States, such as Gujarat, Madhya Pradesh, etc. had exempted certain items from the requirement of e-way bill whereas Bihar was considering exempting e-way bill for consignments of value less than Rs.2 lakhs. This would hurt the efficacy of e-way bill system.

10.6. Hon'ble Minister from Uttarakhand stated that as per data, they had revenue shortfall of 39%. Even though GST collections had gone up as compared to pre-GST period, but due to IGST settlement, they had ended up protecting the revenue of other States. Similarly, the return filing percentage of 59% of their state though low, was very near to the national average of 64%.

10.7. Hon'ble Minister from Assam stated that as per data, during February and March, the number of returns filed had gone down significantly almost in every State and it needed analysis. Secretary clarified that some assesses filed late returns, e.g. return filing was 96% returns included all returns for July 2017 filed. Therefore, March 2018 figure would also improve over the next six months.

10.8. Hon'ble Minister from Punjab stated that Punjab was a higher compensation State which was not good for them and stated that Chief Economic Advisor had agreed to do a case study for them. He again invited Chief Economic Advisor to visit Punjab and suggest ways to bridge the revenue gap. Hon'ble Chairperson observed that Chief Economic Advisor might visit those States which needed analysis of this kind, and as a test case, he might visit Punjab first, followed by Bihar. Hon'ble Finance Minister from Punjab further stated that Accountant General of Punjab had made a correction in revenue figures for the base year 2015-16. They

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had written a letter to the Union Finance Secretary on the issue and requested for an early decision.

10.9. Hon'ble Chief Minister of Puducherry stated that earlier their revenues were coming from trade that took place with adjoining States like Tamil Nadu and people used to make purchases in Puducherry due to lower tax rates. Now with same tax rates in GST, people made purchases in Tamil Nadu and Puducherry's GST collection had gone down. They were trying to improve revenue from services sector in Puducherry and also requested for the visit of Chief Economic Adviser to suggest revenue enhancement measures.

10.10. Hon'ble Minister from Kerala agreed with the submissions of the Chief Economic Advisor that 13% growth had been achieved with very little enforcement measures, no scrutiny of returns and accepting whatever declarations had been made. Thus, access to more data was required for enforcement after data analysis. He further stated that annual return filing should not be postponed as these returns were necessary to check input tax credit claimed by the trade.

10.11. Hon'ble Minister from West Bengal stated that the Central Government was holding unsettled IGST amount of Rs.1, 81,418 crore and if this amount was also apportioned to the States, many States would have considerably reduced revenue shortfall. He informed that in March 2018, West Bengal was +3% as against all India deficit of 17.9%. He stated that some mechanism might be found for early settlement of IGST which Central Government was holding. He observed that if analysis of the unsettled IGST was done in greater depth, it might reveal that the States were doing better. He also stated that collaboration between the Centre and the States as well as inter-State collaboration would be another useful option to address the issue of revenue shortfall. He suggested that a core group of officials of the States and the Centre be formed to address this issue. Hon'ble Chairperson observed that suggestion was to use experience of better performing States to improve revenue of other States. Hon'ble Minister from West Bengal stated that perhaps West Bengal was doing better due to high level of digitization, for which Government of India had given three awards including one for e-taxation. He felt faster digitization might be helpful to other states.

10.12. Hon'ble Finance Minister from Assam stated that the States which had bigger base for services sector were doing better like West Bengal, Maharashtra, Kerala and Goa. In their presentation before the Finance Commission, it had been brought out that States having service sector were flourishing but other States like Bihar and Assam without service sector were not growing that fast. Hon'ble Chairperson stated that it might not be entirely correct as States like Karnataka had huge service sector but were not doing well.

10.13. Shri Jagdish Chander Sharma, Principal Secretary, Himachal Pradesh stated that though their revenue shortfall was high, but they were doing very well in return filing. The main reason for short fall appeared to be service sector and the high tax rate on Tobacco under VAT which had now been substantially reduced. He explained that cess, instead of tax on Tobacco, had gone up, which had not been taken into account while preparing revenue shortfall data. Further, TDS system had not been put in place resulting into no tax from work contractors. He further added that as the State did not have developed services sector, it had no experience of administration of service tax and they had started intensive training in that direction. He also stated that average revenue from service sector was only Rs.2-3 crore per


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month. He also requested that team of officers from Centre may be deputed to Himachal Pradesh to suggest the ways for revenue augmentation.

10.14. Hon'ble Minister from West Bengal stated that the States could have regular compensation mechanism on monthly basis or some other frequency, so that the State could do better planning. Secretary stated that IGST could not be identified as belonging to a particular State and the Centre until the assessee used it. Thus, IGST belonged to assessee until and it got converted into CGST or SGST revenue after its use. He stated that a group had already been set up with Joint Secretary (Revenue), Central and State officers to find out how expeditiously settlement of IGST could be done. However, there were certain items of IGST settlement which would happen only once in a year after the annual returns were filed. Secretary further stated that an idea was being examined by the group if IGST could be settled at each stage of movement of IGST with the supply of goods or services. This would result in higher volumes of settlement and could stop accumulation of IGST. Thus, the Council should wait for the report of the group. Hon'ble Minister from West Bengal welcomed and appreciated the move and wanted to know as to when the group would submit its report. Secretary informed that the group had just started its work. Hon'ble Minister from West Bengal stated that it is interesting to note that IGST was even larger than SGST and CGST figures put together. SGST and CGST together was Rs.2,90,679 crores while the IGST alone worked out to Rs.3,87,356 crores. Therefore, there was need for faster settlement process. Secretary explained that in the earlier regime of Central Excise and Service Tax, Rs.1.5 lakh crore worth of credit remained unutilized at the end of a Financial Year in the ledger of businesses at any given point of time. Thus, under GST also, similar amount of balance would be available. However, there was a need to speed up the settlement process and that was the mandate of the Group. He had asked the Group to submit its report as early as possible. Secretary further stated that for FY 2017-2018, compensation for eight months had already been released in two-month blocks. He suggested that March being the only month for which compensation was remaining for the FY 2017-18, if the Council approved, compensation could be released for this month alone. The Council approved the suggestion.

11. For **Agenda Item 4**, the Council:

- (i) took note of the revenue position for nine months of FY 2017-2018 and April 2018 as well as return filing status;
- (ii) approved the release of compensation for the month of March 2018 alone;
- (iii) approved study by Chief Economic Adviser of States showing high revenue shortfall, particularly States of Punjab and Bihar, to analyze reasons for revenue shortfall and suggest revenue augmentation measures.

Agenda Item 5: Clarification regarding applicability of Integrated Goods and Services Tax on goods supplied while being deposited in a warehouse

12. Secretary introducing the agenda informed that it was more of a technical issue that was discussed extensively in the Officer's meeting held on 03.05.2018 and was agreed to by all the officers. He stated that goods imported into India were subjected to Customs Duties including Integrated Tax under sub-section (7) of Section 3 of the Customs Tariff Act, 1975 and the payment of duty on such imports could be deferred by storing the goods in the Customs bonded warehouse. During such storage, the importer had the option to supply such

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goods to any other person even before clearance from the bonded warehouse. It had been clarified vide Circular No. 46/2017-Customs dated 24.11.2017 that Integrated Tax would be payable on such supplies and buyer would also pay the deferred Customs Duty at the time of clearance of goods from the warehouse. It had been represented that in this scenario, the buyer is being saddled with double payment of IGST.

12.1. He further informed that the GST Council in its 25th Meeting held on 18th January 2018, had given an in-principle approval to declare the supply of warehoused goods while being deposited in the Customs bonded warehouse as 'no supply' under Schedule III of the CGST Act, 2017 so that no integrated tax is paid when warehoused goods are supplied to the buyer during such storage within the warehouse. He suggested that in view of agreement reached during the Officers' Meeting, the Agenda item may be taken as approved by the Council.

12.2. Hon'ble Minister from West Bengal stated that they had some issues on this proposal which they would put in writing soon. He requested not to issue the circular till their response was received. It was agreed to issue circular after taking into consideration views of West Bengal.

13. For **Agenda Item 5**, the Council in-principle approved issue of fresh circular clarifying that supply of warehoused goods before their clearance from the warehouse could not be subjected to levy of Integrated Tax and the same would be collected only when the warehoused goods are cleared for home consumption from the Custom bonded warehouse. However, the circular would be issued after taking into consideration views of West Bengal.

Agenda Item 6: Change in the Shareholding pattern of GSTN

14. Secretary introduced the Agenda item and stated that GSTN was created with only 49% equity to be held by Government of India and States put together with a view to have operational flexibility such as hiring of competent man-power at market driven rates. However, the strategic control was retained by the Government. It had further been decided that the CAG would audit the GSTN. Since GSTN is handling important State functions like taxpayer database management, collection of taxes, etc. it may be advisable to modify the equity structure of GSTN keeping the flexibility in hiring in place. Therefore, it was proposed to make GSTN 100% Government owned (50% GoI and 50% States) company. He further stated that transition plan had also been proposed for smooth transition and whosoever was working with GSTN, their terms of appointment, etc. were to be protected for at least a period of 5 years. He further stated after GSTN became 100% Government entity, there would be 13 Directors i.e. 4 Directors from States and 4 Directors from Government of India, 2 Directors being Chairman & CEO and remaining 3 Directors would be the Independent Directors to be appointed by the GSTN Board. After the conversion, the additional equity of Rs. 5.1 crore would be distributed between the State and Centre and share of each State would be in the same proportion as at present.

14.1. Hon'ble Minister from Assam welcomed the proposal and stated that it could be accepted. Hon'ble Minister from West Bengal also welcomed the proposal but expressed concerns *vis-à-vis* human resources and stated that as per the proposal, existing employees would continue for 5 years with same kind of package. He further enquired whether it was


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necessary to have a special resolution of the Council to strengthen what was being done so that continuity of human capital was maintained, i.e. their terms of employment could not be changed suddenly, and they do not leave the company causing disruption to the operations.

14.2. Hon'ble Chairperson stated that when the present structure had been conceived, the thinking would have been to keep it as a non-governmental entity so that it had flexibility in hiring the best talent. He further stated that in the proposed structure of the Government Company with 50% – 50% shareholding by the Centre and the States, the Council must propose flexibility in hiring as suggested by West Bengal; otherwise GSTN would not get good talent to maintain its operations. He, therefore, suggested that the Council may deliberate as to whether it required a resolution of the Council or a simple decision to make its objectives clear.

14.3. Hon'ble Minister from Kerala agreed with Hon'ble Chairperson and stated that he had specifically raised the issue of ownership of GSTN in earlier meetings and it was a welcome move to make it a fully Government owned enterprise. He also emphasized the need to maintain the neutral stance of the organization and appropriate representation for the States in the Board of Directors. Hon'ble Minister from Tamil Nadu also supported the proposal and stated that suitable governance arrangement with full involvement of all States be framed.

14.4. Hon'ble Deputy Chief Minister of Delhi welcomed the proposal and stated that it was a very important move to make it a Government owned company. As regards the flexibility in HR for 5 years, he stated that there would be requirement of this flexibility in company even after 15 years as at that time also, required level of professional expertise in the Government might not be available. Therefore, he suggested that the flexibility should be for long term to which Hon'ble Chairperson observed that it might be kept open ended.

14.5. Secretary explained that Department of Revenue would go to the Union Cabinet with more flexibility for this particular Company so that they do not face any such problem in the long run. He further clarified that as far as flexibility is concerned, even some of the PSUs, presently hire experts on contract basis on a much higher salary as compared to Managing Director's salary. Therefore, flexibility would remain in the contractual system for long term contracts. If they were to be made part of the organizational structure, adequate transparency will have to be observed.

