MINUTE BOOK

Minutes of the 54th Meeting of the GST Council held on 09th September, 2024 at New Delhi

The 54th meeting of the GST Council was held on 09th September, 2024 under the Chairpersonship of the Hon'ble Union Finance Minister, Smt. Nirmala Sitharaman at Sushma Swaraj Bhawan, New Delhi. The list of Hon'ble Members of the Council who attended the meeting is at **Annexure-1**. The list of the officers of the Centre, States, Union Territories, GST Council Secretariat and GSTN who attended the meeting is at **Annexure-2.**

1.2 The following agenda items were listed for discussion in the 54th meeting of the GST Council:

S.No.	Agenda Item
1.	Confirmation of Minutes of the 53rd GST Council Meeting held on 22nd June, 2024
2.	Deemed ratification by the GST Council of the Notifications and Circulars issued by the Central Government and decisions of GST Implementation Committee for the information of the Council.
3.	Issues recommended by the **Law Committee** for the consideration of the GST Council
	i) Clarification on refund of IGST paid on exports under rule 96(10) of the CGST Rules, 2017 and amendments in Rule 89 and Rule 96 of CGST Rules, 2017
	ii) Clarification on the place of supply of advertising services provided to foreign entities
	iii) Amendment in CGST Rules, 2017
	I Consequential Amendment in Form REG-20 & REG-31 due to amendment in Rules 10A, 21 (h) and 21(i)
	II Agenda to modify FORM INS-01 on account of replacement of IPC, 1860 with BNS, 2023
	III Consequential rule and form amendments subsequent to insertion of Section 74A of CGST Act, 2017
	iv) Clarification regarding the availability of Input Tax Credit on demo vehicles by the dealers of the vehicle manufacturers
	v) Providing a mechanism for implementing sub-sections (5) and (6) of Section 16 of the CGST Act, 2017.
	vi) Clarification on the place of supply in case of data hosting services provided by service providers located in India to cloud computing service providers located outside India.

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	vii) Consequential amendments required in CGST Rules, 2017 and relevant forms subsequent to insertion of Section 128A and clarification on various related issues
4.	Recommendations of the **Fitment Committee** for the consideration of the GST Council
	a) Recommendations made by the Fitment Committee for making changes in GST rates or for issuing clarifications in relation to goods (5 issues) — Annexure-I
	b) Issues where no change has been proposed by the Fitment Committee in relation to goods (7 issues) — Annexure-II
	c) Recommendations made by the Fitment Committee for making changes in GST rates or for issuing clarifications in relation to services (20 issues) — Annexure-IV
	d) Issues where no change has been proposed by the Fitment Committee in relation to services (15 issues)– Annexure-V
	e) Issues which have been proposed by the Fitment Committee for deferring in relation to services (9 issues)- Annexure-VI
	f) Agenda note on review of 51st GST Council meeting's recommendation to amend GST laws to provide clarity on the taxation of supplies in casinos, horse racing and online gaming.
	g) Issuance of circular clarifying the scope of the phrase ' as is where is basis'
	h) Report of Committee of Officers on Taxation of Extra-Neutral Alcohol under GST for the past period (from 1.7.2017 to 20.10.2023)
	i) Status update on Group of Ministers (GoM) on Rate Rationalization
	j) Status update on Group of Ministers (GoM) on boosting real estate sector under GST regime
5.	Recommendations of the 21st meeting of the IT Grievance Redressal Committee for approval/ decision of the GST Council
6.	Performance Report of the Competition Commission of India (CCI), State Level Screening Committee (SLSC) and DG (Anti- Profiteering) for 1st quarter of the F.Y 2024-25 along with Performance Report of Standing Committee (SC) for 3rd quarter and 4th quarter of F.Y. 2023-24 and 1st quarter of F.Y 2024-25 for the information of the Council.
7.	Issues recommended by GSTN
	(a) Integration of UPI, Credit Cards and Debit Card Payment Option by Accounting Authorities

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	(b) B2C e-Invoicing Pilot Project
	(c) Enhancement in the existing GST Return Architecture
8.	(a) Review of revenue position under Goods and Services Tax
	(b) Status update on Compensation Cess
	(c) IGST Settlement
	(d) GST Appellate Tribunal - Issues for approval
	(e) Sharing of personally Identifiable Information of Taxpayers with other Ministries/ Departments
9.	Ad-hoc Exemptions Orders issued under Section 25(2) of the Customs Act, 1962 to be placed before the GST Council for information.
10.	Any other agenda item with the permission of the Chairperson

1.3 The Secretary to the GST Council (hereinafter called 'The Secretary'), welcomed all the Hon'ble Members of the Council and participating officers to the 54th meeting of the GST Council. He extended greetings to Smt. Aditi Tatkare, Hon'ble Minister for Women & Child Development, Maharashtra to her first GST Council meeting.

1.4 The Secretary informed the Council that the agenda for 54th Council meeting was discussed in detail during the Officers' Meeting on the previous day which would immensely benefit the Council in its deliberations.

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

2. <u>Agenda item 1: Confirmation of Minutes of the 53rd GST Council Meeting held on 22nd June, 2024</u>

2.1 Joint Secretary, GST Council Secretariat (GSTCS) informed the Council that the draft minutes of the 53rd GST Council meeting were circulated to all the States. She stated that during the Officers' Meeting held on 08th September, 2024 certain changes to the draft minutes were suggested by the state of Tamil Nadu and GST Policy Wing, CBIC which were agreed to and accordingly an Addendum to the Agenda for the 54th GST Council Meeting had been circulated during the Council meeting.

2.2 The Council took note of the changes proposed through the Addendum to the

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minutes of the 53rd GST Council meeting. The Secretary requested the Council to adopt the minutes of the 53rd meeting of the GST Council.

Decision: The Council adopted the Minutes of the 53rd meeting of the GST Council held on 22nd June, 2024.

3. Agenda Item 2: Deemed ratification by the GST Council of the Notifications and Circulars issued by the Central Government and decisions of GST Implementation Committee for the information of the Council

3.1 The Secretary took up the next item of agenda pertaining to the deemed ratification by the GST Council of the Notifications and Circulars issued by the Central Government and decisions of GST Implementation Committee for the information of the Council.

3.2 Pr. Commissioner, GST Policy Wing stated that based on recommendations of the 53rd GST Council Meeting, 5 Central Tax Notifications, 3 Central Tax (Rate) Notifications, 1 Integrated Tax Notification, 3 Integrated Tax (Rate) Notifications, 1 Union Territory Tax Notification, 3 Union Territory Tax (Rate) Notifications and 1 Compensation Cess (Rate) Notification had been issued from 14.06.2024 till 17.08.2024. Further, 22 Circulars under the CGST Act had been issued during the said period.

3.3 The Secretary requested the Council to ratify the Notifications and Circulars issued.

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

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

The Secretary took up the next agenda which were issues recommended by the Law Committee for the consideration of the GST Council. He informed that these agendas were discussed in detail in the Officers' meeting held on 08th September,2024 and that there was an agreement among the officers on most of the issues.

Agenda Item 3(i): Clarification on refund of IGST paid on exports under rule 96(10) of the CGST Rules, 2017 and amendments in Rule 89 and Rule 96 of CGST Rules, 2017.

4.1 Pr. Commissioner, GST Policy Wing stated that representations have been received from trade and industry requesting for clarification on restriction imposed vide rule 96(10) of the Central Goods & Services Tax Rules, 2017 (hereinafter referred to as the CGST Rules) in respect of availment of the refund of IGST on goods exported if benefits of certain concessional/exemption notifications have been availed on inputs/raw materials imported or procured domestically.

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4.2 Pr. Commissioner, GST Policy Wing informed that the Law committee had deliberated on the following two issues:

Issue 1: Regularization of refund of IGST in cases where the exporters had imported certain inputs without payment of integrated taxes and compensation cess by availing the benefits under notification No. 78/2017- Customs dated 13.10.2017 or notification No. 79/2017-Customs dated 13.10.2017 and are now ready to pay the said IGST and compensation cess amount, along with interest:

The Law Committee recommended that a clarification may be issued through a Circular that in such cases, where the inputs were initially imported without payment of integrated tax and compensation cess by availing benefits under notification No. 78/2017-Customs dated 13.10.2017 or notification No. 79/2017- Customs dated 13.10.2017, but subsequently, IGST and compensation cess on such imported inputs is paid at a later date, along with interest, and the Bill of Entry in respect of the import of the said inputs is got reassessed through the jurisdictional Customs authorities to this effect, then the refunds of IGST sanctioned may be considered to be regularized in light of the explanation to rule 96 (10) of CGST Rules.

Issue 2: Review of the provisions of rule 96 (10) & rule 89 (4A) and rule 89 (4B) of CGST Rules:

The Law Committee observed that operation of rule 96(10) is leading to unnecessary complications without any intended benefit being served and therefore recommended that rule 96(10), rule 89(4A) & rule 89(4B) of the CGST Rules,2017 may be omitted with prospective effect and that consequential amendments in clause (b) of sub-rule (4B) of rule 86, clause B, clause C and clause E of sub-rule (4) of rule 89 and Explanation (a) to sub-rule (5) of rule 89 of CGST Rules may be made.

The Law Committee also recommended that after the proposed deletion of rule 89(4A) and 89(4B) of CGST Rules, 2017, in the cases where the benefit of concessional/ exemption notifications which were specified in rule 96 (10) or rule 89 (4A) or (4B) had been availed on inputs imported or procured domestically, the refund on account of exports can be claimed through the IGST refund route under rule 96 of the CGST Rules, 2017 or as refund of accumulated Input Tax Credit (ITC) under rule 89(4) of CGST Rules.

Decision-The Council agreed with the recommendations of the Law Committee to omit rule 96(10), rule 89(4A) & rule 89(4B) and forthe consequential amendment in clause (b) of sub-rule (4B) of rule 86, clause B, clause C and clause E of sub-rule (4) of rule 89 and Explanation (a) to sub- rule (5) of rule 89 of CGST, Rules, 2017 along with proposed circular.

<u>Agenda Item 3(ii): Clarification on the place of supply of advertising services provided to foreign entities.</u>

4.3 Pr. Commissioner, GST Policy Wing informed that representations have been received from trade and industry requesting for clarification regarding place of supply of

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the advertising services being provided by Indian advertising companies/agencies to foreign entities, as they are denied export benefits considering the place of supply of the said services as within India.

4.4 He informed that the Law Committee broadly examined the following issues and recommended as follows:

Issue No 1: Whether the advertising company can be considered as an intermediary between the foreign client and the media owners in terms of section 2(13) of IGST Act, 2017 thereby resulting in determination of place of supply under section 13(8)(b) of the IGST Act, 2017?

The advertising company is involved in the main supply of advertising services, including resale of media space to the foreign client, on principal-to-principal basis as detailed above and does not appear to fulfil the criteria of "intermediary" under section 2(13) of the IGST Act and the said circular dated 20.09.2021. Thus, the advertising company cannot be considered as "intermediary" in such a scenario and accordingly, the place of supply in the instant matter cannot be determined as per section 13(8)(b) of the IGST Act. However, in cases where advertising company acts merely as an agent of foreign client for arranging media space from media owner, and does not provide services on principal-to-principal basis, the advertising company would be treated as "intermediary" in accordance with section 2(13) of IGST Act and place of supply of such services provided by the advertising company would be determinable as per section 13(8)(b) of IGST Act, i.e., the place of location of the advertising company.

Issue No 2: Whether the representative of foreign client in India or the target audience of the advertisement in India can be considered as *"recipient"* of the services being supplied by the advertising company under section 2(93) of CGST Act, 2017?

As, the foreign client is liable to pay the consideration to advertising company for the supply of advertising services, the recipient of the advertising services provided by the advertising company is the foreign client, and not the Indian representative of the foreign client based in India or the target audience of the advertisements in India as per section 2(93) of CGST Act, 2017.

Issue No 3: Whether the advertising services provided by the advertising companies to foreign clients can be considered as performance-based services as per section 13(3) of the IGST Act, 2017?

The services being provided by the advertising company are neither in respect of goods being made physically available by the recipient of services, nor require physical presence of the recipient with the advertising company for availing such services, and accordingly, **such services cannot be considered as performance based services** under section 13(3) of IGST Act. Accordingly, the place of supply of such advertising services does not appear to be covered under any of the provisions of sub-sections (3) to (13) of the Section 13 of the IGST Act, 2017, and therefore, place of supply of the such advertising services shall be the location of the said foreign client, i.e., outside India, as per Section 13(2) of IGST Act, 2017.

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Decision: The Council agreed with the recommendation of the Law Committee with regard to clarification on the place of supply of advertising services provided to foreign entities along with the proposed circular.

Agenda Item 3(iii): Amendment in CGST Rules, 2017.

Agenda 3(iii) (I) : Consequential Amendment in Form REG-20 & REG-31 due to amendments in Rules 10A, 21 (h) and 21(i) of CGST Rules, 2017.

4.5 Pr. Commissioner, GST Policy Wing stated that the Law Committee has recommended amendments in **FORM GST REG-20** & **FORM GST REG-31** to align the same with the current GST Act/Rules.

4.6 He informed that in the discussions during the Officers' meeting, the State of Punjab has suggested that in the relevant GST Rules for FORM REG-20, the number of days within which the bank details have to be submitted by the registered person may be reduced from the existing 30 days to 15 days post registration. However, such changes need amendment to the rules and it would be examined in detail by the Law Committee. He, therefore, had requested the State of Punjab to submit a proposal in this regard to the Law Committee for examination.

4.7 Pr. Commissioner, GST Policy Wing further informed that during the officers' meeting, the State of Tamil Nadu has suggested that in FORM GST REG-31, the words 'jurisdictional officer' and 'jurisdictional tax officer' may be replaced with the words 'jurisdictional proper officer' in order to align the same with the Act. He stated that the changes suggested by the state of Tamil Nadu would require changes at several places and correcting at one place would not serve the purpose. However, as the anomaly has been brought to the notice, in order to ensure standardization and uniformity, the issue will be examined separately by the Law Committee in detail and shall be brought before the Council as soon as it is examined.

Decision: The Council agreed with the proposed amendments recommended by Law Committee in FORM GST REG-20 and FORM GST REG-3.1. The issues raised by the states of Tamil Nadu and Punjab to be examined separately.

Agenda 3(iii) (II) : Amendment in FORM INS-01 in the light of enactment of Bharatiya Nyaya Sanhita (BNS), 2023

4.8 Pr. Commissioner, GST Policy Wing informed that the Law Committee proposed amendment in **FORM GST INS-01** to replace the references to various sections of the Indian Penal Code (IPC), 1860 in the said form with that of Bharatiya Nyaya Sanhita (BNS), 2023 and recommended that the proposed changes in Form GST INS-01 are necessary to reflect the provisions of BNS, 2023.

Decision: The Council agreed with the proposed amendments recommended by Law Committee in Form GST INS-0.

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Agenda 3(iii) (III): Amendment in Rules and Forms due to insertion of section 74A in CGST Act, 2017

4.9 Pr. Commissioner, GST Policy Wing informed that subsequent to the insertion of Section 74A in the CGST Act, 2017, the Law Committee recommended consequential amendments in rule 36(3), rule 88B(1), rule 88D(3), rule 96B(1), rule 121 and rule 142 of the CGST Rules, 2017 and FORM GST DRC-01A.

4.10 The Law Committee also recommended that in the dropdown option for *"Section / sub-section under which SCN is being issued"* in FORM GST DRC-01 on the common portal, options for 'Issuance of demand under section 74A(1) read with section 74A(5)(i)' and also for 'Issuance of demand under section 74A(1) read with section 74A(5)(ii)' may be provided, so that the data regarding the number and notices issued under section 74A invoking charges of fraud, willful misstatement, suppression of facts etc. and those not invoking those charges is readily available for MIS.

Decision: The Council agreed with the recommendations of the Law Committee along with proposed amendments in rule 36(3), rule 88B(1), rule 88D(3), rule 96B(1), rule 121 and rule 142 of the CGST Rules, 2017 and FORM GST DRC-01A.

Agenda Item 3(iv): Clarification on availability of input tax credit in respect of Demo vehicles.

4.11 Pr. Commissioner, GST Policy Wing stated that representations have been received from trade and industry for issuance of clarification regarding availability of input tax credit (ITC) on Demo vehicles, as divergent views have been taken in multiple advance rulings due to varied interpretation of provisions of sub-clause (A) of clause (a) of section 17(5) of CGST Act, 2017 on the same matter.

4.12The issue was deliberated by the Law Committee and it recommended to clarify the following issues through issuance of a Circular:

1. Availability of input tax credit on Demo vehicles, which are motor vehicles for transportation of passengers having approved seating capacity of not more than 13 persons (including the driver), in terms of clause(a) of section 17(5) of CGST Act.

2. Availability of input tax credit on Demo vehicles in respect of capitalization of such vehicles in books of account by the authorized dealers.

4.13 The Law Committee recommended that when demo vehicles are used by authorized dealers to provide trial run and to demonstrate features of the vehicles to potential buyers with the aim of promoting the sale of similar motor vehicles, they may be considered as being used for the purpose of making a "further supply of such motor vehicles." As a result, input tax credit on demo vehicles is not blocked for dealers under clause (a) of section 17(5) of the CGST Act, as it is excluded from such blockage in terms of sub-clause (A) of the said clause. However, if the dealer merely acts as an agent

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or service provider for the vehicle manufacturer, offering marketing services or providing test drive facilities to potential customers on behalf of the manufacturer without directly engaging in the sale or purchase of vehicles, in such cases the dealer is not making the supply of motor vehicles on his own account. Therefore, the demo vehicles purchased by the dealer cannot be considered as being used for making a "further supply of such motor vehicles." Accordingly, the Law Committee has recommended that in such cases, input tax credit on Demo vehicles would not be available to the dealer, in accordance with section 17(5)(a) of the CGST Act.

4.14 The Law committee has also opined that availability of input tax credit on Demo vehicles is not affected by way of capitalization of such vehicles in the books of account of the authorized dealers, subject to other provisions of the Act i.e. section 16(3) of CGST Act, 2017.

4.15 Pr. Commissioner, GST Policy Wing further stated that during the Officers' meeting held on 08.09.2024, it was generally agreed that there may be a need for a comprehensive review of the provisions under Section 17(5) of the CGST Act, which pertain to the blocking of input tax credit (ITC). While this review is not required immediately, the need for it has been highlighted by multiple requests and observations.

Decision: The Council agreed with the recommendations of the Law Committee with regard to clarification on availability of input tax credit in respect of Demo vehicles along with the proposed Circular.

Agenda Item 3(v): Implementation of provisions of sub-section (5) and sub- section (6) in section 16 of CGST Act.

4.16 Pr. Commissioner, GST Policy Wing stated that the GST Council in its 53rd meeting recommended to retrospectively amend section 16 of the CGST Act, 2017 with effect from 01.07.2017:

a) to provide that the time limit to avail input tax credit under Section 16(4) of CGST Act, through any FORM GSTR 3B filed till 30/11/2021 for the financial years 2017-18, 2018-19, 2019-20 and 2020-21, be deemed to be 30.11.2021 and

b) to allow for relaxation of conditions under Section 16(4) of the Act, in cases where the returns for the period from the date of cancellation of registration/effective date of cancellation of registration till the date of revocation of cancellation of registration are filed after revocation of cancellation of registration.

It was also recommended that no refund of tax already paid, or input tax reversed would be allowed on account of these retrospective amendments.

4.17 He further informed that in order to implement the above recommendations of the Council, sub-section (5) and sub-section (6) have been inserted in section 16 of CGST Act, 2017 vide section 118 and 150 of the Finance (No. 2) Act, 2024. These provisions are, however, yet to be notified.

4.18 Pr. Commissioner, GST Policy Wing stated that several representations have

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been received from trade and industry requesting for clarification in respect of various issues pertaining to availment of benefit of the said amendments in section 16 of CGST Act, to the taxpayers against whom demands have been issued alleging wrong availment of input tax credit in contravention of provisions of sub-section (4) of section 16 of CGST Act, who are now entitled to avail the said input tax credit as per the retrospectively inserted provisions of sub-section (5) or sub-section (6) of section 16 of the CGST Act. It has further been requested that in respect of cases where the appeals have either not been filed against demand orders/ appellate orders or the time to file appeal against the said orders has already expired, the benefit of the inserted provisions may be made available without the need for filing appeals, or without requirement of payment of pre- deposit for filing appeals for vacating the demands already created. It has been represented that denial of benefit in cases where time for filing of appeals is already over, or demanding pre-deposit for filing appeals in such cases would defeat the purpose of said relief being provided through the said sub-sections and would not only result in locking of the funds of the taxpayers but would also result in subsequent workload of tax officers in processing the refund applications in respect of such pre-deposits paid.

4.19 Law Committee examined the issue and observed that different scenarios may emerge where relief under sub-section (5) or sub-section (6) of section 16 of CGST Act may be available to the taxpayers and to implement the said provision, Law Committee made the following recommendations:

a. As provisions of sub-section (5) and sub-section (6) of section 16 of the CGST Act are to come into force retrospectively with effect from 1st July, 2017, section 118 and 150 of the Finance (No. 2) Act, 2024, may be notified by the Central Government at the earliest with the recommendations of the Council. Whenever the States will notify the concerned provisions in their respective SGST Acts, the same will also come into effect from 1st July, 2017. This will help in early implementation of the intended relief being provided to the taxpayers through the insertion of said provisions.

b. In respect of cases, where demand notice has not been issued; or where demand notice has been issued but order has not been passed by the adjudicating authority; or where order has been passed by the adjudicating authority and appeal has been filed but no appeal order has been passed; or where order has been passed by the adjudicating authority and revision proceedings have been initiated but no order has been passed by the revisional authority, the concerned proper officer/ adjudicating officer/ appellate authority/ revisional authority may decide the case by taking into consideration the said provisions of sub-section (5) and sub-section (6) of section 16 of CGST Act.

c. In respect of cases, where demand order has been issued confirming the demand but where no appeal has been filed with the appellate authority yet, or where appeal order has been issued by the appellate authority or order has been issued by the revisional authority but no appeal has been filed with Appellate Tribunal yet, and the benefit of sub-section (5) and sub-section (6) of section 16 of CGST Act is now available, a special procedure for rectification of the said orders under section 148 of the CGST Act to be followed by such class of taxable persons may be notified. The said special procedure may provide for filing of such application for rectification of order within a period of six

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months from the date of issuance of the said notification and the proper officer may be required to take a decision on the said application for rectification and issue the order within a period of three months from the date of filing of application for rectification, as far as possible. Whenever the States will notify the said provisions of sub-section (5) and sub-section (6) of section 16 in their respective SGST Acts, they will also notify the said special procedure under section 148 of their respective SGST Acts with effect from the date on which the Centre had issued the said notification.

d. A circular clarifying the action to be taken by the tax authorities and/ or by the taxpayers may be issued after issuance of the notification under section 148 of the CGST Act mentioned above.

e. An MIS may be made available by GSTN for tax authorities inter alia including the number of cases where rectification application filed, number of cases where application is disposed of and number of cases where the application is pending for more than three months, enabling them to monitor the progress of the action taken by the tax officers in respect of the applications for rectification filed under the above special procedure.

4.20 The Hon'ble Member from Delhi emphasized that the recent amendment will present significant challenges for the state, as over 100,000 notices issued for the years 2017-18 and 2018-19 will now require rectification. This will result in a considerable administrative burden.

4.21 Pr. Commissioner, GST Policy Wing clarified that this issue was discussed in detail during the last meeting. Several states had issued notices, but the amendment was brought to provide relief to taxpayers who faced difficulties due to a lack of knowledge about the time limits during the initial years of implementation of GST. The Pr. Commissioner emphasized that this relief is not intended to be permanent.

4.22 The Hon'ble Member from Uttar Pradesh also observed that since the matter had been deliberated and discussed in detail in the last GST Council meeting and had attained finality, therefore, the same may not be re-opened.

4.23 Pr. Commissioner, GST Policy Wing further informed that officer from State of Bihar had inquired whether rectifications could be made in cases where amount of ITC has already been recovered, to which it was clarified that while there is no restriction on rectifying an order, a refund of the tax that has already been paid or recovered is not available.

4.24 Pr. Commissioner, GST Policy Wing also informed that the State of Andhra Pradesh has suggested an addition to the proposed circular concerning refunds. Currently, the draft of proposed circular states that refunds of tax already paid or ITC already reversed are not available under Section 150 of the Finance (No.2) Act, 2024. However, there is uncertainty about whether this restriction also applies to pre-deposit amounts paid while filing of an appeal, especially if the appeal is decided in favour of the taxpayer due to the new provisions. So it was decided that the following clarification be added at the end of paragraph four of the draft circular as detailed in agenda note, *"However, it is clarified that said restriction on refund under section 150 of the Finance (No. 2) Act,*

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2024 will not apply to the refund of an amount paid as pre-deposit by the taxpayer as per sub-section (6) of section 107 or sub-section (8) of section 112 of the CGST Act, at the time of filing of an appeal, where such appeals are decided in favour of the said taxpayer."

Decision: The Council agreed with the recommendations of the Law Committee along with the proposed notifications and Circular including the amendment as proposed by the State of Andhra Pradesh. GSTN to provide MIS to enable tracking of applications for rectification.

Agenda Item 3(vi): Clarification on place of supply of data hosting services provided by service providers located in India to cloud computing service providers located outside India.

4.25 Pr. Commissioner, GST Policy Wing stated that representations have been received from the trade and industry seeking clarification on the place of supply of data hosting services provided by service providers located in India to clients (cloud computing service providers) located outside India.

4.26 The Law Committee examined the issue and recommended to clarify that:

(a) Data hosting services provided by data hosting service provider to its overseas cloud computing service providers cannot be considered as intermediary services and hence, the place of supply of the same cannot be determined as per section 13(8) (b) of IGST Act.

(b) Data hosting services provided by data hosting service provider to the said cloud computing service providers cannot be considered in relation to the goods "made available" by the said cloud computing service providers to the data hosting service provider in India and hence, the place of supply of the same cannot be determined under section 13(3) (a) of the IGST Act.

(c) Data hosting services cannot be considered as services provided directly in relation to immovable property or physical premises and hence, the place of supply of such services cannot be determined under section 13(4) of IGST Act.

(d) The place of supply for the data hosting services provided by the data hosting service provider in India to overseas cloud computing service providers does not fit into any specific provisions outlined in sections 13(3) to 13(13) of the IGST Act. Therefore, according to the default provision under section 13(2) of the IGST Act, the place of supply is determined to be the location of the recipient of the services. Where the cloud computing service providers receiving the data hosting services are located outside India, the place of supply is considered to be outside India according to section 13(2) of the IGST Act.

(e) The supply of data hosting services being provided by data hosting service provider located in India to an overseas cloud computing entity can be considered as export of services, subject to the fulfilment of the other conditions mentioned in section 2(6) of IGST Act.

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Decision: The Council agreed with the recommendations of the Law Committee with regard to clarification on place of supply of data hosting services provided by service providers located in India to cloud computing service providers located outside India along with the proposed Circular.

Agenda Item 3(vii): Consequential amendments required in CGST Rules, 2017 and relevant forms subsequent to insertion of Section 128A and clarification on various related issues.

4.27 Pr. Commissioner, GST Policy Wing stated that the GST Council in its 53rd meeting held on 22nd June 2024, had recommended insertion of Section 128A in the CGST Act, 2017 to provide for a waiver of interest or penalty or both, relating to tax demands under Section 73 pertaining to FYs 2017-18, 2018-19 and 2019-20. Section 146 of Finance (No.2) Act, 2024 provides for the same. Subsequent to the insertion of said section, corresponding rules are required to be inserted in Central Goods and Services Tax Rules, 2017, along with new forms in order to implement the same.

4.28 The Law Committee in its meetings held on 09.08.2024, 23.08.2024, 29.08.2024 and 02.09.2024 discussed the procedure for implementation of Section 128A of CGST Act in detail and recommended to insert Rule 164 in CGST Rules, as detailed in the agenda note. The Law Committee also recommended insertion of eight new Forms viz. FORM GST SPL -01, FORM GST SPL -02, FORM GST SPL -03, FORM GST SPL -04, FORM GST SPL -05, FORM GST SPL -05A, FORM GST SPL -06 and FORM GST SPL-07 in CGST Rules, 2017, as detailed in the agenda note. Further, the Law Committee also recommended issuance of a circular to clarify the procedure to be followed by the taxpayers and the tax officers in order to avail and implement the benefit provided under Section 128A of the CGST Act. The Law Committee also recommended for issuance of the notification under sub-section (1) of Section 128A of CGST Act in order to provide for a date on or before which the payment of tax may be made by different class of registered persons, to avail the benefit of waiver of interest or penalty or both provided under Section 128A of the CGST Act. Pr. Commissioner, GST Policy Wing informed that in the Officers' meeting it was proposed that this date should be finalized as 31.03.2025. He informed that in order to implement Section 128A, it must be officially notified. The Council will need to set an effective date for this provision as well as the other provisions of the Finance Act. It was agreed in the Officers' meeting held on 08.09.2024 to recommend notifying Section 128A of the CGST Act with effect from 01.11.2024 for both the Centre and States.

Decision: The Council agreed with the recommendations of the Law Committee for implementation of section 128A along with the proposed notifications, Circular and Forms and the decision in the Officers' meeting regarding date for the notifying related provisions of the Finance Act.

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

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

5.2 Joint Secretary, TRU-I stated that the Fitment Committee agenda was summarized in five Annexures (I, II, IV, V and VI) wherein total 56 issues (12 issues related to Goods and 44 issues related to Services) were recommended. She stated that the Fitment Committee had recommended making changes in the rate or issue of clarification in case of 06 issues and no change was recommended in respect of 07 issues in case of goods. In case of services, there were a total of 44 agenda items, out of which the Fitment Committee had recommended making changes in the rate or issue of clarification in case of 20 items and no change has been recommended in respect of 15 items and 09 items have been deferred for the examination.

Agenda Item 4(a) Thereafter, Joint Secretary, TRU-I presented the agendas pertaining to the recommendations of the Fitment Committee for making changes in GST rates or for issuing clarifications in relation to goods.

5.3 The first item for the consideration of the Council was a request to clarify whether Roof Mounted Package Unit air conditioners for railways are classifiable under HS 8607 as railway parts or under HS 8415 as air conditioning machines. The applicable GST rate on parts of railway under HS 8607 is 18% while air conditioning machines are classified under HS 8415 and attract 28% GST rate. Fitment Committee had recommended that there is no ambiguity in classification but in order to make it explicitly clear recommended the issue of clarification that Roof Mounted air conditioners for railways would be classified under HS 8415 attracting a GST rate of 28%.

Decision: The Council approved the recommendation of the Fitment Committee to issue a clarification that Roof Mounted Package Unit air conditioners for railways would be classified under HS 8415 attracting a GST rate of 28%.

5.4 Joint Secretary, TRU-I presented the agenda item pertaining to classification of car seats as to whether the same are classifiable under HS 9401 or 8708. Fitment Committee recommended that there is no ambiguity in the GST rate of car seats which are classifiable under HS 9401 attracting 18% while seats for two-wheeler motor vehicles would fall under HS 8708 and attract 28%. However, to ensure parity, Fitment Committee recommended that prospectively car seats should attract a rate of 28%.

Decision: The Council approved the recommendation of the Fitment Committee that there is no ambiguity in the GST rate of car seats which are classifiable under HS 9401 attracting 18% while seats for two wheeler motor vehicles would fall under HS 8708 and attract 28% GST. The Council also approved the recommendation to tax car seats at 28% prospectively.

5.5 Joint Secretary, TRU-I presented the agenda item pertaining to extruded snack pellets. She stated that based on the recommendations of the GST Council in the 48th

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meeting, it was clarified that snack pellets, manufactured through a process of extrusion, are classifiable under HS 1905 attracting a GST rate of 18%. Based on the recommendation of the GST Council in its 50th meeting, the GST rate on uncooked or unfried snack pellets was reduced to 5%. The issue was whether the supply of extruded snack pellets in ready to eat form are covered under the category of namkeens as there is no definition of namkeens and there are disputes because of different rates on extruded or expanded snack pellets and namkeens. There are diverse practices in the field. Therefore, to avoid disptues, the Fitment Committee recommended to reduce the rate on extruded or expanded products, savoury or salted (other than un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion), falling under HS 1905 90 30, from 18% to 12% at par with namkeens, *bhujia*, mixture, *chabena* (pre-packaged and labelled) and similar edible preparations in ready for consumption form which are classifiable under HS 2106 90. The GST rate of 5% will continue on un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion. The Fitment Committee also recommended to clarify that the reduced GST rate of 12% on extruded or expanded products, savoury or salted (other than un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion), falling under HS 1905 90 30 is applicable prospectively. While the proposal was being discussed in the Officers' meeting, there were requests from certain states that there is a need to look at the whole food sector to reduce complexities and to simplify the issues therein. If the Council approves, the same would be referred to the Fitment Committee to look at the entire food sector holistically.

5.6 The Hon'ble Member from Karnataka stated that he supports the suggestion but would like to advise the Fitment Committee to discuss the issue of food sector in the GoM also. He agreed in principle to the recommendation of the Fitment Committee but the same needs to be looked at from a health point of view also. He stated that under the broad category of namkeens, there are a wide variety of packaged foods. There are Indian namkeens, and whether they are healthy or not, and whether there is a need for a preferential treatment needs to be looked into, but it might be a sentimental issue as people are attached to Indian Namkeens. However, treating all packaged foods which have ill effects on our health and giving them the benefit of a reasonable rate, if not a lower rate, is definitely not advisable. So, the Hon'ble Member requested the Council that the need for simplification -should not end up supporting consumption of these highly addictive products which are injurious to health - and most of the consumers are in the younger age brackets and it is having a huge impact on the health of our society. The rise in juvenile diabetes, obesity and its consequent effects on the overall society and economy cannot be quantified. So, the request is to treat this within the broader idea of simplification but not to pass on any favourable consideration to foods which have ill effect on the health especially of the younger generation and which are of an addictive nature. These products have made their way into every village, nook and corner, roadside shops and even into the deepest corners of Ladakh's trekking routes. So, their reach is quite humongous and we need to be mindful of their impact on the society.

5.7 Hon'ble Chairperson stated that she agreed with the Hon'ble Member from Karnataka and said that rather than taxing based on whether food items are pre-

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packaged or not, they could be taxed on the basis of whether they are essential or non-essential in nature. Non-essential food products could be taxed at a higher rate. Therefore, on this particular issue there are so many different calibrations which may be necessary from health, from consumption point of view and also every pre-packaged food may or may not to be essential. It is now becoming essential for many of the urban households to rely on pre-packaged food, but yet health consciousness is a factor. So keeping all this in mind the suggestion of Hon'ble Member from Karnataka is for a Group of Ministers to also look into it. However, since the GoM exists already, the Fitment Committee should take these points which have been highlighted for taking decision on the same.

5.8 The Hon'ble Member from Uttar Pradesh welcomed the proposal of the Fitment Committee and stated that the question here is whether extruded or expanded snack pellets are to be taxed at 5% or 12% or 18%. The submission of the Hon'ble Member from Karnataka on the ill effects of packaged food on health needs to be looked into by the FSSAI. On the other hand, the issue before the Fitment Committee is the tax rate on such food products. His submission was that chana, layi and chura which are very commonly used by people who are below poverty line, should be taxed at a lower rate. He stated that overall the guiding principle for taxation should be uniformity. Additionally, if there are health concerns, the same should be looked into by FSSAI for resolving the same. He requested for a reduced rate for gram or chana when packaged and labelled, by having a separate category for the same.

5.9 The Hon'ble Member from Kerala stated that for a detailed discussion on food items, including discussion on their impact on the health of the consumers, there is already a GoM where such issues could be discussed. The Hon'ble Member further stated that the basic issue is that all items could not be bracketed in the same category and his suggestion was that the GoM take up these issues for discussion.

5.10 The Hon'ble Member from West Bengal expressed agreement with the Hon'ble Members from Kerala and Uttar Pradesh, and stated that this has to be looked into from different angles. She stated that the health issue is very important, but simultaneously items like chura, chana etc. can be looked into with a different tax perspective also. The Hon'ble Member desired a detailed discussion on the same and the recommendations to be placed before the Council.

5.11 The Hon'ble Member from Meghalaya stated that he agreed with the opinions which had been expressed by the rest of the Members on the aspect of health and taxation. He stated that the Council should also take into consideration the health impact of products, but the question also arises as to who is the competent authority to certify whether a particular food item is healthy or not. He stated that sometimes, it might also be the case that some products are healthy, but are manufactured in a wrong or unhealthy way and with spurious/unhealthy/wrong ingredients. He opined that there are many angles to the entire classification of what is healthy and what is not. He stated that he was in agreement with the opinion of Hon'ble Member from Kerala that there is need for a competent authority to look into all these issues and these are way too complicated for the GST Council to look into. Since the GoM has been set up, it may approach the

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competent authorities that can classify food products into what is healthy and what is not, not only in terms of the ingredients of the product, but also the process by which it is made. He stated that the GoM would be the proper authority and they can consult the necessary competent agencies to determine whether or not a food product has an adverse health impact.

5.12 The Hon'ble Chairperson stated that the CBIC had approached the FSSAI for guidance on issue of which food items are healthy, that an attempt has already been made to approach FSSAI as the competent authority which was referred to by the Hon'ble Members from Meghalaya and Uttar Pradesh. The same would be placed before the Council as soon as a reply is received, and the Fitment Committee and the GOM can benefit from it.

5.13 The Secretary said these observations have been taken into account and the approval of the Council for these particular items viz. extruded or expanded snack pellets is being sought.

5.14 Joint Secretary, TRU-I stated that there is a request to regularize the matter for the past on extruded products in ready-to-eat form. She stated that the same had been discussed in the Officers' meeting and the officers felt that this matter should be sent back to the Fitment Committee for examination.

5.15 The Secretary stated that the Fitment Committee can examine whether or not there is a need to regularize the matters for the past.

Decision: The Council agreed to the recommendation of the Fitment Committee to reduce the rate on extruded or expanded products, savoury or salted (other than un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion), falling under HS 1905 90 30, from 18% to 12% at par with namkeens, *bhujia*, mixture, *chabena* (pre- packaged and labelled) and similar edible preparations in ready for consumption form which are classifiable under HS 2106 90. The GST rate of 5% will continue on un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion. *The Council also recommended to clarify that the reduced GST rate of 12% on* extruded or expanded products, savoury or salted (other than un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion), falling under HS 1905 90 30 is applicable prospectively. It also recommended that the GoM on Rate Rationalization will look in to the issue of food items holistically with the help of reply from FSSAI and place the recommendations before the Council. Further, the Council recommended that the Fitment Committee may examine the issue of regularizing the matters for the past period.