14.6. Chief Economic Advisor, on the issue of HR, stated that it should be made absolutely clear about the flexibility that was proposed to be incorporated as there was a risk that it would be treated like any other PSU over time and all flexibility would be lost. He further suggested that whatever decision might be taken, let everyone be on board and the ideas that come up, get discussed in the Council before actually going to the Cabinet. Further, a PSU with HR flexibility was almost like an oxymoron and hence, it should be ensured legally that HR policy did not get diluted over time; otherwise GSTN could become another PSU with all the problems.

14.7. Hon'ble Chief Minister of Puducherry stated that it was a good move as whatever equity in GSTN was available, would be shared between Centre and States. He also welcomed the proposal regarding HR that the people who were experts in the field had to be retained and if the existing system of PSUs was followed, then it would be difficult to get experts in the

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field to improve the efficiency. He further stated that the Council might adopt a resolution regarding flexibility in HR matters and if Cabinet approval was required, the proposal of required HR flexibility should be got approved.

14.8. Hon`ble Minister from Tripura stated that he fully supported the proposal of making the GSTN wholly Government owned Company. About the HR certain apprehensions had been floated in the Council, but he did not think that there should be any such apprehensions as enough flexibility and continuity had been built in the proposal.

15. For **Agenda Item 6**, the Council in principle approved the following:

1. Allow GSTN Board for initiating the acquisition of entire 51% of equity amounting to Rs 5.1 crore held by Private Companies/ Non-Governmental Institutions and thereafter to be held equally by the Centre and the State Governments.
2. Change in composition of the GSTN Board by inducting four Directors each from the Centre and the States; three other independent Directors nominated by the Board of Directors; Chairman and the CEO.
3. Reviewing Article of Association and Bye laws of GSTN by GSTN Board and incorporate suitable changes as per the provisions of the Companies Act, 2013. Restructured GSTN to continue to hold the assets and liabilities of the Company and inform lenders accordingly.
4. As regards human resources, allowing:
 - a. subject to the GSTN Board's decision, existing regular employees to be continued, on the same terms and conditions on which they were appointed,
 - b. existing employees on deputation to be continued on the same terms and conditions till the completion of their tenure,
 - c. new employees on deputation continue to be hired on the terms and conditions similar to those being used by GSTN,
 - d. flexibility to GSTN for hiring people through contract on the terms and conditions similar to those being used currently by GSTN while hiring technical manpower.
5. Flexible hiring and appropriate remuneration policy may be evolved by GSTN Board considering criticality of the IT manpower, prevailing market compensation, etc. and placed before the GST Council for its approval from time to time.
6. The proposal to the Union Cabinet may ensure sufficient flexibility to GSTN in HR matters.
7. Allowing continuation of existing mechanism of payment of the operating charges to GSTN through user charges of restructured GSTN by CBIC and the States.

Agenda Item 7: Incentivizing Digital Payments in GST regime

16. Introducing the agenda, the Secretary submitted that it has been noticed that a number of traders were avoiding the correct reporting of transactions in Business to Consumer (B to C) segment in order to avoid payment of GST, and one way to correct it was to incentivize digital payment by customers so that these transactions could not be suppressed by traders in their GST returns. He explained that the proposal in the agenda was to give 2% discount in the GST tax rate to the customers who used digital means to pay for the transactions with an overall ceiling of Rs. 100 per transaction, so that the customers were incentivized to make


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payments using digital means. He further stated that this incentive would not be available in case of transactions relating to the composition dealers or in case where GST tax rate was less than 3%.

16.1. Hon'ble Minister from Punjab welcomed the initiative and termed it as a great proposal. He further stated that as per the World Bank Report, in India, efficiency of GST collection was 45% only, indicating that there were leakages in GST revenue, and this move would be a very good initiative in checking the leakages. He further suggested that in order to improve efficacy of the proposal, following be also considered: -

- a. Benefit of reduced tax rate or rebate might be restricted to specified goods and services, while some of goods or services such as travel by rail and air, sale and purchase of cars, banking services etc. where significant digital penetration was already there, be kept out of this benefit.
- b. Benefit of reduced tax rate be raised to 4% with a ceiling of Rs.200 per transaction, since Rs.100 was a very low amount which may not attract the people.
- c. Some adjustment might be required in case of restaurant service, as these services when availed at non-composition restaurant would become cheaper than the restaurant operating in composition scheme.

16.2. Hon'ble Minister from Telangana stated that his State was already No. 1 State in digital transactions. However, in his opinion, the incentive on digital payments should not be linked to GST. He further requested that IGST advance amount transferred to the States should not be adjusted from the settlement of IGST like it was done for the month of March. He stated that huge amount of IGST was unsettled and some more advance should be given to the States out of IGST fund.

16.3. Hon'ble Deputy Chief Minister of Delhi welcomed the proposal and stated that maximum incentive of only Rs.100 per transaction would mean only marginal difference to the high-end items like cars, travel services, etc. Incentive should not be restricted to certain items or certain GST slab rates as was being proposed. The items in the special tax rates i.e. those below GST @ 3% were mostly used to generate unaccounted transactions and hence, these should not be kept out of the incentive scheme. He further stated that the customers might forget as to for which product this incentive was applicable or where it was not and hence the incentive scheme should be made simple, open ended and applicable to all products and services. Hon'ble Deputy Chief Minister from Bihar also welcomed the proposal and added that goods in 28% tax slab be kept out of the incentive scheme. He further stated that as per his assessment, some more incentive might be considered to promote digital payments.

16.4. Hon'ble Chief Minister of Puducherry stated that it was not a practical proposal as there would be a number of implementation issues. He further said that 70% of villagers do not have debit or credit cards, and only people in the urban areas have access to them. Though, digital transactions had started happening, it was not practical to expect 100% digital transactions in one go. He also stated that common man's items being of small value might not attract digital payment and this proposal should be kept pending at this stage.

16.5. Hon'ble Minister from Assam welcomed the proposal. He also supported the idea of keeping some items in the negative list, where the benefit of rebate should not be available,

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and added that Council should support the proposal. Hon'ble Minister from Chattisgarh also supported the proposal and submitted that in his State, in the VAT regime, similar incentives were given, and this would bring down parallel economy. Hon'ble Minister from Uttar Pradesh also welcomed the proposal and stated that it had already been proposed in the agenda that the benefit of reduced tax would be limited to a maximum of Rs. 100 per transaction and perhaps there was no need for a negative list. He further stated that the proposal was practical and should be implemented. Hon'ble Minister from Tamil Nadu also supported the proposal and stated that there may be loss of tax revenue in short run.

16.6. Hon'ble Minister from Kerala stated that the stand of his State on this proposal remains the same as it was in the last meeting. He further said that he had discussed the issue with the traders in his State and 3 reasons have emerged based on which he does not support the proposal.

- a. When we brought GST, we had agreed on a principle that there should be no incentive or tax rebate relating to specific region, industrial segment, etc. and accordingly tax structure was made uniform. Thus, bringing an incentive through a tax structure was against the basic architecture of GST, and if one wanted to incentivize anything, it should be done through the Budgetary support rather than rebate.
- b. Rs. 100 incentive was not a great incentive to bring people in the digital payment mode.
- c. The trading community would oppose this move, as it would promote the business of large format stores and organized retail who were already prepared and comfortable with digital payments. Thus, it would be against the livelihood of normal small traders who already were opposing large format stores and FDI in retailing and hence, was against the interest of 80% traders of India. Thus, it was not a politically wise move.

16.7. Hon'ble Chairperson desired to know as to why small traders would be opposed to this incentive. Hon'ble Minister from Kerala explained that large scale retail chains were already having necessary infrastructure and it would enable them to take maximum advantage of digital payments. The consumers were not going to be attracted by this small incentive as evidenced by shift of people back to cash economy after the demonetization, where the digital payments initially increased and now were back to only 13%-14 % of the overall transactions. He further stated that organized sector would get the benefit of tax concession due to digital payment and it would work against the interests of small traders.

16.8. Hon'ble Minister from Goa while welcoming the proposal stated that it should be implemented even though some people might be pessimistic about it and might not support it. He further stated that Council should move with the time and more so because now the entire world was noticing India due to the progress made on the GST front. Even if the benefit that would go to consumer was Rs 100 only per transaction, this proposal should be implemented when the new return system was put in place.

16.9. Hon'ble Minister from West Bengal stated that he did not agree with the proposal of allowing rebate in case of payment by digital means since it was discriminatory in nature, as had been pointed out by Hon'ble Chief Minister of Puducherry and Hon'ble Minister from Kerala with reference to villagers and small traders. He further stated that the village economy, the informal sector and small businesses were badly hit by demonetization.


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Moreover, the current proposal kept composition scheme out of the incentive scheme. In his opinion, a large section of economy i.e. villagers and composition scheme dealers would be left out of the scheme and hence it was discriminatory. He further stated that now these sections of economy had started bouncing back and demand was recovering after demonetization, they should not be disturbed again. Secondly, nobody during the entire discussion so far, had pointed out about revenue loss on account of this proposal.

16.10. Hon'ble Minister from West Bengal explained further that as per the data in the agenda note, Rs.900, 1200 and 1400 transaction size had been considered for estimating the revenue loss. He added that as per his observation, Rs.1400 was a very small transaction size to estimate the loss, since all the transactions above it would also get the benefit and the estimated revenue loss would be approx. Rs. 26,500 crore (Rs.11,939 crore in Table 'A' and Rs. 14,885 crore in Table 'B') as per the data sheet enclosed. He further stated that all luxury and white goods seem to have been left out from calculation, which would have to be added to arrive at actual revenue loss because they were sold for more than Rs.1400. He said that realistic revenue loss figures were still to be estimated; and that in his view, this proposal was discriminatory in nature and this was not the right time to implement the proposal. He further added that this would be viewed by common people, who were in villages, as discriminatory since they use cash out of compulsion.

16.11. Hon'ble Deputy Chief Minister of Gujarat supported the proposal, as traders would not have the opportunity to hide the transactions. He stated that with the digital payments, the transactions would be fully reported, and the tax collection would increase; and as the awareness of the digital transactions would increase, tax would also increase resulting in almost no revenue loss. Hon'ble Minister from Odisha stated that digitization was the need of the hour, but in the present circumstances, this proposal needed further study as in his State, two-thirds of the population lived in rural areas and network connectivity in those areas was not available. He added that the Council should reconsider the proposal from the point of view of rural consumers and consumers of the composition dealers, who would not get the incentive.

16.12. Hon'ble Minister from Jharkhand agreed with the proposal as tax evasion would come down. However, he proposed that the ceiling of Rs.100 per transaction should be raised to Rs.200, as Rs.100 was a very little incentive. Hon'ble Minister from Madhya Pradesh stated that as per his understanding, the proposal needed in-principle approval of the GST Council at this stage and further parameters and operational details would have to be worked out by the officers after it was approved. He welcomed the proposal and stated that his State supported it wholeheartedly as it would reduce cost of enforcement and improve the compliance. Hon'ble Minister from Uttarakhand stated that his State also supported the proposal in principle. He added that in his State, services sector and small traders were very large in numbers and implications of the proposal might be positive in respect of revenue from these sectors. He further stated that the proposal would have to be reviewed from time to time. Hon'ble Ministers from Rajasthan and Tripura also supported the proposal and termed it as progressive. Hon'ble Minister from Tripura stated that this would bring in a lot of transparency and make accounting easier leading to reduction in rural-urban divide. He further stated that the idea of increasing the upper ceiling of Rs.100 per transaction and introducing a negative list might be reconsidered.