5.16 Joint Secretary, TRU-I presented the agenda item on metal scrap. She informed the Council that the issue had been discussed in the 45th and 47th Council meetings Fitment Committee after examination has recommended to introduce RCM on supply of metal scrap from unregistered person to registered person and also to introduce TDS at

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2% on supply of metal scrap from registered person to registered person. The RCM is being recommended subject to the condition that the supplier will take registration as and when it crosses the threshold and also that the recipient who is liable to pay under RCM shall pay tax even though the supplier is under the threshold.. However, two additional issues were raised for further examination by the Fitment Committee: reducing the GST rate on scrap from 18% to 5%, and making E-way bills mandatory for all scrap supplies, regardless of value. These suggestions were based on requests from Tamil Nadu, Punjab, and Telangana.

5.17 The Hon'ble Member from Punjab informed that they had proposed to introduce 5% under RCM with ITC along with 2% TDS. The proposal also included implementation of e-way bill on all such B2B transactions.

5.18 The Secretary informed that keeping in mind request from Punjab, the pending issues will also be taken up by the Fitment Committee.

5.19 The Hon'ble Member from Uttar Pradesh expressed that there is no justification for reducing the rate, as it would create multiple issues. They were in favour of retaining the GST rate at 18%.

5.20 The Hon'ble Member from Karnataka expressed agreement with views of the Hon'ble Member from Uttar Pradesh.

5.21 The Hon'ble Member from Andhra Pradesh supported the views of the Hon'ble Member from Uttar Pradesh and added that the decision is a positive step which they fully endorse.

Decision: The Council approved the recommendation of the Fitment Committee to introduce TDS @2% on supply of metal scrap by registered person to registered person (B to B) and RCM on supply of metal scrap by unregistered person to registered person. The Council recommended that mandatory generation of e-Way bills for supply of scrap be studied further by the Fitment Committee.

5.22 Joint Secretary, TRU-I presented the next agenda item. She stated that a request was received from the Ministry of Health and Family Welfare to reduce the GST rate from 12% to 5% on three drugs viz. Trastuzumab Deruxtecan, Osimertinib and Durvalumab used in the treatment of lung cancer, biliary tract cancer and breast cancer. In the July 2024–25 budget, these drugs were fully exempted from customs duty. The Fitment Committee recommended to reduce the GST rate from 12% to 5% which was agreed in the Officers' meeting.

Decision: The Council approved the recommendation of the Fitment Committee to reduce the GST rate from 12% to 5% on all the three drugs namely Trastuzumab Deruxtecan, Osimertinib and Durvalumab.

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5.23 Joint Secretary, TRU-I presented the agenda item for issuing a clarification on the scope of regularization done on 'as is where is' basis. The Council has generally

recommended regularization in cases where there were genuine doubts, ambiguity in the language of the notification, or diverse interpretations leading to disputes. The Fitment Committee recommended issuing a circular to clarify the scope of regularisation done on 'as is where is' basis.

Decision: The Council approved the issuance of a Circular to clarify the scope of regularisation done on 'as is where is' basis.

<u>Agenda item 4(b):</u> Issues where no change has been proposed by the Fitment Committee in relation to goods

5.24JS, TRU-I stated that requests have been received to issue a clarification on the rate of paper sacks for the period prior to September 30, 2021. Previously, there was a dispute regarding corrugated and non-corrugated boxes, as they attracted differential rates of 12% and 18%, which were later harmonized to 18%. In the 53rd GST Council meeting, the rate of these boxes was reduced to 12%. As there had never been any doubt or ambiguity regarding the rate on paper sacks which have always attracted a GST rate of 18%, the Fitment Committee recommended maintaining status quo.

5.25 The Hon'ble Minister from Maharashtra informed that along with several other states, they have implemented a ban on plastic bags to promote eco-friendly and environmentally friendly alternatives. She further noted that as part of this initiative, they are encouraging the use of paper sacks and paper bags across various municipal corporations and urban areas. In the 53rd GST Council meeting, a recommendation was made to reduce the GST rate on corrugated boxes made of paperboard to 12%. In line with this, she requested that the GST rate on paper sacks also be reduced to 12%. She emphasized that such a reduction would further the goal of increasing the use of paper sacks and paper bags over plastic alternatives in urban and semi-urban areas, thus supporting eco-friendly and environmentally friendly materials and products. She urged the Fitment Committee to consider this request.

5.26 The Secretary noted that while the initial request was for clarification regarding the past period, if the current request is for a prospective exemption, the same can be referred to the Fitment Committee.

5.27 The Hon'ble Chairperson stated that the decision for the past period should remain unchanged to avoid confusion with previous decisions. She further stated that for the prospective period, whether a complete exemption or a reduction to 12% is appropriate will need further review and urged Fitment Committee to examine it. However, subject to the Council's view, the Chairperson suggested refraining from making changes retrospectively and instead allowing the Fitment Committee to evaluate for the prospective period. Maharashtra was requested to send detailed proposal.

5.28 The Hon'ble Member from Meghalaya stated that in addition to what the Hon'ble Minister from Maharashtra mentioned, they are also promoting biodegradable bags made from starch. He also informed that numerous industries are being set up for these bags, which while resembling plastic, are actually made from starch and decompose

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automatically within 90 days. The Hon'ble Member emphasized that this category should be included in the proposal under examination.

5.29 *The Hon'ble Chairperson suggested assigning a separate HSN code for the bio-*friendly category of bags and urged the Hon'ble Member from Meghalaya to provide the necessary details.

Decision: Fitment Committee recommended to maintain status quo on paper bags and recommended that for the prospective period the rate be reviewed by the Fitment Committee with inputs from the states of Maharashtra and Meghalaya.

5.30 Joint Secretary, TRU-I presented the agenda item regarding request to increase the GST rate on agro-shade nets from 5% to 12 %. She informed the Council that the matter of inverted duty structure on textiles was taken up in the 45th GST Council meeting, but in the 46th Council meeting the issue was deferred and recommended to the GoM on Rate Rationalization. She said that the Fitment Committee recommended maintaining status quo, as report of the GoM on Rate Rationalization is awaited. This had been agreed to in the Officer's meeting.

Decision: The Council approved the recommendation of the Fitment Committee for maintaining status quo on the GST rate on agro-shade nets.

5.31 Joint Secretary, TRU-I presented the agenda item regarding clarification of applicable rate of GST on Compressed Bio-Gas (CBG). She informed that the issue of GST rate on biogas was deferred in the 37th GST Council meeting held in 2019. Further she informed that there is no separate entry for CBG and GST rate on biogas is 5%. So, the rate is the same for CBG and as on date there is no ambiguity regarding the rate. The taxpayers are already paying 5%, so it is a non- issue now. This was agreed to in the Officers' meeting.

Decision: The Council approved the recommendation of the Fitment Committee that no clarification is required on the applicable rate of GST on compressed bio-gas (CBG).

5.32 The Joint Secretary, TRU-I presented the agenda item pertaining to reduction of rate of GST on feedstock like reformate, DHDT, VGO, etc. from 18% to 5%. She informed that this issue was also discussed in 47th GST Council meeting and the Council had felt that there is no significant revenue implication as far as OMC's are concerned and recommended not to accept the request for rate reduction. Fitment Committee also recommended maintaining status quo and it was agreed to in the Officers' meeting.

Decision: The Council approved the recommendation of the Fitment Committee to maintain status quo with regard to rate of GST on feedstock like reformates, VGO, DHDT feed, SRGO etc.

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5.33 Joint Secretary, TRU-I presented the agenda item pertaining to reduction in GST rate on cathode coating and separators of lithium-ion battery. She stated that since cathodes and separators are present in all batteries including Lead- acid, Nickel-cadmium, Nickel-Metal Hydride, etc. , Fitment Committee has recommended to maintain status quo as it would lead to an end use based exemption

Decision: The Council approved the recommendation of the Fitment Committee to maintain status quo on GST rates for cathode coating and separators of lithium-ion battery.

5.34 Joint Secretary, TRU-I presented the agenda item pertaining to reduction in GST rates on parts used in manufacture of EVs from 18% or 28% to 5%. Fitment Committee had recommended to maintain status quo because this would have introduced inversion in the supply chain of such EV parts. She informed that Andhra Pradesh had made a request to reduce the GST rate to 5 % and that the proposal would be sent by Andhra Pradesh. This may be examined by Fitment Committee separately.

5.35 The Hon'ble Member from Andhra Pradesh informed that they reiterate the submission made by them. He stated that in line with the Hon'ble Prime Minister's stress on the Renewable energies, Andhra Pradesh is proposing an EV policy. The Hon'ble Member requested for reduction in the tax structure on EVs along with the charging stations and stated that they would be sending a detailed proposal to the Fitment Committee. The Hon'ble member from Andhra Pradesh requested the GST council to consider the whole proposal.

Decision: In light of the request from Andhra Pradesh the Council recommended that the matter may be examined by Fitment Committee after receipt of detailed proposal from Andhra Pradesh.

5.36 JS, TRU-I presented the agenda item pertaining to request for reduction in GST rate on braided elastics from 12% to 5% on par with woven and knitted elastic. She stated that this was discussed in the Fitment Committee and Fitment Committee had recommended maintaining status quo as this will create further inversion in tax structure. Further she informed that this was agreed to in the Officers' meeting and that Gujarat had requested to consider reducing the GST rate from 12% to 5%, whereby it was pointed out to him that this would result in refund of accumulated ITC.

5.37 The Hon'ble Member from Gujarat suggested bringing about parity and emphasized that this would support small-scale units and MSMEs. He further suggested that the rate of tax on braided elastic tapes needs to be brought down to 5 % from 12 %, as in the case of woven and knitted elastic tapes. He requested the Council to send this issue back to the Fitment Committee for the reconsideration of reduction in tax rate without refund of input tax credit accumulated on account of the inverted duty structure.

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5.38 The Secretary explained that the braided elastic does not fall under the Chapter where woven and knitted elastic are classified. However, parity as sought by Gujarat would lead to duty inversion due to higher input tax.

5.39 Joint Secretary, TRU-I explained that woven elastic tapes are categorized under woven fabrics, where rate of tax is 5%. However, the braided elastic is classified in different chapter under 'rubber thread having textile covering' which can be used in textile items as well as in various items including sports goods. She further stated that if Council agrees, the request of Gujarat may be re- examined by the Fitment Committee.

5.40 The Hon'ble Member from U.P added that the braided elastics are made from rubber and that duty reduction is not recommended.

5.41 The Secretary stated that the rate as recommended by the Fitment Committee may be accepted as reflected in overall sense of the House.

***Decision: The Council approved the recommendation of the Fitment Committee to* maintain status quo on the GST rate on braided elastic tapes.**

Agenda Item 4(c): JS, TRU-I then presented the agenda items pertaining to services as mentioned in Annexure-IV of the Agenda item no. 4 (total 20 issues, as per Volume-I and Volume III respectively). She presented the recommendations made by the Fitment Committee in this regard, either for changing the rate of GST or for clarifying the applicable rate of GST on the concerned services.

5.42 The first item presented for discussion in Annexure-IV of the Agenda item 4 of Volume-I was to clarify that GST @ 5% is applicable on helicopter services for pilgrims. JS, TRU-I informed that this issue has arisen as notices have been issued to helicopter service operators demanding 18% GST. She further informed that in the officer's meeting, it was recommended that a separate entry be created for notifying rate of 5% on transport of passengers by helicopter on seat share basis. Therefore, as per the discussions in the Officers' meeting, separate entry related to passenger transport by *helicopter on seat share basis may be inserted in notification No. 11/2017-CTR. It was* also recommended to clarify that services other than transport of passengers by helicopter on seat share basis i.e., for charter operations will continue to attract GST at 18%.

Decision: The Council approved the recommendation of the Fitment Committee pertaining to notifying rate of 5% on transport of passengers by helicopter on seat share basis and clarifying that charter operations continue to attract GST at 18%.

5.43 The next agenda item presented by JS, TRU-I was 'to clarify whether incidental/ ancillary services such as loading, unloading, packing, unpacking, transshipment, temporary warehousing etc., provided in relation to transportation of goods by road is to be treated as part of Goods Transport Agency (GTA) service, being

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composite supply, or these services are to be treated as separate independent supplies'. She informed that the Fitment Committee had recommended to clarify that when ancillary/incidental services are provided by GTA in the course of transportation of goods by road and the GTA also issues consignment note, the service will constitute a composite supply and all such ancillary/incidental services like loading/unloading, packing/unpacking, transshipment, temporary warehousing etc. will be treated as part of the composite supply. However, if such services are not provided in relation to transportation of goods and invoiced separately, then these services will not be treated as composite supply and will be treated as standalone services.

***Decision: The Council approved the recommendation of the Fitment Committee* pertaining to clarifying whether incidental/ ancillary services such as loading, unloading, packing, unpacking, transshipment, temporary warehousing etc., provided in relation to transportation of goods by road is to be treated as part of Goods Transport Agency (GTA) service, being composite supply, or these services are to be treated as separate independent supplies.**

5.44 The next agenda item presented by JS, TRU-I was to clarify if Ro-Ro service (Truck on Train) is used for the transportation of milk, no GST is leviable on the empty tankers returning after delivery of milk. She stated that the Fitment Committee had recommended clarifying by way of letter to the concerned authority that the transport of empty tankers returning after delivery of milk is taxable and not exempt. Exemption on the said transport of empty tankers returning after delivery of milk was not recommended.

Decision: The Council approved the recommendation of the Fitment Committee to not exempt GST on transport of empty tankers (Ro-Ro service: Truck on train) returning after delivery of milk.

5.45 JS, TRU-I presented the agenda item pertaining to either exempt electric vehicle (EV) charging services at public charging stations or to clarify that the activity of charging electric vehicles (EVs) in a charging station essentially involves supply of electricity and therefore should be chargeable at the same rate applicable to supply of electricity. JS, TRU-I informed that during the deliberations on the issue in the officer's meeting held on 08.09.2024, on the request of the State of Andhra Pradesh it has been recommended to defer the matter for further re-examination by the Fitment Committee.

Decision: The Council approved the recommendation to defer the agenda item for further re-examination.

5.46 JS, TRU-I presented the agenda item pertaining to issue of corrigendum to the Circular No. 34/8/2018- GST dated 01.03.2018 in respect of taxation of ancillary services of transmission and distribution of electricity such as: (i) application fees for providing electricity connection, (ii) rental charges against electricity meter, (iii) testing fees for meters/ transformers/capacitors, (iv) labour charges from customers for shifting of meters/service lines & (v) charges for duplicate bills etc. She stated that the Fitment

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Committee had recommended to partially modify the Circular No. 34/8/2018- GST dated 01.03.2018, clarifying that supply of above-mentioned services which are incidental, ancillary or integral to the supply of transmission and distribution of electricity by transmission and distribution utilities to their consumers, when provided as a composite supply are exempt. It was also informed by JS, TRU-I that the Fitment Committee has also suggested that the Special Leave Petition (SLP) pending in the Hon'ble Supreme Court on this issue may be withdrawn once the clarification is issued.

5.47 The Hon'ble Member from Punjab stated that these services should not be treated as a composite supply and ancillary services such as rental charges against electricity meter etc. should instead be taxed as separate supply. The Hon'ble Member also suggested that if the Council decides to proceed with the modification, it should apply only prospectively as applying it retrospectively will have revenue implications for the States.

5.48 The Hon'ble Member from Andhra Pradesh, however, requested that the modification be applied retrospectively.

5.49 The Hon'ble Member from Uttar Pradesh also supported a prospective application, citing potential complications otherwise.

5.50 The Hon'ble Member from Andhra Pradesh noted that the matter is still under judicial consideration. The Hon'ble Chairperson inquired about Andhra Pradesh's position in court, to which the Hon'ble Member from Andhra Pradesh replied that they had not collected GST but some parties have contested that these services are not liable for GST.

5.51 The Hon'ble Chairperson summarised that the consensus was not to apply the modification retrospectively but to implement it prospectively, aligning with the suggestions from Hon'ble Member from Punjab and Hon'ble Member from Uttar Pradesh. She confirmed that the modification would not be applied retrospectively but implemented prospectively. The State of Andhra Pradesh's case would be addressed accordingly, as the decision aligns with their stated position.

5.52 The Secretary stated that the modification would be applied prospectively, with past collections regularized on an "as is where is" basis.

5.53 Member (Tax Policy), CBIC added that the implementation should be prospective and could be done by way of exemption. The past period can be regularised on *'as is where is'* basis through clarification.

Decision: The Council recommended to create a separate entry in exemption notification No. 12/2017-CTR dated 28.06.2017 for exempting supply of services by way of providing metering equipment on rent, testing for meters/ transformers/capacitors etc., releasing electricity connection, shifting of meters/service lines, issuing duplicate bills etc., which are incidental or ancillary to the supply of transmission and distribution of electricity by electricity transmission

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and distribution utilities to their consumers. The Council also recommended to regularize the past period on *'as is where is'* basis.

5.54 JS, TRU-I presented the agenda item pertaining 'to clarify the applicability of GST on the affiliation fee collected by universities from affiliated colleges' in respect of which the Fitment Committee had recommended to clarify by way of circular that the affiliation services provided by universities to their colleges are not covered within the ambit of exemptions provided to educational institutions in the Notification No. 12/2017-CT(R) dated 28.06.2017 and GST at the rate of 18% is applicable on the affiliation services provided by the universities.

Decision: The Council approved the recommendation of the Fitment Committee pertaining to clarifying the applicability of GST on the affiliation fee collected by universities from affiliated colleges.

5.55 JS, TRU-I presented the agenda item pertaining to clarifying the applicability of GST on the affiliation fees charged by Central and State Educational Boards/council in respect of which the Fitment Committee had recommended to regularize the collection of GST on affiliation fee charged by State/Central educational boards to schools on 'as is where is' basis for the period from 01.07.2017 to 17.06.2021 i.e., the date of issuance of Circular no. 151/07/2021 clarifying that accreditation services of boards are taxable at the rate of 18% and to exempt affiliation services provided by State/Central educational boards to Government schools prospectively. In the Officers' meeting it was also recommended that exemption may be extended to educational councils and similar bodies in the States.

Decision: The Council approved the recommendation of the Fitment Committee to regularize the collection of GST on affiliation fee charged by State/Central educational boards/councils and other similar boards to schools on *'as is where is'* basis for the period from 01.07.2017 to 17.06.2021 and to exempt affiliation services provided by State/Central educational boards/councils and other similar boards to Government schools prospectively.

5.56 JS, TRU-I presented the agenda item pertaining 'to clarify the applicability of GST on approved flying training courses conducted by Flying Training Organizations (FTOs) approved by DGCA'. She stated that Fitment Committee had recommended to clarify by way of a circular that approved flying training courses conducted by DGCA approved Flying Training Organizations (FTO) are exempt from GST.

5.57 The Hon'ble Member from Punjab suggested that flying training courses other than those given to first time students should not be exempted and proposed that an age criterion may be introduced to determine eligibility for such exemptions.

5.58 The Secretary then requested the State of Punjab to send a proposal in this regard. He noted that these services are generally for reskilling purposes, often involving

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defense personnel who have retired at a young age, which should be considered during deliberations.

5.59 The Hon'ble Member from Chhattisgarh expressed the view that GST should be exempted for everyone, given the importance of aviation being a growing sector requiring higher degree of skills.

5.60 The Secretary requested the state of Chhattisgarh to submit its proposal separately. He further clarified that the Fitment Committee had only examined the exemptions as per the notifications issued and assessed whether these courses are covered by the existing exemption. He also asked other states to give other proposals, if any, to the Fitment Committee, which would then review and present them before the Council for further deliberation.

5.61 The Hon'ble Member from Karnataka raised the point that while training programs are classified under education, such broad classification leads to non- core education being grouped with educational services, thus extending favorable treatment beyond its intended scope. He stated that Karnataka supported the exemption for certain educational services but suggested a thorough examination to distinguish between core and non-core education, so that some of the activities which are not core education may be treated differently.

Decision: The Council approved the recommendation of the Fitment Committee to clarify by way of a circular that approved flying training courses conducted by Flying Training Organisations (FTOs) approved by DGCA are exempt from GST.

5.62 JS, TRU-I presented the agenda item pertaining to replace 'National Council for Vocational Training' (NCVT) with 'National Council for Vocational Education and Training' (NCVET) in the Notification No. 12/2017-CT(R) dated 28.06.2017 and include the services provided by the recognized Awarding Bodies, Assessment Agencies, Training Bodies and Skill Related Information Providers approved by NCVET in the exempted list'. She stated that this agenda is more of a technical nature as **NCVET** has taken the place of **NCVT.** The Fitment Committee had recommended that amendments are required in Sl. Nos. 69, 71 and para 2(h) of Notification No. 12/2017-CT(R) dated 28.06.2017 to align the said entries with the revised vocational education and training framework set up under the NCVET and exemption to NSDC in its present form may be continued. The proposal of MSDE in relation to exempting activities of Skill Related Information Providers (SRIPs) may not be accepted since no such exemption exists currently.

Decision: The Council approved the recommendation of the Fitment Committee for amending Sl. Nos. 69, 71 and para 2(h) of Notification No. 12/2017-CT(R) dated 28.06.2017 to align the said entries with the revised vocational education and training framework set up under the NCVET and continuation of exemption to NSDC in its present form.

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5.63 JS, TRU-I presented the agenda item pertaining to clarifying for the period *prior to 01.10.2021, the GST rate applicable on the services provided by the film* distributor or sub-distributor to exhibitions for distributing films for exhibitions is @ 12%.

5.64 She informed the Council that representations have been received to clarify regarding the GST liability for the period from 01.07.2017 to 01.10.2021 on transaction between distributors and exhibitors wherein the distributors grant the theatrical rights to the exhibition centers. Field formations have viewed that such transaction is classifiable under SAC 9996 and attracts GST at the rate of 18%.

5.65 Prior to 1st October 2021, GST at the rate of 18% was leviable on "Motion Picture, videotape and television programme distribution services" under Heading 9996 whereas 12% rate of GST was leviable on "temporary or permanent transfer or permitting the use or enjoyment of intellectual property right in respect of goods other than IT technology software" under Heading 9973. It was observed that both entries apparently covered services by way of licensing of rights to broadcast or show films. This issue was discussed in the 45th GST Council meeting held on 17.09.2021 wherein, the Council recommended to keep a uniform rate of 18% on both these entries with effect from 01.10.2021.

5.66 She informed that the Fitment Committee had examined the issue and recommended regularizing payment of GST on transaction between distributors and exhibitors wherein the distributors grant the theatrical rights to the exhibition centers on 'as is where is' basis from 01.07.2017 to 30.09.2021.

Decision: The Council approved the recommendation of the Fitment Committee to regularize the payment of GST on transaction between distributors and exhibitors wherein the distributors grant the theatrical rights to the exhibition centers on 'as is where is' basis from 01.07.2017 to 30.09.2021.

5.67 JS, TRU-I presented the agenda item pertaining to clarifying the taxability on Preferential Location Charges (PLC) collected along with consideration for sale/ transfer of constructed/ under-constructed residential/commercial/industrial properties. Allowing choice of location of apartment is integral part of supply of construction services and therefore, location charge is nothing but part of consideration charged for supply of construction services before issuance of completion certificate. Being charged along with supply of construction services for the apartment, the same attract GST at same rate as of construction services before issuance of completion certificate.

5.68 The Hon'ble Member from Punjab suggested that Preferential Location Charges should be taxed as separate services and should not be treated as part of a composite supply where construction services are the main service.

5.69 The Hon'ble Member from Chhattisgarh stated that taxing PLC separately would further complicate matters.

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5.70 The Hon'ble Member from Uttar Pradesh supported the Fitment Committee's recommendation.

5.71 The Secretary acknowledged the complexity of the issue, noting that if PLC is not considered part of a composite supply with construction services, it could raise confusion about GST chargeability itself. He informed that the Fitment Committee has examined the issue and is of the view that since PLC charges are naturally bundled with the construction services, therefore are eligible for same tax treatment as the main supply i.e., the construction service. He stated that there was consensus and urged the Council Members, including Punjab, to support the Fitment Committee's recommendation to treat PLC as part of the composite supply to avoid potential legal challenges.

Decision: The Council approved the recommendation of the Fitment Committee to clarify that Location charges or Preferential Location Charges (PLC) paid along with the consideration for the construction services of residential/commercial/industrial complex before issuance of completion certificate forms part of composite supply where supply of construction services is the main service and PLC is naturally bundled with it and are eligible for same tax treatment as the main supply i.e., construction service.

5.72 JS, TRU-II presented the agenda item about ascertaining the value of land for arriving the value of construction services in case of sale of commercial / residential apartments. He stated that Fitment Committee had recommended to draft Valuation Rules to ascertain the value of land for deciding the value of construction services in sale of commercial/residential apartments to be based on the notified circle rates wherever available or where the circle rates are not available, then the value of land may be deemed.

5.73 The Secretary explained that GST is charged on construction services, but when a flat is sold, the charges for construction services are typically not shown separately rather the price include both land and construction costs. Currently, a deeming provision treats one-third of the cost of such flat/apartment as the land value. However, this does not account for variations in land value, particularly in posh or expensive areas, where land value can exceed one-third of the total value, sometimes reaching two-thirds or even up to 75%. This discrepancy has led to legal challenges, and the Hon'ble Gujarat High Court has struck down this valuation rule, necessitating a review of valuation rules in this regard.

5.74 The Hon'ble Member from Goa suggested that the issue is covered under the Terms of Reference (ToR) of the Group of Ministers (GoM) on the Real Estate Sector, which had recently conducted a meeting and next meeting is scheduled soon. Given the different circle rates in each state, he recommended that the issue be discussed further within the GoM for a more focused and appropriate resolution.

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5.75 The Secretary acknowledged the suggestion and also noted that the issue has been pending for a long time and was brought to the Council after extensive examination by the Fitment Committee, but if Council agrees, it may be examined by the GoM.

Decision: The Council agreed that the matter may be referred to the existing GoM on boosting the Real Estate Sector.

5.76 The JS, TRU-I presented the agenda item pertaining 'to levy GST on renting of commercial property by unregistered person to registered person on Reverse Charge Mechanism (RCM) basis'. She informed that Fitment Committee had recommended to bring renting of commercial property by unregistered person to registered person under RCM.

Decision: The Council approved the recommendation of the Fitment Committee to bring renting of commercial property by unregistered person to registered person under RCM.

5.77 JS, TRU-I presented the agenda item pertaining to clarifying the applicability of GST on sale of participating interest in case of farm-in farm out contracts in oil and gas exploration sector. She informed the Council that the issue was deliberated in the Officers meeting held on 09.09.2024 and it has been recommended to re-examine the matter in light of fresh representation received from the Ministry of Petroleum and Natural Gas.

5.78 The Hon'ble Member from Assam stated that their economy is heavily reliant on oil and natural gas. Given that the Fitment Committee had already clarified the taxability of farm-in and farm-out transactions, she suggested maintaining the position that these transactions should be subject to 18% GST.

5.79 The Revenue Secretary responded that when the Fitment Committee re-examines the issue, they will consider whether these transactions should be exempt or not, and will take Assam's views into account during their deliberations.

Decision: The Council agreed to defer the issue for further examinations by the Fitment Committee.

5.80 JS, TRU-I presented the agenda item pertaining to clarifying whether exemption under entry at Sr. No. 34 of notification No. 12/2017-CTR dated 28.06.2017 is available to payment aggregators for transactions transacted through credit card, debit card, charge card or other payment cards over digital networks up to Rs. 2000/-. She stated that Fitment Committee had recommended to clarify that the services provided by payment aggregators in relation to the transaction transacted through credit card, debit card, charge card or other payment cards over digital networks up to Rs. 2000/- are not eligible for exemption under entry at Sl. No. 34 of the notification No.12/2017-CTR dated 28.06.2017 and are taxable.

5.81 The Hon'ble Member from Delhi expressed the view that the exemption for

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digital payments up to Rs. 2000/- should also apply to payment gateways and payment aggregators. It was argued that many small businesses and startups operate almost exclusively online, using these payment gateways or payment aggregators. Imposing GST on payment gateways/payment aggregators would ultimately impact these businesses, which could be detrimental for these small businesses and startups.

5.82 The Hon'ble Member from Punjab supported the views of the Hon'ble Member from Delhi.

5.83 The Secretary then clarified that the Fitment Committee was tasked with providing clarification about the eligibility of the existing exemption to such payment aggregators, *not to consider a new exemption. It was also noted that some payment aggregators, like* PayTM, Google Pay and Amazon Pay, have already paid GST, making it difficult to justify exempting those who have not.

5.84 The Hon'ble Member from Delhi then stated that while large enterprises like Amazon have their own payment gateways, smaller businesses rely on these third-party payment gateways/aggregators for online transactions. Taxing transactions under Rs. 2000/- on these aggregators would contradict the broader goal of promoting digital and cashless transactions. The Hon'ble Member from Delhi suggested that the matter should be reconsidered by the Fitment Committee, a GOM, or concerned policy wing, to ensure that the exemption applies to these payment aggregators as well.

5.85 The Hon'ble Member from Karnataka acknowledged the concerns but stated that the current regime should continue as it provides visibility into online transactions of goods and services. He stated that it brings some visibility into what is happening in such online transaction of goods and services. He opined that if we exempt it, that visibility and trail will be lost. He stated that he is not averse to encouraging digital payments and he welcomes it, if there is a way in which it can be done. He stressed the importance of maintaining this visibility and suggested that any examination of the exemption should consider both revenue implications and the value of visibility in these transactions.

5.86 The Hon'ble Member from Delhi then stated that the key issue is the disparity in treatment between card transactions, which are exempt, and those made through payment aggregators, which are not. This disparity affects small businesses and start-ups the most. The Hon'ble Member from Delhi suggested that either no transactions under Rs. 2000/- should be exempt, or the exemption should also apply to these payment aggregators as well, to maintain parity.

5.87 The Hon'ble Member from Uttar Pradesh supported Karnataka's view, emphasizing the significant revenue implications and volume of transactions involved and said that it should be examined broadly.

5.88 The Hon'ble Member from Meghalaya concurred with Karnataka's views, noting that introducing the exemption would further complicate the situation. The Hon'ble Member emphasized the importance of maintaining the trail of information, as highlighted by Karnataka, considering it a valid point. Additionally, the Hon'ble

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Member acknowledged the significant revenue implications as mentioned by Karnataka. Therefore, the Hon'ble Member aligned with the opinions and suggestions of Karnataka and UP, concluding that the exemption in this category should not be pursued.

5.89 The Hon'ble Member from Gujarat and West Bengal also agreed with Karnataka's stance, stressing the importance of considering revenue collections.

5.90 The Hon'ble Member from Karnataka acknowledged concerns raised by Delhi regarding parity and emphasised need for parity between different modes of a same activity. He suggested that the Council Secretariat should examine how parity could be established without losing the current benefits of visibility and transparency.

5.91 The Secretary concluded by noting that there is a request to examine the need for parity, keeping in mind the importance of data visibility and revenue considerations.

Decision: The Council approved the recommendation that the Fitment Committee shall reexamine the matter considering all the factors discussed.

5.92 JS, TRU-I presented the agenda item pertaining to clarifying whether concession amount paid to NHAI by concessionaire for grant of rights under Toll Operate and Transfer Model (TOT) is liable to GST or not, as toll is exempt under Notification- 12/2017 - Central Tax (Rate) dated 28.06.2017. She informed that Fitment Committee had recommended to clarify that the concession amount paid to NHAI by concessionaire is taxable and not covered under entry at Sl. No. 23 of Notification No. 12/2017-CT(R). However, the matter was being deferred for re- examination after discussions in the officers' meeting on 08.09.2024.

5.93 The Hon'ble Member from Uttar Pradesh said that present system should continue.

5.94 The Hon'ble Member from Karnataka stated that they somewhat agree with the Hon'ble Member from Uttar Pradesh, particularly in principle. They expressed concern about selectively granting exemptions to specific agencies, which might not be the most appropriate approach. Karnataka emphasized that the discussion isn't about taxing tolls themselves, as those have already been exempted. Instead, the focus is on taxing the service provided by the toll operator. The Hon'ble Member drew a parallel with the earlier discussion on electricity, where the supply of electricity is exempt, but services like EV charging are taxable. Similarly, in this case, Hon'ble Member stated that it's not the toll itself that is to be taxed, but the business service provided by the toll operator. He maintained that, as a matter of principle, the toll should remain untaxed, while the service aspect (regarding concession amount) provided by the toll operator should be taxable.

5.95 The Additional Secretary, DoR highlighted that there are two types of concession agreements: one for new roads and another for maintaining and collecting tolls for existing roads. The issue arose when enforcement actions began, and GST was imposed on these services. Fitment Committee discussed the issue, and concluded that while tolls are exempt, GST is applicable to such services. He highlighted the problem

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that if GST is imposed, the funds collected from tolls, which are passed on to NHAI, would be taxed, disrupting the entire system and the development model. This would negatively impact not only NHAI but also State Governments, many of which have established road development corporations responsible for building and maintaining toll roads. If the proposed clarification is issued, enforcement actions will become final, requiring NHAI and State Governments to pay taxes. This could undermine the asset monetization efforts and the promotion of PPP projects. Additional Secretary stated that in the Officers' Meeting, it was decided to defer the issue and re-examine it. If, after re-examination, it is determined that there is still a technical reason for imposing GST, the possibility of granting an exemption should be considered.

5.96 The Secretary clarified that the issue under discussion is not about a separate service but an input service crucial to the toll or maintenance service, specifically the right to use the road. He explained that the toll, paid by consumers, whether passengers or vehicles, is the output service provided by the toll operator. However, to offer this service, the toll operator first needs to acquire the right to use the road from agencies like NHAI or state road development corporations. This acquisition of rights constitutes an input service to the toll operator's output service. He emphasized that while the Council has already exempted the output service (toll collection), the critical input service, which enables the toll operator to provide the output service, has not been exempted. He drew parallels to previous Council decisions, such as the exemption of reinsurance for government insurance schemes, where the input (reinsurance) was also exempted to maintain the intended benefits of the output exemption. To illustrate further, he mentioned similar cases involving exemptions on petroleum, electricity, and alcohol, where the input services or goods were also exempted to avoid indirectly taxing the output, which was supposed to be exempt. He concluded by stating that this proposed exemption should not be seen as specific to NHAI but applicable to all similar road projects and toll collections, regardless of the agency involved. He suggested that the Fitment Committee should thoroughly re-examine whether this exemption should be granted and consider its implications, including what would happen regarding taxes already collected in the past. Uttar Pradesh and other States, after this clarification, agreed to the suggestion for the re-examination by the Fitment Committee.

Decision: The Council approved the recommendation to defer the issue for re-examination by the Fitment Committee.

5.97 JS, TRU-II presented the agenda item pertaining to applicability of GST on Research grants or donations received from Government or private agencies. He stated that the Fitment Committee had recommended to grant exemption to the following service under heading 9981- Supply of research and development services by- (a) a Government Entity; or (b) a research association, university, college or other institution, notified under clauses (ii) or (iii) of sub-section (1) of section 35 of the Income Tax Act, 1961 to Central Government, State Government, Union territory, local authority or Government Entity against consideration received from them in the form of grants.

5.98 The Hon'ble Member from Delhi sought clarification regarding applicability of GST on grants received by educational institutions from private agencies.

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5.99 The Secretary clarified that even when there is a quid pro quo i.e. where research is conducted on behalf of the government with something given in return, such as IPR or new technology the grants would be exempt. He also mentioned that in the Officers' meeting, it was deliberated that in pure research, where there is nothing in return as such any rights or IPR etc and the research conducted is purely for public good, such pure research should not be taxable. It was recommended that this issue be further examined, and if necessary, a circular should be issued to clarify that grants for pure research as discussed above should not be subject to tax.

5.100 The Hon'ble Member from Delhi again sought clarification regarding the first part- whether the presence of a quid pro quo would render the transaction taxable or not.

5.101 The Secretary clarified that if there is a quid pro quo in case of a private entity, the transaction is taxed. He explained that many institutions, both in the private and public sectors, might conduct research for companies that could lead to improvements in technology, for eg. company enhancing the functionality or capacity of its car engine. In such cases, the company may provide a grant or fee in return for the intellectual property rights (IPR) or copyrights to use the technology for commercial purposes. Similarly, an agricultural company might provide a grant to develop a better seed, which would also be taxable because it involves a service provided in return. Whereas if a research grant is given for purely philanthropic purposes, such as developing a medicine with no intention of commercial exploitation, it should not be taxed. He pointed out that the global practice generally exempts research for the public good. In the Officers' meeting it was decided to deliberate on how to address these issues, particularly the issue of distinguishing research for public benefit from research for commercial exploitation.

5.102 The Hon'ble Member from Assam supported the exemption, noting that making research taxable under GST would significantly increase costs, potentially discouraging research and development in areas such as education and agriculture. It was also stated that exempting research under GST, consistent with provisions in the Income Tax Act, would encourage scientific research and development. It was further emphasized that exempting research from GST would send a positive message to society, about the Government's commitment to education, research and the development of scientific temper whereas if research were made taxable under GST, it would become expensive and potentially discourage research and development scenario in India.

5.103 The Hon'ble Member from Meghalaya stated that the decision on taxability should fundamentally depend on the end use of the research. They suggested that where everyone is allowed to use the outcome of research, it should be non- taxable. However, if the research results in a patent held by an entity that controls its use, this should be treated differently. He proposed that research for public use is perhaps the only justifiable way to grant a tax exemption. They also expressed concern that organizations might misuse this exemption by creating proxy entities to fund and benefit from research through indirect channels. Hence, it is crucial to ensure transparency and openness in research to truly benefit the larger public. The Committee should thoroughly examine

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these aspects and make decisions that would foster positive research development for the greater good of the country.

5.104 The Hon'ble Member from Delhi expressed some confusion regarding the decision on whether the exemption applies to research grants or if further examination is needed.

5.105 The Secretary clarified that the Fitment Committee would review the need for any orders, circulars or notifications concerning the taxability of research conducted for public good. The Committee will specifically exclude cases involving commercial exploitation of research from the exemption.