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16.13. Hon'ble Minister from Manipur supported the proposal in principle and stated that his State had some practical difficulties such as limited network availability and coverage of only about 10-20% of the population by banking services. He added that to implement the proposal, network coverage in the North Eastern States had to be improved. He further stated that even after improvement of network coverage, there would still be problem of banking coverage and unless these two issues were addressed, this scheme would not succeed.

16.14. Shri Somesh Kumar, Principal Secretary (Revenue), Telangana stated that it did not seem to be a good strategy to link GST with digital payment and instead, there was a need to reduce MDR charges for encouraging people to use digital means. He added that if need be, some money could be allocated out of GST collections towards this but should not link GST with digital payments. He further stated that it would reinforce rural-urban divide on account of factors as pointed out by other Council Members since rural persons would end up paying more for same goods and services and hence the proposal should be relooked. He thereafter added that this would create another tax rate in GST and would lead to complexity in GST structure.

16.15. Hon'ble Ministers from Haryana, Himachal Pradesh and Jammu & Kashmir supported the agenda. Hon'ble Minister from Haryana added that as had been pointed out by some other members, 70% of the people in villages do not use digital payments and this proposed incentive would prompt them to make digital payments. Hon'ble Minister from Himachal Pradesh in addition stated that Rs.100 cap on incentive was small and should be enhanced.

16.16. Secretary responding to some of the points raised by the Members, stated that revenue implications of the proposal do not seem to be clear to some of the members. He explained that data given at paragraph 8 of the Agenda Note was having two tables – Table 'A' and Table 'B', which were not to be added together but have been prepared on different projections and only one of them would have to be chosen ultimately. He further explained that the Table 'A' was the case where the benefit of the incentive was to be given only in case of transactions by debit card/credit card/AEPS/IMPS/BHIM/M-Wallet/Pre-paid instruments, etc. and in that case, the revenue loss at average transaction size of Rs.1400 with about 20% digital transactions involving GST would come to Rs. 5970 crore only. Further, if internet banking transactions and other banking transactions were added to transactions in Table 'A', then the total revenue loss with average transaction size of Rs 1400 with 20% digital transaction involving GST would be Rs 7442 crore as given in Table 'B'. He further stated that extra transactions disclosed in the turnover of the traders, would result in revenue gain as the traders would be forced to disclose these transactions in their returns and pay tax. He concluded that overall there would be gain in revenues.

16.17. Hon'ble Minister from West Bengal stated that he differed from the analysis given in the Agenda notes. Referring to the Table 'A', he submitted that if the average transaction size of Rs.1400 was taken and 40% of transactions were done digitally, then the revenue loss would be Rs.11,939 crore as indicated in the agenda note. Hon'ble Minister from West Bengal also stated that in his opinion, the proposed agenda seemed to be based on unsubstantiated and unresearched estimates and if there was any other research, which was not part of the Agenda note, the same could be shared. He further added that the entire estimate was based on transaction size of Rs.1400 only, which was small as compared to transactions in medium and


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high value white goods and this revenue loss would then go up if these were added. The advantage of lower tax on digital transactions would go to the people who already have the means to use digital payments. He summarized his arguments as follows:

- a. As far as revenue loss figures were concerned, the current figures did not seem to be complete and he would like to understand them better.
- b. There was no consideration as to what happens to rural people using cash and poor small traders, who do not have proper network in their areas.
- c. As submitted by some other States such as Manipur and Odisha and also in his State, the areas such as Sundarbans, 24 Parganas and in fact 7 out of 19 districts do not have proper network to the extent which one would like to have in order to promote digital payments.

16.18. Hon'ble Minister from West Bengal further stated that in his view, the entire proposal was discriminatory in nature and agenda note should be placed next time with more research. He further stated that it would be better if we explore as to how to bring the network to people so that they can adopt digitization and implementation of this proposal in the present form would be like oiling the already oiled part of our society. He added that he was not inclined to support the proposal as he had fundamental difference on the entire estimate of revenue loss and needed answers to the questions that he had raised during discussion

16.19. Hon'ble Minister from Punjab submitted that we should consider the proposal earnestly and should not throw the baby out with the bath water and that a small beginning might be made with small positive list (if not negative list) in respect of goods and services from retail sector.

16.20. Hon'ble Chief Minister of Puducherry stated that he also wanted to place three points for consideration by the Council before any decision was taken:

- a. GST should not be linked with digital incentives.
- b. Entire North Eastern part of the country and some other areas such as Odisha, parts of West Bengal and rural areas do not have good network and in such a situation, they would lose out on the benefits accruing from digital transactions.
- c. Rural population, farm labour, masons, etc. do not have bank account or digital cards. They would be disillusioned since they would not get any benefit.

16.21. Hon'ble Minister from Kerala supported the Hon'ble Chief Minister of Puducherry and added that due to demonetization, some people had shifted to digital means and they could be considered as 'existing stock'. The crucial question to be answered was how much shifting will happen from cash to digital due to this incentive of Rs.100 per transaction. He stated that the proposal would end up giving additional concessions to 'existing stock' of people who were already on digital mode and were better off. He proposed that the States who thought it was a good proposal and wanted to fast digitalize their States, be allowed to adopt it and the States who did not find it a good proposal should not be forced to take the reduction in revenue due to this proposal.

16.22. Hon'ble Deputy Chief Minister of Bihar stated that so far as the question of discrimination is concerned, in rural areas, the traders were mostly below Rs.20 lakhs and out of tax net and hence there would be no discrimination. He further stated that there was a need

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for reduced cash economy. He had discussed the proposal with traders in his State who were in support of this move. He proposed that in the beginning, the incentive limit could be fixed at maximum of Rs.100 per transaction and going forward, it could be increased so that large number of people shift to digitization. Hon'ble Minister from Assam concurred with the proposal and stated that during demonetization period, when there were incentives for using cards, the tax revenues were higher. Further, he stated that it would be a small nudge from GST Council to people to transform from cash economy to digital economy and he urged all the Council members to support the proposal as it was not a revenue loss proposal but actually a revenue gain proposal. Hon'ble Minister from Goa stated that the Council should look at this as a pro-poor incentive rather than as a discrimination between haves and have nots. He added that Rs.100 was a big incentive for any poor man, and in fact, the proposal is pro-poor.

16.23. Hon'ble Chairperson summarizing the discussion concluded that following views had been expressed during discussion:

- a. Give incentive on using digital payments as it would promote compliance towards GST.
- b. Incentivizing the digital payment would be discriminatory against the people who were not part of digitized economy.
- c. Adopt a middle path by not implementing the proposal on all items by having a negative list or identifying few evasion prone items.

16.24. He further observed that the tradition in the GST Council so far had been not to count the votes, and wherever more than one view had emerged, the Council had appointed a Group of Ministers to comprehensively look at various aspects associated with the issue. He further stated that there could be a 5-member Group of Ministers, which could examine all the views on the agenda and find the best solution after detailed deliberations and present its report in the next Council meeting. Hon'ble Minister from West Bengal submitted that the GoM should have members representing the three views summarized by the Hon'ble Chairperson. The Hon'ble Chairperson stated that GoM would be announced within next two days.

17. For **Agenda item 7**, the Council approved constituting a 5-member Group of Ministers which would examine all views expressed by the Members on the agenda and recommend the best solution after detailed deliberations. The Group of Ministers shall present its report within 15 days.

Agenda Item 8: Imposition of Cess on Sugar under GST and reduction of GST rate on Ethanol

18. Shri Alok Shukla, Joint Secretary (TRU-I), on being asked by the Secretary, briefed the Council about the proposal to levy a cess @ Rs 3 per Kg over and above 5% GST on sugar in order to create a separate fund for Government intervention in the interest of sugarcane farmers. He further informed that sugar industry was peculiar and highly cyclical industry, where price of raw material was determined by Government whereas the price of final product was market driven. As a result, in the year of excessive production of sugar, price of final product crashed whereas the price of raw material did not change, resulting in huge arrears on the part of mill owners to be paid to sugar cane farmers. To tide over this crisis, proposal before the Council was to allow a levy of sugar cess, which would be used mainly to clear the sugarcane procurement arrears of the mill owners to the farmers.

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18.1. Second part of the proposal was regarding reduction in GST rates on ethanol from 18% to 12% for blending in petrol. He informed that during the discussion in the officer's meeting held the day before, some officers had observed that while there could be a case to reduce GST on ethanol for blending with petrol, it would not be advisable to reduce GST on ethanol for manufacture of alcoholic liquor for human consumption. Accordingly, the initial proposal was modified and as per the addendum, the proposal before the Council was for reducing GST rate from 18% to 12% only on the ethanol supplied to Oil Marketing Companies for blending with petrol. He further informed that, though, it was an end use based concession, the probability of its misuse would be minimal, as the benefit was proposed to be restricted to the Public-Sector Undertaking Oil Marketing Companies receiving such ethanol for blending purposes.

18.2. Hon'ble Minister from Tamil Nadu stated that it was against the underlying principle of GST i.e. 'One Nation, One Tax', as many levies have been abolished and imposition of a new levy was not justifiable. It would also increase the non-shareable tax revenue of the Centre leading to a situation wherein the States would also be tempted to impose cess in future for one or the other cause. Hence, resources should be raised through some other mechanism without bringing about changes in GST. Moreover, 90% of the ethanol was used for manufacturing of alcohol and only a tiny portion was used in other industries including its use as renewable source of energy. Thus, the proposal to reduce GST on Ethanol from 18% to 12% was not acceptable as it would affect States' revenue. The revised proposal of supplying ethanol at reduced rate to PSU Oil Marketing Companies for blending with petrol would be an end use based exemption, which had not been done so far in GST. Thus, it could be considered provided proper legal protection was ensured for multiple rates for one commodity based on end use. Further, it may be noted that not all oil marketing companies were in public sector.

18.3. Hon'ble Deputy Chief Minister of Bihar supported the proposal and stated that in Bihar, the Sugar industry was in a very bad shape. The cost of production of sugar was Rs. 40 per kg, while it was being sold in the market at Rs. 30 per kg and, hence, the arrears of sugarcane growers had mounted. He further stated that there were more than one dozen sugar mills in his State and earlier through Sugar Development Fund, the industry in Bihar used to get some relief. He further stated that during the officers meeting held on 3rd May 2018, a very good decision had been taken to reduce the GST rate from 18% to 12% for ethanol for the purpose of blending only, and the rate of GST on ethanol going to liquor industry should remain at 18%. He supported the proposal stating that the sugarcane growers would get much needed relief. The Hon'ble Minister from Uttarakhand also supported the proposal and stated that in Uttarakhand, during 2018, the average cost of sugar was Rs. 4990 per quintal, whereas the present rate of sugar in the market was Rs. 2600 per quintal. There was a loss even after selling molasses @ Rs. 40 to 50 per quintal. During 2014-15, 2015-16 and in 2016-17, Rs. 8.15 crore, Rs. 13.45 crore, Rs. 42.23 crore respectively was realised through sugar cess (total Rs. 63.83 crore) while in 2014 and 2015, for the revival and modernization of sugar industry, the State got loan of Rs. 77.37 crore and Rs. 69.44 crore respectively at 12% interest rate. He submitted that State should get assistance for the modernization of sugar industry and providing assistance to sugarcane growers through the money realised from imposition of this cess.


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18.4. The Hon'ble Ministers from Uttar Pradesh and Tripura also supported the proposal. Hon'ble Minister from Uttar Pradesh stated that using cess to pay farmers would be very good and State Governments should also have some say in this cess. Hon'ble Minister from Tripura stated that considering the cyclic nature of the sugarcane industry, 50 million sugarcane growers, 5 lakh sugar mill workers and other people dependent on the industry, imposition of this cess was welcome. He also supported the proposal for reduction of GST on ethanol.