5.106 The Hon'ble Member from Uttar Pradesh supported the Fitment Committee's recommendations.

5.107 The Hon'ble Chairperson then summarised the key points of the discussion. First, the grants given by the Government-to-Government entities or the institutions notified under section 35 of the Income Tax Act, 1961 are exempt from GST. This exemption applies whether the research is for pure public good or otherwise. Second, pure research conducted for the larger public good, if funded by the Government, is exempt from GST. The Fitment Committee may be asked to look into certain aspects and provide clarity. The Hon'ble Chairperson emphasized that clarity is needed on how private funding in such cases should be treated. When these grants lead to commercial exploitation by the private entities, the Fitment Committee shall examine the appropriate tax treatment.

5.108 The Hon'ble Member from Delhi stated that a clarification is required if such grant is received from a private entity for purely philanthropic purposes.

5.109 The Hon'ble Chairperson asserted that research, whether it involves government-to-government, government-to-private, or private funding, should be treated favourably. She acknowledged that sometime State and Central GST authorities issue notices to verify the nature of research funding to ensure compliance with the law. These notices are not intended to harass but to verify the compliance. She noted that recent notices were issued to seven institutions, including both Government and private entities, to investigate whether the funding was compliant with existing regulations.

5.110 The Hon'ble Chairperson proposed that research funding, whether from government or private sources, should be treated favourably. She suggested that the Fitment Committee should examine how to tax or otherwise private funding for research intended for the public good, ensuring that it is treated in a manner that supports research and development.

5.111 The Hon'ble Member from Mizoram highlighted that when universities receive research funding from companies, it is often categorized as a consultancy fee. According to the UGC working committee, 2019 on university-industry engagements, a portion, typically 10 to 50 percent of this consultancy fee, is allocated to the university. He urged

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the council to consider this aspect when the Fitment Committee reviews the matter, pointing out the challenges faced in academic research. He noted that research often follows its own hypothesis, making it difficult to predict outcomes such as patents, which can take many years to materialize. This delay poses a challenge for paying GST, as the grantor might have already disbursed the funds, and the patent could be granted years later. He expressed satisfaction that the Council is moving towards a conclusion where GST may not be applicable.

5.112 The Hon'ble Member from Bihar and Meghalaya both expressed that if private entity funds research aimed at the larger public good, such funding should also be exempt from taxation. The Hon'ble Member from Meghalaya further suggested that the research institution should provide an undertaking affirming that the outcome of the research, whether it be a study, patent, or any other result, will be made public and will not be kept hidden. This undertaking would ensure transparency. By committing to make the research and its outcomes publicly accessible from the outset, the process would align with the larger public interest and, therefore, should be exempt from taxation.

5.113 The Hon'ble Member from Uttar Pradesh stated that research should be encouraged at every level, as innovation in any field often stems from dedicated research efforts. However, if the outcomes of this research can be used commercially, then it is advisable that revenue interests of the States should be safeguarded. The Fitment Committee shall examine it further diligently.

5.114 The Hon'ble Member from Kerala stated that, if the funding is directed towards product development or patent creation, that needs to be carefully examined by the Fitment Committee. He emphasized the importance of promoting research funding from both private and public sectors. While public sector funding is already established, there is a significant need for private sector contributions to research. Generally, most aspects of research funding can be accepted without imposing a tax burden, but special considerations should be made for cases involving product or patent development.

5.115 The Hon'ble Member from Nagaland remarked that the discussions have largely focused on the public good, and it is understood that Delhi has repeatedly made interventions, likely due to specific instances of irregularities. These irregularities seem to be the reason that private philanthropist donors, are being scrutinized more critically compared to others i.e. Central and State grants. The Hon'ble Member suggested that it would be appropriate to clarify why the private grants are being treated differently and the specific apprehensions surrounding them.

5.116 The Hon'ble Member from Uttarakhand supported Meghalaya's suggestion that research institutions should provide an undertaking affirming that the outcomes of their research, whether it be a study, patent, or any other, will be made public. Additionally, he proposed that if the undertaking is not complied with, GST should be levied.

5.117 The Hon'ble Member from Telangana emphasized the importance of research for the country and suggested that funding from the Government, whether from the Centre

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or the State, to institutions should be exempted from taxation. If the research serves a public purpose, even if it involves quid pro quo, it should still be exempted since the funds are coming from the Government. He proposed that private institutions funding research for the public purpose should also be exempted from taxation. However, if the research is conducted solely for the benefit of the private institution, such as for patents or other proprietary purposes, it should be taxed. He recommended that only the scenario where private funding is for the institution's own benefit should be referred to the Fitment Committee for further consideration.

5.118 The Hon'ble Member from Chhattisgarh emphasized the importance of creating a favourable environment for research and development (R&D). He suggested that while research funding for the larger public good should certainly be exempted, R&D for commercial purposes should also be promoted to enhance the competitiveness of private companies. Therefore, he opined that exemptions should be extended even to commercially-oriented R&D activities.

5.119 The Hon'ble Member from Arunachal Pradesh emphasized that research inherently involves development (R&D) and innovation. They highlighted that the purpose of research, whether it is for public or commercial purposes, whether funded by Government or private entities, is ultimately for development and innovation. Therefore, Arunachal Pradesh strongly advocated that all research activities, regardless of their source of funding or end use, should be granted exemption to promote overall development and innovation.

5.120 The Hon'ble Chairperson proposed to the Members that exemption to research which is proposed for Government entities and institutions with income tax exemptions, against government grants should also extend to private grants for research. The suggestion was to exempt all research funding, to govt. entities or institutions notified under Income Tax Act whether it is for public good or involves a quid pro quo. She emphasized that any research with a commercial outcome, such as a patent or a copyrighted product, would eventually be taxed when it enters the market. Therefore, she stated that taxing research at its initial stage should be avoided. She urged to consider exempting private funding for research to govt. entities or such institutions.

5.121 The Hon'ble Member from West Bengal was in agreement with the Hon'ble Chairperson, emphasizing that the proposal effectively addresses the need to encourage research for the benefit of society. She concurred that taxing research at a later stage, rather than at its inception, is the appropriate approach.

5.122 The Hon'ble Member from Nagaland also expressed his agreement to the proposal of the Hon'ble Chairperson, suggesting that the private funding should not be treated differently when the intention is the same as Government funding. They supported the Hon'ble Chairperson's view that all research should be treated equally.

5.123 The Hon'ble Member from Delhi appreciated the Hon'ble Chairperson's views, agreeing that all type of research, against Govt. or private grant should be exempted from

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taxation. She also mentioned that considering the challenges Governments face in *funding research, private sector contributions should be acknowledged and encouraged.*

5.124 The Hon'ble Members from Sikkim, Gujarat, Chhattisgarh, Punjab, Andhra Pradesh, Madhya Pradesh and Goa also expressed their support for the Hon'ble Chairperson's views. The Hon'ble Member from Goa added that private companies sponsoring research to such private institutions should also be considered for exemption

5.125 The Secretary acknowledged the overarching unanimity on exempting all research funding to Govt. entities and other notified institutions

5.126 The Hon'ble Chairperson indicated that the law should be simple and straightforward, reflecting the Council's unanimous decision to support research, by exempting all forms of research funding from taxation. She also suggested that a simple definition of Research may be provided by the Fitment Committee to distinguish it from consulting.

Decision: The Council recommended that all kinds of research funding made by Government and Private entities to Government, Government entities and institutions covered by section 35 of Income Tax Act 1961 may be exempted. A draft circular/notification detailing this exemption will be circulated by TRU among all the States. The Council further recommended that the Fitment Committee may examine to clarify definition of research to distinguish research from consultancy activities.

5.127 JS, TRU-II presented the agenda item pertaining to clarifying that GST is not applicable under reverse charge on the India branch office for expenses incurred by Foreign Airlines Head office or any other relief mechanism or amendment effective from 01.07.2017 that meets the request. She stated that the issue had arisen from a technical definition where the import of service, even when undertaken without consideration, is deemed taxable. After examining this issue and consulting with the Ministry of Civil Aviation (MOCA), Fitment Committee had recommended to exempt import of services by an establishment of a Foreign Airlines company from a related person or any of its establishment outside India, when made without consideration and to regularize the past period on 'as is where is' basis.

Decision: The Council approved the recommendation of the Fitment Committee to exempt import of services by an establishment of a Foreign Airlines company from a related person or any of its establishment outside India, when made without consideration and to regularize the past period on 'as is where is' basis.

5.128 JS, TRU-II then presented the agenda item pertaining to reducing the GST paid by individuals on health insurance premiums from 18% to 5% or to exempt GST on Health Insurance premiums. He stated that the issue was also deliberated upon in the Officers' meeting and following options were discussed:

i. Exempting all individual health insurance premiums;
ii. Exempting individual health insurance premiums which are paid by senior citizens and

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individual health insurance premiums where the coverage is up to Rs. 5 lakhs (irrespective of age);

iii. Exempting only those individual health insurance premiums which are paid by senior citizens; or

iv. Reducing the rate of GST on all individual health insurance services to 5% without ITC.

5.129 The Hon'ble Member from Maharashtra expressed support for reducing the GST on health insurance premiums from 18% to 5%. She was in favour of the fourth option i.e. to reduce the GST rate on all individual health insurance services to 5%, without allowing input tax credit (ITC). She emphasized that they lack data on senior citizens for the other two options and requested to approve the same.

5.130 The Hon'ble Member from Chhattisgarh highlighted the low penetration of private health insurance, noting that only 5 crore people have private insurance, while 60 crore are covered under the Government's Ayushman Bharat scheme. Whereas 75 crore individuals are still uninsured. They emphasized that the premium is essentially an advance payment for health services (which are exempt), and questioned the rationale for taxing this. He advocated for reducing GST to 5% with ITC, as without ITC it will complicate the issue and affect the benefit to the middle class. The suggestion was made to simplify the tax structure rather than creating more categories.

5.131 The Hon'ble Member from Bihar welcomed the 5% reduction proposal but stressed the need to ensure that the full benefits reach the consumers. He stated that this step must directly benefit the common people and conveyed strong support for the measure.

5.132 The Hon'ble Member from Uttar Pradesh also supported the proposal for reduction to GST@5% for all individuals and suggested that senior citizens should be fully exempt from GST on health insurance. He reiterated that it must be ensured that benefits of the reduction are passed on to consumers.

5.133 The Hon'ble Member from West Bengal advocated for a total exemption of GST on health insurance premiums. She stated that the benefit of this should go directly to the individuals, citing a NITI Aayog report that over 30% of the population remain outside the healthcare system. To ensure affordability and accessibility for the public at large, she proposed that a complete exemption on health insurance premiums is necessary. She raised concerns about proposal to exempt senior citizens may create unnecessary complications, particularly for family health insurance schemes, where differentiating between senior and non- senior citizens would be difficult. She underscored the importance of health as a Constitutional right and urged the Council to ensure that this right is effectively exercised by all citizens. She suggested to consider supporting a total exemption of GST on health insurance, as it is essential for public health.

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5.134 The Hon'ble Member from Telangana supported for reducing GST on health insurance premiums from 18% to 5%. He highlighted the financial burden on the lower middle class and middle class, who often struggle to access healthcare due to high medical costs. Health insurance plays a vital role in protecting the common man from these expenses. By lowering the GST rate on premiums, more people would be encouraged to purchase health insurance, which would ultimately improve the overall health and productivity of society. He also proposed a full exemption for senior citizens, emphasizing the Government's responsibility to make health insurance affordable for all.

5.135 The Hon'ble Member from Meghalaya also supported the reduction of GST on health insurance premiums to 5%, emphasizing that it will increase the coverage. He then highlighted the long-term impact of shifting from a treatment- based health sector to an insurance-driven one, where preventive medicine becomes a priority. He stated that an insurance-driven mindset could lead to a greater focus on prevention, benefiting both insurance companies and individuals. While acknowledging the technical challenges of fully exempting health insurance from GST, he suggested to start with a GST @ 5% and monitoring its effects. If positive outcomes are observed, the Council could then consider for further exemption in the sector. He reiterated support for reducing the GST rate and expressed openness to further discussions on full exemption.

5.136 The Hon'ble Member from Goa advocated for a 100% exemption from GST for health insurance, arguing that even reducing it to 5% might not address affordability concerns for many people. He opined that differentiating between senior citizens and others would be difficult, and offering a full exemption would make health insurance more accessible to the wider population. He also raised concerns about whether the benefits of health insurance truly reach the insured individuals and suggested the need for better monitoring.

5.137 The Hon'ble Member from Madhya Pradesh supported the fourth option, which proposes reducing GST on health insurance premiums to 5% without allowing input tax credit (ITC). He suggested careful monitoring to ensure that the benefits of the reduction are passed on to consumers.

5.138 The Hon'ble Member from Kerala highlighted the importance of providing benefits to as many people as possible and supported reducing GST @ 5%. He suggested a differential approach for those who can afford higher premiums but supported the fourth option for the policies with the coverage up to ₹5 lakh. He stressed that the middle class and poorer sections of society should benefit the most from this reduction.

5.139 The Hon'ble Member from Andhra Pradesh also supported the fourth option, emphasizing that reducing GST from 18% to 5% without ITC would have a lesser revenue impact while benefiting the common people.

5.140 The representative from Tamil Nadu supported the fourth option of reducing GST on health insurance premiums to 5% without input tax credit (ITC) and emphasized the importance of ensuring that the policyholder shall be benefited from the reduced rate. He also suggested facilitation by the regulatory bodies like the Insurance Regulatory and

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Development Authority of India (IRDAI) and the Department of Financial Services to ensure that this benefit is passed on to consumers.

5.141 The Hon'ble Member from Sikkim expressed support for a total exemption of GST on health insurance premiums, highlighting the significance of health for a prosperous India. He stated that ensuring everyone's health is essential for the nation's wealth.

5.142The Hon'ble Member from Punjab proposed reducing GST on health insurance from 18% to 5% without ITC, but also advocated for a full exemption for senior citizens, stressing that such a move would greatly benefit their health.

5.143 The Secretary highlighted those numerous options, including additional ones with variation of the fourth option, were presented. He acknowledged significant support for the fourth option but stated that even within that, sub- options and technical considerations has emerged. He mentioned the Fitment Committee to deliberate on the nuances, such as how group policies, floater policies, or reinsurance should be handled. He further recommended further deliberation to avoid sending a fragmented or unclear message. He suggested that the Fitment Committee or a Group of Ministers (GoM) take these inputs into account for definitive proposal in the next council meeting.

5.144 The Hon'ble Chairperson addressed the Council regarding the various views presented on reducing or exempting GST for health insurance, particularly for senior citizens. She acknowledged the wide variety of inputs received, including special considerations for certain groups like senior citizens and specific insurance categories such as group insurance, family insurance, individual policies or term insurance, etc. She proposed that a dedicated Group of Ministers (GoM) should be constituted to examine the matter thoroughly and provide recommendations. She suggested that this GoM would have a strict timeline to finalize its report so that the GST Council can take up the issue in its November meeting. This timeline would allow the GoM to deliberate on the different scenarios and options presented, ensuring that the recommendations align with the overall sense of the Council, which clearly favours reduction or exemption in certain cases. She invited any ministers interested in being part of this GoM to join and stressed the importance of adhering to the proposed schedule so that the report is ready by the end of October, allowing the Council sufficient time to review it before making a final decision in November. This approach would ensure a comprehensive solution that addresses all concerns raised while adhering to the Council's general direction.

5.145 The Secretary proposed that the existing GoM for rate rationalization may be tasked with examining GST on medical and health insurance, with the inclusion of additional members from the States like Andhra Pradesh, Telangana, Goa, Gujarat, Punjab, Meghalaya, and Tamil Nadu. The GoM would have terms of reference to suggest a way forward for all types of health insurance, including group, individual, family, and reinsurance for medical purposes. The report would be submitted by the end of October.

5.146 JS, TRU-II then presented the agenda item pertaining to reduction of GST on premium paid by individuals for the term/pure protection insurance plans from 18% to

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5% or to exempt GST on life insurance premiums. The Secretary suggested that, to save time, the same GoM (that is being tasked with examining GST on medical and health insurance) could also review GST rates for term life insurance, ensuring a consolidated view on both medical and term life insurance policies. This proposal was made unless members specifically wanted to express their views on term insurance separately.

5.147 The Hon'ble Member from Andhra Pradesh pointed out that there was another agenda item concerning Health Insurance premium for persons with Mental Illness (PMI) (S.No.6 (Annexure V, Volume I))

5.148 The Secretary agreed, suggesting that this issue also be included in the terms of reference for the GoM, thus creating a more comprehensive review. The Council supported this integrated approach for a thorough analysis of all related insurance policies.

Decision for Agenda item No. 19 & 20 (Annexure IV, Volume III) and S. No. 6 (Annexure V, Volume I): The Council approved GoM for rate rationalization be tasked with examining GST on Medical and Health insurance, term life insurance and insurance for persons with Mental Illness (PMI) with the inclusion of additional members from the States namely, Andhra Pradesh, Goa, Gujarat, Meghalaya, Punjab, Telangana and Tamil Nadu. The GoM is to suggest a way forward for all types of health insurance, including group, individual, family, floater, and reinsurance of Insurance services. The report may be submitted by the end of October.

Agenda Item 4(d) : Joint Secretary, TRU-I presented the agenda pertaining to recommendations of the Fitment Committee where no change has been proposed in relation to services.

5.149 The first agenda item relating to request to fully exempt from GST horticulture services supporting the environmental causes due to their potential role in improving air quality. She stated that at present, pure services and composite supply of goods and services in which the value of goods constitutes not more than 25% of the total value of supply, in relation to any function entrusted to a Municipality are exempted. CPWD has requested it to be fully exempt, however, the Fitment Committee has recommended that the request may not be accepted. This recommendation was also agreed in the Officers' Meeting on 8th September, 2024.

5.150 The Hon'ble Member from Delhi suggested on behalf of Delhi, PWD that giving exemption to horticulture services is important as a lot of agencies are involved in this sector. Since there are high GST rates and given the fact that Delhi faces high pollution levels so, this exemption can be given for a certain period of time. Accordingly, she suggested that a time bound exemption can be considered in this regard as this will push more service providers to get registered under GST.

5.151 Joint Secretary, TRU-I clarified that the current exemption in this regard is available as provided under S.No. 3 and 3A of notification No. 12/2017-CT(R) dated 28.06.2017 which exempts pure services and composite supply of goods and services in

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which the value of goods does not constitute more than 25%, respectively that are provided to Central Government, State Government or Union Territory or local authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution. This exemption covers all kind of pure service or composite supply involving goods and service including horticulture. Any action expanding the scope of such exemption will impact other activities as well i.e. request of not having cap of 25% goods on such exemption will have wider ramifications.

5.152 The Secretary further clarified that the current exemption for such supply of services in which the value of goods does not constitute more than 25% is sufficient.

Decision: The Council approved the recommendation of the Fitment Committee to not give exemption to composite supplies by way of horticulture/horticulture works where the value of goods constitutes more than 25 per cent of the total value of supply.

5.153 JS, TRU-I presented the next agenda item relating to reconsider 5% GST applicable on all bus bookings through e-commerce platforms. Currently, passenger transportation services supplied by non-AC contract/ stage carriage are exempt from GST. However, 5% GST is applicable on online booking done through e-commerce platforms and not applicable if the same booking is made physically in cash at bus counter or if booking is made directly from the bus operators' website. She stated that Supply of any service through electronic commerce platforms is a distinct category of supply as compared to the service being supplied by individual service providers. So, Fitment Committee has recommended that the request may not be accepted.

Decision: The Council approved the recommendation of the Fitment Committee to not reconsider applicable GST @ 5% on all bus bookings through e-commerce platforms.

5.154 JS, TRU-I presented the next agenda item relating on inclusion of "any body corporate" or "corporation" established under any State Act or Central Act or a "Government company" for purpose of exclusion under Section 9(5) of CGST Act, 2017. Based on the recommendation of the 52nd GST Council meeting, the bus operators organized as companies were excluded from the purview of section 9(5) of CGST Act, 2017 in order to enable them to utilize ITC for discharging outward liability on passenger transport services provided by them through Electronic Commerce Operators (ECOs). She stated that the present request is for expansion of scope of exclusion under section 9(5) to any body corporate. This was discussed and the Fitment Committee has recommended that the request may not be accepted. This was also agreed in the Officers' meeting on 8th September, 2024.

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Decision: The Council approved the recommendation of the Fitment Committee to not include "any body corporate" or "corporation" established under any State Act or Central Act or a "Government company" for purpose of exclusion under Section 9(5) of CGST Act, 2017.

5.155 JS, TRU-I presented the next agenda item relating to clarifying that the delivery services provided by delivery partners through the e-commerce operators are not taxable due to providers being below the threshold of Rs. 20 lakhs, or, to bring delivery services made in respect of those supplies made through ECOs under section 9(5) of CGST Act, 2017 with prospective effect and these delivery services may be taxed at 5%. She informed that during the deliberations on the said issue in the Officers meeting held on 08.09.2024 it has been recommended to defer the issue for comprehensive examination.

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

5.156 JS, TRU-I presented the next agenda item relating to clarifying that prior to 01.10.2021, GST @ 5% paid on job work activities qua alcoholic beverages be treated as GST fully paid and no recovery of differential tax, over and above 5%, should arise. She stated that Fitment Committee has recommended that the request may not be accepted as there is no ambiguity in the provisions of the law related to the taxability of job work activities qua alcoholic beverages. The same was also agreed in Officers' meeting on 8th September, 2024.

Decision: The Council approved the recommendation of the Fitment Committee that there is no ambiguity in relation to taxability of job work activities qua alcoholic beverages and no clarification is therefore required.

5.157 JS, TRU-I presented the next agenda item relating to request for exemption from 18% GST on Health Insurance premium for Persons with Mental Illness (PMI) which is a scheduled Disability under the Rights of Persons with Disabilities Act 2016 (RPWD Act). This was agreed in the officers meeting, and it was decided to take up this issue as a part of health insurance agenda that would be referred to the proposed GoM to be constituted for life and health insurance.

Decision: The Council approved the recommendation of the Fitment Committee to take up the issue as a part of the health insurance agenda referred to the proposed GoM on life and health insurance.

5.158 Joint Secretary, TRU-I next presented four issues referred by the Law Committee to the Fitment Committee as under:

(a) To prescribe End-use certification system / form for notification No. 12/2017- CT (Rate)

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[entry no. 3], which exempts pure services provided to Government, Local Authority in relation to Municipality functions;

(b) To clarify whether the service of hiring manpower for providing services of Health, Public Garden, Promotion of education etc. are the functions entrusted to Municipality under Article 243W of the Constitution;

(c) To clarify that the service of "Enumeration & Supervision" provided by the implementing agency i.e. CSC-SPV, to MoSPI is exempt from GST under exemption entry 3 of notification No. 12/2017- CT(R) dated 28.06.2017; and

(d) To clarify that the services of spatial planning study, provided by the institutes to Ministry of Panchayati Raj is exempt from GST under exemption entry at Sl. No. 3 of notification No. 12/2017-CT(R) dated 28.06.2017.

5.159 In addition, there was another agenda item pertaining to clarifying about liability of GST on Man Power Supply Services received by Panchayats, Municipalities and Local Bodies. She informed the council that in the earlier meetings of the GST Council, there was a proposal to prune the list of exemptions under Sr.No. 3 and 3A of the Notification Number 12/2017-CT (Rate), whereby pure services and composite supply of services provided to the Government or Local Authority by way of any activity in relation to any function entrusted to a Panchayat under Article 243G of the Constitution or to a Municipality under Article 243W of the Constitution, are exempt from levy of GST. These issues were tagged with another proposal regarding clarification of the scope of the words "*in relation to*". In the 52nd GST Council meeting held on 07.10.2023, the Council has recommended to retain the entries at Sl. No 3 & 3A of notification No. 12/2017-CT(R) dated 28.06.2017 as it exists with no change. Fitment Committee has recommended that no further clarifications are required on the issue and hence the requests may not be accepted and that status quo may be maintained. This was also agreed in the Officers' meeting on 8th September, 2024.

Decision: The Council approved the recommendation of the Fitment Committee that no further clarification is required on the above issues.

5.160 JS, TRU-I then presented the next agenda item relating to a Writ Petition fi led before Hon'ble Delhi High Court by an Association of Private Security Industry wherein they have inter-alia contested the exclusion of body corporates from making payment under Reverse Charge Mechanism (RCM) in respect of security services. [Entry at Sl. No. 14 of the notification No. 13/2017-CT (R)]. Hon'ble Delhi High Court had directed to treat writ petition as a representation and to take appropriate action as deemed fit. She stated that currently, the security services (provided by way of supply of security personnel) provided by any person other than a body corporate are covered under RCM when provided to a registered person except government departments registered for TDS and entities registered under composition scheme services. The Association of Private Security Industry has represented to bring the entire security services sector including body corporate under RCM. Fitment Committee has recommended that the

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request may not be accepted. This was also agreed in the Officers' meeting on 8th September, 2024.

Decision: The Council approved the recommendation of the Fitment Committee to not include security services provided by the body corporates under RCM.

5.161 Joint Secretary, TRU-I presented the next agenda item relating to exemption from GST on the services provided by Goethe Institutes/Max Mueller Bhavans, funded by the German Federal Foreign Office, in India for the period from 01.07.2017 to 31.03.2023. She stated that the Fitment Committee has examined the issue and recommended that the request may not be accepted. This was also agreed in the Officers' meeting on 8th September, 2024.

Decision: The Council approved the recommendation of the Fitment Committee to not exempt GST on services provided by Goethe institutes/ Max Mueller Bhavans funded by German Federal Foreign Office for the past period from 01.07.2017 to 31.03.2023.

5.162 JS, TRU-I presented the next agenda item relating to request to exclude the Legislative Area Development Fund from the ambit of GST. A similar request regarding GST exemption for works carried out under MPLAD funds was placed before the 47th GST Council in its meeting held on 28th-29th June, 2022. However, the council did not accede to the request. She stated that accordingly, the Fitment Committee has recommended that the request may not be accepted. This was also agreed in the Officers' meeting on 8th September, 2024.

Decision: The Council approved the recommendation of the Fitment Committee to not exclude the Legislative Area Development Fund from the ambit of GST.

5.163JS, TRU-I presented the next agenda item relating to the request of uniform rate of 5% GST on all purchases charter and all services rendered by helicopters including rental paid for hangarage. The Fitment Committee examined this issue and has recommended that the request may not be accepted. This was also agreed in the Officers' meeting on 8th September, 2024.

Decision: The Council approved the recommendation of the Fitment Committee to NOT accept the request that on helicopters uniform rate of 5% GST should be charged on purchases charter, sale of seat tickets and all services rendered by helicopters including rental paid for hangarage.

5.164JS, TRU-I presented the next agenda item relating to the request to rationalize GST on cargo services from 18% to 5% to bring it in line with other services. This was also examined by Fitment Committee and it has recommended that the request may not be accepted. This was also agreed in the Officers' meeting on 8th September, 2024.

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Decision: The Council approved the recommendation of the Fitment Committee that GST on cargo services be NOT rationalized from 18% to 5%.

5.165 Joint Secretary, TRU-I presented the next agenda item relating to clarifying whether ITC of other business verticals can be used to discharge GST on outward liability in respect of restaurant service given the restriction of input tax credit as specified in notification No. 11/2017-CT (Rate) dated 28.06.2017, as amended, against entry at Sl. No. 7 & in 8, 9, 10, 23, 25, 31A. The agenda item has been withdrawn by the sponsoring state and Fitment Committee recommended to withdraw the agenda.

Decision: The Council approved the recommendation of the Fitment Committee to withdraw the agenda.

5.166 JS, TRU-I presented the next agenda item relating to exemption to GST on services related to water harvest scheme. The Council was informed that the said agenda has been withdrawn and no action is due.

Decision: The Council approved the recommendation of the Fitment Committee to withdraw the agenda.

Agenda Item 4(e): JS, TRU-I took up the next agenda item on the issues deferred by the Fitment Committee for further examination in relation to services (circulated as Annexure-VI of Sl. No.4 in Agenda Volume I & III).

5.167 She informed that 9 issues have been recommended to be deferred in the Council for further examination in relation to services as circulated in the Agenda.

Decision: The Council approved the recommendation of Fitment Committee to defer the issues.

Agenda Item 4(f): Review of 51st GST Council meeting's recommendation on the taxation of supplies in casinos, horse racing and online gaming

5.168 The Secretary invited Joint Secretary, TRU–I to present the next agenda item pertaining to the decision of the GST Council to review the changes made to taxation of online gaming and Casinos, as recommended in the 51st GST Council, after six months along with the status of revenues with regard to casinos and online gaming after implementation from 1st October, 2023.

5.169JS, TRU-I summarized the decisions taken in the 50th and 51st GST Council meetings based on which amendments were made in the Acts to provide clarity on taxation of casinos, horse racing and online gaming. All three would continue to be taxed at 28% irrespective of whether they are games of skill or chance, and valuation in respect of casinos and online gaming would be the amount deposited excluding bets placed out

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of winnings. Definitions of online gaming, online money gaming and specified actionable claims have been inserted. Special provision has also been inserted for services provided by persons located outside taxable territory; valuation rules have been brought into force w.e.f. 01.10.2023.

5.170 JS, TRU-I presented the status of revenue from online gaming. She stated that pre-amendment, the revenue paid in cash was Rs. 1,349 crores and after the amendment the revenue had increased to Rs. 6,909 crores i.e., 412% increase. In case of Casinos, the pre and post revenues were Rs. 164 crores and Rs. 214 crores respectively i.e., there has been a 30% increase.

5.171 The Secretary clarified that this revenue of Rs. 6,909 crores was only for 6 months and if the same were to be projected for 12 months, the revenues would be about Rs. 14,000 crores as against what would otherwise have been less than Rs. 3,000 crores- a 400 % increase. The decision not to wait for the Hon'ble Supreme Court to decide and to proactively clarify through an amendment has really helped as far as revenue collection from online gaming is concerned.

5.172 The Secretary stated that as far as revenues from casinos are concerned, there has been a 30% increase in revenue from the two states of Goa and Sikkim.

5.173 JS, TRU-I further addressed the concerns of domestic online gaming companies that the business would shift to off shore online gaming companies. She stated that a provision was specifically put in that if any offshore gaming company provides service in India, they have to either register or appoint a representative and if they fail to comply, the access to the websites can be blocked. DGGI had shared 134 URL websites with MeitY for blocking and MeitY had blocked 62 out of 134 websites so far. She further clarified that investigations are ongoing and DGGI would be listing some more of such websites to send to MeitY.

5.174 The Secretary sought comments and suggestions from the Hon'ble members.

5.175 The Hon'ble Member from Karnataka stated that whereas they had lost revenue on various other accounts, they are happy that substantial revenue has come to Karnataka from this. All the apprehensions that had been deliberated have not borne out to be true. Majority of these companies are in Bangalore. Post implementation, no major grievances have been heard from them. It is working well from the sectoral point of view. Even the turnover is maintaining its usual steady growth rate and there is no dip there. It seems to have worked out well for those who were really looking for some sources of revenue. It has been a good decision.

5.176 The Hon'ble Member from Sikkim stated that the growth which was shown at 30 % on casino was quite opposite to what Sikkim was seeing right now. There was a tremendous dip in the revenues generated, which has been brought out in data given by them. The decline of revenue by 24% was reflection of downfall in tourism which is due to recession in casino industries to a great extent. The footfall of tourists from October 22 to March 23, has decreased from 977638 to 559470- a decrease of 43%. So in respect of Sikkim it was not justified because they were at a loss and were suffering

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tremendously. For that the details had been given in the written speech which had circulated amongst the members.

5.177 The Secretary submitted that the figures mentioned in the speech circulated were based on some assumptions. As per actual numbers, the revenue certainly had decreased for the period if one looks at the six-month period before and after the implementation. This is because of the seasonality. Most of the tourism come in the summer months. If data for April to September 2023 is considered, which is just before the implementation of the new valuation rules, the tax collected was much higher and after that revenue might have dipped because of non-tourist season. When the comparison was made like to like month wise, which is April to July 2023 and April to July 2024, revenue had increased from Rs. 2.3 crore to Rs. 3.5 crore. For Sikkim, increase was 52%. Similarly for Goa, for April 2023 to July 2023 and then April 2024 to July 2024, it had increased from Rs. 101 crore to Rs. 148 crore which is an increase of 46%. So overall the increase even in casinos for a like to like comparison was 47%. Online gaming did not have such seasonality, so comparison of six months just prior to the implementation of the new rules with the six months after the implementation of the new rules has been done. Month wise data could change and so based on this data, comparing April to July 2024 of this year vis-a-vis same four-month period last year, the revenues increased 52% for Sikkim and 46% for Goa respectively.

5.178 The Hon'ble Member from Goa stated that the revenue of Goa had increased but the casino industry is related directly to tourism industry. Hotel industries and taxi industries were also dependent on these casinos. Today it was showing increasing trend but long run it will not go on because the actual casino players had started to shift to Nepal and to the other countries. Even though the tourists, who were not actually the players but seek an experience of how the casinos work by going there for one time are much worried about the increased rate of GST. Their number has decreased. The actual comparison of revenue from casino and tourism, how it affected the tourism or comparison with the increase in the revenue from the casinos, could be presented in the next GST Council Meeting, if an opportunity is given to them.

5.179 The Hon'ble Member from Sikkim stated that with Nepal they had a similar problem. Bagdogra is the only airport operational for Sikkim as Pakyong Airport is dysfunctional because of weather conditions and its road also is in a very bad state. The casinos in Nepal are about half an hour drive from the Bagdogra Airport where as to arrive in Sikkim in present conditions takes about 7 to 8 hours. So, people have been shifting their base towards Nepal. Nepal is a tax haven which is why all the revenue is flowing towards Nepal and Sikkim is losing out. This can be brought back to our country.

5.180 The Hon'ble Member from Sikkim requested Hon'ble Chairperson to kindly revisit the issue. They have advocated that 28% be charged on GGR (Gross Gaming Revenue) and not on the full-face value.

5.181 The Hon'ble Member from Uttar Pradesh stated that he was also the member of this GoM and a lot of discussions on the issue had taken place. The Secretary had

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already given the data. It was always known that the revenue was not going to decrease. As for Sikkim, it is a very small state and we all have full sympathy for them. It is another fact that their revenue has not decreased. In his view, if their infrastructure and other things are better; tourism will not be affected. Between GGR and face value, it is easier to calculate face value. If tax is levied on GGR, revenue will decrease and that needs to be foreseen. It will be welcome if Sikkim could be facilitated in some other way. The system that is running at present, due to which the revenue has increased, should be allowed to continue. The fear of Goa is also not right. It has the advantage of infrastructure, climatic conditions and beaches. Casino is not the only reason to go there. It is one of the attractions only. The fear of the concerned states should be removed. Many had commented on online gaming industry that it would be closed. Today more than 17 crores people are involved in online gaming whereas in share market, only 14 crores people are involved. Taxing on face value should continue.

5.182 The Hon'ble Member from Sikkim replied that taxation on this method of face value of sales of chips can encourage the players to purchase chips from fellow winning players who will not charge tax on the sale or from the bookie at the table without tax invoice. So, here also there could be evasion of tax.

5.183 On the observations made by Hon'ble Member from Sikkim, the Secretary observed that while players can use the method mentioned, revenues were still increasing.

5.184 The Hon'ble Member from Sikkim requested to provide one more chance to look into it, revisit the matter and get back again.

5.185 The Secretary stated that review was a continuous process. The Council had taken a view that issues once decided by the Council should not again be brought to the Council unless there was a specific Council direction to bring about a finality to the issue. This matter was deliberated in great detail and only after that that the decision was arrived at, the revenues had also increased not only for online gaming also for casinos. He reiterated that tourism was not a function primarily of casino. Goa as well as Sikkim had so much of natural beauty, climate, beaches, hills, other monuments, etc. and those were the primary drivers. If the tax was a little high, tourists' participation might dip in such activities, but still, they would go and spend time in Goa and Sikkim. The other factor to consider is whether the same should be made the USP for tourism and if so, then the question is how far should it be encouraged. He suggested that other avenues to promote tourism might yield better results. He requested the Council to take on record the report presented by the TRU.

5.186 The Hon'ble Member from Karnataka stated that, in a lighter vein, even the online gaming had seasonality. During the IPL, there was a spike in online games. Further, they have studied the data on turnover of top five online gaming companies. The fifth top company was declaring 167% growth rate while the top company was declaring 359% growth in their turnover. So, maybe it has brought greater transparency. If the volumes were growing by 100-300%, it is because of the growth in consumption in the online games. Transparency of data is also helping.

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5.187 The Hon'ble Chairperson credited the Council for the decision which was taken after so much of deliberations over a period of three years involving more than one round of discussions and which involved different interactions with different stakeholders. It was clear from the facts presented by the Karnataka's minister that the rate which the Council decided in its wisdom has not hurt the industry. The Hon'ble Chairperson appreciated the wisdom and the consideration with which decisions are taken in the Council as a result of which the industry flourishes, but revenues are also being earned. More importantly, tracking and tracing happens.

Decision: The Council took on record the status of revenue report with regards to Casino and Online Gaming after its implementation from 01.10.2023.

Agenda Item 4 (g): Issuance of circular clarifying the scope of the phrase ' as is where is basis'

5.188JS, TRU-I stated that this has already been discussed earlier in the agenda pertaining to the recommendations of the Fitment Committee.

Agenda Item 4 (h): Report of Committee of Officers on Taxation of Extra- Neutral Alcohol under GST for the past period (from 1.7.2017 to 20.10.2023)

5.189 The Secretary then introduced the next agenda item relating to the Report of Committee of Officers on Taxation of Extra-Neutral Alcohol under GST for the past period (from 01.07.2017 to 20.10.2023). The GST Council in its 52nd meeting had decided to keep the Extra Neutral Alcohol for use in manufacture of alcoholic liquor for human consumption outside the ambit of GST. Joint Secretary, TRU-I stated that a Committee of Officers (CoO) was constituted as per directions of the GST Council in its 52nd Meeting held on 07.10.2023 with Joint Secretary, TRU-I as Convenor and with States of Andhra Pradesh, Karnataka, Madhya Pradesh, Maharashtra, Punjab, Rajasthan, Uttar Pradesh and West Bengal as members to study the taxation of Extra-Neutral Alcohol under GST for the past period (from 01.07.2017 to 20.10.2023).

5.190 JS, TRU-I stated that the Committee of Officers had conducted three meetings. The Committee examined the data collected from States/UTs and CGST formations including protective demands raised under GST/VAT on ENA and GST/VAT revenue collected on ENA /Rectified Spirit / Undenatured Ethyl Alcohol used for alcoholic liquor for human consumption. She further stated that the committee noticed divergent practices among the states wherein some states were charging only VAT while State of Karnataka was charging only GST and some other states were charging both VAT and GST. Further, State of Uttar Pradesh had started collecting GST following the decision of Hon'ble Allahabad High Court in the case of M/s Jain Distillery Private Limited. As per the collective data (including the given by State of Delhi and State of Jharkhand), GST collection is Rs.473 crores, VAT collection is Rs.6,528 crores whereas the GST demand notices have been issued for about Rs. 680 crores and VAT demand notices have been issued for about Rs.39 crores.