18.5. The Hon'ble Minister from West Bengal did not agree with the proposal giving the following reasons:

- a. The principle of GST was being defied as all cesses like Clean Energy Cess, Research and Development Cess, etc. were subsumed in GST following the principle that there would only be GST Compensation Cess.
- b. Imposition of cess on sugar would be penalising consumers in other States where there was no sugarcane farming and sugar industry. Sugar was consumed by everybody and people would oppose imposition of Rs.3 per Kg, which was not a small amount.
- c. There were apprehensions that the farmers would not benefit unless there was DBT and hence, it was necessary to understand the mechanism of transfer of money to farmers.
- d. Sudden introduction of this cess would distort the structure of GST as only limited States would benefit at the cost of consumers all across the country depriving them of their access to sweets.

18.5.1. He stated that today Uttar Pradesh mills would benefit from revival of this cess and in future similar requests would come from some other States such as Punjab who earlier had 14% cess on food grain purchases in VAT regime. Therefore, this agenda item should be withdrawn and the Council could think of alternate model to generate funds for benefit and revival of the specific sectors that faced distress.

18.6. Dr. D. Sambasiva Rao, Special Chief Secretary (Revenue), Andhra Pradesh stated that GST rate on sugar was 5% and retail price was about Rs. 30 per Kg. If, as per proposal, sugar cess @ Rs. 3 per Kg was imposed, then effective tax rate for consumers on it would amount to almost 15%. He added that fair and remunerative prices were declared by the Government of India as a price support mechanism for the farmers; yet like subsidy on wheat and 21 other commodities, the Govt. of India did not give any subsidy on sugar. There were three existing mechanisms: Market Assurance Scheme; Price Deficiency Procurement Scheme which was being implemented in Madhya Pradesh and Private Procurement and Stock Scheme. If the third option was modified, then farmers could benefit significantly; otherwise only mill owners would benefit and they would not pass on the benefit to the farmers.

18.7. Secretary intervened and informed that the sugar prices had gone down drastically during last 2-3 months, and if immediate steps were not taken during this year, then there could be a situation next year where production was affected due to mills going out of business and consumer price of sugar might go up substantially making consumers suffer more. Thus, in case of cyclical products, there was a need for some sort of stabilising mechanism and imposition of cess was one such way to stabilise at a price which might not be too good for consumers and not too bad for mill owners. Further, Rs.3 per Kg was the


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maximum ceiling and the actual cess to be levied by the Government of India would depend upon the prevailing situation.

18.8. Shri Ravikant, Secretary, Food, Government of India, informed that the Government determined the price of sugarcane to be paid to the farmers and mill owners were obliged to purchase it. There was no control on price of sugar and there were huge variations year to year. This year, sugar production was around 300 lakh tonnes leading to glut in the market. Last year sugar production was only 200 lakh tonnes and due to shortage, prices went up drastically. The sugar prices were Rs. 26-28 per Kg currently, whereas the cost of production was above Rs. 30 per Kg. In the past, with various interventions from time to time using funds available from cess collected, Govt. had been able to stabilise sugar price. The current outstandings of the farmers were about Rs. 19,000 crores. As regards mechanism to transfer funds to farmers, Food Secretary stated that soft loan scheme from the Sugar Development Fund was introduced in 2013-14 and 2014-15, where they had worked out a mechanism in consultation with the Department of Financial Services in which separate accounts were opened and soft loans were given to eligible mills in those accounts. Thereafter, money was directly transferred to the accounts of farmers by the mills and only after all dues of farmers were cleared by them, the money was passed on to the account of the mill. On being asked by the Chairperson about the impacted States, Shri Ravikant informed that farmers of ten States have been impacted, which included Uttar Pradesh, Maharashtra, Karnataka, Tamil Nadu, Punjab, Bihar and Haryana.

18.9. Hon'ble Minister from Punjab supported the views of Minister from West Bengal and stated that all cesses had been subsumed in GST as stated in the objective of the Constitutional Amendment Act, and now to introduce a new cess would breach the sanctity of GST. He raised the issue as to why only sugar farmers were being considered for compensation when farmers growing other crops were equally distressed and committing suicide necessitating some States to go for debt waiver, etc. He submitted that the Council should not consider such proposals in piecemeal manner but in a larger context. As far as tax on ethanol was concerned, he observed that crude prices were at all time high and why should Council pass the tax benefit to the oil PSUs. Further, levy of sugar cess at single point of supply was prone to evasion and manipulation since any sugar entity having captive use would remain out of it. He suggested to defer the proposed cess till the Karnataka elections were over and form a committee of Ministers to consider the matter deeply and find out ways to establish a price stabilising fund, might be arising out of cess, so that other crops like cotton etc. also got the benefit.

18.10. The Hon'ble Deputy Chief Minister of Delhi stated that the Council had agreed to the principle of 'One Nation, One Tax' but a new tax was being introduced from back door. It would open a new window, where many other industries/sectors would come with demand to impose some cess for bailout. Hence, tradition of bailout package should not be started as it was against the principle of 'One Nation, One Tax'.

18.11. Hon'ble Chief Minister of Puducherry opposed imposition of cess on the grounds that earlier cess was collected by the Government under the Sugar Cess Act and the same had been removed by Taxation Laws (Amendment) Act, 2017 with the aim of 'One Nation, One Tax'. By bringing cess on sugar, certain States would be benefited and certain States would be affected badly. Consumers of States not having sugar mills would be compensating the other

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States. Hence, for benefit of some States, other States should not suffer. He further added that it was practically impossible for money going directly to the bank accounts of the farmers as list of farmers growing sugarcane was not available with Food Ministry. He said that ultimately with cess, sugar prices would increase and would add to the woes of the consumers already facing high prices for many commodities.

18.12. Hon`ble Minister from Kerala concurred with the views expressed by Hon`ble Minister from West Bengal and Tamil Nadu and stated that with special provision for cess on sugar, Punjab might ask for some cess on food grains; Kerala might ask for cess for commercial crops and so on. He stated that 80 per cent of sown area in Kerala was under commercial plantation crops, which were grown under some or the other protection and now, in GST, entire protection had been removed. Thus, if the Council was agreeable to support all commercial plantation crops, then Kerala could support the sugar cess proposal; otherwise special protection could be given to sugarcane farmers through other ways like market intervention, direct support, etc. rather than special tax or tax incentives. He added that, in case any special cess was to be collected, then there were some other eligible candidates also, which would have to be supported.

18.13. Principal Secretary (Revenue), Telangana stated that the proposal was against the basic principle of GST and it would put huge burden of Rs. 3 per Kg on the sugar consumers, which was 10% of the price. It would lead to spiral effect on other products like bakery items, sweets industry, etc. Such imposition of cess would open floodgates for similar demands from other industries, and if any support was needed for sugar industry, it could be given through budgetary support. He further stated that they were also opposed to tax rate reduction on ethanol as revenues were stabilizing and time was not good.

18.14. Hon`ble Deputy Chief Minister of Gujarat supported the proposal and stated that there were around 31 sugar mills in South Gujarat and Saurashtra in cooperative sector and like Uttarakhand and Uttar Pradesh, faced similar problem of huge production but low price. If they are not supported, then next year, sugar mills would close down resulting in increase in prices. Hon`ble Minister from Uttarakhand requested the Council to carry out referendum in 10 affected States to ascertain as to what could be done to improve their situation. He further added that any loan support should be given without interest so that they could work for survival of sugar industry. He informed that in his State, there was stock of 41.5 lakh quintals of sugar and due to lower price, it was not selling. Therefore, neither sugarcane grower would survive nor sugar mill would survive without being supported by the Council.

18.15. Chief Economic Advisor stated that the Council needed to make a distinction between objectives and instruments. The objective of helping sugar farmers was extremely important but current issue was regarding appropriate instrument to deal with this situation. He felt that use of GST was not appropriate as it undermines the sanctity and simplicity of GST. He added that the Council should not use tax instrument for every change of cycle of one particular commodity and national policy should not be distorted for few States. As regards proposal to reduce tax on ethanol, he stated that end use based tariff exemptions should be avoided as these would be prone to misuse.

18.16. Hon`ble Chairperson observed that as informed by Secretary Food, sugar price in market was around Rs. 26 to 28 per Kg, which was Rs 5 below the cost price. In earlier

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regime, cess was normal because there was a gap between cost price and selling price and a mechanism had been developed so that the amount would go to the farmers directly. In the present circumstances, the Council would have to explore options that were available to deal with stress of lakhs of farmers spread in 10 States from Punjab to Tamil Nadu and not limited to one or two States. Hon'ble Deputy Chief Minister of Delhi suggested to have a subsidy scheme or package separately for sugar. Hon'ble Chairperson observed that budgetary and fiscal position of the Centre and the States was already tight. Hon'ble Deputy Chief Minister of Delhi stated that cess would open a Pandora's box and it would benefit sugar mills and not the farmers. Hon'ble Chairperson clarified that proposal was not aimed at mill owners and as informed by Food Secretary, in the soft loan scheme launched in 2014-15, the Food Ministry had already prepared a package to ensure that only after the mills first cleared all dues of farmers, the money was transferred to the mills' account. The current issue was that when a consumer was getting sugar at a price, which was Rs 5-6 per kg less than the cost price, could cess of 1-2 rupees be imposed on the sale price of sugar. Hon'ble Deputy Chief Minister of Delhi responded that relief package could be given for sugar, but principles of GST should not be compromised. Hon'ble Chairperson stated that GST laws contained that if in future, a cess was to be imposed then it could be done with the permission of the Council.

18.17. Hon'ble Minister from West Bengal stated that he would like to place a proposal before the Council for imposition of cess on jute as 40 lakh jute farmers were in bad shape in West Bengal and, there might be similar demand from Punjab, Kerala, Andhra Pradesh and Maharashtra, for cess on food grains, commercial crops and cotton, etc. He disagreed with the principle to take the money out of the pocket of consumer for compensating somebody. He added that he did not agree with the price data given by the Food Secretary since it varied across the country and that in Big Bazar, which had economies of scale, sugar was available @ Rs 35 per Kg. Hon'ble Chairperson wanted to know whether raw jute had MSP to which Minister from West Bengal replied that the issue was not of MSP on jute being similar to food grain, but jute was being used in milling industry like sugar and continuity in value chain was desired. He further stated that jute industry had international competition from Bangladesh and even then, they had sacrificed Jute Cess. The proposed cess would create a movement in the country for similar packages, which would be against the principles of GST. He further added that Hon'ble Chairperson had been very impartial in maintaining the fundamental principles of GST and they needed to be maintained.

18.18. Hon'ble Minister from Punjab suggested that instead of sacrificing the principle, GST rate on sugar might be increased from 5% to 12%, for a limited period say six months to one year. Secretary explained that the additional tax would be shared 50-50 between Centre the States and out of central pool, again 42% of the money would be devolved to the States leaving only 58% with the Centre. So, increased tax rate on sugar was not a correct proposal as consumers then would suffer more while less benefit would go to the farmers. Thus, to stabilise the price of sugar, the Council should consider putting some cess and use this cess for welfare of the farmers. Chief Economic Advisor stated that he was of strong view that GST should not be distorted and alternative ways like imposition of import duty on raw sugar and the money realised from this import duty might be utilised to help farmers. Secretary informed that import duty on sugar was already 100% and no import of sugar was there. Shri Somanathan, CCT, Tamil Nadu stated that the issue involved raising only Rs. 6700 Crore i.e. 0.5% of total Revenue of Rs. 15 Lakh Crore of Central Govt. this year. Thus, instead of distorting GST for such a small amount, alternative methods should be found. Hon'ble

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Chairperson asked that instead of giving generic solution, specific solution might be suggested so that the resources could be raised and added that such principles would also apply to future contingencies in similar situations.

18.19. Hon'ble Chief Minister of Puducherry suggested that in income tax, there was education cess component and a 0.5% increase in it would get the desired revenue. He added that the Council could consider his proposal as instead of millions of poor consumers, rich people would pay for it. CCT, Tamil Nadu stated that one thing which was causing a lot of noise was that the proposal was for non-shareable Central cess. Hon'ble Chairperson clarified that this noise could end by ensuring that the entire money collected from this cess would go to the 10 affected States only. CCT, Tamil Nadu suggested that the beneficiary States only might then be allowed to impose cess rather than transfer of resources from all the States. Chief Economic Advisor stated that allowing States to impose cess, or for that matter introduction of a new tax, would violate the 'One Nation, One Tax' principle and should not be allowed.

18.20. Hon'ble Minister from Assam stated that the Constitution and GST law itself provided that the Council had the powers to impose cess and, hence, it was not understood as to why the Chief Economic Advisor was saying it was distortion of GST. He stated that at a later date, his State could petition before the Council to allow Assam to impose cess for revival of tea sector and the Council had the power to allow or disallow the State to impose a cess. The argument that the GST Council had no power to levy cess was fundamentally flawed. Hon'ble Minister from Goa stated that the Council could not remain silent in a crisis situation when industry was suffering due to sale price being below the cost price and would have to bail out the industry to avoid its collapse. He added that the measures being suggested by some States were impractical. The States had right to bring such matters before the Council and the Council had powers to recommend cess. He stated that too much of politics was being seen behind the proposal and it was clouding the minds.

18.21. Hon'ble Minister from Assam stated that even though Assam was a poor State yet it was not opposing the proposal. Later on, when Assam faced floods, they would come to the Council for help. There could be a genuine argument on the quantum of cess, but to say that this was a distortion of GST and one State should not subsidize other States, would be a dangerous argument. It was not the spirit on which this Council had acted so far. There could be two opinions on an issue but the States should stand for each other at any cost.

18.22. Hon'ble Minister from Kerala stated that the question was not of cross-subsidy but that commercial crops in a number of States were in doldrums and his State Government was paying a direct subsidy e.g. Rs. 30-40 per Kg in case of rubber farmers. Hence, if the proposal of cess on all commercial crops was acceptable, sugar cess could be accepted. Hon'ble Minister from Assam responded that States were ready to subsidise Kerala if it helped the farmers of Kerala; but for that, a rubber cess or jute cess proposal should have been brought before the Council rather than opposing the Sugar cess proposal. Hon'ble Minister from Kerala reiterated that it was not correct to place a new cess proposal before the Council after all cesses had been subsumed into GST. Hon'ble Minister from Assam stated that tea industry was also in distress and they could also bring a proposal, which the Council might or might not accept. He concluded that instead of countering sugar cess politically, if any State wanted any concession on any crop, formal proposal should be brought to the Council for debate as


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farmers do not belong to one political group; and it was clear that cess could be imposed with the recommendations of the Council. Hon'ble Minister from West Bengal stated that in that case, States might also be allowed to bring their cess proposals.

18.23. Hon'ble Deputy Chief Minister of Bihar stated that in Article 279A, it had been provided that any special rate or rates for a specified period can be prescribed to raise additional resources during any natural calamity or disaster. Thus, if any State faced any calamity or disaster, then GST Council could consider to assist that State and it was a case of 10 States in distress and these States should be helped. He supported the observations of Hon'ble Minister from Assam and said that due to opposition by some States, proposal should not be rejected. Hon'ble Minister from Goa added that the proposed sugar cess could be there for a limited period with a sunset clause.

18.24. Hon'ble Minister from Telangana again raised a concern about the provision under which cess was going to be levied, as Article 279A used the word 'rates' and that it was not a natural calamity situation. Hon'ble Chairperson responded that it was provided in the 101st Constitutional Amendment Act that when all taxes are subsumed, any future cess could be imposed with the permission of the Council. Secretary stated that the Council had power to recommend cess but not as part of GST and once the proposal was cleared from the Council, it would be placed before the Cabinet for issuing Ordinance. Hon'ble Minister from Kerala stated that based on the same principle, there should be additional cess for all agricultural products.

18.25. The Chief Economic Advisor stated that having identified that there was a need to help the sugarcane farmers, there could be number of ways to raise revenue and the Council could try to identify them. He suggested that a small Committee could be formed to find resources, which were least distortionary to GST and cause least inconvenience to the consumers. Hon'ble Minister from Assam stated that putting cess was not a distortion of GST. Chief Economic Advisor clarified that he was not challenging the legal powers of the GST Council but only advising that there were better ways of raising required resources.

18.26. Hon'ble Chairperson observed that based on discussions, 3 scenarios were emerging. First and immediate problem was in 10 States involving large number of cane growers; second was relating to some other member States, which had similar problem in relation to other crops; and the third was similar potential problems arising in future. The problem demanded that the Council should create some form of a flexibility or an alternative system through which such temporary impasse could be addressed. Thus, the issue for consideration was that whether there was a way out of it or the situation should be allowed to deepen. He added that the present situation was not covered under natural calamity and whatever was decided for sugar, would be equally applicable to some other crop in similar crisis situation. Thus, the issue was whether the Council had such flexibility in GST or the only recourse was to explore the alternate ways like increasing Income Tax or Custom Duty, etc. Hon'ble Minister from West Bengal stated that according to data, Income Tax has seen a great buoyancy and required amount of Rs 6700 crores was only 0.5% of the revenue, so it could be taken out of it. He stated that in GST Council, once this kind of proposal was accepted, then there would be a flood of other similar requests and hence the issue was whether it should be done for Rs.6700 crore. Hon'ble Chairperson stated that if the proposal suggested by Tamil Nadu was accepted regarding levy of cess only in 10 States, then it would completely destroy

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'One Nation, One Tax' principle. He asked Council members to suggest solution to address present sugar problem and future problems regarding other crops that might arise.

18.27. Shri Tuhin Kanta Pandey, Principal Secretary (Finance), Odisha suggested an agriculture stabilisation scheme where Centre and State could have 50% share each depending on where the farmers were. It would have a certain corpus coming from tax revenues from commodity such as sugar, where GST rate might be raised to 12%. Out of the additional revenue, 42% would go to States as devolution and 58% would remain with the Centre and some more money could be pooled in by the Centre and the State out of budgetary provisions, if required. Thus, Centre and the States would contribute Rs 3400 crore each, required for the current situation. It would be a non-distortionary process and in future, such schemes could be replicated for similar situations. Hon'ble Minister from West Bengal stated that the scheme to increase GST rate from 5% to 12% was not acceptable as it would be inflationary and submitted that resources had to be found from budget and States could be asked to contribute.

18.28. Secretary clarified that it was wrong to say that putting cess on one item was distortion of GST as the Council had already adopted the concept of cess for compensation that covered more than 10 items like tobacco, automobiles, etc. He reminded that when cess mechanism for compensation was discussed, the Council debated at length whether it was better to have cess or additional GST. Thus, the cess imposition was not a distortion when it benefited States but, in this situation, all were advising that Govt. of India should bear the cost. He stated that the Government of India would have suffered big indirect tax loss last year but for IGST balance available. There was no mechanism for absorbing shock of GST for Central Government and no guarantee was given to Govt. of India by anyone. He added that when cess on 11 commodities was already there, if one more commodity was added to the cess basket, and this kitty used only for specific purpose, he did not see anything wrong in it. Further, consumers could easily bear the increase and it would be collected at single point. He reiterated that it was good for the future economic growth, welfare of the consumers and sugarcane farmers. In future, if some other commodity comes, GST Council could debate and decide. He strongly suggested that the Council should approve the proposal.

18.29. Hon'ble Minister from West Bengal stated that compensation cess was for a different purpose whereas the proposed cess on sugar could not be a part of it. It was a standalone cess, different from compensation cess, on one item and that was how the distortion was coming. In case cess is imposed outside the compensation mechanism on one item, it could open Pandora's box. Thus, some alternative method to raise resources of Rs. 6700 crore through budget was needed and submitted that Government of India's direct tax position was very good. Hon'ble Chairperson said that resource position of both the Centre and the States was not very comfortable and added that though direct tax position was good but taking the indirect and direct tax together, the position was very delicate as Centre did not have protection similar to the States. Hon'ble Minister from West Bengal said that in indirect tax, India is undergoing an experiment of world's largest fiscal change and therefore, introduction of sugar cess, would be distortionary. Hence, Rs 6700 crore could be given out of direct taxes to resolve the matter.

18.30. Hon'ble Chairperson observed that there were two options - either to increase the tax or levy the cess; out of which increase in tax rate would be a complicated process as tax would go first by devolution to State and then to be appropriated back from States, which would be a


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cumbersome exercise. Hon'ble Minister from West Bengal stated that they did not support increase in tax on one item for economic and political reasons as it would be inflationary. It was better to work together to see as to how the resources could be raised outside GST. Hon'ble Chairperson stated that in extraordinary situations like this, should the Centre pass the situation to States and the States would say that they do not have money. Therefore, all would have to resolve the problem collectively. Hon'ble Minister from West Bengal stated that some more options might be explored as the proposed cess was totally unacceptable and added that the Council should take up and address structural problems rather than taking one problem and working on it. He further enquired as to what would happen if all States came with their proposals of cess and in such a situation, one State's interest would have to be decided against another State's interest. Hon'ble Chairperson responded that the Council would consider the proposal on its own merit as and when a request would come rather than presuming that it would be accepting or rejecting every such proposal. Hon'ble Minister from West Bengal reiterated that the proposal was not acceptable to him on fundamental principles.

18.31. Hon'ble Minister from Uttarakhand stated that the issue should be considered sympathetically. He stated that presently the cost price of sugar is Rs 4990 per quintal, whereas the sale price including molasses sale was not more than Rs 3000 per quintal, and it was a near disaster situation. He added that there had been many amendments in the Constitution and when the Council was empowered to impose cess, it should be imposed rather than making a political issue out of it. He requested that the proposal should be approved by the Council as it was a question relating to the farmers who would stop growing sugarcane.

18.32. Hon'ble Chief Minister of Puducherry stated that there were sharp differences among States as far as raising money for sugar industry was concerned. He agreed with the need to help sugarcane farmers but the method of raising resources was not correct as increasing sugar price would affect common man. He proposed that already cess system existed in Income Tax and money for sugar might be raised through imposing 0.5% cess on Direct Tax. If cess was imposed only on sugar then demand would come for cess on tobacco, rubber, cotton, etc. and Council would not be able to decide.

18.33. Hon'ble Deputy Chief Minister of Delhi added that the present situation of sugar could not be compared with a natural disaster and sugar industry failure throughout the country should be viewed separately as the industry had not failed for want of money but there were many other reasons like administrative failure, connivance, manipulations, interventions etc. He further stated that the entire sugar industry needed huge reform and it would not be saved by a bailout package like this. Hon'ble Deputy Chief Minister of Bihar stated that there was crisis in 10 States; the Council had powers and cess should be imposed. Further, he requested West Bengal and Kerala not to make it a political issue but think about lakhs of farmers.

18.34. Hon'ble Minister from Punjab reiterated his request to defer the issue by fifteen days and that rate of GST on sugar might be increased from 5% to 12% for a limited period and if any State wanted, it could participate in cess. Hon'ble Chairperson clarified that cess could not be imposed selectively in some States, because it would destroy the principle of 'One Nation, One Tax'. He further added that while making the present proposal, Karnataka elections were never in mind. Hon'ble Minister from Punjab said that mention of Karnataka

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election was a mistake on his part. He continued that when there were so many differences among States on this issue, we might wait for 15 days and consider it later. He agreed that sugar industry was in distress and needed to be revived but similar requests would come from cotton, potato and other cash crops. Instead, he re-iterated that GST on sugar might be increased for a limited period.