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5.191 One of the solutions discussed in the meetings was whether to regularise the past on "as is where is basis". The issue on whether States have the power to levy VAT on ENA under Entry 8 of List II is currently sub-judice before the Hon'ble Supreme Court on an appeal filed by State of UP against Allahabad HC judgement in the case of M/s Jain Distillery Private Limited State of UP informed the Committee that the matter is likely to be decided soon. Members of the Committee raised the apprehension that in the event the Hon'ble Apex Court upholds the HC decision then all States would have to refund the VAT collected. In such a situation if the past period is regularized on 'as is where is' basis, recovery of GST against demands raised would also not be possible. Therefore, Committee of Officers has recommended that a view may be taken after the decision of the Hon'ble Supreme Court.

5.192 The Secretary requested the Council to accept the recommendation of the Committee of Officers to wait for the decision of the Supreme Court regarding the taxability of ENA with respect to VAT and GST.

Decision: The Council accepted the report of Committee of Officers and recommended to wait for the decision of the Hon'ble Supreme Court regarding the taxability of Extra-Neutral Alcohol.

<u>Agenda Item 4(i):</u> Status update on Group of Ministers (GoM) on Rate Rationalization

5.193 The Hon'ble Convenor of the GoM on Rate Rationalization presented a status update.

5.194 The Hon'ble Convenor of the GoM brought out that the GoM was set up based on the recommendations of the GST Council in its 45th Meeting It was entrusted with the important task related to rate rationalization. He observed that while taking into consideration any measures aimed to increase the revenue, it must be ensured that the life of common citizens does not get adversely impacted. He further stated that the GoM has been reconstituted several times and that currently, apart from him (the Hon'ble Deputy Chief Minister of Bihar) the GoM includes Hon'ble Ministers from the State Governments of Karnataka, Uttar Pradesh, Rajasthan, West Bengal and Kerala as its members. He also mentioned that the four Terms of Reference (ToR) of the GoM are:

i. review the supply of goods and services exempt under GST;
ii. review the instances of inverted duty structure;
iii. review the current tax slab rates and
iv. review the current rate slab structure of GST.

5.195 In addition, certain other issues have also been referred to the GoM. In the 47th meeting of the GST Council, the GoM had submitted its interim report containing recommendations on corrections in inverted duty structure and review of exemptions on supply of goods and services in the GST rate structure. The GoM had also requested 3 months' time for the GoM to come up with its final report. The interim report was

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accepted by the GST Council and 3 months' extension was also provided to submit a final report. In addition, the GST Council during various Council meetings, had referred certain additional issues to the GoM for a holistic and comprehensive examination such as:

(i) Issue relating to correction of Inverted Duty structure in Textile Sector was referred to GoM in the 46th GST Council Meeting;

(ii) issue relating to reduction of GST rate on silk, silk weaving material and handloom weavers was referred to GoM in the 47th GST Council Meeting and

(iii) issue relating to rationalisation of rates of inputs in Fertiliser sector was referred to the GoM in the 53rd GST Council Meeting.

5.196 He informed that the 4th meeting of the GoM was recently held on 22nd August, 2024 in Delhi and that in the next meeting, the GoM shall consider the remaining two terms of reference related to the review of the current tax slab rates and review of the current rate slab structure of GST.

5.197 The Hon'ble Convenor of GoM further stated that in the GoM Meeting held on 22nd August, 2024, the remaining two terms of reference pending before the GoM were discussed in detail and it was decided to hold the next meeting of GoM on 25th September, 2024. The recommendations of the GoM on the Terms of Reference and the other issues referred to it for examination shall be incorporated in the Final Report and placed before the GST Council in due course.

5.198 The Secretary sought suggestions and inputs on rate rationalization, especially in relation to the five-rate structure of GST and rate rationalization which are the remaining two terms of reference of the GoM.

5.199 The Hon'ble Member from Uttar Pradesh suggested that the issue of "rate rationalization of GST on Shoes", on which they had received a representation from the Shoe Manufacturers Association, may be referred to the GoM on Rate Rationalization for comprehensive examination.

5.200 The Secretary clarified that this issue was related to the duty inversion and that the GoM had already submitted their report on this term of reference. However, he added that the Council may reconsider the issue, if required.

5.201 The Hon'ble Member from Uttar Pradesh again proposed that the issue of reduction in GST rate from 12% to 5% on shoes with MRP less than Rs.1000/- may be examined by the GoM on Rate Rationalization.

5.202 The Hon'ble Member from Gujarat concurred with the proposal of the Hon'ble Member from Uttar Pradesh.

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Decision: The Council took note of the status update as presented by the convenor of the GoM on rate rationalization. It also agreed to refer the issue of reduction in GST rate from 12% to 5% on shoes with MRP less than Rs.1000/- to the GoM for comprehensive examination.

Agenda Item 4 (j): Status update on Group of Ministers (GoM) on boosting real estate sector under GST regime

5.203 The Hon'ble Member from Goa as the Convenor of GoM for boosting real estate sector under GST regime referred to the last meeting dated 22.08.2024 of GoM in Delhi.

5.204 He asked the Joint Secretary, TRU-II, to provide the status report of the first two meetings of the GoM on boosting Real Estate Sector held in 2019 as he had not attended these meetings thereafter, he would provide the status update of the third meeting of GoM.

5.205 JS, TRU-II stated that the GST Council in its 32nd meeting held on 10th January, 2019 had recommended constitution of a Group of Ministers on boosting the Real Estate sector under GST regime. At present, the Convenor of GoM is the Hon'ble Chief Minister of Goa and the Hon'ble Ministers from the States of Bihar, Maharashtra, Kerala, Punjab, Uttar Pradesh and Gujarat are its members. Since its constitution, the GoM had conducted three meetings. The first meeting was held on 08.02.2019 and second meeting of the GoM was held on 21.11.2019. Third meeting had been recently held on 22.08.2024.

5.206 He stated that the Terms of Reference of the GoM are:

i. Analyse tax rate of GST for boosting real estate sector by providing a composition scheme for residential construction units;
ii. Examine and suggest ways for composition scheme or any other scheme, for boosting the real estate sector and suggest scheme for transition vis-a-vis introduction of suggested scheme;
iii. Examine various aspects of levy of GST on Transfer of Developmental Rights (TDR) and Development Rights in a Joint Development Agreement;
iv. Examine legality of inclusion/exclusion of land or any other ingredient, in composition and suggest the valuation mechanism: and
v. Examine and suggest any other aspect relevant to boost Real Estate Sector.

5.207 JS, TRU-II further stated that the earlier GoM had given certain recommendations on these terms of reference. As far as the first ToR on GST rate for residential construction units by providing a composition scheme was concerned, based on the recommendations of the first GoM, the effective rate of GST was brought down from 8% with Input Tax Credit (ITC) to 1% without ITC for the affordable residential apartments and GST rate was brought down from 12% with ITC to 5% without ITC for other than the affordable residential apartments. At the same time, levy of GST on TDR and

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Development Rights was also discussed in the earlier GoM and that GoM had recommended for intermediate tax on Development Rights given by the land owner to the builder to be exempt and liability to pay the tax on such development rights to be shifted from land owner to builders under the Reverse Charge Mechanism (RCM). This recommendation of the earlier GoM was also accepted by the Council. As far as the ToR related to examining any other relevant aspect is concerned, the earlier GoM in its second meeting had recommended to exempt GST for an entity having 20% or more ownership of government for granting long term lease of land (30 years, or more) for industrial plot. Earlier this limit was 50% which was brought down to 20%.

5.208 Thereafter, the Hon'ble Convenor of the GoM stated that the third meeting of GoM had been held on 22.08.2024 wherein the GoM discussed all the issues pending before it. It was suggested to seek reports from states who have given the status of industry to other sectors (including tourism sector) with a view to examine the issue of inclusion of 'other businesses' in the existing exemption entry to exempt GST payable on long term lease of 30 years or above. With respect to the issue of redevelopment of buildings in own co-operative society, Hon'ble Convenor informed that the State of Maharashtra has been requested to submit a detailed proposal. Similarly, State of Maharashtra has been requested to provide details on supply of construction services provided by the Co-operative Housing Society (CHS). To review the limit of Rs.45 lakhs in the definition of affordable residential apartment for metropolitan areas, the Convenor stated that the GoM is examining if the value limit should be on space basis and not on rate basis. He said that the last GoM meeting was held after a gap of four years and now the GoM is trying to expedite its meetings so that it can conclude the recommendations of GoM. He also informed that the next GoM meeting was scheduled to be held on 24th September, 2024. The Convenor stated that all the members of GoM had given good suggestions. He specially appreciated the suggestions given by the Hon'ble Member from Uttar Pradesh. He further added that the GoM shall prepare concrete recommendations by the next Council meeting.

Decision: The Council took note of the status update of GoM on boosting real estate sector under GST regime.

Agenda Item 5: Recommendations of the 21st meeting of the IT Grievance Redressal Committee for approval/decision of the GST Council:

6.1 Joint Secretary, GST Council Secretariat presented the next agenda item relating to the recommendations of the 21st meeting of ITGRC which was held on 01.08.2024, for approval/decision of the GST Council.

6.2 JS, GST Council Secretariat stated that a total of 55 issues were tabled as agenda in the meeting of ITGRC. The first 32 issues pertained to data fixes for the period upto March, 2024. The issues which were brought before ITGRC were technical glitches which the taxpayers faced and GSTN was required to do a back-end data fix for such corner scenarios. These issues were divided into those which had financial implications

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and those which did involve any financial implications. Data fixes done by GSTN in respect of 27 technical issues with no financial implications were taken note of by the ITGRC. ITGRC took note of the data fixes carried out by GSTN in 765 cases involving an amount of Rs. 1289.60/- with respect to 3 technical issues where there were financial implications and the correct data was known. The data fixes carried out by the GSTN in case of two court directions impacting three cases were also taken note of by the ITGRC. In addition, data fix in 23 cases had been done between April to June 2024. There were 13 technical issues with no financial implication where data was known. ITGRC took note of the data fixes done in 9 issues, 4 issues were deferred for the next meeting. 10 technical issues with financial implication were also deferred for the next meeting. Further, an update on an issue recommended by the ITGRC in the previous ITGRC meeting, could also not be taken up due to paucity of time. One recommendation of the ITGRC was in cases where the taxpayers face a login error due to double quotes in the legal name. The ITGRC recommended that GSTN should take note of the limitation imposed by the current technology and recommended that special characters can be allowed in the system for the legal name of taxpayer.

6.3 The Secretary stated that recommendations of the ITGRC were also agreed to in the Officers' Meeting held on 08th September, 2024.

Decision: The GST Council approved the recommendations made by the ITGRC during its 21st meeting and took note of the data fixes carried out by GSTN.

Agenda Item 6: Performance Report of the Competition of India (CCI), State Level Screening Committee (SLSC) and DG (Anti-Profiteering) for 1st quarter of the F.Y.2024-25 along with Performance Report of Standing Committee (SC) for 3rd quarter and 4th quarter of F.Y. 2023-24 and 1st quarter of F.Y. 2024-25 for the information of the GST Council.

7.1 The Secretary presented the agenda pertaining to the Performance Report of the Competition of India (CCI), State Level Screening Committee (SLSC) and DG (Anti-Profiteering) for 1st quarter of the F.Y.2024-25 along with Performance Report of Standing Committee (SC) for 3rd quarter and 4th quarter of F.Y. 2023-24 and 1st quarter of F.Y. 2024-25 for the information of the GST Council

7.2 He informed that this agenda was taken note of in the Officers' Meeting held on 8th September, 2024.

Decision: The Council took note of the Performance Report of CCI, SLSC, DG (AP) and Standing Committee as presented in the agenda.

Agenda Item 7: Issues recommended by Goods and Services Tax Network (GSTN)

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

8.2 CEO, GSTN stated that there are three developments which are in pipeline and important which are being placed before GST Council for information and approval. He stated that in GST, e-invoicing was initiated four years back for B2B transactions. B2C transactions are still not e-invoiced. So, a pilot project for B2C e-invoicing is proposed to be initiated. Second agenda item is regarding integration of UPI, Debit card and Credit card payments and the present status thereof. Third agenda item is regarding some important structural change in the return design of GST, which is partly implemented and partly in pipeline, which will lead to better error free filing of the GST returns. Also there are two ledgers which are being designed i.e. Reverse Charge ledger and ITC Reclaim ledger. Then there is an IMS (Invoice Management System) and GSTR-1 correction system which is called GSTR-1A.

8(a) B2C e-Invoicing Pilot Project

8.3 CEO, GSTN stated that B2B e-invoicing is in place but the difficult end of retail e-invoicing is retail and in retail, invoicing is often not done and even if done, it is not known whether the invoice has been reported to the GST authorities or not. GSTN has done some technology studies and building upon the learning of the B2B e-invoicing project, the pilot project of B2C e-invoicing is proposed. It would be implemented completely on a voluntary basis as a soft touch approach with retail trade will be needed. He stated that the project will be done in a few selected sectors and with those states which are willing to join this pilot project. It was also informed that fairly decent number of states have expressed interest in this pilot project during discussion in the officer's meeting.

8.4 Further, CEO, GSTN brought out the advantages of digitizing the retail transactions. First, it will help in controlling tax evasion. Second, it will be a green initiative as invoices are stored in a digital format and paper invoices are done away with. This will save many trees and would be environment friendly. He informed that it would be cost efficient also, as the paper invoice management and maintenance costs rupees 3 to 4 per invoice to the industry, whereas the cost of digital invoice comes to just a few paisa.

8.5 CEO, GSTN informed that they also intend to add a feature of verification of authenticity of the invoice. This would mean that when the retailer gets the invoice, he will get it on his mobile phone and within 48 hours, he will be able to check whether the supplier i.e. retail shopkeeper has reported this invoice. The system will be automatic and continuous. He stated that it will be a kind of public movement, where the citizens of the country will be able to see that the tax which they have paid with their total consideration to a retailer has actually been reported to the GST authorities or not.

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8.6 CEO, GSTN stated that the proposal before the Hon'ble Council is to accord in principle approval for initiating B2C e-Invoicing pilot project on a voluntary basis. He also requested the Council to direct the Law committee to recommend necessary amendments in the law to enable the same, which may require some change depending on which sectors and which states are willing to participate and also authorize GSTN Board to prepare and finalize the commercial model for this. It was proposed that in the initial stage, for the retailers who volunteer to take up B2C e-invoicing, GSTN will provide some support for digitizing and updating their ERP system.

8.7 The Secretary added that one of the advantages will also be that going forward if refunds to foreign tourists are operationalized, then for the customs officer at the airport it will become very easy to check whether the tax has actually been paid, if it is an e invoice. Further the Secretary stated that this agenda was discussed in the officers' meeting and received large-scale support and enthusiasm for implementation. It is proposed to be introduced on voluntary basis and then going forward it can be made mandatory in sectors prone to tax evasion.

8.8 The Hon'ble Member from West Bengal expressed willingness to take up the project in the restaurant sector. The Hon'ble Member from Kerala stated that they are ready to take up the same on pilot basis. The Hon'ble Member from Andhra Pradesh also expressed willingness and proposed that the sectors can be state specific so that they can take up those sectors which are priority for the state. The Hon'ble Member from Delhi also volunteered for the project. The Secretary informed that in the first stage, the technology would be tested as to whether it is glitch-free and working smoothly. Once tested the spread would be expanded. The Hon'ble Chairperson stated that the sector specific request as made by the Hon'ble Member from Andhra Pradesh could be in the second stage after completion of the pilot. The Hon'ble Members from Gujarat, Punjab, Uttar Pradesh and Madhya Pradesh also expressed their willingness to join the pilot project.

Decision: The GST Council approved the agenda regarding Pilot project for B2C e-invoicing.

8(b) Integration of UPI, credit card and debit card payment option by Accounting Authorities.

8.9 The Secretary asked the CEO, GSTN to present the next agenda regarding UPI, credit card and debit card payment integration, which is for information and a request for the states to implement the same.

8.10 CEO, GSTN informed the Council of the present status of UPI, credit card and debit card payment integration and also requested to the remaining states to also integrate UPI, credit card and debit card payments. He stated that their treasury will need to take one more piece of information by API integration and that the States which are remaining to be integrated are all very capable. He also informed that after they had made this presentation in Officer's meeting, and that Arunachal Pradesh already

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integrated while most of the remaining states expressed their readiness to integrate within two weeks. Accordingly he requested other states also to take note and complete the process of integration for the entire country so that the taxpayers could use these three modes of payment and this would be a great facilitation measure for them.

8(c) Enhancement in the existing GST Return Architecture

8.11 The Secretary then prefaced the next agenda item regarding important structural changes in the return design of GST, by stating that there are two primary objectives of the presentation by CEO, GSTN on the new return architecture which has been built with the approval of the Council. He stated that there are a lot of mismatches between the returns GSTR 1 & GSTR 3B on one hand and GSTR 2A & GSTR 3B on the other hand. Further he stated that due to lot of mismatches, notices are being issued, and many of them have not resulted in any additional benefit or accrual of revenue because the taxpayers are actually able to explain the said mismatches. He further stated that the new change in return design will avoid these mismatches and in fact eliminate the mismatches and number of notices running into lakhs. It will also benefit the taxpayers by eliminating the inconvenience caused to the taxpayers. Further he stated that the second important benefit that will accrue is the reduction in tax evasion through fake billing and bogus firms. The system had been developed with the above objectives in mind.

8.12 Further, the Secretary requested the CEO GSTN to take the Council through the essential features of the system so that the knowledge and awareness amongst the taxpayers could be spread. He stated that if there are any suggestions from the Hon'ble Members of the Council, the same can be taken on board in further improving the system.

8.13 CEO, GSTN stated that certain ledgers have been added for ITC mismatch. One of them is ITC Reclaim ledger. In respect of the ITC Reclaim ledger, he explained that if a taxpayer gets a credit of 100 rupees in a month and he is availing only 80 rupees, the system earlier was not tracking the balance 20 rupees. ITC Reclaim ledger now essentially leads to the system tracking of the credit that has not been availed in the month in which the ITC had accrued. And in future when the taxpayer reclaims the accrued ITC along with that month's credit, the system would show to him the past credit balance of 20 rupees plus this month's credit, which could be availed. Further he stated that at present the system is running in what is called a warning mode, which means, if the taxpayer wishes to take more credit than the sum of month's available credit and the credit available in the opening balance, it pops up a warning message to the taxpayer but allows him to avail the said excess credit. But sometime in the future, it presents an opportunity to lock the same and not allow erroneous return wherein excess ITC has been availed to be filed.

8.14Further he stated that in the Reverse Charge Mechanism ledger, wherein the taxpayer himself pays the tax and then takes the credit, a similar mechanism is proposed for carrying forward the same in the ledger. He explained that currently, if a taxpayer's

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total tax payment is 100 rupees, but he utilizes 50 rupees of credit and decides to carry forward the remaining 50 rupees, this remaining 50 rupees was not being tracked in the system in the past. He stated that now it can be tracked in the system and if the taxpayer tries at a future date to take more credit than available, initially a warning message is being given.

8.15 CEO, GSTN stated that both the ledgers have an opening balance statement which is being made available to the trade so that taxpayers can give one time balance of the amount of credit they had failed to utilise in these ledgers for the past period, and also there would be a facility for one time amendment. He stated that thereafter these ledgers will start running and tracking the ITC credits.

8.16 Further he stated that at present the ITC statement which is presented to the taxpayer on 14th of every month has multiple sources from which the ITC credit comes and these credits come from individual invoices. He further stated that the system was not tracking as to what happens to the individual invoices. So, a new feature which is proposed to be added is to provide the recipients with "Reject, Accept, No action and Pending" options in a Invoice Management System Dashboard for individual invoices. He further informed that now the buyer will have to clearly state in relation to each of the invoices of his purchase as to what is his position whether he would be availing the credit or rolling it to the ITC Reclaim ledger or rejecting the transaction.

8.17 Further he stated that this is a optional facility. This has been designed as a voluntary IT facilitation measure for the recipients. If the taxpayer decides not to take any action then it will be deemed that all the invoices which have come to him in his ITC statement GSTR 2B are being accepted. So this will also allow for better matching and tracking of ITC.

8.18 He stated that this has been on the wish list of the tax administrations for a long while now, that the ITC gap is closed and ITC claim is completely in line with what is legitimately due. It is expected that mismatches would not occur and both sides gain in terms of taxpayer not getting notice and the tax administrations gaining additional revenue by closing the gap of ITC, which is being misused now as fake credit.

8.19 Further the CEO GSTN informed that GSTR Form 1A is a GSTR-1 correction Form, which has already been rolled out. He further stated that on 11th of the month, when the invoices are reported in GSTR- 1, it is auto filled as liability in GSTR-3B. Now an intermediate form GSTR 1A is provided, which is again a completely optional form, which can be ignored by the taxpayer if it is not needed by him. He further added that if taxpayer wishes to change his liability, which he had declared in GSTR1, before filing of GSTR 3B, then he can fill GSTR Form 1A. So, the taxpayer's liability will then change to GSTR-1 plus GSTR-1A, which would be auto populated in GSTR-3B. He further stated that this again will allow the authorities to ensure that the total liability which taxpayer mandatorily must file and pay in GSTR 3B is sum total of GSTR1 and 1A because taxpayer has been given the facility to file as well as correct the same, which means error correction mechanism has also been added in the system. He

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stated that the same has already been rolled out and in the first month reasonable number of taxpayers have used it. Many taxpayers have tested it but not filed the return. They have filled the data and tested whether their GSTR-3B is getting updated or not.

8.20 Further, he stated that no major glitches in this system have been reported and it is expected that in two to three months' time, the system will mature. So, in two to three months' time, the possibility of not allowing erroneous returns to be filed in GST system from the liability side could be looked at.

8.21 CEO, GSTN requested the GST Council to take note of the above developments of ITC Reclaim ledger, RCM ledger and Invoice Management System. Further he requested the GST Council to approve the timelines of opportunity given for declaration of opening balance and amendment thereof in ITC Reclaim ledger and RCM ledger and authorize the Law Committee to revise timelines if necessary. This should present an opportunity in due course of time to prevent erroneous claim of ITC and will reduce erroneous return filing.

8.22 The Secretary stated that they have witnessed lot of buoyancy over the last few years because of the introduction of the GSTN system. But the next wave of tax buoyancy will need us to take more technology related measures, two of which have been presented, one being e-invoicing and the other is the available opportunity in future for removing the gap between the credit and the liability etc. to make it more convenient for the tax payers to file their returns and at the same time to prevent fake billing.

8.23 The Secretary requested the Council to approve the timelines as suggested and also invited the Hon'ble members of the Council for comments, if any to make their interventions.

Decision: The GST Council

i. **Took note of the developments related to ITC Reclaim ledger, RCM ledger, IMS and FORM GSTR-1A.**
ii. **Approved the timelines of opportunity given for declaration of opening balance (till 31.10.24) and amendment thereof (by 30.11.2024) in ITC re- claim ledger and RCM ledger.**
iii. **Authorised the Law Committee to recommend any revision in time lines and any other supplementary decision needed for the roll-out of these functionalities if necessary.**

Agenda Item 8:

The Secretary requested the Joint Secretary (TPRU), DoR to present the agenda items pertaining to Department of Revenue (DoR) consisting of five sub-items viz., review of revenue position, status update on Compensation Cess, IGST settlement, GSTAT and sharing of data.

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Agenda Item 8(a): Review of revenue position under Goods and Service Tax

9.1 Joint Secretary (TPRU), DoR presented the agenda and stated that it lists out the revenue for the last eight months and brought out that a good growth rate was seen in the GST collections for the past eight months. He informed that revenue has grown more than 10% in most of the months except for the month of June, 2024 when there was a minor dip. He further stated that the Special Drive against fake registration that was carried out between May-August, 2023 had yielded revenue in those months and that the ongoing Second drive on the fake registrations is also expected to yield good revenue in the coming months. He informed that the figures detailing revenue position with respect to States provide both pre-settlement and post settlement revenue of States. He mentioned that the average growth rate overall during April to August 2024 is 9% pre-settlement and 11% post settlement. He mentioned that States that are performing below the national average have may take steps to improve their performance.

9.2 The Secretary sought comments or interventions by the Hon'ble Members, if any. There being no observations, he requested the Joint Secretary (TPRU), DoR to present the next agenda on Compensation Cess.

The Council took note of the revenue position under GST.

Agenda Item 8(b): Status update on Compensation Cess

9.3 Introducing the agenda item relating to Status update on Compensation Cess, the Secretary mentioned that the GST Council in its 52nd Meeting had decided that a status update on Compensation Cess be presented before the Council, which is being done now.

9.4 JS (TPRU), DoR presented the agenda. He stated that the data shows the actuals of Compensation Cess collected upto August, 2024 and that a projection has been made for the period from September, 2024 to March, 2025 based on the assumption that there will be 10% annual growth over last year's revenue. He presented the deductions that need to be made to this amount which includes compensation paid till August, 2024, back-to-back (B2B) loans, estimated compensation payable and interest projected on back-to-back loans. He informed that this shows a projected shortfall of approx. Rs. 1,31,000 crore in compensation account as on March, 2025. An amount of Rs.13,000 crore has been budgeted as the final compensation to States as some States have to give final AG figures.

9.5 He further stated that assuming that the revenue growth rate is 10% for 2025-26 then the surplus at the end of the year would be around Rs. 40,000 crores. He clarified that this calculation is only an estimate and that this can vary by a few thousand crores. This may roughly translate to 2.8 months of revenue in F.Y 2025-26. He stated that Compensation Cess therefore would need to be continued for sure till December, 2025 and may be some part of January, 2026 as well for enabling repayment of obligations under this account. A decision needs to be taken with respect to how the surplus of 2025-26 can be utilized. Further, a decision needs to be taken for the period beyond 2025-26 as

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to in what manner and form the Compensation Cess may be recharacterized. The matter was deliberated in the Officers' Meeting and that there was general agreement that the responsibility can be entrusted to the Fitment Committee for further deliberations and make suitable recommendations on how to restructure the Compensation Cess.

9.6 The Hon'ble Member from Kerala stated that the issue related to Compensation Cess requires a lot of study and deliberation. He mentioned that last year it was reported that the Compensation Cess levy would be completed by the current year but now it is informed that it needs to be extended for another year. He added that this might even require some amendment in the Act through Parliament and State legislature. He added that the issue is not restricted to levy of Compensation Cess but that the future of Compensation Cess needs to be looked into from the perspective of experience gained from the implementation of the GST. He further mentioned that the revenue neutral rate has come down from 15.5% to less than 12% and that in 2017 around 200 items were falling in the bracket of 28% but now the rate has come down for many such items. He added that they had conducted a study about the impact of reduction in GST rates and that it was found that the benefit in reduction of rates was not passed down to the end consumer. He emphasized that the issue of reduction of revenue neutral rate is a matter of serious concern to the States as the States are facing severe financial crunch. He mentioned that if 14% growth was there from year to year then the State of Kerala would have got about Rs. 15,000-16,000 crores this year. He suggested that a Group of Ministers (GoM) needs to be constituted to analyze the Compensation Cess as it has major implications.

9.7 The Secretary clarified that it was never communicated that the Compensation Cess will not require to be levied after the present financial year (F.Y). It was communicated even in the earlier meetings that it will be continued beyond this F.Y.

9.8 The Hon'ble Chairperson clarified that back-to-back loans were taken and the Compensation Cess period was extended based on previous calculations that the levy of Compensation Cess needs to be extended until March 2026. She added that what would have been indicated in one of the earlier meetings would be that maybe the B2B loans and the interest can be cleared before March, 2026. She further informed that the Council has already approved and authorised the collection of Compensation Cess until March, 2026 only to enable the repayment of B2B loans and the interest. She mentioned that the JS, TPRU (DoR) has now projected that the B2B loans and the interest can be hopefully repaid by December, 2025 or January, 2026. She clarified that the present discussion is about what needs to be done with respect to the cess collected post repayment of all obligations. She explained that Compensation Cess was originally collected to make compensation payments to States and that it was based on a protected revenue projection. Consequently, a decision needs to be made regarding whether the Cess should continue beyond March 2026. It was further clarified that if it is decided to extend the Cess, it will need to be rephrased by the Council, as it can no longer be called "Compensation Cess." She further mentioned that as per the provisions of law the Compensation Cess was to be levied only till 2022 but the period for levy was extended to March, 2026 by way of notification based on an opinion taken from the Attorney General of India. The Hon'ble

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Chairperson stated that the GST Council can decide as to whether the issue needs to be examined by the Fitment committee or by a Group of Ministers assisted by the Fitment Committee.

9.9 The Hon'ble Member from Karnataka expressed gratitude to the Chairperson for tabling the agenda and for providing a detailed status update on the Compensation Cess, including the current position and projections for the foreseeable near future. He stated that this provides better clarity towards what lies ahead for the future. He mentioned that he would like to present before the Council the present situation of his State and a few other States. He stated that they are bound by the decisions they have made in the past and he is only trying to highlight the situation which Karnataka and maybe a few other States are in and how to resolve the same. He stated that before introduction of GST Karnataka's CAGR of own tax revenue was 13.7% for 5 years so, prior to GST the State was growing at 14%. He further stated that it has often been said 14% compensation was generous but the state's growth was nearly the same. Karnataka's contribution to overall GST has been good for the past years. He mentioned that two years ago the State's contribution was 8.91% of the total GST and for the year 2023-24 the rate of contribution has gone upto 9.54% as ascertained from the publicly available data on GSTN. He remarked that the State's contribution to total GST collection has gone up in the last few years. He added that when all India growth rate was 20.7% then the growth rate of Karnataka's tax collection was 28% and for last year the national growth rate was 14.9% whereas Karnataka's growth rate was 18.2%. He submitted that therefore, the growth rate of the State has been above the national growth rate in tax collection.

9.10 The Hon'ble Member from Karnataka mentioned that the States' contribution to national GST collection has also gone up and that the State was growing at a faster rate than the national average. He added that when the actual revenue of the State is forecast against the protected revenue i.e., 14% then it is seen that the actual revenue of the State has gone down by about Rs. 20,000 crores in FY 2023-24. He added that on an average the revenue of the State has come down when compared to the pre-GST vis-à-vis post GST despite the fact that the average growth rate of the State and the State's contribution to overall GST have been going up. He stated that if 14% growth rate was continuing then the State would have been getting Rs. 95,000 crores but at present the State is only getting about Rs. 71,000 crores. He then elaborated that the State has tried to analyse this trend by comparing the State's revenue collection as against State's GSDP and it was seen that the State revenue against GSDP has dropped by 1% whereas State's collection against GSDP has remained same. He mentioned that the revenue accruing to the State against GSDP has dropped by 1% and that this has led to the conclusion that as GST is destination-based tax there is net outgo from the State. He mentioned that in 2022-23 the rate of SGST revenue grew by 27% but IGST revenue grew by 18% and therefore, the total revenue growth was about 22% and for the year 2023-24 the rate of SGST revenue grew by 18% and IGST revenue grew by 13% and therefore, the total revenue growth was about 16%. He added that for the present year at present the rate of SGST revenue is 12% and IGST revenue grew by 7% and therefore, the overall revenue growth is 9%. He remarked that it is observed that the State is getting less revenue despite the increase in collections. He further also clarified that this observation is not

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made against the principle of destination-based taxation under GST. He elaborated that the GST share of Karnataka in GSDP has also increased and that 2 years ago it was 4.8% it has gone up to 5.41% and this year it is at 5.81%. He remarked that the tax efficiency of the State is higher than the national average yet the net revenue accruing to the State is less in comparison. He mentioned that on account of destination principle a lot of revenue collected under IGST is going to other States. He also mentioned that another factor for this dip in revenue is that now as exports are zero rated a lot of refunds are happening whereas in the earlier VAT regime the CST collected was retained as there was no provision for refund or ITC and this used to result in increase in revenue. He mentioned that some of the larger producing States like Karnataka that do not have a large consumer base is ending up with a substantial loss. He suggested that the competent forum for addressing these issues would be the Finance Commission as they have the mandate to assess the fiscal needs and fiscal capacities of each State. He stated that based on this understanding this issue was taken up by the State with the Finance Commission when they visited Karnataka, but the response received from the Finance Commission was that this is a GST related issue, and that the solution lies with the GST Council. He further mentioned that post of the expiry of compensation period it is seen that the loss of revenue for Karnataka is 0.6% - 0.7% of GSDP. He added that Karnataka being a producer State has invested heavily on infrastructure- physical, social and human and most of these require periodic servicing for their maintenance. He then mentioned that the State plays a significant role in job creation and boosting export yet is incurring long term loss of revenue. He suggested that while discussing the future of Compensation Cess, these challenges faced by the State can also be taken up for consideration. Further, he proposed that a Group of Ministers, rather than the Fitment Committee, would be better suited to handle these issues, as the Committee might find them beyond its scope.

9.11 The Hon'ble Member from Telangana said that as can be seen from the figures presented the revenue realised by the end of 2025-26 will exceed the amount required to discharge the loan amount and he submitted that such amount may be brought in the ambit of SGST equal to the Cess for the year 2025-26. He added that this will help the States to augment the revenue for meeting the developmental obligations. He also added that this would be a fair distribution as Cess was brought to augment the revenue of the States. He submitted that the matter may please be referred to GoM to study it in detail and give their recommendations.

9.12 The Hon'ble Member from Punjab submitted that they agreed with the concerns expressed by Karnataka and Kerala and stated that their state's revenue was also affected by implementation of GST. He added that the revenue of Punjab has come down by Rs. 20,000 crores post GST when compared with the pre-GST revenue figures. He added that in view of this the issue of Compensation Cess may be examined in detail and it may be considered for extension as it will help augment the revenue of the States.

9.13 The Secretary stated that the growth rate of GST for the country post implementation of GST has been high vis-à-vis the growth rate of taxes that got subsumed in the GST. He also mentioned that the data has been presented before the

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Parliament and was also made available in public domain. He added that the Centre is yet to do a State wise analysis of revenue and therefore, State specific data is not available, but if required, such a study can be undertaken. He also stated that any tax that is imposed and collected after end of compensation cess, will have to be distributed among the States as per accepted principles i.e. destination based taxation. He stated that a decision needs to be taken as to the form in which it will be continued i.e. whether it is to be levied as a cess or as a higher rate of tax and this would also necessitate legislative changes. He stated that the Council can take a decision as to whether the issue needs to be looked into by the Fitment Committee or a GoM.

9.14 The Hon'ble Member from Uttar Pradesh remarked that the GST was rolled out with the consensus of all the Members of the Council. He stated that it is a matter of pride that a larger producing State like Karnataka is making great contribution to the country through its innovations but the financial situation of the State, as presented by its Member could be attributable to many factors and not just the implementation of GST. He added that the State needs to analyse the situation from an overall perspective to get a better picture.

9.15 The Hon'ble Chairperson stated that the entire data provided by Karnataka can be looked into for better understanding and she also added that if any other State so desires, they can also provide the data for analysis. She mentioned that the observations made by the Hon'ble Member from Karnataka did not account for the element of Covid and that the elements of Covid need to be included in the analysis otherwise it will yield only a partial picture. She added that the if GDSP calculation for past 5 years is being done without making provisions for the impact of Covid then it would be unfair to the efforts put in by the GST Council. She added that the GST Council is a constitutional body and is entrusted with the power to take all decisions in relation to GST. The only point where issues related to GST can be conflated to Finance Commission is when a decision needs to be taken with respect to devolution of the same. It is at this point that the Finance Commission comes in and provides the formula for devolution of taxes between Centre and State. She also added that the percentage share allocation to the States is not limited to indirect tax but also includes income tax excluding cess and surcharge.

9.16 The Hon'ble Chairperson mentioned that at the time of launch of GST an Empowered Committee of Ministers headed by a Finance Minister from an opposition party (to the party in power in Centre) was formed to decide whether the GST should be a consumption based tax or origin based tax. She also added that at that time apprehensions were raised by the manufacturing States and that these were considered. She further stated that she agreed with the Hon'ble Member from Karnataka that the matter will require political inputs and therefore, a GoM can be formed to look into the issue. She also added that the Centre need to be represented in the GoM and that Minister of State (Finance) can be the representative of the Centre in the proposed GoM. The GoM can look into all the data and analyse the situation post 2017 to ascertain the number of States that have grown post GST. She added that the huge disruptions that occurred on account of Covid cannot be ignored while calculating the average. She stated that the pre-GST growth rate for the years 2012-13 to 2015-16 was 8.3%, GDP

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growth rate was 11.5% and the tax buoyancy for the period was 0.72. For the period 2018-19 to 2022-23 the GST growth rate is 12.3%, GDP growth rate is 9.8% and the tax buoyancy is 1.25. She clarified that this growth rate was marked by disruptions on account of covid. She added that the Council is to be guided by facts and data, and this alone will help the Council in taking a considered view. She suggested that as extended period for levy of compensation cess is coming to an end the Council can consider forming a GoM and Members are welcome to join the GoM. Each State can provide its data which will be studied. She added that this would enable the Council to take a decision on the way forward when the extended period for levy of compensation cess comes to an end by March, 2026.

9.17 The Hon'ble Member from Karnataka welcomed and agreed with the proposal made by the Hon'ble Chairperson to form a GoM to look into the issue related to compensation cess. He further clarified that as a Member of the initial GST Council meetings he was part of the detailed deliberations in the Council as to the impact of GST but despite the challenges the proposal was agreed to in the larger interest of the nation. He further clarified that the statements and data provided by him are against the GSDP and that GSDP factors in the ups and downs of the economy. He stated that the GSDP is inclusive of the effect of Covid and that they are mindful of the impact caused by Covid. He further clarified that what the State wanted to impress on the Finance Commission was that GST has had an impact on the fiscal situation of the State and they wanted the Finance commission to take note of this effect on the State's fiscal capacity. He again submitted that Karnataka's GSDP growth rate for 2021-22 was 20.5% as against the national growth rate of 18.4% and for the year 2023-24 Karnataka's growth rate was 10.2% as against national growth rate of 8.9%. He also provided the figures with respect to GST collections and submitted that for 2021-22 Karnataka's growth rate was 27% as against the national growth rate of 27%. For the year 2022-23 Karnataka's growth rate was 28% as against the national growth rate of 21% and for the current year Karnataka's growth rate is 18% as against the national growth rate of 15%. He submitted that it can be seen from the figures that Karnataka has been consistently generating revenue and expanding the economy. He also submitted that Karnataka's contribution to national GST collection has also been rising and that for the year 2021-22 Karnataka's contribution to total GST collection was 8.74% and in 2023-24 this has increased to 9.5%. He reiterated that the State stands by the decisions taken in the Council and that the request is that the Council should consider these challenges while arriving at a considered decision on Compensation Cess. He submitted that the future of Compensation Cess be discussed having regard to the interest of States that have incurred revenue loss in long term and also added that these States can be identified from the data set.

9.18 The Secretary stated that the state of Karnataka has been doing well on GST as can be seen from its growth rate vis-à-vis the national average. He stated that GST is collected where the goods are manufactured but it gets transferred to the States where it is consumed and therefore, the producing and consumer States share a symbiotic relation. He clarified that GST is a destination-based tax and the natural corollary of it is that the tax goes to the consuming States. He added that the State of Karnataka has also

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gained on employment and other taxes such as property taxes which are collected in the State.

9.19 The Hon'ble Member from Karnataka reiterated the State's commitment to destination-based tax but added that their only submission is that their SOTR has dropped by around 0.7% as against the GSDP. He submitted that the State is proud that they are contributing to the nation building as a producing State but their only request is that the difficulties faced by the State may be taken into consideration while discussing the future of Compensation Cess.

9.20 The Hon'ble Chairperson mentioned that the concern expressed by Karnataka has been taken note of and that if other large producing States like Maharashtra and Haryana were present, they might have also shared these concerns. She added that once the GoM is formed there can be in-depth discussion on this issue.

9.21 The Secretary stated that there is consensus among the Members for constituting a GoM on Compensation Cess with Minister of Finance (State) as the Convenor and he added that the composition of the GoM can be decided by the Hon'ble Chairperson as has been the practice with respect to other GoMs.

Decision: The GST Council approved the constitution of a GoM on restructuring Compensation Cess with Minister of Finance (State) as the Convenor and other Members as decided by the Hon'ble Chairperson of the GST Council.

Agenda Item 8(c): IGST Settlement

9.22The Secretary requested the Joint Secretary (TPRU), DoR to present the agenda item relating to IGST settlement.

9.23 JS (TPRU), DoR stated that the negative balance in IGST account was discussed in the last Council meeting. He informed the Council that the negative balance in IGST account was Rs. 5,516 crores for the last Financial Year. In the current financial year negative balance was reported in IGST account in all months except for the months of June and August 2024. The cumulative negative balance in the IGST account is Rs. 14,218 crores. He stated that historically the practice was to apportion the positive balance between the Centre and the States in 50:50 ratio and also to recover whenever there was negative in the same ratio. He further mentioned that the positive balance was further apportioned to the states in the ratio of their subsumed revenue in the base year (FY 2015-16) and the negative balance was apportioned in the ratio of the respective month's IGST settlement. He stated that as the matter is being looked into afresh it is felt that the ratio should reflect the dynamics that have changed over the years. He added that the base year 2015-16 has lost its relevance and that the ratio needs to be relooked. He stated that there is a need to revise the method of apportionment and proposed that the actual IGST settlement ratio may be considered for apportionment of both positive and negative balance among the States. He further submitted that to bring an element of stability it is suggested that the last 3 years average IGST settlement be looked into. He

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also submitted that the negative balance of Rs. 14,218 crore is proposed to be shared between the Centre and the States. He further clarified that the negative balance of Rs. 7,109 crores will not be recovered in one step but is proposed to be recovered over 4 months starting from September 2024. He further mentioned that the positive or negative balance, if any in the month of September, 2024 would be apportioned in the month of October, 2024 and this practice will continue for the remaining months except for March, 2025. He stated that for March, 2025 the apportionment of positive or negative balance will have to be made in that month itself. He also added that this proposal will continue to apply for the future months. He further submitted that as directed by the Hon'ble Chairperson in the last Council meeting DoR conducted a meeting with all States to explain the method of apportionment of IGST but there are still some unresolved issues. He informed the Council that this was discussed in the Officers' meeting and it was proposed that a Committee of Officers under the Chairmanship of Additional Secretary, DoR will look into these issues and in case any legislative changes are required, then the same can be referred to the Law Committee.

9.24 The Hon'ble Member from Uttar Pradesh stated that their only suggestion is that the formula used for apportionment of positive balance may also be used for the apportionment of negative balance and added that in the absence of this, the State of Uttar Pradesh will incur loss of revenue. He added that that it was earlier agreed that the positive balance would be apportioned to the State at 8.3% and therefore, he submitted that the recovery of negative balance can also be made at the same rate.

9.25 The Hon'ble Member from Punjab stated there is no clarity with respect to the exact reason for the negative balance in revenue and he added that there is also no data on its impact on the States. He therefore proposed that either a GoM or a Committee of officers be made to look into these issues and that this exercise needs to be done prior to initiating the process of recovery. He added that the Committee can consist of officials of both Centre and State and they can analyse the complete data and find out the cause for the shortfall.

9.26 The Hon'ble Member from Bihar stated that their suggestion is similar to that made by the Hon'ble Member from Uttar Pradesh i.e. the formula used for apportionment of positive balance may also be used for the apportionment of negative balance.

9.27 The Hon'ble Member from West Bengal stated that the new formula proposed for apportionment needs to be studied in detail and she added that this will have revenue implications for importing States like West Bengal. She added that they agree with the proposal made by Hon'ble Member from Punjab that a Committee of Officers be formed to look into this issue. She also mentioned that another aspect they would like to bring to the notice of the Council is that excess advance settlement made up to June, 2022 has reduced the amount of compensation received by the State. She added that the recovery of negative balance would reduce the revenue of the State and therefore, it was proposed that the States may be compensated to the extent of compensation that was less received.

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9.28 The Hon'ble Member from Telangana stated that for earlier periods the IGST settlement was done at 4.03% based on the revenue figures of 2015-16 and that now the present proposal is to make the recovery at 5.07%. He therefore submitted that the same formula used for apportionment of positive balance may also be used for the apportionment of negative balance. He further stated that the matter needs to be examined in detail and therefore, the proposal is that the matter may be referred to a Committee of Officers.

9.29 The Hon'ble Member from Kerala stated that previously also the State has raised apprehensions about the settlement of IGST and he added that the negative balance in the IGST account shows that there are systemic issues in the IGST settlement. He stated that the reason for these issues need to be identified and analysed on priority. He mentioned that Kerala being a consumer State is affected by incorrect return filing and other issues in supply rules and that this is resulting in short settlement. He stated that proposal to make recovery of the negative balance should be held in abeyance until these pending issues are resolved.

9.30 The Secretary stated that in the Officers' meeting there was general agreement with respect to the formula that is to be used prospectively. He further mentioned that the issue raised by Uttar Pradesh and Telangana is that the apportionment of positive and negative balances are made at different ratios and he stated that this issue has been addressed in the revised methodology proposed by JS (TPRU), DOR. He mentioned that the Committee under the Chairmanship of Additional Secretary, DoR can look into these issues related to the past but going forward from 01.04.2024 the proposed new formula can be used for apportionment of positive and negative balances.

9.31 The officer from Tamil Nadu stated that in the Officers' Meeting they had requested that Committee under the Chairmanship of Additional Secretary, DoR can look into these issues. He added that they have identified certain forms/statements where information is not made available and that once this information is made available they are hopeful of cleaning up the future process wherein they will be able to attribute positive/negative balance in IGST to a particular State. They further requested that the proposal for recovery of negative balance may please be kept in abeyance till such time.

9.32 The Hon'ble Chairperson mentioned that a Committee of Officers can be constituted for considering both the past recovery related issues and the future apportionment. She added that the negative balance is already showing on the Centre's balance and that this has put the system in a limbo. She invited the Members to be part of the Committee of Officers and suggested that they can work out a solution in one months' time i.e. by the end of October, 2024. She stated that the report can be placed before the GST Council in its next meeting scheduled for November, 2024.

9.33 The Hon'ble Member from Karnataka requested that provision may please be made for an online tutorial on IGST settlement for the Members for their own better understanding of the process and that the participation can be made on voluntary basis. The Hon'ble Chairperson agreed to the request and requested the Secretary to do the needful.

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Decision: The GST Council approved the constitution of a Committee of Officers under the chairmanship of Additional Secretary, Department of Revenue for looking into issues in IGST settlement and recommend ways to improve the settlement process including legislative amendments, system changes and the formula for apportionment of positive and negative balance in IGST account. The Committee of Officers to finalize the report by end of October, 2024 and present it in the next GST Council meeting.

Agenda Item 8 (d): GST Appellate Tribunal - Issues for approval

9.34 The Secretary took up the agenda item relating to the GST Appellate Tribunal and requested the Joint Secretary (TPRU), DoR to present the agenda. Joint Secretary (TPRU), DoR presented the Agenda to the Council. He mentioned that the Finance (No. 2) Act, 2024, notified on August 16, 2024, introduced several amendments to the CGST Act, 2017, including changes to sections 109 and 171. These amendments involve granting the Principal Bench of GSTAT the authority to examine anti-profiteering measures under GST. He sought the GST Council's approval to notify the provisions of sections 109 and 171 of the CGST Act, with immediate effect. He informed the Council that following this, a formal notification will be issued to assign anti-profiteering matters to the Principal Bench at the earliest by 1st of October 2024. He added that the notification for the said has already been approved by the GST Council in its earlier meeting.

9.35 JS (TPRU), DoR further informed that certain changes have been requested by the States i.e. Kerala, Uttar Pradesh and Punjab in respect of location of the State Bench of GSTAT and that these changes have been incorporated in the draft notification as circulated in the agenda note. Joint Secretary further informed that the jurisdiction for each of the State Benches is required to be notified and that a draft has been circulated along with the agenda note and since then updates from Gujarat, Tamil Nadu, and Haryana have also been received regarding their updated jurisdictions. He informed that these updates will be incorporated, though there are still some minor corrections being discussed with the states. He informed the Council that five days have been given to the States for communicating any corrections in the names of the districts to be updated in the notification. He further requested that going forward the Council may empower the GST Implementation Committee (GIC) to handle jurisdiction- related issues, as they may arise frequently, and this empowerment would allow for timely decisions without needing to wait for the Council meetings.

Decision: GST Council approved the draft notification as presented in the agenda regarding the location of State Benches of GSTAT and their jurisdiction and permitted DoR to make corrections in the names of the districts as may be communicated by the States within 5 days. The Council further delegated to the GST Implementation Committee to decide on issues related to jurisdiction, upon request of the States. The same may be brought to Council for information and post-facto ratification.

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Agenda Item 8 (e): Sharing of personally Identifiable Information of Taxpayers with other Ministries/Departments.

9.36 Joint Secretary (TPRU), DoR informed that several requests have been received from various agencies and ministries to share specific information containing personally identifiable data. He informed the Council that these requests were discussed in the GST Implementation Committee (GIC), but a decision could not be made and as a result, the matter was brought before the GST Council. He further stated that during the officers' meeting, there was consensus that these requests could be approved. He further informed that there are additional data-sharing requests from states like Tamil Nadu and proposed that the GST Implementation Committee (GIC) be authorized to approve these requests on a case-by-case basis, adhering to the safeguards as detailed in the agenda note. He informed that the current requests are from the Ministry of Labour and Employment, Gujarat Infrastructure Development Board (GIDB), National Industrial Corridor Development Corporation Limited (NICDC), Directorate General of Commercial Intelligence & Statistics, Ministry of Commerce & Industry, and the IMF project on GST Rate Sensitivity. He recommended to the Council that these requests be approved considering that the purpose of these requests would fall within the exceptions carved out in section 158(3) of the CGST Act.

Decision: The GST Council approved the data sharing agenda as presented and going forward empowered GIC to approve other similar requests on a case-by-case basis adhering to the safeguards detailed in the agenda note.

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

The Secretary informed the Council that two Ad-hoc exemption orders had been issued since last meeting of the GST Council. The First Order No. 4 of 2024 dated 27/06/2024 pertained to exemption from Customs duty on import of reading eye glasses by M/s Supreme Task India donated by Restoring Vision, USA and the second Order No. 05 of 2024 dated 23/07/2024 was regarding exemption from Customs duty on re-importation of one unit of Liebherr Heavy Lift Crawler Crane (Model: LR 1350/1, Sl. No. 074113) by Bharat Heavy Electricals Limited (BHEL). He stated that the two orders were placed before the Council for information.

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

10. The Secretary then thanked the Hon'ble Chairperson, Hon'ble Members of the Council and the participating officers for their discussion on the agenda for the meeting and the decisions taken.

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Annexure-1

List of Hon'ble Ministers from States/UTs who participated in the 54th Meeting of the GST Council held on 09th September, 2024

S. No.	Name of Centre/States/UTs	Name of Hon'ble Ministers/Member of GST Council	Charge
1	GOI	Smt. Nirmala Sitharaman	Union Finance Minister
2	GOI	Sh. Pankaj Chaudhary	Minister of State for Finance
3	Andhra Pradesh	Sh. Payyavula Keshav	Minister for Finance, Planning, Commercial Taxes and Legislative affairs
4	Arunachal Pradesh	Sh. Chowna Mein	Deputy Chief Minister/Minister of Finance
5	Assam	Smt. Ajanta Neog	Finance Minister
6	Bihar	Sh. Samrat Choudhary	Deputy Chief Minister
7	Chattisgarh	Sh. O.P. Choudhary	Minister of Finance and Commercial Tax
8	Delhi	Ms. Atishi Marlena	Minister for Finance
9	Goa	Dr. Pramod P. Sawant	Chief Minister/Finance Minister
10	Gujarat	Sh. Kanubhai Desai	Minister for Finance
11	Jammu & Kashmir	Sh. R.R.Bhatnagar	Advisor to Hon'ble Lieutenant Governor
12	Karnataka	Sh. Krishna Byre Gowda	Minister for Revenue Department
13	Kerala	Sh. K. N. Balagopal	Minister for Finance

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14	Madhya Pradesh	Sh. Jagdish Devda	Deputy Chief Minister/Minister of Commercial Tax & Finance
15	Maharashtra	Smt. Aditi Tatkare	Minister for Women and child development
16	Meghalaya	Sh. Conrad K. Sangma	Chief Minister
17	Mizoram	Dr. Vanlalthlana	Minister Taxation Department
18	Nagaland	Sh. K. G. Kenye	Minister for Power and Parliament Affairs
19	Punjab	Sh. Harpal Singh Cheema	Finance Minister
20	Rajasthan	Sh. Gajendra Singh	Minister of Medical Health and Services (ESI)
21	Sikkim	Sh. G. T. Dhungel	Minister for Health & Family Welfare and Culture Department
22	Telangana	Sh. Mallu Bhatti Vikramarka	Deputy Chief Minister and Minister for Finance
23	Uttar Pradesh	Sh. Suresh Kumar Khanna	Minister of Finance, Parliamentary Affairs
24	Uttrakhand	Sh. Premchand Aggarwal	Finance Minister
25	West Bengal	Smt. Chandrima Bhattacharya	Finance Minister

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Annexure – 2

List of Officers from Centre and the States/UTs who participated in the 54th Meeting of the GST Council held on 09th September, 2024

S.No.	Name of CBIC/State/GSTC/GOI/GSTN/DoR/TRU/Policy Wing/Directorates	Name of Officers	Designation
1	DoR	Sh. Sanjay Malhotra	Revenue Secretary
2	CBIC	Sh. Sanjay Kumar Agarwal	Chairman CBIC
3	CBIC	Sh. Rajiv Talwar	Member (Compliance Management)
4	CBIC	Sh. Shashank Priya	Member (GST)
5	CBIC	Sh. Vivek Ranjan	Member (Tax Policy and Legal)
6	DoR	Sh. Vivek Aggarwal	Additional Secretary, Revenue
7	DGGI	Sh. Anil Kumar Gupta	Pr. Director General
8	DGGST	Ms. Seema Arora	Pr. Director General
9	DG Systems	Sh. Yogendra Garg	Pr. Director General
10	GST Policy Wing	Sh. Sanjay Mangal	Principal Commissioner
11	DoR	Sh. Naval Kishore Ram	Joint Secretary, Revenue
12	DoR	Sh. Balasubramanian Krishnamurthy	Joint Secretary, TPRU
13	GST Council Secretariat	Sh. Pankaj Kumar Singh	Additional Secretary (GST Council Secretariat)
14	GSTN	Sh. Manish Kumar Sinha	CEO
15	TRU	Ms. Limatula Yaden	JS, TRU - I
16	TRU	Sh. Sachin Jain	JS, TRU - II
17	DGGI	Sh. Rajesh Jindal	Director General
18	DGGI	Sh. Ataur Rahman	Additional Director General
19	GST Council Secretariat	Ms. B. Sumidaa Devi	Joint Secretary
20	DG Systems	Sh. Rewat Bahl	Additional Director General
21	GSTN	Sh. Pramod Kumar	EVP, BIPA
22	GSTN	Sh. Alok Kumar	EVP, Services

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23	GST Policy Wing	Sh. Gaurav Singh	Commissioner
24	GST Policy Wing	Sh. Raghavendra Pal Singh	Additional Commissioner
25	GST Policy Wing	Dr. Gurbaz Sandhu	Additional Commissioner
26	GST Policy Wing	Ms. Kangale Shrunkhala Motiram	Additional Commissioner
27	TRU	Dr. Puneeta Bedi	Director, TRU - II
28	TRU	Sh. Rakesh Dahiya	Director, TRU - I
29	GST Council Secretariat	Ms. Shaifali G. Singh	Director
30	TRU	Ms. Amreeta Titus	DS, TRU - I
31	TRU	Sh. Satvik Dev	DS, TRU - II
32	DGGST	Sh. T. Manjunath	Additional Director
33	GST Policy Wing	Sh. Nitesh Gupta	Deputy Commissioner
34	GST Policy Wing	Ms. Soumya	Deputy Commissioner
35	GST Policy Wing	Ms. Saumya Gupta	Deputy Commissioner
36	DoR	Sh. Vikash Kumar	Deputy Secretary
37	DoR	Sh. Sunil Kumar	Under Secretary
38	DoR	Sh. Vijay Singh	Section Officer
39	DoR	Sh. Deepak Bansal	Assistant Section Officer
40	DoR	Sh. Muthuraman C	Under Secretary
41	DoR	Sh. Dinesh Kumar Meena	Section Officer
42	Government of India	Sh. S.S. Nakul	PS to FM
43	Government of India	Sh. Anirudh S. Pulipaka	PS to FM
44	Government of India	Sh. Ankit Jalan	Additional PS
45	Government of India	Sh. B. N. Bhaskar	Additional PS
46	Government of India	Sh. Sernya Bhutia	Assistant PS
47	Government of India	Sh. Rishirendra Kumar	PS to MoS
48	Government of India	Sh. Alkesh Uttam	OSD to MoS
49	DoR	Deepak Kapoor	OSD to Revenue Secretary
50	CBIC	Shri. Aditya Bhardwaj	OSD to Chairman

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51	GSTN	Sh. Naveen Agrawal	OSD to CEO, GSTN
52	GST Council Secretariat	Sh. Anil Kumar	Deputy Secretary
53	GST Council Secretariat	Ms. Reshma R Kurup	Under Secretary
54	GST Council Secretariat	Sh. Sridhar Das	Under Secretary
55	GST Council Secretariat	Ms. P. R. Reshmi	Under Secretary
56	GST Council Secretariat	Sh. Anil Kumar Moria	Under Secretary
57	GST Council Secretariat	Sh. Vineet Kumar	Superintendent
58	GST Council Secretariat	Ms. Sonia	Superintendent
59	GST Council Secretariat	Sh. Mohan Lal	Superintendent
60	GST Council Secretariat	Ms. Ambika Rani	Superintendent
61	GST Council Secretariat	Sh. Niranjan Kishore	Superintendent
62	GST Council Secretariat	Sh. Om Ram Meena	Section Officer
63	GST Council Secretariat	Sh. Sandeep Kumar	Superintendent
64	GST Council Secretariat	Sh. Khupmang Neihsial	Superintendent
65	GST Council Secretariat	Sh. Himanshu Bhardwaj	Superintendent
66	GST Council Secretariat	Sh. Pankaj Kumar Singh	Superintendent
67	GST Council Secretariat	Sh. Sudhir Kumar	Section Officer
68	GST Council Secretariat	Sh. Ashwani Sharma	Section Officer
69	TRU	Ms. Smita Roy	TO, TRU - II
70	TRU	Sh. Dilmil Singh Soach	OSD , TRU - II
71	TRU	Sh. Wanere Vikram Vijay	Under Secretary, TRU - I
72	TRU	Ms. Anna Sosa Thomas	TO, TRU - II
73	TRU	Sh. Ananya Kumar Singh	TO, TRU - I
74	TRU	Sh. Stanzin Wangyal	TO, TRU - II
75	TRU	Sh. Dheeraj Sharma	TO, TRU - I
76	TRU	Sh. Ashok	Inspector

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77	PIB	Ms. Nanu Bhasin	ADG (M&C)
78	PIB	Sh. Kush Mohan Nahar	Media and Communication Officer
79	GST Council Secretariat	Sh. Anand Singh	Inspector
80	GST Council Secretariat	Sh. Karan Arora	Assistant Section Officer
81	GST Council Secretariat	Ms. Neha Jainwal	E. A.
82	GST Council Secretariat	Sh. Manish Gupta	E. A.
83	GST Council Secretariat	Sh. Rantej Singh	T. A.
84	GST Council Secretariat	Sh. Satbir Sah	T. A.
85	Andhra Pradesh	Sh. Peeyush Kumar	Principal Secretary, Finance (CT)
86	Andhra Pradesh	Sh. K. Ravi Sankar	Commissioner (ST), Policy
87	Andhra Pradesh	Sh. S.Sekhar	Addl. Commissioner(ST)/Oo CCST
88	Andhra Pradesh	Sh. M. Jayakrishna	OSD To Hon'ble Minister for Finance, Planning, Commercial Taxes and Legislative affairs
89	Arunachal Pradesh	Sh. Lobsang Tsering	Commissioner, Tax & Excise
90	Arunachal Pradesh	Sh. Nakut Padung	Superintendent of State Tax
91	Assam	Sh. Jayant Narlikar	Commissioner & Secretary, Finance Department
92	Assam	Sh. Pallav Gopal Jha	Principal Commissioner of State Tax
93	Assam	Sh. Jitu Doley	Secretary, Finance Department
94	Assam	Md. Shakeel Saadullah	Special Commissioner of State Tax
95	Assam	Sh. Bedabrata Saikia	Superintendent of State Tax
96	Bihar	Dr. Pratima	Commissioner- cum-Secretary Commercial Taxes
97	Bihar	Sh. Krishna Kumar	Joint Secretary Commercial Taxes
98	Bihar	Sh. Binod Kumar Jha	Additional Commissioner State Tax
99	Bihar	Sh. Ranjeet Kumar	OSD Commercial Taxes
100	Chandigarh	Sh. Rupesh Kumar	Excise & Taxation Commissioner

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101	Chandigarh	Sh. Harpreet Singh	Assistant Excise & Taxation Commissioner
102	Chandigarh	Sh. Pradeep Kumar	Excise & Taxation Officer
103	Chattisgarh	Sh. Mukesh Bansal	Secretary, Finance and Commercial Tax
104	Chattisgarh	Sh. Pushpendra Kumar Meena	Commissioner, State Tax
105	Delhi	Ms. Chanchal Yadav	Commissioner (State Tax)
106	Delhi	Sh. Ajay Kumar Bisht	Special Commissioner (State Tax)
107	Delhi	Sh. Karanjit Vadodaria	Additional Commissioner (State Tax)
108	Goa	Sh. Tusharkumar Joshi	OSD to CM
109	Goa	Sh. S.S.Gill	Commissioner of State Tax
110	Goa	Sh. Vishant S.N.Gaunekar	Additional Commissioner of State Tax-I
111	Goa	Sh. Ashutosh	APS to CM
112	Gujarat	Sh. Dr. T. Natarajan, IAS	Principal Secretary, Finance Department, Government of Gujarat
113	Gujarat	Sh. Rajeev Topno, IAS	Chief Commissioner of State Tax
114	Gujarat	Sh. K. D. Shukla	Joint Commissioner, Commercial Taxes
115	Haryana	Devender Kalyan	Principal Secretary, Excise and Taxation Department
116	Haryana	Sh. Ashok Kumar Meena	Excise & Taxation Commissioner-cum-Secretary
117	Haryana	Dr. Hemant Kumar	Additional Commissioner, GST, Excise and taxation Department
118	Haryana	Sh. Harsh Singh	Additional Commissioner, TRU, Excise and taxation Department
119	Himachal Pradesh	Dr. Yunus	Commissioner of State Tax & Excise
120	Himachal Pradesh	Sh. Rakesh Sharma	Additional Commissioner of State Tax & Excise
121	Jammu & Kashmir	Sh. Santosh. D.Vaidya	Principal Secretary to Government
122	Jammu & Kashmir	Sh. P.K.Bhat	Commissioner
123	Jammu & Kashmir	Sh. Shakeel Maqbool	Additional Commissioner
124	Jharkhand	Sh. Amitabh Kaushal	Secretary, Commercial Taxes

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125	Jharkhand	Sh. Ameet Kumar	Commissioner of Commercial Taxes
126	Jharkhand	Sh. Brajesh Kumar	Assistant Commissioner of State Taxes
127	Karnataka	Ms. C.Shikha	Commissioner of Commercial Tax
128	Karnataka	Dr. Ravi Prasad	Additional Commissioner of Commercial Tax
129	Kerala	Sh. Patil Ajit Bhagwatrao	Commissioner of State Tax
130	Kerala	Sh. Abraham Renn S	Special Commissioner, State GST
131	Kerala	Dr. Shyjan D	Private Secretary to Hon'ble Minister for Finance
132	Kerala	Sh.Sunilkumar V	Deputy Commissioner (Policy Division)
133	Kerala	Smt.Shobha T.C	State Tax Officer (Policy Division)
134	Kerala	Sh. Rajeeshkumar C P	Deputy State Tax Officer (Policy Division)
135	Madhya Pradesh	Sh. Dhanaraju S	Commissioner, State Tax
136	Madhya Pradesh	Sh. Manoj Kumar Choubey	Additional Commissioner, State Tax
137	Madhya Pradesh	Sh. Dilip Raj Dwivedi	Special Assistant of Deputy CM
138	Maharashtra	Sh. Asheesh Sharma	Commissioner of State Tax
139	Maharashtra	Smt. Shaila A	Secretary to GOM Reforms
140	Maharashtra	Sh. B M Gore	Deputy Commissioner of State Tax
141	Maharashtra	Sh. Pankaj Sharma	Personal Assistant to Minister
142	Maharashtra	Sh. Rahul Desai	PA to Minister
143	Manipur	Smt. Mercina R. Panmei	Commissioner of Taxes
144	Manipur	Sh Y. Indrakumar Singh	Joint Commissioner of Taxes
145	Meghalaya	Sh. Mukesh Kumar	OSD to Chief Minister
146	Meghalaya	Sh. Ramakrishna Chitturi	Commissioner of State Tax
147	Meghalaya	Sh. V. R. Challam	Deputy Commissioner State Tax
148	Mizoram	Sh. R. Zosiamliana	Commissioner of State Tax
149	Mizoram	Sh. H. K. Lalhawngliana	Additional Commissioner of State Tax
150	Nagaland	Sh. Abhinav Shivam	Commissioner of State Tax

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151	Nagaland	Sh. Y. Mhathung Murry	Special Commissioner of State Tax
152	Odisha	Ms. Yamini Sarangi	Commissioner of Commercial Tax and GST
153	Odisha	Sh. Rajat Kumar Pattnaik	Special Commissioner, CT & GST
154	Odisha	Sh. Nihar Ranjan Nayak	Additonal Commissioner of Commercial Tax and GST
155	Puducherry	Sh. L. Mohamed Mansoor	Commissioner of State Tax
156	Puducherry	Smt S. Rewathi	Assistant Commissioner (A&I) of State Tax
157	Punjab	Sh. Vikas Pratap	Financial Commissioner (Taxation)
158	Punjab	Sh. Varun Roojam	Commissioner of State Tax
159	Punjab	Smt Harsimrat Kaur	Deputy Commissioner of State Tax
160	Punjab	Smt Amritdeep Kaur	State Tax Officer
161	Punjab	Sh. Bharat Sharma	State Tax Officer
162	Rajasthan	Dr. Ravi Kumar Surpur	Secretary Finance Revenue
163	Rajasthan	Sh. Prakash Rajpurohit	Chief Commissioner of State Tax
164	Rajasthan	Sh. Arvind Mishra	Advisor State Tax
165	Sikkim	Sh. Pawan Awasthy	Principal Director, Finance Department
166	Sikkim	Sh. Manoj Rai	Commissioner Commercial Taxes
167	Tamil Nadu	Sh. Brajendra Navnit	Principal Secretary
168	Tamil Nadu	Dr.D. Jagannathan	Commissioner of Commercial Taxes
169	Tamil Nadu	Thiru S. Subash Chandra Bose	Additional Commissioner (Policy & Public Relations)
170	Tamil Nadu	Thiru.S.E. Prabhu	Deputy Commissioner (Policy & Planning)
171	Tamil Nadu	Sh. V. V. Ramkumar	Assistant Commissioner
172	Telangana	Sh. S.A.M Rizvi	Principal Secretary to Government, Revenue (CT& Excise) & (I/C) Commissioner (CT)
173	Telangana	Sh. N. Sai Kishore	Additional Commissioner(ST) (Grade-I)Enforcement
174	Telangana	Sh. K. Ravi	Joint Commissioner (ST) Policy
175	Tripura	Sh. Vivek H. B.	Chief Commissioner of State Tax

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176	Tripura	Sh. Ashin Barman	Assistant Commissioner of Taxes
177	Uttar Pradesh	Sh. M Devaraj	Principal Secretary to Govt of UP
178	Uttar Pradesh	Dr. Nitin Bansal	Commissioner, State Tax, U.P
179	Uttar Pradesh	Sh. Paritosh Kumar Mishra	Deputy Commissioner, State Tax HQ, Lucknow
180	Uttar Pradesh	Sh. Amit Pandey	PS to Honourable Minister
181	Uttarakhand	Sh. Vinod Kumar Suman	Secretary (Finance)
182	Uttarakhand	Dr. Ahmed Iqbal	Commissioner, State Tax
183	Uttarakhand	Sh. B. S. Nagnyal	Additional Commissioner
184	Uttarakhand	Sh. Anurag Mishra	Joint Commissioner, State Tax
185	Uttarakhand	Sh. Ranjeet Singh	Assistant Commissioner
186	West Bengal	Sh. Prabhat Kumar Mishra	Additional Chief Secretary
187	West Bengal	Sh. Devi Prasad Karanam	Commissioner, State Tax
188	West Bengal	Sh. Rajib Sengupta	Additional Commissioner, State Tax
189	West Bengal	Sh. Shantanu Naha	OSD to FM

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Annexure – 3



Ratification of Notifications and Circulars

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Agenda 2: Ratification of Notifications, Circulars etc. (1/6)

[Vol 1- Pg. 151-157]

Act/ Rules	Notifications/ Circulars Nos.	Description/Remarks
CGST Act/ CGST Rules	**Five (05) Central Tax Notifications** issued (No. 12/2024 to 16/2024) **& Three (03) Central Tax (rate) Notification** issued (No. 02/2024 to 04/2024)	Notifications to implement various decisions of GST Council taken in 53rd meeting. Some of the important decisions are: i. Making amendments (Amendment, 2024) to the CGST Rules, 2017 ii. Rescinding Notification No. 27/2022-Central Tax dated 26.12.2022. iii. Exempting the registered person whose aggregate turnover in FY 2023-24 is upto Rs. Two crores, from filing annual return for the said financial year. iv. Amendment of Notification No. 52/2018-Central Tax, dated 20.09.2018. v. Notifying section 11 to 13 of Finance Act (No.1) 2024. vi. Amendment of Notification No. 01/2017-Central Tax (Rate) dated 28.06.2017. vii. Amendment of Notification No. 02/2017-Central Tax (Rate) dated 28.06.2017. viii. Amendment of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017.

Agenda 2: Ratification of Notifications, Circulars etc. (2/6)

[Vol 1- Pg. 151-157]

Act/ Rules	Notifications/ Circulars Nos.	Description/Remarks
UTGST Act/ UTGST Rules	**One (01) Union Territory Tax Notification** issued (No. 01/2024) **& Three (03) Union Territory Tax (rate) Notifications** issued (No. 02/2024 to 04/2024)	i. Amendment of Notification No. 12/2018-Union Territory Tax dated 28.09.2018. ii. Amendment of Notification No. 01/2017-Union Territory Tax (Rate) dated 28.06.2017 iii. Amendment of Notification No. 02/2017-Union Territory Tax (Rate) dated 28.06.2017. iv. Amendment of Notification No. 12/2017-Union Territory Tax (Rate) dated 28.06.2017.
IGST Act/ IGST Rules	**One (01) Integrated Tax Notification** issued (No. 01/2024) **& Three (03) Integrated Tax (rate) Notifications** issued (No. 02/2024 to 04/2024)	i. Amendment of Notification No. 02/2018-Integrated Tax dated 20.09.2018. ii. Amendment of Notification No. 01/2017- Integrated Tax (Rate) dated 28.06.2017. iii. Amendment of Notification No. 02/2017-Integrated Tax (Rate) dated 28.06.2017. iv. Amendment of Notification No. 9/2017-Integrated Tax (Rate) dated 28.06.2017.

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Agenda 2: Ratification of Notifications, Circulars etc. (3/6)

[Vol 1- Pg. 151-157]

Act/ Rules	Notifications/Circulars Nos.	Description/Remarks
Goods and Services Tax (Compensation to States) Act, 2017	**One (01) Compensation cess (rate) Notification** issued (No. 01/2024)	Providing exemption from Compensation Cess on supplies under heading 2202 by URCs to authorised customers.

Agenda 2: Ratification of Notifications and Circulars, etc. (4/6)

[Vol 1- Pg. 151-157]

Act/ Rules	Notifications/Circulars Nos.	Description/Remarks
Circulars	**Twenty two (22) Circulars** issued (Circular No. 207/10/2024-GST dated 26.06.2024 to Circular No. 229/23/2024-GST dated 15.07.2024)	Circulars to implement various decisions of GST Council taken in its 53rd meeting. **The issues covered in these circulars are:** i. Reduction of Government Litigation – fixing monetary limits for filing appeals or applications by the Department before GSTAT, High Courts and Supreme Court.. ii. Clarifications on various issues pertaining to special procedure for the manufacturers of the specified commodities. iii. Clarification on the provisions of clause (ca) of Section 10(1) of the Integrated Goods and Service Tax Act, 2017 relating to place of supply. iv. Clarification on valuation of supply of import of services by a related person where recipient is eligible to full input tax credit. v. Clarification on time limit under Section 16(4) of CGST Act, 2017 in respect of RCM supplies received from unregistered persons. vi. Clarification on mechanism for providing evidence of compliance of conditions of Section 15(3)(b)(ii) of the CGST Act, 2017 by the suppliers. vii. Seeking clarity on taxability of re-imbursement of securities/shares as SOP/ESPP/RSU provided by a company to its employees.

CHAIRMAN'S INITIALS

Agenda 2: Ratification of Notifications and Circulars, etc. (5/6)

[Vol 1- Pg. 151-157]

Act/ Rules	Notifications/Circulars Nos.	Description/Remarks
Circulars	**Twenty two (22) Circulars** issued (Circular No. 207/10/2024-GST dated 26.06.2024 to Circular No. 229/23/2024-GST dated 15.07.2024)	viii. Clarification on the requirement of reversal of input tax credit in respect of the portion of the premium for life insurance policies which is not included in taxable value. ix. Clarification on taxability of wreck and salvage values in motor insurance claims. x. Clarification in respect of GST liability and input tax credit (ITC) availability in cases involving Warranty/ Extended Warranty, in furtherance to Circular No. 195/07/2023-GST dated 17.07.2023. xi. Entitlement of ITC by the insurance companies on the expenses incurred for repair of motor vehicles in case of reimbursement mode of insurance claim settlement. xii. Clarification regarding taxability of the transaction of providing loan by an overseas affiliate to its Indian affiliate or by a person to a related person. xiii. Clarification on availability of input tax credit on ducts and manholes used in network of optical fiber cables (OFCs) in terms of section 17(5) of the CGST Act, 2017. xiv. Clarification on place of supply applicable for custodial services provided by banks to Foreign Portfolio Investors. xv. Time of supply on Annuity Payments under HAM Projects.

Agenda 2: Ratification of Notifications and Circulars, etc. (6/6)

[Vol 1- Pg. 151-157]

Act/ Rules	Notifications Circulars Nos.	Description/Remarks
Circulars	**Twenty two (22) Circulars** issued (Circular No. 207/10/2024-GST dated 26.06.2024 to Circular No. 229/23/2024-GST dated 15.07.2024)	xvi. Time of supply in respect of supply of allotment of Spectrum to Telecom companies in cases where an option is given to the Telecom Companies for payment of license fee and Spectrum usage charges in instalments in addition to an option of upfront payment. xvii. Guidelines for recovery of outstanding dues, in cases wherein first appeal has been disposed of, till Appellate Tribunal comes into operation. xviii. Clarification on various issues pertaining to taxability and valuation of supply of services of providing corporate guarantee between related persons. xix. Mechanism for refund of additional Integrated Tax (IGST) paid on account of upward revision in price of the goods subsequent to export. xx. Processing of refund applications filed by Canteen Stores Department (CSD). xxi. Clarifications regarding applicability of GST on certain services -reg. xxii. Clarification regarding GST rates & classification (goods) based on the recommendations of the GST Council in its 53rd meeting held on 22nd June, 2024, at New Delhi –reg.