18.35. CCT, Tamil Nadu stated that due to increase in tax on sugar from 5% to 12%, Centre and the States would get 50% share and compensation to States would go down leaving more money with the Centre. Hon'ble Minister from Goa said that increase in tax on sugar was a retrograde step. CCT, Tamil Nadu clarified that he was only making a technical point to dispel apprehension that in case of increase in tax rate, the Centre would get only a small amount of money and that the States would have extra money to be used in the budgetary process. Chief Economic Advisor stated that it was agreed that money was needed for sugarcane farmers and national efforts were required to raise Rs 6700 crore. He suggested that instead of raising money from sugar consumers, the Centre and States could raise other taxes, e.g. Tax on alcoholic beverages. Thus, 3-4 ministers of sugar producing States and some other States could sit together and come up with 3-4 ideas on the issue. Hon'ble Minister from West Bengal stated that data wise, it was not correct that the crisis situation was there in 10 States. As per his calculations, the situation was bad only in 5 States viz, Uttar Pradesh, Maharashtra, Tamil Nadu, Karnataka and Andhra Pradesh and out of them, Tamil Nadu had opposed it, while Karnataka had not said anything. Hon'ble Deputy Chief Minister of Gujarat stated that Gujarat was also a large producer of sugar. Hon'ble Minister from West Bengal stated that even then, it was 6 States and not 10 States.

18.36. Hon'ble Chairperson concluded by stating that he did not want to link the issue with Karnataka elections as suggested by Punjab. Secondly, there was a need to have some flexibility by which it was possible to resolve extraordinary situations which would continue to arise from time to time in a large country like India, and the Council could not say that it was helpless and that the Centre or the States look after themselves through their own budgetary resources. Thirdly, there should be possibility of raising resources to meet crisis like this. Hon'ble Chairperson further stated that the main area of disagreement was regarding method to raise the resources. He suggested that a Committee of 4 or 5 Ministers could meet and come out with reasonable recommendation within two weeks on which the Council could deliberate and decide. Hon'ble Minister from Punjab agreed to the suggestion. Hon'ble Minister from West Bengal added that States other than sugar producing States, if they felt that they had crisis like situation in their State vis-à-vis a crop and could substantiate with data and need for resources, then same could also be discussed by the GOM. The Chairperson observed that there was need to decide on the principle of flexibility, if it was available with the Council in extraordinary situations or not.

19. For **Agenda Item 8**, the Council approved that:

- a. A Group of Ministers from State Governments be set up to look into the proposal and give recommendations within two weeks keeping in mind the views expressed by the Members.
- b. The proposal for revision of tax rate on ethanol for blending with petrol be considered by Fitment Committee and its recommendations brought before the GST Council.

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Agenda item 9: New Return Filing System

20. Shri Manish Sinha, Commissioner Central Excise, CBIC, on being asked by the Secretary, gave brief outline of proposed new return filing system. He stated that in the officers' Committee meeting held on 03.05.2018, a detailed discussion was held and consensus on various issues was reached (Copy of the presentation enclosed as Annexure - 4). The issue was also considered in the Group of Ministers headed by Hon'ble Deputy Chief Minister of Bihar and two models were discussed in detail. These models had two fundamental differences – firstly, whether provisional credit was to be allowed or not and secondly, if the seller had not paid the taxes, whether the recovery should be made from the buyer or from the seller.

20.1. A middle ground has been incorporated in the proposed new model wherein during the transitional period, provisional credit will continue to be available for six months or so but will eventually go away. With respect to the recovery of tax, the first effort would be made to recover from the seller but only in special circumstances, such as missing seller or seller without any assets, the buyer's credit would be reversed. Apart from these, other points that were common in both the models have been retained.

20.2. The new return design envisaged one return per month for all the dealers except 'nil' filers and composition dealers who would continue to file quarterly return. The document flow and upload would be uni-directional. The transition from old return to new return system would be in 3 stages. The total information which was being collected in return would be rationalized and overall, it would be a very simple return filing system.

20.3. Hon'ble Deputy Chief Minister of Bihar stated that during several rounds of deliberations in the GoM and discussion with stakeholders on 17.04.2018, two different views had been integrated in the fusion model. The consensus had emerged to do away with provisional credit and recovery to be made first from the sellers. In missing dealer cases only, there should be credit reversal from the buyer. He hoped that all would agree with the proposal and approve the same.

20.4. Hon'ble Minister from Goa complimented Hon'ble Deputy Chief Minister of Bihar for coming out with a very good fusion model taking into account the different viewpoints and expected that the Council would approve it.

20.5. Secretary stated that the proposal had been extensively discussed in the Officers' Meeting held the previous day and unanimity had emerged except for two suggestions that the purchaser could be given an option to inform GSTN about the invoices not uploaded by seller and that it should not be linked with the return filing/automatic reversal process. He further stated that it was a fairly simple model which had been extensively discussed with the States and in view of the unanimity in the Officers' meeting, it should be approved, unless there were any strong objection on any aspect of the proposed model.

20.6. Hon'ble Minister from West Bengal appreciated the proposed model but he sought clarification in a case where a seller sold goods to a buyer in a different State and buyer locked the invoices uploaded by the seller to claim input tax credit but the seller did not pay the tax. In that case, the concerned State would end up allowing the input tax credit to the buyer and the State would not have the mechanism to check whether the seller situated in

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another State had paid the tax or not. He added that such incidences did happen in the earlier VAT regime and wanted to know as to how these situations would be addressed in the new model. Hon'ble Minister from Tamil Nadu stated that though he supported the proposal but did not agree with the proposition of acceptance of partial payment of tax on B2C transactions. Further, the proposal of recovery of tax from the seller and, if it was not possible, to reverse the input tax credit of the purchaser would need careful legal scrutiny and drafting.

20.7. Secretary explained that it had been consistent stand of many that availability of input tax credit should not be linked with payment of taxes but was being opposed by the States. He added that even if the seller did not pay taxes after uploading the invoice online, the first liability of paying taxes would remain with the seller. If the seller did not pay the taxes, the State concerned following due process of issuing notice and adjudication etc. can recover the tax from the seller. However, where ultimately the seller did not pay the tax, the purchaser is not absolved of the responsibility to pay tax in the proposed model. Thus, the first responsibility of paying taxes would remain with the seller but responsibility remained with the buyer also in case the seller did not pay the tax. He added that no major change in law was required. In order to achieve simplicity in return filing, the new model proposed to do away with the automatic reversal process and it would be notice-based. The notice and reply would be handled through the system and with the introduction of new model, the credit flow would not be affected. He stated that in the new model, there would be a mechanism that if a seller defaults in payment of huge sum of tax after uploading the invoice, his further online uploading of invoices in the next month would be prevented. The Hon'ble Minister from West Bengal stated that in case of inter-State sales, if the seller defaulted in the originating State, it might not be too interested in recovery of tax and there would be no auto reversal also. He supported the proposal and appealed for tightening of process of issuing notices in case of defaults.

20.8. Secretary submitted that the Centre would put in place a mechanism to monitor the defaults and each case of default would have to be taken up by the concerned State of defaulter. In case of inter-State sales, it would be Centre which would suffer the loss, as the tax would not have been received but would have to settle the IGST claimed.

20.9. Hon'ble Minister from Kerala welcomed the proposal and requested that transition period should be reduced. The data of default must be made available within the entire transition period and that under no condition, the annual return filing should be postponed. Secretary stated that in the first phase, the GSTN would prepare a new software and within six months, a new system of filing return would be ready. In the second phase of 6 months, the provisional credit would be available and the taxpayers would develop the habit of regularly uploading their sales invoices. In the last phase, the system would not allow input tax credit unless seller uploads the invoices. Further, during the second phase of six months, information about the gap between the provisional input tax credit claimed and available amount as per the uploaded invoices, would be made known to the taxpayers every month so that they could bring down the gap. Summing up, Secretary stated that in first six months, GSTR-3B and GSTR-1 would continue; in the second phase new return system, would be introduced but the buyers would have the facility of availing provisional credit; and in the third phase, no credit would be admissible for the buyers unless the sellers uploaded the invoices.

21. For **Agenda item 9**, the Council approved the following:

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21.1. The broad principles for the design of new return filing system shall be as follows:

- i. All taxpayers excluding a few exceptions like composition dealers and zero transaction dealers shall file one monthly return and return filing dates shall be staggered based on the turnover of the registered person to manage load on the IT system. Composition dealers and dealers having Nil transaction shall have facility to file quarterly return.
- ii. There shall be unidirectional flow of invoices uploaded by the seller on any time basis during the month, which would be the valid document to avail input tax credit by the buyers. Buyer would also be able to continuously see the uploaded invoices during the month but there would not be any need for him to upload his purchase invoices. Invoices for B2B transaction shall need to use HSN at four-digit level or more to achieve uniformity in the reporting system.
- iii. The B2B dealers shall fill invoice wise details of the outward supply made by them while the input tax credit would be calculated automatically by the system based on invoices uploaded by his sellers. Based on these, the system would automatically calculate his tax liability and Input Tax credit availability. Taxpayer should also be given user friendly IT interface and offline IT tool to upload the invoices.
- iv. There would not be any automatic reversal of input tax credit from buyer on non-payment of tax by the seller. In case of default in payment of tax by the seller, recovery shall be made from the seller; however, reversal of credit from buyer shall also be an option available with the revenue authorities to address exceptional situations like missing supplier, closure of business by supplier or supplier not having adequate assets, etc.
- v. Recovery of tax or reversal of input tax credit shall be through a due process of issuing notice and order. The process would be online and automated to reduce human interface.
- vi. Facility of uploading of invoices by a seller to pass input tax credit, who had defaulted in payment of tax above a threshold amount, would be blocked to control misuse of input tax credit facility. Similar safeguards would be built with regard to newly registered taxpayers and analytical tools would be used to identify such transactions at the earliest to prevent loss of revenue.
- vii. There will be a three-stage transition to the new system. In Stage I, the present system of filing of return GSTR-3B and GSTR-1 would continue for a period not exceeding 6 months and GSTR-2 and GSTR-3 would remain suspended. In stage 2, the new return would have facility for invoice-wise data upload and also facility for claiming input tax credit on self-declaration similar to stage I. However, the taxpayer would be constantly fed with information about gap between credit available to him as per invoices uploaded by his sellers and the provisional credit being claimed by him. In stage III, i.e. after 6 months of operation of phase 2, the facility of provisional credit would be withdrawn and input tax credit would be limited to the invoices uploaded by the sellers from whom the taxpayer had purchased goods.

21.2. Return should be simplified by reducing the content/information required to be filled and the details of the design of the return form, business process and legal changes would be worked out by the Law Committee based on above principles.

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Agenda Item 10: Agenda with the permission of Chairperson: Discussion on schedule for intra-State e-way bill implementation

22. Secretary informed that 18 States had already introduced intra-State e-way bill system and its implementation in remaining States was discussed in the Officers' Meeting on 3.5.2018. Officers from Maharashtra, Manipur and all UTs without Legislature had agreed to implement the intra-State e-way bill from 25th May 2018 whereas Chhattisgarh, Goa, Odisha, Mizoram and Punjab had agreed for its implementation from 1st June 2018. He further added that from the point of view of load on the system, there should be at least one day gap between the implementation of e-way bill in big States like Tamil Nadu, Punjab, West Bengal, Odisha, etc. and therefore, he sought the permission of the Council to extend the implementation by two days. Accordingly, he proposed that Tamil Nadu would implement intra-State e-way bill from 2nd June and West Bengal from 3rd June, 2018.