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Issues recommended by Law Committee

Summary of discussions on Agendas in Officers' Meeting held on 08th September 2024

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Agenda No	Issue/Proposal	Status during Officers Meeting
3(i) [Vol 1-Pg. 158-167]	▪ **Clarification on refund of IGST paid on exports under rule 96(10) of the CGST Rules, 2017 and amendments in Rule 89 and Rule 96 of CGST Rules, 2017** ▪ Clarification may be issued through a Circular that in the light of the Explanation to rule 96 (10) of CGST Rules, in cases where the benefit of such specified concessional notifications had been availed at the time of imports of the inputs, but where IGST and compensation cess on the said imported inputs is paid subsequently, along with interest, and the Bill of Entry in respect of the same is got reassessed through Customs, then the refunds of IGST sanctioned may be considered to be regularized. ▪ Rule 96(10), rule 89(4A) & rule 89(4B) may be omitted from CGST Rules, 2017 prospectively. ✓ After the deletion of the said rules, in the cases where the benefit of specified concessional/ exemption notifications (like Advance authorization, EOU, etc.) had been availed on inputs/raw materials imported or procured domestically, the refund on account of exports can be claimed either through the ITC refund route or through the IGST refund route. ✓ In cases where refund on account of export is claimed through ITC refund route, such refund of accumulated ITC to be claimed under rule 89(4) of CGST Rules. ▪ Consequential amendments may be made in rule 86 (4B), rule 89 (4) and rule 89 (5) of CGST Rules.	Agreed.

Agenda No	Issue/Proposal	Status during Officers Meeting
3(ii) [Vol 1-Pg. 168-180]	**Clarification on the place of supply of advertising services provided to foreign entities (1/2)** **Issue I -Whether the advertising company can be considered as an intermediary between the foreign client and the media owners as per section 2(13) of IGST Act?** **Issue- II -Whether the representative of foreign client in India or the target audience of the advertisement in India can be considered as "recipient" of the services being supplied by the advertising company under section 2(93) of CGST Act, 2017?** **Issue- III -Whether the advertising services provided by the advertising companies to foreign clients can be considered as performance-based services as per section 13(3) of the IGST act, 2017?** **Law committee recommended to clarify through a Circular that:** ▪ The advertising company is involved in the main supply of advertising services, including resale of media space to the foreign client, on principal-to-principal basis and **does not appear to fulfil the criteria of "intermediary"** under section 2(13) of the IGST Act and the said circular dated 20.09.2021. ▪ The **recipient of the advertising services provided by the advertising company is the foreign client**, and not the Indian representative of the foreign client based in India or the target audience of the advertisements in India, as per section 2(93) of the CGST Act, 2017.	Agreed.

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Agenda No	Issue/Proposal	Status during Officers Meeting
3(ii) [Vol 1- Pg. 168-180]	**Clarification on the place of supply of advertising services provided to foreign entities (2/2)** ▪ The services being provided by the advertising company are neither in respect pf goods being made physically available by the recipient of services, nor require physical presence of the recipient with the advertising company for availing such services, and accordingly, **such services cannot be considered as performance based services** under section 13(3) of IGST Act. ▪ Accordingly, the place of supply of such advertising services does not appear to be covered under any of the provisions of sub-sections (3) to (13) of the Section 13 of the IGST Act, 2017, and therefore, **place of supply of the such advertising services shall be the location of the said foreign client, i.e., outside India, as per Section 13(2) of IGST Act, 2017**. ▪ However, in cases where **advertising company acts merely as an agent of foreign client** for arranging media space from media owner, and does not provide services on principal to principal basis, the **advertisement company would be treated as "intermediary"** in accordance with section 2(13) of IGST Act **and place of supply of such services** provided by the advertisement company would be **determinable as per section 13(8)(b) of IGST Act**, i.e., the place of location of the advertisement company.	Agreed.

Agenda No	Issue/Proposal	Status during Officers Meeting
3(iii) [Vol 1- Pg. 181-185]	**Amendment in CGST Rules, 2017 Tribunal** **Issue I: Consequential Amendment in Form REG-20 & REG-31 due to amendment in rule 10A, 21(h) and 21(i) of CGST Rules** ▪ The Law Committee recommended amendments in **FORM GST REG-20 & FORM GST REG-31** accordingly.	Agreed. State of Punjab mentioned that the number of days within which the bank details have to be submitted after registration may be reduced to 15 days. It was observed that the same required detailed examination by the Law Committee and Punjab was accordingly requested to send a proposal in this regard to the Law Committee. State of Tamil Nādu mentioned that in FORM GST REG-20, the words 'jurisdictional officer' and 'jurisdictional tax officer' may be replaced with the word 'proper officer', in order to align the same with the Act. It was discussed that if the suggestion of Tamil Nādu is agreed, similar changes may also be required in a number of other forms, and therefore the issue is required to be comprehensively examined by the Law Committee, regarding need for any such amendment as suggested by Tamil Nādu.

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Agenda No	Issue/Proposal	Status during Officers Meeting
3(iii) [Vol 1- Pg. 186-187]	**Issue II : Amendment in FORM INS-01 in the light of enactment of Bharatiya Nyaya Sanhita (BNS), 2023** ▪ Law Committee recommended amendment in **FORM GST INS-01** to replace the references to various sections of IPC,1860 in the said form with that of BNS	Agreed.

Agenda No	Issue/Proposal	Status during Officers Meeting
3(iii) [Vol 1- Pg. 188-195]	**Issue III : Amendment in Rules and Forms due to insertion of section 74A in CGST Act, 2017** ▪ Law Committee recommended **consequential amendments in rule 36(3), rule 88B(1), rule 88D(3), rule 96B(1), rule 121 and rule 142 of CGST Rules, 2017 and FORM GST DRC-01A**. ▪ Law Committee also recommended that in the dropdown option for **"Section / sub-section under which SCN is being issued"** in **FORM GST DRC-01** on the common portal, option for 'Issuance of demand under section 74A(1) read with section 74A(5(i))' and 'Issuance of demand under section 74A(1) read with section 74A(5(ii))' may also be provided, **so as to differentiate between the cases where fraud, suppression, misrepresentation of facts is involved and where not involved.**	Agreed.

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Agenda No	Issue/Proposal	Status during Officers Meeting
3(iv) [Vol 1- Pg. 196-203]	**Clarification regarding the availability of Input Tax Credit on demo vehicles by the dealers of the vehicle manufacturers (1/2)** ***The Law Committee recommended that the issues may be clarified through a* circular** as below: ▪ As demo vehicles are used by the dealers to provide trial run and to demonstrate features of the vehicle to potential buyers, it helps the potential buyers to make a decision to purchase a particular kind of motor vehicle. ✓ Therefore, as demo vehicles promote sale of similar type of motor vehicles, they can be considered as **being used for making 'further supply of such motor vehicles'**. ✓ Accordingly, **input tax credit in respect of demo vehicles is not blocked for the dealer under clause (a) of section 17(5) of CGST Act**, as it is **excluded from such blockage** in terms of **sub-clause (A) of the said clause**. ▪ However, in cases, **where the dealer merely acts as agent or service provider to the vehicle manufacturer for providing marketing service and for providing facility of vehicle test drive** to the potential customers on behalf of the manufacturer, and is **not directly involved in sale and purchase of the vehicles**, the demo vehicle purchased by the dealer cannot be used for making **'further supply of such motor vehicles'.** ✓ In such cases, **input tax credit** in respect of demo vehicles **would not be available to the dealer in terms of section 17(5)(a) of CGST Act.**	Agreed. A view emerged that there may also be a need of a general review of provisions of blocking of credit under Section 17(5) of CGST Act, 2017 at an appropriate time.

Agenda No	Issue/Proposal	Status during Officers Meeting
3(iv) [Vol 1- Pg. 196-203]	**Clarification regarding the availability of Input Tax Credit on demo vehicles by the dealers of the vehicle manufacturers. (2/2)** ▪ Where such vehicles are **capitalized** in the books of accounts by the dealer, the said vehicle falls into the definition of "**capital goods**" under section 2(19) of CGST Act. ✓ As per provision of section 16(1) of CGST Act, subject to such conditions and restrictions as may be prescribed, a **recipient of goods is entitled to take input tax credit in respect of tax charged on the inward supply of any goods**, which as per definition of "goods" under section 2(52) of CGST Act, **includes even capital goods**. ✓ Accordingly, **availability of input tax credit on Demo vehicles is not affected by way of capitalization** of such vehicles in the books of account of the authorized dealers, subject to other provisions of the Act. ✓ However, availability of **input tax credit (ITC)** in such cases would be **subject to the provisions of section 16(3)** of CGST Act, i.e. ITC would not be available to the extent depreciation has been claimed under Income Tax Act, 1961.	Agreed.

CHAIRMAN'S INITIALS

Agenda No	Issue/Proposal	Status during Officers Meeting
3(v) [Vol 1- Pg. 204-219]	**Providing a mechanism for implementing sub-sections (5) and (6) of Section 16 of the CGST Act, 2017 (1/4)** **To implement the said provisions, the Law Committee has made the following recommendations:** ▪ As the said amendments are being done retrospectively with effect from 01.07.2017, **the Centre may notify the said provisions of the Finance Act immediately so that the benefit of the same is made available to the taxpayers immediately.** ✓ Whenever States will notify the said provisions after amendment in their respective SGST Acts, they will also have to notify the said provisions retrospectively.	Agreed. State of Bihar enquired as to whether rectification will be required in respect of those orders also where the amount of ITC involved has already been fully recovered . In this regard, it was discussed that while there will be no restriction on rectification of orders in such cases, however no refund of tax paid or recovered already will be available as per Section 150 of Finance (No. 2) Act, 2024.

Agenda No	Issue/Proposal	Status during Officers Meeting
3(v) [Vol 1- Pg. 204-219]	**Providing a mechanism for implementing sub-sections (5) and (6) of Section 16 of the CGST Act, 2017 (2/4)** ▪ **In respect of cases,** ✓where demand notice has not been issued; or ✓where demand notice has been issued but order has not been issued by the adjudicating authority; or ✓where order has been issued and appeal has been filed but no appeal order has been issued; or ✓where order has been issued and revision proceedings have been initiated has been filed but no order has been issued by the revisional authority, the **concerned proper officer/ adjudicating officer/ appellate authority/ revisional authority may decide** the case **by taking into consideration the said provisions** of **sub-section (5) and sub-section (6) of section 16** of CGST Act.	Agreed. State of Andhra Pradesh mentioned that in para 4 of the proposed circular, it may be added that the restriction on refund under Section 150 of Finance (No. 2) Act, 2024, is not applicable on the amount paid as pre-deposit for filing of appeals. Accordingly, it was suggested to add the following at the end of para 4 of the draft circular: "However, it is clarified that said restriction on refund under section 150 of the Finance (No. 2) Act, 2024 will not apply to the refund of an amount paid as pre-deposit by the taxpayer as per sub-section (6) of section 107 or sub-section (8) of section 112 of the CGST Act, at the time of filing of an appeal, where such appeals are decided in favor of the said taxpayer. "

CHAIRMAN'S INITIALS

Agenda No	Issue/Proposal	Status during Officers Meeting
3(v) [Vol 1-Pg. 204-219]	**Providing a mechanism for implementing sub-sections (5) and (6) of Section 16 of the CGST Act, 2017 (3/4)** ▪ In respect of cases, ✓ where demand order has been issued confirming the demand but where no appeal has been filed with the appellate authority yet, or ✓ where appeal order has been issued by the appellate authority or order has been issued by the revisional authority but no appeal has been filed with Appellate Tribunal yet, and the benefit of **sub-section (5) and sub-section (6) of section 16 of CGST Act is now available, a special procedure for rectification of the said orders** under section 148 of the CGST Act to be followed by such class of taxable persons may be notified. ▪ The said special procedure to provide **for filing of application for rectification of the order by the taxpayer on the common portal within six months** of issuance of the notification for the special procedure. ▪ **Proper officer to take decision** and pass order in respect of such rectification application **within three months from date of filing such application, as far as possible**. ▪ The said **notification for special procedure may be issued by the Centre immediately** on notifying the above mentioned provisions of the Finance Act. ▪ Whenever the States will issue similar notification under their respective SGST Acts, they may also issue the same with effect from the date on which Centre issues the said notification.	Agreed.

Agenda No	Issue/Proposal	Status during Officers Meeting
3(v) [Vol 1-Pg. 204-219]	**Providing a mechanism for implementing sub-sections (5) and (6) of Section 16 of the CGST Act, 2017 (4/4)** ➢ To **clarify through a circular** various issues pertaining to implementation of the provisions of sub-section (5) or sub-section (6) of section 16 of the CGST Act. ➢ An **MIS may be made available by GSTN for tax authorities** *inter alia* including the number of cases where rectification application filed, number of cases where application is disposed of and number of cases where the application is pending for more than three months, enabling them to monitor the progress of the action taken by the tax officers in respect of the applications for rectification filed under the above special procedure.	Agreed.

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Agenda No	Issue/Proposal	Status during Officers Meeting
3(vi) [Vol 1-Pg. 220-231]	**Clarification on place of supply in case of data hosting services provided by service providers located in India to cloud computing service providers located outside India (1/2)** • Law committee recommended to issue a circular to clarify that: ✓ Data hosting services provided by data hosting service provider to its overseas cloud computing service providers cannot be considered as intermediary services and hence, the place of supply of the same cannot be determined as per section 13(8)(b) of IGST Act. ✓ Data hosting services provided by data hosting service provider to the said cloud computing service providers cannot be considered in relation to the goods "made available" by the said cloud computing service providers to the data hosting service provider in India and hence, the place of supply of the same cannot be determined under section 13(3)(a) of the IGST Act. ✓ Data hosting services cannot be considered as services provided directly in relation to immovable property or physical premises and hence, the place of supply of such services cannot be determined under section 13(4) of IGST Act.	Agreed

Agenda No	Issue/Proposal	Status during Officers Meeting
3(vi) [Vol 1-Pg. 220-231]	**Clarification on place of supply in case of data hosting services provided by service providers located in India to cloud computing service providers located outside India (2/2)** ▪ Law committee recommended to issue a circular to clarify that: ✓ Place of supply for the data hosting services provided by the data hosting service provider in India to overseas cloud computing service providers does not fit into any specific provisions outlined in sections 13(3) to 13(13) of the IGST Act, 2017. ✓ The place of supply of the said services therefore needs to be determined as per the default provision under section 13(2) of the IGST Act, i.e. the location of the recipient of the services. ✓ Since the overseas cloud computing service providers receiving the data hosting services are located outside India, the place of supply of the said services is to be considered as outside India according to section 13(2) of the IGST Act, 2017.	Agreed

CHAIRMAN'S INITIALS

Agenda No	Issue/Proposal	Status during Officers Meeting
3(vii) [Vol 3-Pg. 07-47]	**Amendment in CGST Rules, 2017 and relevant forms subsequent to insertion of Section 128A and the clarification on various related issues (1/2)** ▪ Law Committee has made the following recommendations to implement the provisions of section 128A of CGST Act: ✓ **Insertion of a new Rule 164** in CGST Rules to prescribe the procedure and conditions from conclusion of proceedings under sub-section (1) of section 128 A of CGST Act. ✓ **Insertion of seven new Forms**, viz FORM GST SPL -01, FORM GST SPL -02, FORM GST SPL -03, FORM GST SPL -04, FORM GST SPL -05, FORM GST SPL -05A, FORM GST SPL -06 and FORM GST SPL -07 in CGST Rules. ▪ Law Committee also recommended: ✓ **Issuance of a circular to clarify the procedure** to be followed by the taxpayers and the tax officers in order to avail and implement the benefit provided under Section 128A of the CGST Act and **to clarify various issues** related to implementation of the said provisions.	Agreed. State of Tamil Nādu mentioned that in the undertaking to be provided in FORM GST SPL-01, instead of the word 'order', the same should be 'notice'. The said suggestion was agreed to. It was discussed that instructions may be issued by the tax administrations to their officers not to pursue recovery of interest and penalty, in cases where entire due tax amount has been deposited, and where such interest and penalty are eligible for waiver under Section 128A of CGST Act, 2017.

Agenda No	Issue/Proposal	Status during Officers Meeting
3(vii) [Vol 3-Pg. 07-47]	**Amendment in CGST Rules, 2017 and relevant forms subsequent to insertion of Section 128A and the clarification on various related issues (2/2)** ▪ Law Committee also recommended: ✓ **Issuance of a notification under sub-section (1) of Section 128A of CGST Act** in order **to provide for a date on or before which the payment of tax may be made** by different class of registered persons, to avail the benefit of waiver of interest or penalty or both provided under Section 128A of the CGST Act. • The date under the said notification may also be decided by the Council. ▪ **The Council may decide the date on which provisions of section 146 of Finance (No.2) Act, 2024 may be notified so as to bring into effect section 128A of CGST Act.** ▪ **The Council may also decide about the dates from which other provisions of Finance (No.2) Act, 2024 may be notified (other than Section 118 and Section 150 of Finance (No. 2) Act, 2024.**	Agreed. In the officers' meeting, it was recommended that Section 128A of CGST Act and other sections of Finance (No.2) Act, 2024 may be notified w.e.f. 1st November 2024, by Centre as well as States. Further, the date on or before which the payment of tax may be made, may be notified as 31st March, 2025, under Section 128A(1) of CGST Act, 2017.

CHAIRMAN'S INITIALS

THANK YOU

CHAIRMAN'S INITIALS

MINUTE BOOK

54th GST Council Meeting

Recommendations of Fitment Committee on Goods and Services

9th September, 2024

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

CHAIRMAN'S INITIALS

ABD SINCE 1922

Agenda Items

- **Total 57 issues examined**
  - Goods : 13
  - Services: 44

Goods

- **Total 13 issues examined**
  - Recommendations for making changes in GST rates/ issuing clarifications- **6**

[Agenda 4 (a) : Vol-I: Annexure-I :pages 233 to 238]

['As is where is' basis-Agenda 4 (g) : Vol-III: page 56]

  - Recommendations for making no change - **7**

[Agenda 4 (b):Vol-I: Annexure-II: pages 239-244]

CHAIRMAN'S INITIALS

Services

- **Total 44 issues examined**

  - Recommendations for making changes in GST rates/ issuing clarifications- **20**

    [Vol. I, Agenda Item 4, Annexure-IV :pages 245 to 303]

    [Vol. III, Agenda Item 4(c)(Part-II), Annexure-IV :pages 49 to 52]

  - Recommendations for making no change - **15**

    [Vol. I, Agenda Item 4, Annexure-V :pages 304 to 333]

  - Issues deferred for further examination - **9**

    [Vol. I, Agenda Item 4, Annexure-VI :pages 334 to 345]

    [Vol. III, Agenda Item 4(e)(Part-II), Annexure-IV :pages53-55]

Services

- Status update on the taxation of supplies in casinos, horse racing & online gaming for information of the Council.

  [Vol. I, Agenda Item 4, Annexure-VI :pages 334 to 345]

- Status update on Group of Ministers (GoM) on boosting real estate sector under GST regime for information of the Council.

  [Vol. III, Agenda Item 4(j)(Part-II) :pages 60-63]

CHAIRMAN'S INITIALS

ABD SINCE 1922

Recommendations of the Fitment Committee: Goods

Goods- Change recommended (1/ 5) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4 (a) (Annexure-I) S. No. 1 Vol-I: Page Nos. 233-234	➢ Request to issue clarification on classification of Roof Mounted Package Unit (RMPU) Air Conditioners for railways as to whether these goods fall under heading 8607 (*including parts of railways or tramway locomotives*) with 18% GST or under heading 8415 (including air-conditioning machines) with 28% GST, due to contradictory AAR rulings. ➢ The Fitment Committee observed that there is no ambiguity in the classification . However, in order to make it explicitly clear, recommended to issue a clarification that Roof Mounted Package Unit (RMPU) Air Conditioning Machines for Railways would be classified under HSN 8415 attracting a GST rate of 28 %.	Agreed in Officers Meeting
4(a) (Annexure-I) S. No. 2 Vol-I: Page Nos. 235	➢ Request to clarify as to whether car seats are classifiable under CTH 9401 or CTH 8708. ➢ The Fitment Committee observed that there is no ambiguity in the GST rate on car seats which are classifiable under 9401 attracting 18% and recommended to clarify the same. ➢ The Fitment Committee also recommended to prospectively prescribe a uniform rate of 28% for car seats of motor cars as it is leviable for car seats of motorcycles by amending the notification, for the sake of parity.	Agreed in Officers Meeting

CHAIRMAN'S INITIALS

MINUTE BOOK

Goods- Change recommended (2/5) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(a) (Annexure-I) S. No. 3 Vol-I: Page Nos. 235-237	➢ Based on recommendation of GST Council in its 48th meeting, it was clarified that snack pellets manufactured through process of extrusion appropriately classifiable under tariff item 1905 90 30, which covers goods with description 'Extruded or expanded products, savoury or salted', and thereby attract GST at the rate of 18% ➢ In 50th meeting, GST rate on un-fried or un-cooked snack pellets, manufactured through process of extrusion, classifiable under HS 19059030 was reduced to 5%. ➢ Request is to reduce GST rate on extruded snack pellets in ready-to-eat form from 18% to 12% and clarify that they will attract 12% GST under HS 210690 (namkeens entry).	➢ **Agreed in Officers Meeting. While agreeing to the proposal , in light of suggestions to look into the sector as a whole to simplify / reduce complexity to avoid disputes. it was agreed this may be referred to Fitment Committee.** ➢ **Maharashtra**: Rate for pre-packaged items and other than pre-packaged items should be separate. Keep packaged items at a higher rate. ➢ **Kerala**: Rather than taxing based on pre-packaged or not, food products should be taxed on whether they are essential or non-essential. Non-essential food products should be taxed at a higher rate.

Goods- Change recommended (2/5) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(a) (Annexure-I) S. No. 3 Vol-I: Page Nos. 235-237	➢ To obviate disputes, Fitment Committee recommended to reduce GST rate on extruded or expanded products, savoury or salted (other than un-fried or un-cooked snack pellets manufactured through process of extrusion) falling under HS 19059030 to 12% at par with namkeens, bhujia, mixture, chabena (pre-packaged and labelled) or similar edible preparation in ready for consumption form. ➢ Fitment Committee also recommended to clarify that for the past period 18% rate is applicable and 12% rate is applicable only prospectively.	It was also agreed that matter of whether to regularise past practice may be referred to Fitment Committee

Goods- Change recommended (3/5) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(a) (Annexure-I) S. No. 4 Vol-I: Page Nos. 237-238	➢ Request is to reduce rate on metal scrap from 18% to 5% (with ITC) /2% (without ITC)/ 5% or 18% (under RCM) ; Exempt when sold by dealers and RCM in last leg when sold to manufacturers or 5% or 1% without ITC for traders only; or wholesaler to manufacture-option of 18% under FCM or 5% under RCM. ➢ The issue of rate reduction on metal scrap from 18% to 5% has already been decided in 47th GST Council meeting. ➢ The only issue referred to Fitment Committee is regarding levy of GST on RCM basis and Council also recommended that State of Punjab could be invited for deliberations. *contd....*	

CHAIRMAN'S INITIALS

ABD SINCE 1922

Goods- Change recommended (3/5) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(a) (Annexure-I) S. No. 4 Vol-I: Page Nos. 237-238	➢ The Fitment Committee recommended to : ❖ introduce TDS @ 2% on supply of metal scrap by registered person to registered person. (B to B) and ❖ introduce RCM on supply of scrap by unregistered person to registered person provided that: (a) the supplier shall take registration as and when it crosses threshold limit and accordingly, exclusion to be created in Notification 5/2017-Central tax dated 19.06.2017, and (b) recipient who is liable to pay under RCM shall pay tax even if supplier is under threshold limit.	**Agreed in Officers meeting.** **As additional points, it was agreed to refer the following two issues raised by States for examination by the Fitment Committee:** (i) Reduction of rate on scrap from 18 to 5% (ii) making e-way bills mandatory for all transactions of scrap irrespective of value **Tamil Nadu:** Additionally , e-way bills to be made mandatory irrespective of value for all movements using 4 –wheelers. **Punjab** also reiterated their request to make e-way bills mandatory for all transactions irrespective of value. **Telangana:** Additionally, rate may also be reduced to 5%.

Goods- Change recommended (4/5) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(a) (Annexure-I) S. No. 5 Vol-I: Page Nos. 238	➢ Request is to reduce GST rate from 12% to 5% on three drugs used for treatment of cancer: (i)Trastuzumab Deruxtecan (ii) Osimertinib (iii) Durvalumab ➢ These medicines are used in the treatment of lung cancer, biliary tract cancer and breast cancer. ➢ In Union July Budget 2024-25, considering the high cost of these medicines, customs duty has been fully exempted on these drugs. ➢ Specified drugs including certain drugs used for treatment of cancer already attract concessional GST rate of 5%. ➢ Fitment Committee, after considering the high cost of treatment in cancer, recommended to reduce the GST rate from 12% to 5% on all the three cancer drugs.	Agreed in Officers meeting

Goods- Clarification recommended (5/5):

Agenda No.	Issue/Proposal	Status after officers' meeting
Agenda 4 (g): Vol-III: page 56	➢ Request is to issue a clarification on scope of regularization done on 'as is where is' basis. ➢ Situations where 'as is where is' basis regularization has been recommended: ❖where genuine doubts have arisen as there are two competing entries with different rates in the notifications ❖ where genuine doubts have arisen due to ambiguity in the language of notifications ❖where issues have arisen due to diverse interpretation resulting in a situation where some suppliers have paid a lower rate of GST (including nil rate on account of an exemption entry) and some suppliers have paid a higher rate of GST ➢ Fitment Committee recommended to issue a circular to clarify the scope of 'as is where is' basis as many issues regularised in the past do not fit within scope of Section 11A.	Agreed in Officers meeting

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MINUTE BOOK

Goods-No change recommended (1/5) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(b)(Annexure-II) S. No. 1 Vol-I: Page Nos. 239	➢ Request is to issue clarification on the rate **on paper sack** for the period 01.07.2017 to 30.09.2021 ➢ GST Council in its 45th Meeting recommended to provide uniform rate of 18% GST on all carton boxes made up of corrugated or non-corrugated boxes under heading 4819 in order to resolve the ambiguity, which was implemented wef 01.10.21. Paper sack (4819 30 /4819 40) always attract GST rate of 18%. Thus, after this recommendations all items of 4819 attracted 18%. ➢ Thereafter GST Council in 53rd meeting recommended 12% on carton boxes, case of corrugated/non-corrugated falling under heading 481910 and 481920. ➢ The Fitment Committee recommended to maintain status quo as there was no ambiguity with respect to paper sack which always attracts 18%.	Agreed in Officers meeting

Goods-No change recommended (2/5) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(b)(Annexure-II) S. No. 2 Vol-I: Page Nos. 239-240	➢ Request is to increase GST rate on agro shade nets to 12 % from 5%. ➢ Agro shade nets are used to control temperature to help off season ripening of fruits and vegetables. It also acts as a windshield to prevent damage to plants. BIS recognises agro shade nets as technical textiles ➢ Manmade filaments attract 18% GST, yarn attracts 12% GST and fabrics attract 5% GST. ➢ Main raw material is HDPE (High Density Poly ethylene) granules which attract 18% GST leading to inverted duty structure. Fabrics attract 5% GST. ➢ In 45th Council meeting, the matter of inverted duty structure taken up but in 46th Council meeting, the issue was deferred and recommended that GoM on Rate Rationalisation take up the matter. ➢ Fitment Committee recommended to maintain status quo as report on GoM on Rate Rationalisation is awaited.	Agreed in Officers meeting

Goods-No change recommended (3/5) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(b)(Annexure-II) S. No. 3 Vol-I: Page No. 240	➢ Request is to clarify the applicable rate of GST on Compressed Bio Gas(CBG). ➢ Issue was deferred in 37th GST Council meeting held on 20th September 2019. ➢ There is no separate entry for CBG. GST rate is 5% at par with bio gas. ➢ Fitment Committee recommended that no clarification is required to be issued as it is a non-issue now.	Agreed in Officers meeting
4(b)(Annexure-II) S. No. 4 Vol-I: Page No. 240	➢ Request is to reduce the GST rate on feedstock like reformate, DHDT feed, SRGO, VGO from 18% to 5%. ➢ Matter discussed in 47th GST Council Meeting and felt revenue implication as far as the OMC's are concerned is not significant. ➢ Fitment Committee recommended to maintain status quo.	Agreed in Officers meeting

CHAIRMAN'S INITIALS

Goods-No change recommended (4/5) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(b)(Annexure-II) S. No. 5 Vol-I: Page Nos. 240-242	➢ Request is to reduce rate of GST on key parts (Cathode coating, Separators) of Li-Ion battery from 28% to 18% and avoid inversion of rate of GST. ➢ Cathodes and Separators are present in all batteries including lead-acid, nickel-cadmium, nickel-metal hydride etc ➢ Providing concession to these goods will create distortions and will be prone to misclassification leading to disputes. ➢ The Fitment Committee recommended to maintain status quo.	Agreed in Officers meeting
4(b)(Annexure-II) S. No. 6 Vol-I: Page Nos. 242-243	➢ Request is to reduce rate of GST on parts used in manufacture of EV from 18%/28% to 5%. ➢ The concession for the end use of manufacturing EVs are difficult to monitor and enforce and will introduce inversion in the supply chain of such EV parts. ➢ The same has already been deliberated by the GST Council in the 47th Meeting and no change was recommended. ➢ The Fitment Committee recommended to maintain status quo	Agreed in Officers meeting by all States barring **Andhra Pradesh** which has requested to reduce the rate to 5%.

Goods-No change recommended (5/5) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(b)(Annexure-II) S. No. 7 Vol-I: Page Nos. 243-244	➢ Request is to reduce GST rate on braided elastics from 12% to 5% at par with woven and knitted elastic. ➢ Braided Elastic is made with strands of latex rubber and textile fibres. ➢ It is covered under HS 5604 under the entry '*rubber thread and cord, textile covered; textile yarn, and strip and the like of heading 5404 or 5405, impregnated coated, covered or sheathed with rubber or plastics.*' ➢ As per HS Explanatory notes, HS 5604 can also cover yarn that has been surface-treated to improve its adhesion to the rubber in which it is subsequently incorporated during the manufacture of articles such as tyres, machinery belts or belting, and tubes. This HS can also cover imitation catguts consisting of textile yarn with a heavy dressing of plastics which are used in the manufacture of sports rackets, fishing lines, belts etc. ➢ Average pre-GST rate was around 13%. ➢ The Fitment Committee recommended to maintain status quo to avoid further inversion in tax structure.	Agreed in Officers meeting **Gujarat** requested to reduce GST rate from 12% to 5%.

CHAIRMAN'S INITIALS

MINUTE BOOK

Recommendations of the Fitment Committee: Services

Services- Change recommended (20) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Annexure-IV) S No. 1 Vol-I Page No 245-246	➢ **To clarify that GST @ 5% is applicable on helicopter services for pilgrims.** ➢ GST @ 5% will be applicable on the transport of passengers by helicopters on seat share basis. ➢ Charter of helicopter will continue to attract 18% GST.	Agreed in the Officers Meeting To insert entry in rate notification for helicopter services on seat share basis @ 5% and to regularize the past period on as is where is basis. To also clarify that charter will continue to attract 18%.
4(c) (Annexure-IV) S No. 2 Vol-I Page No 246-249	➢ **To clarify whether incidental/ ancillary services such as loading, unloading, packing, unpacking, transshipment, temporary warehousing etc., provided in relation to transportation of goods by road is to be treated as part of Goods Transport Agency (GTA) service, being composite supply, or these services are to be treated as separate independent supplies.** ➢ Clarify that when ancillary/intermediate services are provided by GTA in the course of transportation of goods by road and the GTA also issues consignment note, the service will constitute a composite supply and all such ancillary/intermediate services like loading/unloading, packing/unpacking, transshipment, temporary warehousing etc. will be treated as part of the composite supply. ➢ The method of invoicing used by GTAs will not generally alter the nature of the composite supply of service. However, if such services are not provided in the course of transportation of goods and invoiced separately, then these services will not be treated as composite supply of transport of goods.	Agreed in the Officers Meeting

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Services- Change recommended (20) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Annexure-IV) S.No. 3 Vol-I: Page No. 250-252	➢ **To clarify that no GST is leviable on the empty tankers returning after delivering milk in case if Ro-Ro service is used for transportation of milk** ➢ Clarify by way of letter to the concerned authority that the transport of empty tankers returning after delivery of milk is taxable and not exempt. ➢ Exemption on the said transport of empty tankers returning after delivery of milk was not recommended.	Agreed in the Officers Meeting
4(c) (Annexure-IV) S.No. 4 Vol-I: Page No. 252-253	➢ **To exempt EV charging services at public charging stations or to clarify whether the activity of charging electric vehicles (EVs) in a charging station essentially involves supply of electricity and should be chargeable at the same rate applicable to supply of electricity** ➢ Clarify that charging of electric vehicles at public charging stations does not include sale of electricity to any person nor does this activity involve further distribution or transmission of electricity. ➢ Exemption from GST on electric vehicle charging at public charging stations was not recommended.	Deferred for re-examination In Officers meeting

Services- Change recommended (20) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Annexure-IV) S.No. 5 Vol-I: Page No. 253-257	➢ **To modify Circular No. 34/8/2018- GST dated 01.03.2018 in respect of taxation of ancillary services of transmission and distribution of electricity** ➢ Modify the Circular No. 34/8/2018 GST dated 01.03.2018 clarifying that supply of services such as application fees for providing electricity connection, rental charges against electricity meter, testing fees for meters/ transformers/capacitors, labor charges from customers for shifting of meters/service lines, charges for duplicate bills etc. which are incidental, ancillary or integral to the supply of transmission and distribution of electricity by transmission and distribution utilities to their consumers, when provided as a composite supply are exempt. ➢ SLP in the Hon'ble Supreme Court may be withdrawn simultaneously with the issuance of the above clarification after the Council's recommendation.	Agreed in the Officers Meeting

Services- Change recommended (20) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Annexure-IV) S.No. 6 Vol-I: Page No. 257-260	➢ **To clarify the applicability of GST on the affiliation fee collected by universities from affiliated colleges** ➢ Clarify by way of circular that the affiliation services provided by universities to their constituent colleges are not covered within the ambit of exemptions provided to educational institutions in the Notification No. 12/2017-CT(R) dated 28.06.2017 and GST at the rate of 18% is applicable on the affiliation services provided by the universities.	Agreed in the Officers Meeting.
4(c) (Annexure-IV) S.No. 7 Vol-I: Page No. 260-264	➢ **To clarify the applicability of GST on the affiliation fees charged by Central and State Educational Boards** ➢ Regularize the collection of GST on affiliation fee charged by State/Central educational boards to schools on 'as is where is' basis for the period from 01.07.2017 to 17.06.2021 i.e., the date of issuance of Circular no. 151/07/2021 clarifying that accreditation services of boards are taxable at the rate of 18%. ➢ Prospectively, exemption may be given to affiliation services provided by State/Central educational boards to government schools.	Agreed in the Officers Meeting. Exemption may be extended to educational councils and similarly placed bodies which affiliate with Government schools.

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Services- Change recommended (20) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Annexure-IV) S.No. 8 Vol-I: Page No. 264-269	➢ **To clarify the applicability of GST on approved flying training courses conducted by Flying Training Organizations (FTOs) approved by DGCA** ➢ Clarify by way of a circular that approved flying training courses conducted by DGCA approved Flying Training Organizations are exempt from GST.	Agreed in the Officers Meeting. Punjab to send request regarding taxing flying training courses other than those given to students.
4(c) (Annexure-IV) S.No. 9 Vol-I: Page No. 269-272	➢ **To replace National Council for Vocational Training (NCVT) with National Council for Vocational Education and Training (NCVET) in the Notification No. 12/2017-CT(R) dated 28.06.2017 and include the services provided by the recognized Awarding Bodies, Assessment Agencies, Training Bodies and Skill Related Information Providers approved by NCVET in the exempted list.** ➢ Amendments required in Sl. Nos. 69, 71 and para 2(h) of Notification No. 12/2017-CT(R) dated 28.06.2017 may be made to align the said entries with the revised vocational education and training framework set up under the NCVET. ➢ To continue the exemption to NSDC in its present form. ➢ The proposal of MSDE in relation to exempting activities of Skill Related Information Providers (SRIPs) may not be accepted since no such exemption exists currently.	Agreed

Services- Change recommended (20) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Annexure-IV) S.No. 10 Vol-I: Page No. 272-275	➢ **To clarify that for the period prior to 01.10.2021, the tax rate applicable is 12% where the film distributor or sub-distributor acts on a principal basis to acquire and distribute films.** ➢ Regularize the GST liability for the past period prior to 01.10.2021 on *'as is where is'* basis, where the film distributor or sub-distributor acts on a principal basis to acquire and distribute films.	Agreed in the Officers Meeting
4(c) (Annexure-IV) S.No. 11 Vol-I: Page No. 275-279	➢ **To clarify taxability on Preferential Location Charges (PLC) collected along with consideration for sale/ transfer of constructed/ under-constructed residential/commercial properties.** ➢ Clarify that Location charges or Preferential Location Charges (PLC) paid along with the consideration for the construction services of residential/commercial/industrial complex before issuance of completion certificate forms part of composite supply where supply of construction services is the main service and PLC is naturally bundled with it and are eligible for same tax treatment as the main supply i.e., construction service.	Agreed in the Officers Meeting

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Services- Change recommended (20) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Annexure-IV) S.No. 12 Vol-I: Page No. 279-282	➢ **To ascertain value of land for deciding value of construction services in case of sale of commercial / residential apartments.** ➢ Draft Valuation Rules to ascertain the value of land for deciding the vale of construction services in sale of commercial/residential apartments to be based on the notified circle rates wherever available or where the circle rates are not available, then value of land may be deemed. ➢ Law Committee to make necessary amendment as agreed in Rule 32 of CGST Rules, 2017.	Agreed in the Officers Meeting Draft Rules were presented in Officers Meeting and it was recommended to place the same before Council for approval
4(c) (Annexure-IV) S.No. 13 Vol-I: Page No. 282-286	➢ **To levy GST on renting of commercial property by unregistered person to registered person on Reverse Charge Mechanism (RCM) basis.** ➢ Bring renting of commercial property by unregistered person to registered person under RCM.	Agreed in the Officers Meeting

Services- Change recommended (20) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Annexure-IV) S.No. 14 Vol-I: Page No. 286-290	➢ **To clarify applicability of GST on sale of participating interest in case of farm-in farm out contracts in oil and gas exploration sector.** ➢ Clarify that sale of participating interest in farm-in and farm-out contracts is taxable.	Deferred in light of fresh request received from the Ministry of Petroleum & Natural Gas in Officers Meeting
4(c) (Annexure-IV) S.No. 15 Vol-I: Page No. 290-292	➢ **To clarify whether exemption under entry 34 of notification No. 12/2017-CTR dated 28.06.2017 is available to payment aggregators for transactions transacted through credit card, debit card, charge card or other payment cards over digital networks up to Rs. 2000/-** ➢ Clarify that the services provided by payment aggregators in relation to the transaction transacted through credit card, debit card, charge card or other payment cards over digital networks upto Rs. 2000/- are not eligible for exemption under entry at Sl. No. 34 of the notification No.12/2017-CTR dated 28.06.2017 and are taxable.	Agreed in the Officers Meeting

Services- Change recommended (20) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Annexure-IV) S.No. 16 Vol-I: Page No. 292-295	➢ **To clarify whether concession amount paid to NHAI by concessionaire for grant of rights under Toll Operate and Transfer model (TOT) is liable to GST or not, as toll is exempt under Notification- 12/2017 - Central Tax (Rate) dated 28.06.2017.** ➢ Clarify that the concession amount paid to NHAI by concessionaire is taxable and not covered under entry at Sl. No. 23 of Notification No. 12/2017-CT(R).	Deferred for re-examination in officers meeting

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Services- Change recommended (20) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Annexure-IV) S.No. 17 Vol-I: Page No. 295-298	➢ **Applicability of GST on Research grants or donations received from Government or private agencies** ➢ To grant exemption to the following service under heading 9981: *Supply of research and development services by-* *(a) a Government Entity; or* *(b) a research association, university, college or other institution, notified under clauses (ii) or (iii) of sub-section (1) of section 35 of the Income Tax Act, 1961* *to Central Government, State Government, Union territory, local authority or Government Entity against consideration received from them in the form of grants.* ➢ A condition may also be inserted stating that a research association, university, college or other institution shall be eligible for the exemption only if it is duly notified under section 35 of the Income Tax Act, 1961 at the time of supply of the research service. ➢ Past cases may be regularized on *'as is where is'* basis.	Agreed in the Officers Meeting. Fitment Committee to examine the taxability of pure research carried out for the wider public good.

Services- Change recommended (20) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Annexure-IV) S.No. 18 Vol-I: Page No. 298-303	➢ **To clarify that GST is not applicable on import of services by an establishment of a foreign airlines company from a related person or any of its establishment outside India OR Any other relief mechanism or amendment effective from 01.07.2017 that meets the request.** ➢ Exempt import of services by an establishment of a foreign airlines company from a related person or any of its establishment outside India, when made without consideration ➢ Regularize the past period on 'as is where is' basis.	Agreed in the Officers Meeting

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Services- Change recommended (20) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Part II) (Annexure-IV) S.No. 19 Vol-III: Page No. 49-51	➢ **To reduce or exempt the GST paid by individuals on health insurance premiums** ➢ Following options were discussed *(revenue implication indicated against each)*: a)Exempting all individual health insurance premiums *(Rs. 3,495 crores)*; b)Exempting individual health insurance premiums which are paid by senior citizens and individual health insurance premiums (irrespective of age) where the coverage is up to Rs. 5 lakhs *(Rs. 2,110 crores)*; c)Exempting only those individual health insurance premiums which are paid by senior citizens *(Rs. 645 crores)*; or d)Reducing the rate of GST on all individual health insurance services to 5% without ITC *(Rs. 1,730 crores)*. ➢ GST Council may decide from the above options and a similar benefit may be extended to reinsurance services also. It was further recommended that the GST Council may also record its desire that the benefit given in GST rates, if any, must be passed on to the policy holders.	To be discussed in the Council

Services- Change recommended (20) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Part II) (Annexure-IV) S.No. 20 Vol-III: Page No. 51-52	➢ **To reduce or exempt the GST paid by individuals on term life insurance plans** ➢ To exempt pure term individual life insurance policies along with reinsurance thereof. ➢ The GST Council may also record its desire that the benefit given in GST rates, if any, must be passed on to the policy holders.	To be discussed in the Council

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Services-No change recommended (15)

Agenda No.	Issue/Proposal	Status after officers' meeting
4(d) (Annexure-V) S.No. 1 Vol-I: Page No. 304-305	➢ Horticulture services supporting the environmental cause should be fully exempted from GST instead of 25% due to their potential role in improving air quality ➢ The request may not be accepted.	Agreed in the Officers Meeting
4(d) (Annexure-V) S.No. 2 Vol-I: Page No. 305-306	➢ To reconsider 5% GST applicable on all bus bookings through e-commerce platforms. ➢ The request may not be accepted.	Agreed in the Officers Meeting
4(d) (Annexure-V) S.No. 3 Vol-I: Page No. 306-307	➢ To include "any body corporate" or "corporation" established under any State Act or Central Act or a "Government company" for purpose of exclusion under Section 9(5) of CGST Act, 2017. ➢ The request may not be accepted.	Agreed in the Officers Meeting

Services-No change recommended (15)

Agenda No.	Issue/Proposal	Status after officers' meeting
4(d) (Annexure-V) S.No. 4 Vol-I: Page No. 308-311	➢ To clarify that the delivery services provided by the delivery partners through Electronic Commerce Operator (ECO) are not taxable due to providers being below the threshold of Rs. 20 lakhs OR to bring delivery services made in respect of those supplies made through ECOs under section 9(5) of CGST Act, 2017 with prospective effect and these delivery services may be taxed at 5%. ➢ Both the above requests do not merit consideration and hence may not be accepted.	Deferred for further examination in Officers meeting
4(d) (Annexure-V) S.No. 5 Vol-I: Page No. 311-313	➢ To clarify that prior to 01.10.2021, GST @5% paid on job work activities qua alcoholic beverages be treated as fully GST paid and no recovery of differential tax, over and above 5%, should arise. ➢ The request may not be accepted.	Agreed in the Officers Meeting
4(d) (Annexure-V) S.No. 6 Vol-I: Page No. 313-315	➢ To exempt GST on Health Insurance premium for Persons with Mental Illness (PMI) which is a scheduled Disability under the Rights of Persons with Disabilities Act 2016 (RPWD Act).	Agreed in officers meeting to take up the matter as part of agenda on Health Insurance

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Services-No change recommended (15)

Agenda No.	Issue/Proposal	Status after officers' meeting
4(d) (Annexure-V) S.No. 7 & 8 Vol-I: Page No. 315-322	➢ **Law Committee has referred the following four matters to Fitment Committee:** ▪ To prescribe End-use certification system / form for notification No. 12/2017-CT (Rate) [entry no. 3], which exempts pure services provided to Government, Local Authority in relation to Municipality functions. ▪ Request to clarify that the service of hiring manpower for providing services of Health, Public Garden, Promotion of education etc. are the functions entrusted to Municipality under Article 243W of the Constitution ▪ To clarify that the service of "Enumeration & Supervision" provided by the implementing agency, i.e. CSC-SPV, to MoSPI is exempt from GST under exemption entry 3 of notification No. 12/2017- CT(R) dated 28.06.2017 ▪ To clarify that the services of spatial planning study, provided by the institutes to Ministry of Panchayati Raj is exempt from GST under exemption entry at Sl. No. 3 of notification No. 12/2017-CT(R) dated 28.06.2017. ➢ **To clarify about liability of GST on Man Power Supply Services received by Panchayats, Municipalities and local bodies.** ➢ No further clarifications are required on this issue and hence the requests may not be accepted.	Agreed in the Officers Meeting

Services-No change recommended (15)

Agenda No.	Issue/Proposal	Status after officers' meeting
4(d) (Annexure-V) S.No. 9 Vol-I: Page No. 322-325	➢ Writ Petition (C) No. 2036/2019 before Hon'ble Delhi High Court has been filed by an Association of Private Security Industry wherein, they have inter-alia contested the exclusion of body corporates from making payment under Reverse Charge Mechanism (RCM) in respect of security services. (Entry at Sl. No. 14 of the Notification No. 13/2017-CT (R). ➢ The request may not be accepted.	Agreed in the Officers Meeting
4(d) (Annexure-V) S.No. 10 Vol-I: Page No. 325-326	➢ To exempt GST on the services provided by Goethe Institutes/Max Mueller Bhavans, funded by the German Federal Foreign Office, in India for the period from 01.07.2017 to 31.03.2023. ➢ The request may not be accepted.	Agreed in the Officers Meeting
4(d) (Annexure-V) S.No. 11 Vol-I: Page No. 326-328	➢ Request to exclude the Legislative Area Development Fund from the ambit of GST. ➢ The request may not be accepted.	Agreed in the Officers Meeting

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Services-No change recommended (15)

Agenda No.	Issue/Proposal	Status after officers' meeting
4(d)(Annexure-V) S.No. 12 Vol-I: Page No. 328-329	➢ On helicopters uniform rate of 5% GST should be charged on purchases charter and all services rendered by helicopters including rental paid for hangarage. ➢ The request may not be accepted.	Agreed in the Officers Meeting
4(d) (Annexure-V) S.No. 13 Vol-I: Page No. 329-330	➢ Rationalize GST on cargo services from 18% to 5% to bring it in line with other services. ➢ The request may not be accepted.	Agreed in the Officers Meeting

Services-No change recommended (15)

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Agenda No.	Issue/Proposal	Status after officers' meeting
4(d)(Annexure-V) S.No. 14 Vol-I: Page No. 330-332	➢ To clarify whether ITC of other business verticals can be used to discharge GST on outward liability in respect of restaurant service given the restriction of input tax credit as specified in Notification No. 11/2017-CT (Rate) dated 28.06.2017, as amended, against entry at Sl. No. 7 & in 8, 9, 10, 23, 25, 31A. ➢ This agenda has been withdrawn and hence no action is due	Agreed in the Officers Meeting
4(d) (Annexure-V) S.No. 15 Vol-I: Page No. 332-333	➢ To exempt GST on services related to water harvest scheme. ➢ This agenda has been withdrawn and hence no action is due	Agreed in the Officers Meeting

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Services- Deferred (9) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(e) (Annexure-VI) S.No. 1 Vol-I: Page No. 334-336	➢ To issue clarification regarding tax liabilities being demanded from casinos and online gaming industry for the past period (i.e., for the period from 2017-2023) and to regularise the GST paid on as is where is basis for the period 01.07.2017 to 30.09.2023. ➢ The matter may be deferred.	Agreed
4(e) (Annexure-VI) S.No. 2 Vol-I: Page No. 336-336	➢ To clarify the nature and taxability of various supplies in relation to crypto eco-system ➢ The matter may be deferred.	Agreed
4(e) (Annexure-VI) S.No. 3 Vol-I: Page No. 336-338	➢ To clarify whether GST is applicable on charges/ fees like FSI paid by builders to local authorities under Reverse Charge Mechanism (RCM) ➢ The matter may be deferred.	Agreed

Services- Deferred (9) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(d) (Annexure-VI) S.No. 4 Vol-I : Page No. 338-339	➢ To clarify that as long as transport of goods is undertaken entirely by road and the person transporting the goods issues consignment note, the service would be treated as Goods Transport Agency (GTA) service instead of courier services. ➢ Defer the issue for more comprehensive examination.	Agreed
4(d) (Annexure-VI) S.No. 5 Vol-I : Page No. 339-339	➢ To examine the inclusion of services under the notification No. 17/2017-CTR dated 28.06.2017 under which four services have been notified on which GST is paid by Electronic Commerce Operator under section 9(5) of CGST Act, 2017. ➢ Law Committee and Fitment Committee to jointly examine the issue. Defer the issue.	Agreed

Services- Deferred (9) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(e) (Annexure-VI) S.No. 6 Vol-I: Page No. 339-341	➢ To clarify whether all the services provided by an educational institution to its students, faculty and staff, irrespective of the SAC, are exempt from levy of GST. ➢ The matter may be deferred.	Agreed
4(e) (Annexure-VI) S.No. 7 Vol-I: Page No. 341-344	➢ Harmonisation of GST Rate Schedule on Services and the Classification of Services adopted for GST ➢ The matter may be deferred.	Agreed
4(e) (Annexure-VI) S.No. 8 Vol-I: Page No. 344-345	➢ To notify Delhi Development Authority (DDA) as a Local Authority and to remove the reference of DDA from the answer to question #5 of the "FAQs on GST in Government Services Sector" ➢ The matter may be deferred.	Agreed

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Services- Deferred (9) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(e) (Part II) (Annexure-VI) S.No. 6 Vol-III: Page No. 53-55	➢ To amend Schedule I of the CGST Act to declare that there is no supply by Head Office of foreign shipping lines to its Indian GST registration or their agents with retrospective effect from 01.07.2017. ➢ Since amendment to the schedule 1 would require completion of various legislative processes, following may be considered: •Notification may be issued retrospectively w.e.f 01.07.2017 to grant exemption for all alleged deemed supplies from Head office of Foreign shipping lines to its Indian GST registrations or agents in India. •For ease of reporting in GST returns the value of alleged deemed supplies could also be clarified as nil. •The exemption notification could also be supported by decision from GST Council to conclude all investigations in the matter. •Once the amendments in the Schedule I of the CGST Act are completed, exemption notification may be rescinded. The process may be completed within next three months. ➢ Request for parity in treatment in respect of GST for Indian shipping industry similar to exemptions being granted to foreign shipping lines for coastal and EXIM water transport services ➢ The issue may be deferred for more comprehensive examination and collection of data.	Agreed

Services

➢ Status update on the taxation of supplies in casinos, horse racing & online gaming for information of the Council.

[Vol. I, Agenda Item 4, Annexure-VI :pages 334 to 345]

➢ Status update on Group of Ministers (GoM) on boosting real estate sector under GST regime for information of the Council.

[Vol. III, Agenda Item 4(j)(Part-II) :pages 60-63]

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Agenda 4(a) (Annexure-I): Changes in GST rates/ issuing clarification (pages-233-238)

1. Roof mounted air conditioners for Railways [8415]: (page 233-234)

- Currently, Goods falling under heading 8415 (*including air-conditioning machines*) attract a GST rate of 28% vide S. No. 119 of Schedule IV of notification No. 01/2017-CT (Rate) dated 28.06.2017
- Goods falling under chapter 8607 (*including parts of railways or tramway locomotives*) attract a GST rate of 18% vide S. No. 398G of Schedule III of notification No. 01/2017-CT (Rate) dated 28.06.2017
- From a conjoint reading of Note 2 and Note 3 of Section Note XVII of Customs Tariff Act, goods of heading 8401 to 8479 (which includes 415 – Air Conditioning Machines) are **excluded** from the ambit of 'parts' covered under Chapter 86.
- In view of the above, Roof Mounted Package Unit (RMPU) Air Conditioning Machines for railways would be classified under 8415 attracting a GST rate of 28%.
- Representation received:
  - To issue clarification on HSN classification for these goods to clear whether these goods fall under heading 8607 with 18% GST applicable or under heading 8415 with 28% GST applicable due to contradictory AAR rulings.
- Fitment Committee recommendations:-
  - Fitment Committee after considering Note 2(e) to Section XVII of Customs Tariff Act, 1975 and General Explanatory Notes pertaining to HSN 8607 observed that there is no ambiguity in the classification. However, to make it explicitly clear, recommended to issue a clarification that Roof Mounted Package Unit (RM[illegible] Conditioning Machines for Railways would be classified under HSN 8415 attracting a GST rate of 28 %

Agenda 4(a) (Annexure-I)

2. Car seat assembly [9401]: (pages 235)

- CTH 9401 covers 'Seats, whether or not convertible into beds, and parts thereof' (9401 2000 specifically covers motor vehicle). The explanatory note to this heading mentions that seats meant for vehicles are covered under the ambit of CTH 9401
- Explanatory notes related to CTH 8708 (parts and accessories of motor vehicles) do not mention of car seats. Thus, car seat assemblies fall under CTH 9401 and consequently attract GST @ 18%.
- With regard to seats for two wheelers, explanatory notes to chapter 9401 specifically excludes items under CTH 8714 (including parts and accessories of two-wheelers) and explanatory for chapter 8714 has a list of inclusions, which mentions Saddles (seats). Thus, for two wheelers, the seats would be classifiable under CTH 8714 attracting 28% GST.
- Representation received:
  - To clarify whether car seats are classifiable under CTH 9401 or 8708.
- Fitment Committee recommendations:
  - Fitment Committee observed that there is no ambiguity in the GST rate on car seats which are classifiable under 9401 attracting 18% and recommended to clarify the same.
  - It is also recommended to prospectively prescribe a uniform rate of 28% for car seats of motor cars as it is leviable for car seats of motorcycles by amending the notification for the sake of parity.

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Agenda 4(a) (Annexure-I)

3. **Extruded or expanded snack products, savoury or salted:** (pages 235-237)

- GST Council, in 48th meeting, recommended to clarify that snack pellets (such as 'fryums'), manufactured through the process of extrusion, are appropriately classifiable under tariff item 19059030 thereby attracting 18% GST.
- GST Council, in 50th meeting, recommended to reduce GST rate to 5% on supply of un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion, falling under CTH 1905.
- Representation received:
  - To reduce rate to 12% and clarify that extruded snack pellets in ready- to-eat form will attract 12% GST under HSN 210690 of entry 46 of Schedule II of the rate notification.
- Fitment Committee recommendations:
  - To reduce GST rate on extruded or expanded products, savoury or salted (other than un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion), falling under HS 19059030 **to 12% at par with namkeens**, bhujia, mixture, chabena (pre-packaged and labelled) and similar edible preparations in ready for consumption form, classifiable under HS 2106 90.
  - To clarify that for the past period 18% rate is applicable, as was clarified by the GST Council in the 48th meeting, and that the 12% rate is applicable only **prospectively**.

Agenda 4(a) (Annexure-I)

4. Metal Scrap: (page 237-238)

- The issue of rate reduction on metal scrap from 18% to 5% has already been decided in 47th GST Council meeting.
- The only issue referred to Fitment Committee is regarding levy of GST on RCM basis and Council also recommended that State of Punjab could be invited for deliberations.
- State of Karnataka and Punjab consulted industries. After industry consultation and study, State of Karnataka observed, *inter alia* that the proposal of levy of GST on reverse charge mechanism may not be feasible as the same breaks the chain of input tax credit and also leads to cascading of taxes and also breakage of audit trail. However, to prevent the evasion of tax and to create a conducive business atmosphere, some procedural measures were recommended by State of Karnataka.
- Punjab has suggested, *inter alia*, to tax iron scrap on RCM and exempt supply of scrap in the hands of traders. Under RCM, the manufacturer will have the liability to pay tax and this is administratively efficient to boost tax collection. Further, e-way bill should be mandatory for all transactions in scrap irrespective of value.

Representations received:

(i) To reduce rate from 18% to 5%(with ITC) or 2% (without ITC) or 5% or 18% (under RCM)
(ii) Exempt when sold by dealers and RCM in last leg when sold to manufacturers, or 5%, or 1% without ITC, for traders only
(iii) Wholesaler to manufacture-option of 18 % FCM or 5% RCM

Continued....

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Agenda 4(a) (Annexure-I)

4. Metal Scrap: (page 237-238)

- Fitment Committee recommendations:

  - introduce TDS @ 2% on supply of metal scrap by registered person to registered person. (B to B).

  - introduce RCM on supply of scrap by unregistered person to registered person provided that:

    (a) the supplier shall take **registration** as and when it crosses threshold limit and accordingly, exclusion to be created in Notification 5/2017-Central tax dated 19.06.2017, and

    (b) recipient who is liable to pay under RCM shall pay tax even if supplier is under threshold limit.

Agenda 4(a) (Annexure-I)

5. Cancer drugs namely- Trastuzumab Deruxtecan; Osimertinib; Durvalumab:

(page 238)

- These medicines are used in the treatment of lung cancer, biliary tract cancer and breast cancer.
- Specified cancer drugs attract GST rate of 5%.
- In Union Budget of July 2024-25, considering the high cost of these medicines, the customs duty has been fully exempted on these drugs.
- Ministry of Health and Family Welfare (MoHFW) has recommended reduction of BCD/GST on three cancer drugs: Trastuzumab Deruxtecan, Osimertinib and Durvalumab.
- Representation received:
  - To reduce GST rate from 12% to 5%.
- Fitment Committee recommendations:
  - To reduce the GST rate from 12% to 5% on all the three cancer drugs considering the high cost of treatment in cancer.

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Volume III-Agenda 4(g)

Circulars issued to regularize past period on "As is where is" basis on the recommendation of the Council

- Supply of ice-cream by ice-cream parlours (47th)
- By-products of milling of dal/pulses such as chilka, kanda and churi (47th & 48th)
- Rab (49th)
- Un-fried/ un-cooked snack pellets manufactured through extrusion (50th)
- Fish soluble paste (50th)
- Desiccated coconut (50th)
- Biomass briquettes(50th)
- Supply of raw cotton by agriculturist to cooperatives(50th)
- Imitation zari thread or yarn known by any name in trade parlance(50th)
- Plates, cups made from areca leaves(50th)
- Trauma, spine, arthroplasty implants under HS 9021 (50th)
- Fire water sprinklers(53rd)
- Parts of poultry-keeping machinery(53rd)
- Pre-packaged and labelled agricultural farm produce more than 25 lg or 25 litre (53rd)
- Supplies of pulses and cereals made to or by an agency engaged by Government (53rd)

Circulars

- Circular no. 177/09/2022-GST dated 3.8.2022 following the 47th GSTCM
- Circular no. 179/11/2022-GST dated 3.8.2022 following the 47th GSTCM
- Circular no. 189/01/2023-GST dated 13.1.2023 following the 48th GSTCM
- Circular no. 191/03/2023-GST dated 18.2.2023 following the 49th GSTCM
- Circular no. 200/12/2023-GST dated 11.7.2023 following the 50th GSTCM
- Circular no. 229/23/2024-GST dated 15.7.2024 following the 53rd GSTCM

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New Section 11A of GST Act

- *Notwithstanding anything contained in this Act, if the Government is satisfied that-*

*(a) a **practice that was, or is, generally prevalent** regarding levy of central tax (including non-levy thereof) on any supply of goods or services or both; and*

(b) such supplies were, or are, liable to,-

(i) central tax, in cases where according to the said practice, central tax was not, or is not being, levied, or

(ii) a higher amount of central tax than what was, or is being, levied, in accordance with the said practice,

the Government, may on the recommendation of the Council, by notification in the Official Gazette, direct that the whole of the central tax payable on such supplies, or as the case may be, the central tax in excess of that payable on such supplies, but for the said practice, shall not be required to be paid in respect of the supplies on which the central tax was not, or is not being levied, or was, or is being, short-levied, in accordance with the said practice.

Agenda 4(b) (Annexure-II): Recommendations for no change (pages 239-244)

1. Paper Sack: (page-239)

- Paper sacks are specifically classifiable under HSN 4819 30 /4819 40
- Prior to 1st October, 2021 there were two specific entries in GST Tariff for CTH 4819:
  - (i) Sr. No. 122 of Schedule - II of notification No. 1/2017-Central Tax (Rate) provides for **12%** GST rate for CTH 4819. However, this entry is restricted to "*Cartons, boxes and cases of **corrugated** paper or paper board*".
  - (ii) Sr. No. 153A of Schedule - III of notification No. 1/2017-Central Tax (Rate) provides for **18%** GST rate for HS Code 4819 20, which covers "*Cartons, boxes and cases of **non-corrugated** paper or paper board*".
- Paper sacks are not covered under any of the specific entry and thus covered under residual entry (18%).
- GST Council in its 45th Meeting recommended to provide uniform rate of 18% GST on all carton boxes made up of corrugated or non-corrugated boxes under heading 4819 in order to resolve the ambiguity, which was implemented wef 01.10.21. Paper sack already attracted 18%. Thus, after these recommendations all items of 4819 attracted 18%.
- However, the council in its 53rd meeting recommended 12% on carton boxes , cases of corrugated/non-corrugated falling under 4819 10 and 4819 20. Paper sack(4819 **30** and 4819 **40**) always attract GST rate of 18%

Representation received:

- To issue clarification on the rate on paper sack for the period 01.07.2017 to 30.09.2021

Fitment Committee Recommendation:

- Fitment Committee recommended to maintain status quo as there was no ambiguity with respect to paper sack which always attract 18%.

CHAIRMAN'S INITIALS

Agenda 4(b) (Annexure-II)

2. Agro shade nets (6005 90 00): (pages 239-240)

- Filaments attract 18% GST, yarn attracts 12% GST and fabrics attract 5% GST.
- Agro shade net is a technical textile whose main raw material is HDPE (high density polyethylene) granules attracting 18% GST.
- There is an inversion in duty structure.
- In 46th GST Council meeting, matter on inverted duty structure in textiles was referred to GoM on rate Rationalisation.
- Representation received:
  - To increase rate from 5% to 12%.
- Fitment Committee Recommendation:
  - Status quo may be maintained as Final Report of GoM on rate Rationalisation awaited.

Agenda 4(b) (Annexure-II)

3. Compressed Bio Gas (CBG): (page 240)

- This is a deferred issue since 37th GST council meeting held in 2019.
- Biogas attracts GST @ 5%.
- Bio-gas is compressed for its injection into the pipeline network.
- Though there is no separate entry for CBG, GST rate on Compressed Biogas is 5% at par with bio gas.
- Representation received:
  - To clarify the applicable rate of GST on Compressed Bio Gas(CBG).
- Fitment Committee Recommendation:
  - No clarification is required to be issued as it is a non issue now.

CHAIRMAN'S INITIALS

Agenda 4(b) (Annexure-II)

4. **Feedstock like reformate, diesel hydrotreater (DHDT) feed, Straight Run Gas Oil (SRGO), Vacuum gas oil (VGO)**: (page 240)

- Main refinery products namely, petrol, diesel and ATF are outside purview of GST.
- GST is levied on other refinery products including intermediate streams that are shared between refineries.
- Matter discussed in 47th GST Council, where it was felt revenue implication as far as OMCs are concerned is not significant.
- Distortion, if any, will be resolved when petroleum products would be brought under GST.

- Representation received:
  - To reduce rate to 5%
- Fitment Committee Recommendation:
  - To maintain status quo.

Agenda 4(b) (Annexure-II)

5. **Cathode Coating [8507 90 90] and Separators [8507 90 10] of Li-Ion battery:**

(pages 240-242)

- Since inception GST on Goods falling under 8507 (including Li-ion batteries) attract GST rate of 28% .
- However, on the recommendation of the 28th GST Council, Lithium-ion batteries [8507 60 00] and on the recommendation of the 31st GST Council, Lithium-ion accumulators including Lithium-ion power banks [8507] GST rate of 18% was notified .
- Meity has forwarded a request from domestic industry of Li-ion batteries for reduction in GST rate on key parts of Li-ion batteries due to inversion. The parts are Cathode Coating [8507 90 90] and Separators [8507 90 10] of Li-Ion battery which fall under the heading 8507, and therefore automatically attract a GST rate of 28%.
- Cathodes and Separators are present in all batteries including lead-acid, nickel-cadmium, nickel-metal hydride etc
- Providing a concessional GST rate of 18% to only these goods while all other goods attract 28% amounts to providing an end-use based concession, which create distortions and are prone to misclassifications leading to disputes.

Representation received:

- To reduce rate from 28% to 18% on key parts of Li-ion batteries.

Fitment Committee Recommendation:

- Fitment Committee recommended to maintain status quo.

CHAIRMAN'S INITIALS

Agenda 4(b) (Annexure-II)

6. **Part of EV(Li-ion cell, Battery pack, Electric Motor, High-voltage, etc)**: (page 242-243)

- EVs have been kept at a concessional rate of 5% in order to promote its faster adoption. The refund on account of inverted duty structure is available to the OEMs.
- Reduction of rate to 5% will introduce inversion in the supply chain of such EV parts and may also lead to spurt in imports from manufacturing intensive countries.
- The issue has already been deliberated by the GST Council in the 47th Meeting. No rate change has been recommended.

Representation received:

- To reduce rate from 18%/28% to 5%.

Fitment Committee Recommendation:

- Fitment Committee recommended to maintain status quo.

Agenda 4(b) (Annexure-II)

7. Braided elastic tapes (HS 5604): (pages 243-244)

- Braided Elastic is made with strands of latex rubber and textile fibres.
- It is covered under HS 5604 under the entry '*rubber thread and cord, textile covered; textile yarn, and strip and the like of heading 5404 or 5405, impregnated coated, covered or sheathed with rubber or plastics*.'
- As per HS Explanatory notes, HS 5604 can also cover yarn that has been surface-treated to improve its adhesion to the rubber in which it is subsequently incorporated during the manufacture of articles such as tyres, machinery belts or belting, and tubes. This HS can also cover imitation catguts consisting of textile yarn with a heavy dressing of plastics which are used in the manufacture of sports rackets, fishing lines, belts etc.
- Average pre-GST rate was around 13%.

Representation received:

- To reduce GST rate on Braided Elastics from 12% to 5% at par with woven and knitted elastic.

- Fitment Committee Recommendation:
  - Status quo may be maintained to avoid further inversion in tax structure.

CHAIRMAN'S INITIALS

Agenda 4 (Annexure-IV)

1. To clarify that GST @ 5% is applicable on helicopter services for pilgrims. *(pages 245-246)*

- Currently passenger transport service by air attracts the following GST rates:
    - Economy class – 5%
    - Other than economy class – 12%
    - Other than above (e.g. Charter of aircraft etc.) – 18%
- In helicopters , there is no distinction between economy and non-economy seats.
- In most of the cases, helicopters do not provide even basic facilities like those provided in economy class. Further, there is no additional facility provided in helicopters on additional fare. Services by way of transport of passengers on seat share basis and on charter of entire helicopter cannot be equated.

Recommendations of Fitment Committee:

To clarify that-

- **GST @ 5% will be applicable on the transport of passengers by helicopters on seat share basis.**
- **Charter of helicopter will continue to attract 18% GST.**

Agenda 4 (Annexure-IV)

2. To clarify whether or not incidental/ ancillary services such as loading, unloading, packing, unpacking, transshipment, temporary warehousing etc., provided in relation to transportation of goods by road is to be treated as part of Goods Transport Agency (GTA) service, being composite supply *(pages 246-249)*

- Revenue authorities have initiated proceedings against GTAs demanding 18% GST applicable on cargo handling services instead of 5% applicable to GTA services based on Q. No. 6 of FAQs issued by CBIC.
- Q No. 6 of FAQ states - *"if such incidental services are provided as separate services and charged separately, whether in the same invoice or separate invoices, they shall be treated as separate supplies"*. This is being interpreted by enforcement agencies to mean that if a GTA shows packing charges, loading, unloading charges etc., separately in the invoice, the GTA becomes liable to pay GST at the rate of 18% on these services by treating them as cargo handling services.

Recommendations of Fitment Committee:

- To clarify that when ancillary/intermediate services are provided by GTA in the course of transportation of goods by road and the GTA also issues consignment note, the service will constitute a composite supply and all such ancillary/intermediate services like loading/unloading, packing/unpacking, transshipment, temporary warehousing etc. will be treated as part of the composite supply.
- The method of invoicing used by GTAs will not generally alter the nature of the composite supply of service. However, if such services are not provided in the course of transportation of goods and invoiced separately, then these services will not be treated as composite supply of transport of goods.

CHAIRMAN'S INITIALS

MINUTE BOOK

Agenda 4 (Annexure-IV)

3. To clarify that no GST is leviable on the empty tankers returning after delivering milk in case if Ro-Ro service is used for transportation of milk *(pages 250-252)*

- As per Sr. No. 20 of the Notification No. 12/2017-CTR dated 28.06.2017, transport of milk by rail is exempt from GST. Indian Railways is charging 5% GST on empty milk tankers returning after delivery of the milk.
- Request has been made to equate the current situation to movement of empty containers from Nepal and Bhutan wherein no tax is levied on the service associated with the transit cargo sent from India. In the case of transportation of empty containers returning from Nepal and Bhutan after delivery of transit cargo to India, it was clarified that exemption under Sl. No. 9B of Notification No. 12/2017-Central Tax (Rate) covers services associated with transit cargo both to and from Nepal and Bhutan.
- Services associated with transit cargo to Nepal and Bhutan were exempted in accordance with International treaties.
- Electronic Cargo Tracking System Regulations, 2019 govern transit cargo movement to & from Nepal under which electronic track and trace facility is in place to locate the cargo. Thus, it is verifiable that the empty container returning from Nepal or Bhutan is the same container which was used to deliver goods to Nepal or Bhutan.
- This sort of verification is not possible in case of empty tankers returning after delivering milk. It may not be plausible to equate the two situations.

Recommendations of Fitment Committee:

- **To clarify that the transport of empty tankers returning after delivery of milk is taxable and not exempt.**
- **Exemption on the said transport of empty tankers returning after delivery of milk was not recommended.**

Agenda 4 (Annexure-IV)

4. To exempt EV charging services at public charging stations or to clarify whether the activity of charging electric vehicles (EVs) in a charging station essentially involves supply of electricity and should be chargeable at the same rate applicable to supply of electricity *(pages 252-253)*

- Ministry of Power vide Circular No. 23/08/2018-R&R dated 13.04.2018 has clarified that the charging of battery essentially involves utilization of electrical energy for its conversion to chemical energy, which gets stored in the battery. Thus, the charging of battery of an electric vehicle by a charging station involves a service requiring consumption of electricity by the charging station and earning revenue for this purpose from the owner of the vehicle.
- It has further been clarified that the activity does not in any way include sale of electricity to any person as the electricity is consumed within premises owned by the charging station, which may be connected to the distribution system or otherwise for receiving electricity.
- The activity does not involve further distribution or transmission of electricity, the charging station does not perform any of the activities namely transmission, distribution or trading of electricity, which require a license.
- Request to reduce GST on EV charging and battery swapping service to 5% from 18% has already been rejected by the 47th GST Council held in June 2022.

Recommendations of Fitment Committee:

- **To clarify that charging of electric vehicles does not include sale of electricity to any person nor does this activity involve further distribution or transmission of electricity.**
- **Exemption from GST on electric vehicle charging at public charging stations was not recommended.**

CHAIRMAN'S INITIALS

ABD SINCE 1922

Agenda 4 (Annexure-IV)

5. To modify Circular No. 34/8/2018- GST dated 01.03.2018 in respect of taxation of ancillary services of transmission and distribution of electricity *(pages 253-257)*

- The issue is regarding ancillary services such as application fee for releasing connection of electricity, rental charges against metering equipment, testing fee for meters/ transformers, capacitors etc., labor charges from customers for shifting of meters or shifting of service lines, charges for duplicate bill etc. For transmission and distribution of electricity by transmission and distribution utilities.
- Vide Sl. No. 25 of Notification No. 12/2017-CTR dated 28.06.2017, transmission or distribution of electricity by an electricity transmission or distribution utility attracts nil GST rate.
- Vide Sl. No. 4 of Circular No. 34/8/2018-GST dated 1st March 2018, it has been clarified that certain ancillary services are taxable under GST w.e.f. 01.07.2017.
- However, this serial no. of the circular was struck down by the Hon'ble High Court of Gujarat in Torrent Power Ltd Vs UOI vide order dated 19.12.2018. The department has gone in appeal against the said order and the matter is pending before Hon'ble Supreme Court (SLP(C) No. 019431/2019).
- All such ancillary services, when provided by DISCOM or transmission and distribution utility to customers along with transmission or distribution of electricity, are naturally bundled and supplied in conjunction with principal supply of service, i.e., transmission and distribution of electricity, and will thus constitute composite supply in such cases.

Recommendations of Fitment Committee:

- To modify the Circular No. 34/8/2018 GST dated 01.03.2018 clarifying that supply of services such as application fees for providing electricity connection, rental charges against electricity meter, testing fees for meters/ transformers/capacitors, labor charges from customers for shifting of meters/service lines, charges for duplicate bills etc. which are incidental, ancillary or integral to the supply of transmission and distribution of electricity by transmission and distribution utilities to their consumers, when provided as a composite supply are exempt.
- SLP in the Hon'ble Supreme Court may be withdrawn simultaneously with the issuance of the above clarification after the Council's recommendation.

Agenda 4 (Annexure-IV)

6. To clarify the applicability of GST on the affiliation fee collected by universities from affiliated colleges *(pages 257-260)*

- Activity of affiliation is to monitor whether the institution possesses the required infrastructure in terms of space, technical prowess, financial liquidity, faculty strength, etc. and is thereby eligible for the privileges to conduct the course/program of study for the degree/title extended by the University to the students enrolled in such institutions.
- The affiliation services provided by the universities enable the colleges under it to conduct the course/ program and do not relate to admission of students to such course/program in the said colleges or conduct of examinations for admission in the said colleges.
- Thus, the affiliation services provided by universities to their constituent colleges are not covered within the ambit of exemptions provided for educational institutions in the notification No. 12/2017-CT(R) dated 28.06.2017.
- A similar request was deliberated in the 47th GST Council meeting held in June 2022 and a clarification has already been issued vide Circular No. 151/07/2021-GST dated 17.06.2021(Para 4(iii)). The said para reads as under:

  "(iii) GST at the rate of 18% applies to other services provided by such boards, namely of providing accreditation to an institution or to a professional (accreditation fee or registration fee such as fee for FMGE screening test) so as to authorise them to provide their respective services."

Recommendations of Fitment Committee:

- **To clarify by way of circular that the affiliation services provided by universities to their constituent colleges are not covered within the ambit of exemptions provided to educational institutions in the Notification No. 12/2017-CT(R) dated 28.06.2017 and GST at the rate of 18% is applicable on the affiliation services provided by the universities.**

CHAIRMAN'S INITIALS

MINUTE BOOK

Agenda 4 (Annexure-IV)

7. To clarify the applicability of GST on the affiliation fees charged by Central and State Educational Boards *(pages 260-264)*

- Request for exempting the affiliation service provided by CBSE was rejected by the 50th GST Council meeting held on 11.07.2023.
- A request has been made again to clarify that affiliation services provided by it to schools do not attract GST. Alternatively, the GST may only be charged prospectively.
- The affiliation services provided by CBSE, and other State and Central educational boards, to various schools are essentially in the nature of maintenance of certain quality standards by the school which enable it to operate under the aegis of the board and enable its students to appear for senior and senior-secondary examinations conducted by the board. CBSE, along with other educational boards, has been deemed to be an educational institution for the limited purpose of providing services by way of conduct of examinations to the students. The service by way of granting affiliation to schools is not a service by way of conduct of examination.
- Moreover, it was clarified vide Circular No. 151/07/2021-GST dated 17.06.2021 that GST at the rate of 18% applies to other services provided by Central and State Boards such as National Board of Examination (NBE), namely of providing accreditation to an institution.
- CBSE has also claimed eligibility for exemptions available to Government Authorities under Sl. Nos. 4 and 5 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017. However, the said exemption is not available to CBSE since it is not a 'Governmental Authority'.

Recommendations of Fitment Committee:

- To regularize the collection of GST on affiliation fee charged by State/Central educational boards to schools on 'as is where is' basis for the period from 01.07.2017 to 17.06.2021 i.e., the date of issuance of Circular no. 151/07/2021 clarifying that accreditation services of boards are taxable at the rate of 18%.
- Prospectively, exemption may be given to affiliation services provided by State/Central educational boards to government schools.