22.1. He further stated that Jammu & Kashmir and NCT of Delhi had yet not indicated the dates. Shri. H. Rajesh Prasad, CCT, Delhi stated that Delhi wanted to remain completely exempted from intra-State e-way bill. Secretary stated that exemption from intra-State e-way bill was not a good idea and it should be implemented though flexibility in the e-way bill system to the extent permitted, could be taken advantage of. Further, prior consultation with the Centre was also required as no State could choose this option unilaterally. He asked the Government of NCT of Delhi to implement the scheme within available flexibility and requested Delhi to indicate the date by which they would implement intra-State e-way bill system. CCT, Delhi assured Secretary that date as approved by Hon'ble Finance Minister of Delhi in consultation with Central GST officers would be informed soon. Shri Shamim Ahmad Wani, CCT, Jammu & Kashmir stated that they would implement it from 28th May 2018. Secretary requested them to join on 01.06.2018 along with five other States and it was agreed. Secretary informed the Council members that all the States would have implemented the intra-State e-way bill scheme by 3rd June 2018.

23. For Agenda Item 10, the Council approved following schedule for implementation of intra-State e-way bill system:

| Sl. No. | State | Date from which to start operation |
|---------|-------------------------------|------------------------------------|
| 1. | Assam | 16.5.2018 |
| 2. | Rajasthan | 20.5.2018 |
| 3. | Maharashtra | 25.05.2018 |
| 4. | Manipur | |
| 5. | All UTs (without Legislature) | |
| 6. | Mizoram | |
| 7. | Odisha | |
| 8. | Punjab | 1.6.2018 |
| 9. | Chhattisgarh | |
| 10. | Goa | |
| 11. | Jammu and Kashmir | |
| 12. | Tamil Nadu | 2.6.2018 |
| 13. | West Bengal | 3.6.2018 |

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| 14. | NCT of Delhi | To confirm the date later in consultation with the Chief Commissioner of Central GST |
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24. Hon'ble Chairperson stated that the date for next meeting of the Council shall be communicated in due course.

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



(Arun Jaitley)
Chairperson, GST Council

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Annexure 1

List of Hon'ble Ministers who attended the 27th GST Council Meeting held on 04.05.2018

| 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 | Assam | Dr. Himanta Biswa Sarma | Finance Minister |
| 4 | Bihar | Shri Sushil Kumar Modi | Deputy Chief Minister |
| 5 | Chhattisgarh | Shri Amar Agrawal | Minister – Dept. of Commercial taxes |
| 6 | Delhi | Shri Manish Sisodia | Deputy Chief Minister |
| 7 | Goa | Shri Mauvin Godinho | Minister for Panchayat |
| 8 | Gujarat | Shri Nitinbhai Patel | Deputy Chief Minister |
| 9 | Haryana | Shri Vipul Goyal | Minster for Industries |
| 10 | Himachal Pradesh | Shri Rajiv Saizal | Minister for Social Justice & Empowerment |
| 11 | Jharkhand | Shri C.P. Singh | Minister – Department of Urban Development, Housing and Transport |
| 12 | Kerala | Dr. T. M. Thomas Isaac | Finance Minister |
| 13 | Maharashtra | Shri Madan Madhukarrao Yerawar | Minister of State of Energy, Tourism, Food & Drugs Administration and GAD |
| 14 | Manipur | Shri Yumnan Joykumar | Deputy Chief Minister |
| 15 | Mizoram | Shri Lalsawta | Finance Minister |
| 16 | Nagaland | Shri Metsubo Jamir | Minister for Urban Development Affairs |
| 17 | Odisha | Shri Shashi Bhusan Behera | Minister – Finance & Excise |
| 18 | Puducherry | Shri V. Narayanasamy | Chief Minister |
| 19 | Punjab | Shri Manpreet Singh Badal | Finance Minister |
| 20 | Rajasthan | Shri Rajpal Singh Shekawat | Minister for industries |
| 21 | Tamil Nadu | Shri D. Jayakumar | Minister for Fisheries and Personnel & Administrative Reforms |
| 22 | Telangana | Shri Etela Rajender | Finance Minister |
| 23 | Tripura | Shri Jishnu Debbarma | Deputy Chief Minister |
| 24 | Uttar Pradesh | Shri Rajesh Kumar Agarwal | Finance Minister |
| 25 | Uttarakhand | Shri Prakash Pant | Finance Minister |
| 26 | West Bengal | Dr. Amit Mitra | Finance Minister |

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Annexure 2

List of Central Govt. Officers who attended 27th GST Council Meeting on 04 May 2018

| Sl No | State/Centre | Name of the Officer | Charge |
|-------|----------------|---------------------------|-------------------------------|
| 1 | Govt. of India | Dr. Hasmukh Adhia | Finance Secretary |
| 2 | Govt. of India | Dr. Arvind Subramanian | CEA |
| 3 | Govt. of India | Ms Vanaja N. Sarna | Chairman, CBIC |
| 4 | GST Council | Shri Arun Goyal | Special Secretary |
| 5 | Govt. of India | Shri Mahender Singh | Member (GST), CBIC |
| 6 | Govt. of India | Dr. John Joseph | Member (Budget), CBIC |
| 7 | GSTN | Dr. A B Pandey | Chairman, GSTN |
| 8 | GSTN | Shri Prakash Kumar | CEO, GSTN |
| 9 | Govt. of India | Shri G. C. Murmu | Additional Secretary, DoR |
| 10 | Govt. of India | Shri P.K. Mohanty | Advisor (GST), CBIC |
| 11 | Govt. of India | Shri P.K. Jain | DG, DG-Audit |
| 12 | Govt. of India | Shri Sandeep M. Bhatnagar | DG, DG-Safeguards, CBIC |
| 13 | Govt. of India | Shri Alok Shukla | Joint Secretary (TRU I), DoR |
| 14 | Govt. of India | Shri Amitabh Kumar | Joint Secretary (TRU II), DoR |
| 15 | Govt. of India | Shri Upender Gupta | Commissioner (GST), CBIC |
| 16 | Govt. of India | Shri Ritvik Pandey | Joint Secretary, DoR |
| 17 | Govt. of India | Shri Manish Kumar Sinha | Commissioner (Ce.Ex), CBIC |
| 18 | Govt. of India | Shri G.D. Lohani | OSD, TRU I |
| 19 | Govt. of India | Shri N. Gandhi Kumar | Deputy Secretary, DoR |
| 20 | Govt. of India | Shri Debashis Chakraborty | OSD to Finance Secretary |
| 21 | GST Council | Shri Dheeraj Rastogi | Joint Secretary |
| 22 | GST Council | Shri Rajesh Kumar Agarwal | Additional Commissioner |
| 23 | GST Council | Shri G.S. Sinha | Joint Commissioner |
| 24 | GST Council | Shri Rahul Raja | Under Secretary |
| 25 | GST Council | Shri S. Mahesh Kumar | Under Secretary |
| 26 | CGST | Shri P.K. Goel | Commissioner, Dehradun |
| 27 | CGST | Shri Viney Kumar Paul | Commissioner, Guwahati |

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List of Officers of State Governments who attended the 27th GST Council Meeting held on 04.05.2018

| Sl No | State | Name of the Officer | Charge |
|-------|------------------|-----------------------------|--|
| 1. | Andhra Pradesh | Dr D.Sambasiva Rao | Special Chief Secretary, Revenue |
| 2. | Andhra Pradesh | Shri J.Syamala Rao | Chief Commissioner, CT |
| 3. | Andhra Pradesh | Shri Ramesh Babu | Addl. Commissioner, CT |
| 4. | Andhra Pradesh | Shri D.Venkateshwar | OSD (GST) |
| 5. | Assam | Shri V.B. Pyarelal | Addl. Chief Secretary (Finance) |
| 6. | Assam | Shri Anurag Goel | Commissioner, CT |
| 7. | Bihar | Smt. Sujata Chaturvedi | Principal Secretary, Finance & CT |
| 8. | Bihar | Shri Arun Kumar Mishra | Additional Secretary, CTD |
| 9. | Bihar | Dr. Pratima | Commissioner Cum Secretary, CT |
| 10. | Chhattisgarh | Shri Amitabh Jain | Principal Secretary Finance & CT |
| 11. | Chhattisgarh | Smt Sangeetha P | Commissioner, CT |
| 12. | Delhi | Shri H. Rajesh Prasad | Commissioner, State Tax |
| 13. | Goa | Shri Dipak Bandekar | Commissioner, CT |
| 14. | Gujarat | Shri Arvind Agarwal | Addl. Chief Secretary |
| 15. | Gujarat | Shri Sanjiv Kumar | Secretary (Economic Affairs) |
| 16. | Haryana | Smt Ashima Brar | E&T Commissioner |
| 17. | Haryana | Shri Vijay Kumar Singh | Addl. ETC |
| 18. | Haryana | Shri Rajeev Chowdhary | Jt. ETC |
| 19. | Himachal Pradesh | Shri Jagdish Chander Sharma | Principal Secretary (Excise & Taxation) |
| 20. | Himachal Pradesh | Shri Sanjay Bhardwaj | Addl. Commissioner (Gr.I.) |
| 21. | Jammu & Kashmir | Dr. Shamim Ahmad Wani | Commissioner, CT |
| 22. | Jammu & Kashmir | Shri Waseem Raza | Dy. Commissioner, CT |
| 23. | Jharkhand | Shri K.K. Khandelwal | Principal Secretary-Cum-Commissioner, CT |
| 24. | Jharkhand | Shri Ajay Kumar Sinha | Addl. Commissioner of State Taxes |
| 25. | Karnataka | Shri Srikar M.S. | Commissioner, CT |
| 26. | Kerala | Dr. Rajan Khobragade | Commissioner, State GST Dept. |
| 27. | Madhya Pradesh | Shri Manoj Govil | Principal Secretary |
| 28. | Madhya Pradesh | Mrs. Shanmuga Priya Mishra | Addl. Commissioner, CT |
| 29. | Madhya Pradesh | Shri Sudip Gupta | Jt. Commissioner, CT |
| 30. | Maharashtra | Shri Rajiv Jalota | State Tax Commissioner |

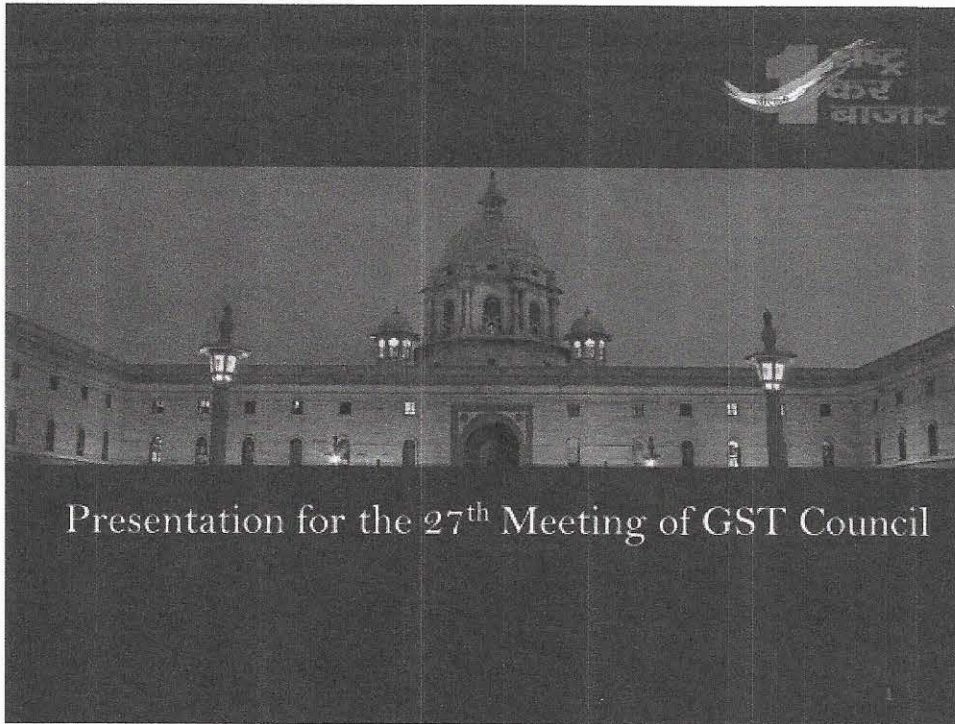
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| | | | |
|-----|---------------|----------------------------|--|
| 31. | Maharashtra | Shri Dhananjay Akhade | Jt. Commissioner, State Tax |
| 32. | Manipur | Shri Hrisheekesh Modak | Commissioner, CT |
| 33. | Meghalaya | Shri L. Beimoipha | Jt. Commissioner, CT |
| 34. | Meghalaya | Shri K. War | Asstt. Commissioner |
| 35. | Meghalaya | Shri A.M. Paul | Asstt. Commissioner |
| 36. | Meghalaya | Shri G.G. Marbaniang | Asstt. Commissioner |
| 37. | Meghalaya | Shri B.Wahlang | Asstt. Commissioner |
| 38. | Meghalaya | Shri P. Hadem | Scientist E, NIC |
| 39. | Mizoram | Shri Vanlalchhuanga | Secretary |
| 40. | Mizoram | Shri L. H. Rosanga | Commissioner (State Taxes) |
| 41. | Odisha | Shri Tuhin Kanta Pandey | Principal Secretary Finance |
| 42. | Odisha | Shri Saswat Mishra | Commissioner, CT |
| 43. | Odisha | Shri Sahadev Sahoo | Addl. Commissioner, CT |
| 44. | Puducherry | Dr. V. Candavelou | Secretary (Finance) |
| 45. | Puducherry | Shri G. Srinivas | Commissioner (ST) |
| 46. | Punjab | Shri V.K Garg | Advisor (Finance) |
| 47. | Rajasthan | Shri Praveen Gupta | Secretary Finance (Revenue) |
| 48. | Rajasthan | Shri Alok Gupta | Commissioner, CT |
| 49. | Rajasthan | Ms Meenal Bhosle | OSD, Finance |
| 50. | Sikkim | Smt. Dipa Basnet | Secretary, CT |
| 51. | Sikkim | Shri Manoj Rai | Jt. Commissioner, CT |
| 52. | Tamil Nadu | Dr. T.V Somanathan | Commissioner, CT |
| 53. | Tamil Nadu | Shri Balachandran | Secretary |
| 54. | Tamil Nadu | Shri Gnana Sekaran | Addl. Commissioner |
| 55. | Telangana | Shri Somesh Kumar | Principal Secretary (Revenue) |
| 56. | Telangana | Shri Anil Kumar | Commissioner (CT) |
| 57. | Telangana | Shri Laxminarayan Jannu | Addl Commissioner |
| 58. | Tripura | Shri Pravin Srivastava | Chief Resident Commissioner, Tripura Bhavan |
| 59. | Uttar Pradesh | Shri Alok Sinha | Addl. Chief Secretary, CT |
| 60. | Uttar Pradesh | Ms Kamini Chauhan Ratan | Commissioner, CT |
| 61. | Uttar Pradesh | Shri Muktinath Verma | Joint Secretary |
| 62. | Uttar Pradesh | Shri Vivek Kumar | Addl. Commissioner, CT |
| 63. | Uttarakhand | Smt. Sowjanya | Commissioner, State Tax |
| 64. | Uttarakhand | Shri Piyush Kumar | Additional Commissioner of State Tax |
| 65. | West Bengal | Shri Khalid A Anwar | Senior Joint Commissioner |

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Annexure 3




Agenda



- Deemed Ratification of Notifications / Circulars etc.
- Decisions taken by GIC
- Issues for approval of GST Council

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Agenda Note No. 2 : Ratification of Notifications, Circulars & Orders 

- Ratification of following notifications, circulars & orders issued after 26th GST Council meeting :

| Act/Rules | Type | Notification / Circular / Order Nos. |
|-----------|----------------------------|--------------------------------------|
| CGST Act | Central Tax | 14 to 21 of 2018 |
| | Central Tax (Rate) | 10 of 2018 |
| IGST Act | Integrated Tax (Rate) | 11 of 2018 |
| UTGST Act | Union territory Tax | 02 to 06 of 2018 |
| | Union territory Tax (Rate) | 10 of 2018 |
| Circulars | CGST Act | 36 to 43 of 2018 |
| Orders | CGST Act | 01 & 02 of 2018 |

Agenda Note No. 3 : Decisions of GIC post 10.03.2018 (1/5) 

- **Decisions in 14th GIC Meeting (19.03.2018)**
 - Amendment in rule 45 of the CGST Rules, 2017 to provide for the movement of goods from one job-worker to another job-worker under the cover of challan
 - ✓ Notification No. 14/2018 – CT dated 23.03.2018 issued
 - Extension of present system of filing of **FORM GSTR 3B** for April to June, 2018
 - ✓ Notification No. 16/2018 – CT dated 23.03.2018 issued
 - Clarification on issues regarding job work provisions
 - ✓ Circular No. 38/12/2018-GST dated 26.03.2018 issued

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Agenda Note No. 3 : Decisions of GIC post 10.03.2018 (2/5)

• Decisions in 15th GIC Meeting (26.03.2018)


- Clarification on issues regarding grievances of taxpayers due to technical glitches on GST Portal & setting up of an IT Grievance Redressal Mechanism
 - ✓ Circular No. 39/13/2018-GST dated 03.04.2018 issued
- Extension of due date of filing of **FORM GSTR 1** for April to June, 2018
 - ✓ Notification No. 17/2018 & 18/2018 – CT both dated 28.03.2018 issued
- Clarification on complexities existing in supply of food and/or drinks in the railways
 - ✓ Order No. 02/2018-GST dated 31.03.2018 issued

Agenda Note No. 3 : Decisions of GIC post 10.03.2018 (3/5)

• Decisions in 15th GIC Meeting (26.03.2018 Contd...)

- Extension of time limit for filing refund claims by UIN, CSD and other persons notified under section 55 of the CGST Act
 - ✓ Notification No. 20/2018 – CT dated 28.03.2018 issued
- Extension of due date for filing the return in **FORM GSTR-6** by an Input Service Distributor
 - ✓ Notification No. 19/2018 – CT dated 28.03.2018 issued
- Extension of due date for filing of **FORM GST TRAN-2**
 - ✓ Order No. 01/2018-GST dated 28.03.2018 issued


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Agenda Note No. 3 : Decisions of GIC post 10.03.2018 (3/5) 

- **Decisions in 15th GIC Meeting (26.03.2018 Contd...)**
 - Extension of time limit for filing refund claims by UIN, CSD and other persons notified under section 55 of the CGST Act
 - ✓ Notification No. 20/2018 – CT dated 28.03.2018 issued
 - Extension of due date for filing the return in **FORM GSTR-6** by an Input Service Distributor
 - ✓ Notification No. 19/2018 – CT dated 28.03.2018 issued
 - Extension of due date for filing of **FORM GST TRAN-2**
 - ✓ Order No. 01/2018-GST dated 28.03.2018 issued

Agenda Note No. 3 : Decisions of GIC post 10.03.2018 (4/5) 


- **Decisions in 16th GIC Meeting (10.04.2018)**
 - Notification of Final Return to be filed in **FORM GSTR- 10**
 - Amendment in Rule 89(5) of the CGST Rules, 2017
 - Amendment in **FORM GST DRC- 07**
 - Amendment in Rule 97 of the CGST Rules, 2017
 - ✓ Notification No. 21/2018 – CT dated 28.03.2018 issued
 - Early roll out of e-way bill for intra-State movement of goods in the State of Tripura
 - Clarification on issues related to furnishing of Bond/Letter of Undertaking for exports (**Post-facto approval**)
 - ✓ Circular No. 40/14/2018-GST dated 06.04.2018 issued

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Agenda Note No. 3 : Decisions of GIC post 10.03.2018 (5/5) 

- **Decisions in 16th GIC Meeting (10.04.2018 Contd...)**
 - Clarification on one-time waiver of recording UINs on Invoices for getting refunds for the quarters of July-Sep 2017, Oct-Dec 2017 & Jan-Mar 2018
 - ✓ Circular No. 43/17/2018-GST dated 13.04.2018 issued
 - Clarification on procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances
 - ✓ Circular No. 41/15/2018-GST dated 13.04.2018 issued
 - Clarification on the procedure for recovery of arrears under the existing law & reversal of inadmissible ITC
 - ✓ Circular No. 42/16/2018-GST dated 13.04.2018 issued
 - Waiver of late fee paid by taxpayers on filing of **FORM GSTR-3B** due to delayed filing of **FORM GST TRAN-1**

Agenda Note No. 5: Applicability of IGST on goods supplied while in Customs Warehouse 

| S. No. | Clarification | Rationale / Reason |
|--------|--|---|
| 1 | Circular on clarification regarding applicability of IGST on goods supplied while being deposited in a warehouse | <ul style="list-style-type: none"> • Method of valuation for ex-bond clearance B/E has been amended vide Section 102 of the Finance Act, 2018 so as to capture any value addition due to sale/transfer within the Custom bonded Warehouse • In-principle approval to declare these supplies as 'no supply' under Schedule III of the CGST Act, 2017, has already been granted by the GSTC in its 25th Meeting held on 18.01.2018 • Proposal <ul style="list-style-type: none"> ✓ Circular No. 46/2017- Customs dated 24.11.2017 may be rescinded ✓ Fresh circular may be issued so as to clarify that supply of warehoused goods before their clearance would not be subject to IGST |

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Annexure 4

Return Design - Fusion Model

- Periodicity of return
- Flow of documents and information
- Transition
- Provisional input tax Credit
- Credit matching
- Partial Payment of tax
- Other steps for simplification

Periodicity of return & Flow of documents

- All taxpayers to file monthly return except composition dealers and NIL returns which would be quarterly.
- Staggering of the dates of returns - Large taxpayers by 20th, Small by 25th and Nil quarterly.
- Unidirectional flow of documents from seller with continuous upload of invoice with viewing and locking by the buyer to control input tax credit.
- Locking may be deemed to reduce compliance.

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Transition to be in three stages

- **Stage 1:** GSTR 3B + GSTR 1 plus any extra information to close cycle.
- **Stage 2:** GSTR 3B+ new return.
- Provisional Credit available. (Information on missing and rejected invoices/credit thereon may be collected and cost imposed to expedite transition) .
- **Stage 3:** Only the new return.
- GSTR 3B withdrawn and provisional credit comes to an end.

Recovery of tax and reversal of credit

- There shall be not be any automatic reversal of credit.
- In case of non-payment of tax, recovery shall be first made from the seller.
- Where recovery is not feasible due to seller being missing or assets not being available, reversal of credit shall be carried out.
- Both recovery of tax from seller or reversal of credit from buyer shall be based on notice and order.
- To control non-payment of tax, upload of invoice shall be controlled by making rules. Analytics to be used to identify new registrants with high risk and build safeguards to control credit.


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Other simplification measures

- Content of the return to be reviewed.
- HSN to be uniformly collected on invoices at four digit level.
- Partial payment of tax to be considered to the extent possible.
- MIS on credit gap and declared liability gap to be shown to the taxpayer and shared with the tax administration.
- Details on above principles to be worked out by the law committee.

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