Agenda 4 (Annexure-IV)

8. To clarify the applicability of GST on approved flying training courses conducted by Flying Training Organizations (FTOs) approved by DGCA *(pages 264-269)*

- Based on the recommendations of 37th GST Council in its meeting held on 20th September, 2019, it has been clarified vide Circular No. 117/36/2019-GST dated 11.10.2019 that the courses conducted by approved maritime training institutes are exempt from levy of GST.
- Flying training institutes approved by DGCA have also requested for a similar clarification in respect of flying training imparted by them.
- DGCA approved Flying Training Organizations (FTOs) and the approved training programs imparted by them are covered under the Aircraft Act, 1934, the Aircraft Rules, 1937 and the Civil Aviation Requirements issued under the said Rules.
- The course completion certificate issued to the successful candidates is also recognized under the Civil Aviation Requirements (CAR) issued under the Act and Rules.
- Thus, approved flying trainings conducted by FTOs, meet the criteria of being *'education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force'* prescribed in sub-para(ii) of the definition of 'educational institution' and are eligible for the exemption under Sl. No. 66 of Notification No. 12/2017-CT(R) dated 28.06.2017.

Recommendations of Fitment Committee:

- **To clarify by way of a circular that approved flying training courses conducted by DGCA approved Flying Training Organizations are exempt from GST.**

CHAIRMAN'S INITIALS

ABD SINCE 1922

Agenda 4 (Annexure-IV)

9. To replace National Council for Vocational Training (NCVT) with National Council for Vocational Education and Training (NCVET) in the Notification No. 12/2017-CT(R) dated 28.06.2017 and include the services provided by the recognized Awarding Bodies, Assessment Agencies, Training Bodies and Skill Related Information Providers approved by NCVET in the exempted list. *(pages 269-272)*

- Currently, exemption has been provided vide S.No 69 and 71 notification No. 12/2017-CTR to **any** services provided by, the National Skill Development Corporation (NSDC),Sector Skill Council approved by the NSDC, an assessment agency approved by the Sector Skill Council or the NSDC; a training partner approved by the NSDC or the Sector Skill Council, in relation to National Skill Development Programme implemented by the National Skill Development Corporation, vocational skill development course under the National Skill Certification and Monetary Reward Scheme or any other Scheme implemented by the National Skill Development Corporation.
- Similarly , services provided by training providers (Project implementation agencies) under Deen Dayal Upadhyaya Grameen Kaushalya Yojana implemented by the Ministry of Rural Development, by way of offering skill or vocational training courses certified by the National Council for Vocational Training (NCVT).
- National Council for Vocational Education and Training (NCVET) has been set up vide notification of Ministry of Skill Development and Entrepreneurship (MSDE) dated 05.12.2018 subsuming the existing National Council for Vocational Training (NCVT) and the National Skill Development Agency (NSDA).

Agenda 4 (Annexure-IV)

- The regulatory functions, especially w.r.t. approval/ recognition of various Awarding Bodies (ABs) and Assessment Agencies (AAs) which were earlier approved/ recognized by multiple entities like NCVT, Directorate General of Training (DGT) and National Skill Development Council (NSDC) etc. have been consolidated with NCVET.
- Recognition to various such Awarding Bodies (like Sector Skill Councils (SSC), Central Ministries, State Departments, DGT, Universities and autonomous government organizations, etc.) and Assessment Agencies is being granted by NCVET.
- The proposal is to align the existing entries pertaining to training and skill development in the GST exemption notification with the new regulatory architecture.
- Ministry of Skill Development has requested to continue exemption to NSDC in its present form.

Recommendations of Fitment Committee:

- **Amendments required in Sl. Nos. 69, 71 and para 2(h) of Notification No. 12/2017-CT(R) dated 28.06.2017 may be made to align the said entries with the revised vocational education and training framework set up under the NCVET.**
- **To continue the exemption to NSDC in its present form.**
- **The proposal of MSDE in relation to exempting activities of Skill Related Information Providers (SRIPs) may not be accepted since no such exemption exists currently.**

CHAIRMAN'S INITIALS

MINUTE BOOK

Agenda 4 (Annexure-IV)

10. To clarify that for the period prior to 01.10.2021, the tax rate applicable is 12% where the film distributor or sub-distributor acts on a principal basis to acquire and distribute films. *(pages 272-275)*

- Prior to 1st October 2021, -
- "*Motion Picture, videotape and television programme distribution services*" under Heading 9996 attracted GST rate of 18% and
- "*temporary or permanent transfer or permitting the use or enjoyment of intellectual property right in respect of goods other than IT technology software*" under Heading 9973 which covered services by way of licensing of rights to broadcast or show films attracted 12%.
- The service of *"granting permission to exhibit, broadcast and rent audiovisual works protected by copyrights"* is covered by SAC 999614 and *"licensing services for the right to broadcast and show original films"* is covered by service code 997332.
- The GST rates on these services were also discussed in the 45th GST Council meeting held on 17.09.2021 wherein, the Council recommended to rationalize the GST rate and keep uniform rate of 18% on both entries. In the 45th GST Council meeting, it has also been recorded that there is an overlap between explanatory notes to services codes 999614 and 997332. While "granting permission to exhibit, broadcast and rent audiovisual works protected by copyrights" is covered by Service code **999614** and "licensing services for the right to broadcast and show original films" is covered by service code **997332** but there is no difference between "granting permission" and "licensing.
- There is some overlap between the activities of *"granting permission"* and *"licensing"*.

Recommendations of Fitment Committee:

- **To regularize the past period prior to 01.10.2021 on *'as is where is'* basis, where the film distributor or sub-distributor acts on a principal basis to acquire and distribute films.**

Agenda 4 (Annexure-IV)

11. To clarify taxability on Preferential Location Charges (PLC) collected along with consideration for sale/ transfer of constructed/ under-constructed residential/commercial properties. *(pages 275-279)*

- Haryana Appellate Authority has vide order dated 28.09.2020 held that preferential location is an exclusive service independent of construction services. Writ petition has been filed against the said order.
- The petitioner has contended that sale of land and building is altogether excluded as per Schedule III under Section 7 of the CGST/SGST Act and therefore, PLC is also outside the ambit of the GST and even where the case falls in Para 5 (b) of the Schedule II i.e., supply of construction services before issuance of completion certificate, then also preferential location charges can only be charged to GST as a part of the construction service and not otherwise.
- Allowing choice of location of apartment is integral part of supply of construction services and therefore, location charge is nothing but part of consideration charged for supply of construction services before issuance of completion certificate. Being charged along with supply of construction services for the apartment, the same attract GST at same rate as of construction services before issuance of completion certificate.

CHAIRMAN'S INITIALS

Agenda 4 (Annexure-IV)

- For the purpose of determining the threshold of Rs.45 lakhs in case of "affordable residential apartment" charges such as preferential location charges, development charges, parking charges, common facility charges etc are included in the gross amount. For the reference, clause xvi, sub-clause (a)(ii)(C) of paragraph 4 of Notification No. 11/2017-CT(R) dated 28.06.2017, may be referred which reads as below:

  "*C. Any other amount charged by the promoter from the buyer of the apartment including* ***preferential location charges****, development charges, parking charges, common facility charges etc.*"

- With respect to supply of PLC along with the grant of long term lease, based on the recommendations of 47th GST Council, it was clarified vide Circular No. 177/09/2022-TRU dated 03.08.2022 that the location charges or preferential location charges (PLC) paid upfront in addition to the lease premium for long term lease of land constitute part of the lease premium or of upfront amount charged for long term lease of land and are eligible for the same tax treatment.

Recommendations of Fitment Committee:

- **To clarify that Location charges or Preferential Location Charges (PLC) paid along with the consideration for the construction services of residential complex before issuance of completion certificate forms part of composite supply where supply of construction services is the main service and PLC is naturally bundled with it and are eligible for same tax treatment as the main supply ie construction service.**

Agenda 4 (Annexure-IV)

12. To ascertain value of land for deciding value of construction services in case of sale of commercial / residential apartments. *(pages 279-282)*

- Issue was deferred by the 52nd GST Council held on 07.10.2023.
- Hon'ble High Court of Gujarat in the case of Munjaal Manishbhai Bhatt Vs. UOI vide order dated 06.05.2022 has not only directed to deduct value of land on actual basis where it is ascertainable, but has also ordered to refund the excess amount of tax paid on this count in the past. The said order of the Hon'ble High Court has been contested before the Hon'ble Supreme Court.
- The Court in the said case has also held that valuation has been done through a notification entry while the same should have been done under rules prescribed under Section 15 of the Act.
- Section 15 (5) of CGST Act 2017 empowers the Government to notify the value of such supplies, based on the recommendations of the Council, which will be determined in the manner as prescribed.

Recommendations of Fitment Committee:

- **Valuation may be done on the basis of notified circle rates or registered sales deed/ or on actual basis wherever available. Where the circle rate or value of land is not available, then value of land may be deemed.**
- **Draft may be shared with Law Committee for making necessary amendment in Rule 32 of CGST Rules, 2017.**

CHAIRMAN'S INITIALS

Agenda 4 (Annexure-IV)

13. To levy GST on renting of commercial property by unregistered person to registered person on Reverse Charge Mechanism (RCM) basis. *(pages 282-286)*

- Issue was deferred by the 52nd Council meeting held on 07.10.2023.
- Currently, renting of residential dwelling for use as residence is exempt from GST except when it is rented to a registered person, in which case it is taxed under RCM. *(entry no. 12 of the Notification No. 12/2017-CTR dated 28.06.2017)*
- Services by way of renting of immovable property (other than renting of residential dwelling to a registered person for use as residence) is taxable on forward charge basis (except renting of immovable property by Government and Local Authority to a registered person).
- Request has been received that non-imposition of tax on reverse charge basis on rental services in relation to commercial property from unregistered to registered person appears to be creating differential tax regime for residential property vis-à-vis commercial property.
- It also appears to be leading to evasion by way of artificial splitting of value of the transaction.

Recommendations of Fitment Committee:

- **To bring renting of commercial property by unregistered person to registered person under RCM.**

Agenda 4 (Annexure-IV)

14. To clarify applicability of GST on sale of partnership interest in case of farm-in farm out contracts in oil and gas exploration sector. *(pages 286-290)*

- A **farm-in** is an agreement between two operators, one of which owns the interest in a piece of land where oil or gas has been discovered. The owner of the interest makes the agreement in order to offset the costs associated with drilling, developing, or otherwise removing the resources from the land. The company that **acquires the rights** to do the actual drilling benefits from access to a proven source of oil or natural gas without having to discover it themselves.
- A **farm out** is a type of agreement where a party that has a working interest to a gas and oil lease will **assign that interest** to another party. The other party will then be contractually obligated to meet specific conditions, such as setting up a drill in a specific location, drilling to an agreed upon depth, etc. The owner of the interest in this lease can either assign all their interest to the other party, or only a portion of it.
- The bids for licenses and leases of oil fields can be made by a single company or by a consortium of companies. The entity which gets the oil exploration lease and enters into Production Sharing Contract with the Government in the Production Sharing Contract. The Model Production Sharing Contract provides in Article 28.1 that any party comprising the contractor may assign or transfer a part or all of its participating interest with the written consent of the Government.
- Sl. No. 17 of the Notification No. 11/2017-CT (Rate) dated 28-06-2017 notifies the rate of CGST on supply of services covered under SAC 9973 (***99733: Licensing services for the right to use intellectual property and similar products***) .Since **supply of participating interest is transfer or permitting the use or enjoyment of non-intellectual property rights**, it appears to be covered under the residuary entry at Sl. No. 17 (viii) of the Notification No. 11/2017-CT (Rate) dated 28-06-2017 which presently attracts GST rate of 18%.

Recommendations of Fitment Committee:

- **To clarify that sale of partnership interest in farm-in and farm-out contracts is taxable.**

CHAIRMAN'S INITIALS

Agenda 4 (Annexure-IV)

15. To clarify whether exemption under entry 34 of notification No. 12/2017-CTR dated 28.06.2017 is available to payment aggregators for transactions transacted through credit card, debit card, charge card or other payment cards over digital networks up to Rs. 2000/- *(pages 290-292)*

- Entry 34 of notification No. 12/2017-CTR exempts "*Services by an **acquiring bank**, to any person in relation to settlement of an amount upto two thousand rupees in a single transaction transacted through credit card, debit card, charge card or other payment card service* where ***"acquiring bank" means any banking company, financial institution including non-banking financial company or any other person, who makes the payment to any person who accepts such card".***

- Payment Aggregators (PAs) are intermediaries between customers, businesses, and financial institutions to facilitate online payments via various payment methods.
- PAs are entities that facilitate e-commerce sites and merchants to accept various payment instruments from the customers for completion of their payment obligations without the need for merchants to create a separate payment integration system of their own.
- Definition of acquiring banks has to be read in line with the other categories mentioned in the definition such as banking company, financial institution including NBFC etc. and Payment Aggregators, being intermediaries, are not covered by the exemption entry.

Recommendations of Fitment Committee:

- **To clarify that the services provided by payment aggregators in relation to the transaction transacted through credit card, debit card, charge card or other payment cards over digital networks upto Rs. 2000/- are not eligible for exemption under entry at Sl. No. 34 of the notification No.12/2017-CTR dated 28.06.2017 and are taxable.**

Agenda 4 (Annexure-IV)

16. To clarify whether concession amount paid to NHAI by concessionaire for grant of rights under Toll Operate and Transfer model (TOT) is liable to GST or not, as toll is exempt under Notification- 12/2017 - Central Tax (Rate) dated 28.06.2017. *(pages 292-295)*

- Under TOT model, the National Highway Authority of India (NHAI) engages a concessionaire for operation, maintenance and management of already developed/ constructed highway projects. The concessionaire is entitled to impose and collect toll from vehicles and users of the highway.
- The upfront amount paid by the concessionaire is the consideration paid by him for receiving exclusive right of way, access and license to the site including right to impose, collect and appropriate fee from vehicles and users along with the maintenance of the highways etc by NHAI and regulation of third parties from the appointed day till expiry of agreement.
- While entry at Sl. No.23 of the Notification No. 12/2017-CTR dated 28.06.2017 exempts the service by way of access to a road or a bridge on payment of toll charges from GST, thereby, it exempts the toll collected from the individual users for access of the roads and bridges by the concessionaire.
- Along with right to access, the concessionaire also maintains and manages the already developed/ constructed highway projects and such services are taxable unless exempted. The upfront amount paid by concessionaire to NHAI is also inclusive of this cost.

Recommendations of Fitment Committee:

- **To clarify that the concession amount paid to NHAI by concessionaire is taxable and not covered under entry at Sl. No. 23 of Notification No. 12/2017-CT(R).**

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Agenda 4 (Annexure-IV)

17. Applicability of GST on Research grants or donations received from Government or private agencies *(pages 295-298)*

- Investigating agency has issued a series of Show Cause Notices in respect of non-payment of GST by institutions / universities on grants received by them from government / non-government bodies for conduct of research.
- DGGI has taken a view that research conducted by an institute / university is a supply of service by the institute / university.
- In the 22nd meeting of the GST Council, it was recommended that grants given by Central Government, State Government or a local authority to a **Government entity** may be exempted under GST. The context in which this recommendation was made was a proposal from the State of Gujarat to exempt the provision of budgetary grants to entities set up by the Government to implement various schemes and to carry out functions on its behalf. Accordingly, vide Notification No. No.32/2017- Central Tax (Rate) dated 13.10.2017, entry 9C was inserted in the exemption Notification 12/2017-CT(Rate) with effect from 13.10.2017.
- However, the above exemption is restricted to supplies of research made by **Government entities to the Government or a person specified by it**, against grants received from the Government or Government entities.
- Therefore, research services provided against grants received from Government bodies like CSIR, SERB, DRDO etc. do not appear to be eligible for the exemption.
- *Government Entity has been defined under Notification No. 12/2017- CTR dated 28.06.2017 is defined as as an authority or a board or any other body including a society, trust, corporation-,*
  (i) set up by an Act of Parliament or State Legislature; or
  (ii) established by any Government,
  with 90 percent or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a Local Authority.

Agenda 4 (Annexure-IV)

17. Applicability of GST on Research grants or donations received from Government or private agencies *(pages 295-298) (contd.)*

Recommendations of Fitment Committee:

- To grant exemption to the following service under heading 9981:
  Supply of research and development services by-
  (a) a Government Entity; or
  (b) a research association, university, college or other institution, notified under clauses (ii) or (iii) of sub-section (1) of section 35 of the Income Tax Act, 1961
  to Central Government, State Government, Union territory, local authority or Government Entity against consideration received from them in the form of grants.
- A condition may also be inserted stating that a research association, university, college or other institution shall be eligible for the exemption only if it is duly notified under section 35 of the Income Tax Act, 1961 at the time of supply of the research service.
- Past period may be regularized on *'as is where is'* basis.

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Agenda 4 (Annexure-IV)

18. To clarify that GST is not applicable on import of services by an establishment of a foreign airlines company from a related person or any of its establishment outside India or any other relief mechanism or amendment effective from 01.07.2017 that meets the request. *(pages 298-303)*

- Running an airline includes inter alia the expenditures such as lease rent of aircraft, maintenance charges for aircraft which includes maintenance contract, procurement of space etc., cost of crew and pilots and other expenditures (including fuel). In case of Foreign Airlines operating flights from India, majority of the aforesaid expenses is incurred by the head office (HO) of foreign airlines located outside India.
- The HO of the foreign airlines do not charge any consideration against these expenses from the branch offices located in India. The branch offices of the foreign airlines are paying taxes at applicable rates on transport of goods and passengers by air.
- However, in terms of Schedule I Entry 4 of the CGST Act, 2017, any import of services, even if undertaken without consideration, by an establishment of one person located in India from an establishment of the same person located outside India, would be considered as a supply without consideration. Thus, in terms of existing legal provisions, the services by branch office from head office is taxable.
- Therefore, branch offices of the foreign airlines were liable to pay tax on the aforesaid expenditure under reverse charge mechanism @18% even if no consideration was charged by the HO.
- Ministry of Civil Aviation (MoCA) was consulted and they have conveyed that exemption may be considered on basis of reciprocity and bilateral air service agreements and shared the draft. Further, granting of reciprocal exemption/tax treatment to Indian airlines under bilateral air services agreements by the foreign country, would be certified by MoCA (as the signatory of BASAs).

Recommendations of Fitment Committee:

- To exempt import of services by an establishment of a foreign airlines company from a related person or any of its establishment outside India, **when made without consideration,** provided that the GST at applicable rates has been paid by the establishment of the foreign airline company in India on their outward supply of transport of goods and passengers and subject to reciprocal exemption/tax treatment to Indian airlines under bilateral air service agreements.
- To regularize the past period on as is where is basis.

Agenda Item 4(c)(Part-II), Annexure-IV

19. To reduce or exempt the GST paid by individuals on health insurance premiums *(pages 49-51)*

- Department of Financial Services (DFS), Ministry of Finance, Government of India has requested for reducing the GST on individual health insurance premiums from 18% to 5% to make health insurance more affordable and accessible.
- The request to exempt GST on health insurance has also been received from several Hon'ble Members of Parliament.
- The report by Standing Committee on Finance (Performance Review and Regulation of Insurance Sector, February 2024) has recommended to rationalize the GST rate on insurance products, especially health and term insurance. The report has observed that the high rate of GST results in a high premium burden which acts as a deterrent to getting insurance policies.

Recommendations of Fitment Committee:

- **The Fitment Committee deliberated upon the issue and following options were discussed *(revenue implication indicated against each)*:**
  a) **Exempting all individual health insurance premiums *(Rs. 3,495 crores)*;**
  b) **Exempting individual health insurance premiums which are paid by senior citizens and individual health insurance premiums (irrespective of age) where the coverage is up to Rs. 5 lakhs *(Rs. 2,110 crores)*;**
  c) **Exempting only those individual health insurance premiums which are paid by senior citizens *(Rs. 645 crores)*; or**
  d) **Reducing the rate of GST on all individual health insurance services to 5% without ITC *(Rs. 1,730 crores).***
- **The Fitment Committee recommended that the GST Council may decide from the above options and a similar benefit may be extended to reinsurance services also. The Committee further recommended that the GST Council may also record its desire that the benefit given in GST rates, if any, must be passed on to the policy holders.**

CHAIRMAN'S INITIALS

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Agenda Item 4(c)(Part-II), Annexure-IV

20. To reduce or exempt the GST paid by individuals on term life insurance plans *(pages 51-52)*

- Department of Financial Services (DFS), Ministry of Finance, Government of India has requested for reducing the applicable rate of GST on premiums paid by individuals on term/pure protection insurance plans from 18% to 5%. The request to exempt GST on life insurance has also been received from several Hon'ble Members of Parliament.
- The report by Standing Committee on Finance (Performance Review and Regulation of Insurance Sector, February 2024) has recommended to rationalize the GST rate on insurance products, especially health and term insurance. The report has observed that the high rate of GST results in a high premium burden which acts as a deterrent to getting insurance policies.
- Presently, life insurance policies attract GST rate of 18% vide residual entry at Sl. No. 15(vii) of the Notification No. 12/2017-Central Tax (Rate).
- Rule 32(4) of the GST Rules, 2017 prescribes valuation in case of life insurance schemes. The premium paid in life insurance policies represents two portions – risk coverage and savings. GST is only on the risk portion of the premium and not on savings portion. Consequently, pure term life policies, i.e. where the entire premium paid by the policy holder is only towards the risk cover, get taxed at the full value of the premium paid at the rate of 18%.
- The revenue implication of exempting individual pure term life insurance, along with insurance thereof, is likely to be Rs. 213 crores.

Recommendations of Fitment Committee:

- **To exempt pure term individual life insurance policies along with reinsurance thereof.**
- **The GST Council may also record its desire that the benefit given in GST rates, if any, must be passed on to the policy holders.**

Agenda 4 (Annexure-V)

1. Horticulture services supporting the environmental cause should be fully exempted from GST instead of 25% due to their potential role in improving air quality *(pages 304-305)*

- Sl. No. 3 and 3A of notification No. 12/2017-CT(R) dated 28.06.2017 exempts pure services and composite supply of goods and services in which value of goods does not constitute more than 25%, respectively that are provided to the Government or Union Territory or local authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.
- Request to clarify the applicability of GST on the horticulture contracts of public works department was placed before the 52nd GST Council meeting held in October, 2023.
- Based on the recommendations of the 52nd GST Council, it was clarified by Circular No. 206/18/2023-GST dated 31.10.2023 that supply of pure services and composite supplies by way of horticulture/horticulture works (where the value of goods constitutes not more than 25 per cent of the total value of supply) made to CPWD are eligible for exemption from GST under Sl. No. 3 and 3A of notification No. 12/2017-CTR dated 28.06.2017.
- The current request is to fully exempt composite supplies to CPWD by way of horticulture/horticulture works even where the value of goods constitutes more than 25 per cent of the total value of supply.
- The instant request would entail deepening of the existing exemption.

Recommendations of Fitment Committee

- **The request may not be accepted.**

CHAIRMAN'S INITIALS

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Agenda 4 (Annexure-V)

2. To reconsider 5% GST applicable on all bus bookings through e-commerce platforms. *(pages 305-306)*

- Passenger transportation services supplied by non-AC contract/ stage carriage are exempt from GST.
- Based on the recommendations of the 45th GST Council meeting held on 17.09.2021, w.e.f. 01.01.2022, e-commerce operators were made liable to pay GST on passenger transportation services supplied through them using any motor vehicle including buses and further the exemption on passenger transportation services by non AC contract/stage carriages (which includes buses) supplied through ECOs was also withdrawn w.e.f 01.01.2022.
- Supply of any service through electronic commerce platforms is a distinct category of supply as compared to the service being supplied by individual service providers.
- There appears to be no justification to reconsider the 5% GST applicable on all bus bookings through e-commerce platforms.

Recommendations of Fitment Committee

- **The request may not be accepted.**

Agenda 4 (Annexure-V)

3. To include "any body corporate" or "corporation" established under any State Act or Central Act or a "Government company" for purpose of exclusion under Section 9(5) of CGST Act, 2017. *(pages 306-307)*

- Based on the recommendations of the 52nd GST Council, Notification No.17/2017-CTR dated 28.06.2017 has been amended to exclude bus operators organized as companies from the purview of section 9(5) of CGST Act, 2017 in order to enable them to utilize ITC for discharging outward liability on passenger transport services provided by them through ECOs.
- Term 'company' has not been defined under CGST Act. It is not very clear whether bus transport services provided by State Transport Corporation through ECOs will be covered by this exclusion.
- The request will lead to expansion of scope of exclusion under section 9(5) to any body corporate.

Recommendations of Fitment Committee

- **The request may not be accepted.**

CHAIRMAN'S INITIALS

Agenda 4 (Annexure-V)

4. To clarify that the delivery services provided by the delivery partners through Electronic Commerce Operator (ECO) are not taxable due to providers being below the threshold of Rs. 20 lakhs OR to bring delivery services made in respect of those supplies made through ECOs under section 9(5) of CGST Act, 2017 with prospective effect and these delivery services may be taxed at 5%. *(pages308-311)*

- While the onus for pick-up and delivery is placed on the Platform Delivery Partner (PDP) from merchant to the end customer, the payment is not done on a one-to-one basis to the PDPs by ECOs.
- The payout to PDP is based on a pay-out scheme which is designed by the ECO and it takes into consideration the number of deliveries undertaken and distance covered by PDP.
- Further the PDP has option to deny/cancel the order but for such acts, PDP becomes liable for penalty and all the penal provisions are drafted and controlled exclusively by the ECO.
- ECOs offer certain membership services which gives their customers certain benefits for instance wavier of the delivery fees. These free delivery services are offered by the ECOs and not PDPs. Also, the end customers do not have the choice of selecting the delivery partners.
- ECOs are themselves delivery service providers and liable to pay GST at the rate of 18 per cent on the same. PDPs, under no circumstance, could have been held to be the suppliers of the delivery service.

Recommendations of Fitment Committee:

- **Both the above requests do not merit consideration and hence may not be accepted.**

Agenda 4 (Annexure-V)

5. To clarify that prior to 01.10.2021, GST @5% paid on job work activities qua alcoholic beverages be treated as fully GST paid and no recovery of differential tax, over and above 5%, should arise. *(pages 311-313)*

- Based on the recommendations of the 45th GST Council meeting dated 17th September 2021, a new entry at Sl. No. 26 (ica) was inserted in the Notification No.11/2017-CT(R) dated 28.06.2017 vide which services by way of job work in relation to manufacture of alcoholic liquor for human consumption were taxed at 18% GST.
- Further, vide Circular No. 164/20/2021-GST dated 06.10.2021, it was clarified that the expression "food and food products" in the Sl. No. 26(i)(f) of Notification No. 11/2017-CT(R) dated 28.06.2017 prescribing GST of 5% on job work services in relation to all food and food products excludes alcoholic beverages for human consumption.
- As such, in common parlance also alcoholic liquor is not considered as food. Accordingly, services by way of job work in relation to manufacture of alcoholic liquor for human consumption are not eligible for the GST rate of 5% prescribed under the said entry
- Even for the past period, there appeared to be no confusion over the scope of the entries.

Recommendations of Fitment Committee:

- **The request may not be accepted.**

CHAIRMAN'S INITIALS

Agenda 4 (Annexure-V)

6. To exempt GST on Health Insurance premium for Persons with Mental Illness (PMI) which is a scheduled Disability under the Rights of Persons with Disabilities Act 2016 (RPWD Act). *(pages 313-315)*

- At present, GST on health insurance services is levied at standard rate, i.e., 18 per cent.
- However, certain insurance schemes catering to poor sections of the society and differently abled, such as Rashtriya Swasthya Bima Yojana (RSBY), Universal Health Insurance Scheme, Jan Argoya Bima Policy and Niramaya Health Insurance Scheme are exempt from GST (Sl. No. 35 of notification No. 12/2017-CTR dated 28.06.2017).
- The objective of *'Niramaya' Health Insurance Scheme'* is to provide affordable Health Insurance to persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities and is fully exempt from GST.

Recommendations of Fitment Committee:

- **The request may not be accepted.**

Agenda 4 (Annexure-V)

7. Law Committee has referred the following four matters to Fitment Committee:

(a) To prescribe End-use certification system / form for notification No. 12/2017-CT (Rate) [entry no. 3], which exempts pure services provided to Government, Local Authority in relation to Municipality functions.

(b) Request to clarify that the service of hiring manpower for providing services of Health, Public Garden, Promotion of education etc. are the functions entrusted to Municipality under Article 243W of the Constitution

(c) To clarify that the service of "Enumeration & Supervision" provided by the implementing agency, i.e. CSC-SPV, to MoSPI is exempt from GST under exemption entry 3 of notification No. 12/2017- CT(R) dated 28.06.2017

(d) To clarify that the services of spatial planning study, provided by the institutes to Ministry of Panchayati Raj is exempt from GST under exemption entry at Sl. No. 3 of notification No. 12/2017-CT(R) dated 28.06.2017.

8. To clarify about liability of GST on Man Power Supply Services received by Panchayats, Municipalities and local bodies. *(pages 315-322)*

- Currently, pure services and composite supply of services provided to Government or Local Authority by way of any activity in relation to any function entrusted to a Panchayat under Article 243G of the Constitution or to a Municipality under Article 243W of the Constitution are exempt from levy of GST vide entry at Sl. No.3 and 3A of the Notification No.12/2017-CT (Rate).
- The above referred issues were originally placed before the 43rd GST Council meeting and deferred. In the 45th Meeting, these issues were tagged with another proposal regarding clarification of the scope of the words *"in relation to"*.
- The issue was thereafter discussed in 47th and 50th meeting wherein a proposal to prune the list of exemptions under S.No 3 and 3 A were discussed. In the 52nd GST Council meeting held on 07.10.2023, the Council has recommended to retain the entries at Sl. No 3 & 3A of 12/2017-CT(R) dated 28.06.2017 as it exists with no change.

Recommendations of Fitment Committee:

- No further clarifications are required on this issue and hence the requests may not be accepted.

CHAIRMAN'S INITIALS

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Agenda 4 (Annexure-V)

9. Writ Petition (C) No. 2036/2019 before Hon'ble Delhi High Court has been filed by an Association of Private Security Industry wherein, they have inter-alia contested the exclusion of body corporates from making payment under Reverse Charge Mechanism (RCM) in respect of security services. (Entry at Sl. No. 14 of the Notification No. 13/2017-CT (R). *(pages 322-325)*

- The issue of levying GST on security services under reverse charge mechanism was placed before the 31st GST Council meeting held on 22.12.2018.
- Based on the recommendations of 31st GST council, entry at Sl. No. 14 was inserted in the Notification No. 13/2017-CT(R) wherein security services (provided by way of supply of security personnel) provided by any person other than a body corporate were brought under RCM when provided to a registered person except government departments registered for TDS and entities registered under composition scheme services.
- The Association of Private Security Industry had represented after the decision taken in the 31st GST Council meeting to bring the entire security services sector including body corporate under RCM and the matter was taken to the 32nd Meeting of the GST Council on 10th January 2019.
- The request of the association to include security services provided by the body corporates under RCM in the said entry was not accepted by the 32nd GST Council.

Recommendations of Fitment Committee:

- **The request may not be accepted.**

Agenda 4 (Annexure-V)

10. To exempt GST on the services provided by Goethe Institutes/Max Mueller Bhavans, funded by the German Federal Foreign Office, in India for the period from 01.07.2017 to 31.03.2023. *(pages 325-326)*

- Entry at Sl. No. 66 of Notification No. 12/2017-CTR exempts services provided by an educational institution to its students, faculty and staff.
- Educational institution has been defined as an institution providing services by way of, -
  - ✓ Pre-school education and education up to higher secondary school or equivalent;
  - ✓ Education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force;
  - ✓ Education as a part of an approved vocational educational course.
- The services provided by Goethe Institutes are thus not eligible for exemption under entry at Sl. No. 66 of notification No. 12/2017-CTR dated 28.06.2017.
- Goethe Institutes have already started paying GST on their services after 1st April, 2023.

Recommendations of Fitment Committee:

- **The request may not be accepted.**

CHAIRMAN'S INITIALS

Agenda 4 (Annexure-V)

11. Request to exclude the Legislative Area Development Fund from the ambit of GST. *(pages 326-328)*

- Members of Legislative Assembly Local Area Development (MLA-LAD) Scheme is the states version of a Central Government scheme - Members of Parliament Local Area Development Scheme (MPLAD).
- The objective of this scheme is to create local need based infrastructure, to create assets of public utility and to remove regional imbalances in development.
- MLAs do not receive any money under this scheme. The government transfers it directly to the respective local authorities.
- The legislators can only recommend works in their constituencies based on a set of guidelines. The guidelines for use of MLA-LAD funds differ across states.
- The works are executed by the district authorities as per the government's financial, technical and administrative rules.
- MLALAD funds have its own set of guidelines but the projects funded by them are usually restricted to "durable infrastructure work", from repairing roads to building community centres.
- A similar request regarding GST exemption for works carried out under MPLAD funds was placed before the 47th GST Council in its meeting held on 28th-29th June, 2022. However, the council did not accede to the request.
- Exemptions provided under entries at Sl. No.3/3A of notification 12/2017-CT(R) dated 28.06.2017 cover wide range of supplies which may be received by local authorities.
- Further, end use-based exemptions are not advisable. They are difficult to monitor and prone to misuse. Exemption will block ITC of suppliers and increase cost.

Recommendations of Fitment Committee:

- **The request may not be accepted.**

Agenda 4(Annexure-V)

12. On helicopters uniform rate of 5% GST should be charged on purchases charter, sale of seat tickets and all services rendered by helicopters including rental paid for hangarage. *(pages 328-329)*

- The request was examined in the 47th GST Council meeting held in June, 2022. The Council did not accede to the request.
- Services by way of transport of passengers on seat share basis and that by way of chartering the entire helicopter to a person cannot be equated. The latter is usually consumed by the affluent and not by the common man. In Service Tax regime too, chartering of helicopter attracted service tax at the standard rate of 15%.
- Currently, GST rate on rental paid for hangarage is 18%.
- Service of renting of hangarage may be used either by helicopter operators or MROs. In case the service is used by helicopter operators providing goods or passenger transport services or charter services, the ITC of GST paid on hangarage rentals is available to the helicopter operators for discharge of output tax liability and does not become a cost for them.
- In case the hangarage rental services are being used by MROs, which attracts GST at the rate of 5%, the MROs are entitled to take ITC of services used by them for supplying the MRO services. GST paid on input goods and services by MRO is available to them as ITC and does not become a cost for them.

Recommendations of Fitment Committee

- **The request may not be accepted.**

CHAIRMAN'S INITIALS

Agenda 4 (Annexure-V)

13. Rationalize GST on cargo services from 18% to 5% to bring it in line with other services. *(pages 329-330)*

- Request to reduce GST rate on air cargo services from 18% to 12% was examined in the 47th GST Council meeting held in June, 2022 and the Council did not accede to the request.
- Transport of Goods by Air attracts GST at the rate of 18% with full ITC. Prescribing a lower rate with restricted ITC will lead to distortion in tax structure and blocking the ITC chain resulting in increased cost of operations for airlines.
- The business recipients of goods transportation services are entitled to ITC and therefore it is a pass-through tax.

Recommendations of Fitment Committee

- **The request may not be accepted.**

Agenda 4 (Annexure-V)

14. To clarify whether ITC of other business verticals can be used to discharge GST on outward liability in respect of restaurant service given the restriction of input tax credit as specified in Notification No. 11/2017-CT (Rate) dated 28.06.2017, as amended, against entry at Sl. No. 7 & in 8, 9, 10, 23, 25, 31A. *(pages 330-332)*

- The agenda item has been withdrawn by the sponsoring state.

Recommendations of Fitment Committee:

- **Fitment Committee recommended that no action is due**

CHAIRMAN'S INITIALS

Agenda 4 (Annexure-V)

15. To exempt GST on services related to water harvest scheme. *(pages 332-333))*

- The issue was deferred in the 37th GST Council held on 20.09.2019.
- The sponsoring state has informed that no such agenda has been forwarded by them.

Recommendations of Fitment Committee:

- **Fitment Committee recommended that no action is due**

Agenda 4(Annexure-VI)

1. **To issue clarification regarding tax liabilities being demanded from casinos and online gaming industry for the past period (i.e., for the period from 2017-2023) and to regularise the GST paid on as is where is basis for the period 01.07.2017 to 30.09.2023.** *(pages 334-336)*

- 50th GST Council meeting held in July,2023 had recommended to clarify that actionable claims supplied in Casinos, Race Courses and Online Gaming are also under the purview of GST and are to be taxed at the rate of 28% on full face value irrespective of whether the activities are games of skill or chance.
- It was also recommended that the law may be amended to provide clarity on the matter.
- 51st GST Council meeting held in August, 2023 recommended certain amendments in the CGST Act 2017 and IGST Act 2017, including amendment in Schedule III of CGST Act, 2017, to provide clarity on the taxation of supplies in casinos, horse racing and online gaming.
- Further, regarding tax liability of the past cases, the issue was discussed in the 52nd GST Council meeting held on 07.10.2023. It was conveyed during the meeting that the amendments proposed are prospective and to come into force with effect from 01.10.2023. The notices issued by DGGI were for the past period under the law as it existed prior to the amendments and that it is not a retrospective application of the Council's decisions in the 50th and 51st meetings held on 11.07.2023 and 02.08.2023 respectively.
- The matter was discussed in the Fitment Committee and it was recommended to obtain data for examination of the issue.

Recommendations of Fitment Committee:

- **The matter may be deferred.**

CHAIRMAN'S INITIALS

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Agenda 4 (Annexure-VI)

2. To clarify the nature and taxability of various supplies in relation to crypto eco-system *(page 336)*

- GST Council in its 47th meeting held on 28-29 June 2022, 48th meeting held on 17 December 2022 and 52nd meeting held on 7 October 2024 has deferred the issues regarding the nature and taxability of various supplies in relation to the crypto eco-system.
- It was felt that the issues involved in crypto ecosystem need deeper study. TRU is to undertake study and submit a paper after obtaining expert opinion from IIT. Accordingly, IIT is being consulted.

Recommendations of Fitment Committee:

- **The matter may be deferred.**

Agenda 4 (Annexure-VI)

3. To clarify whether GST is applicable on charges/ fees like FSI paid by builders to local authorities under Reverse Charge Mechanism (RCM) *(pages 336-338)*

- Issue was deferred by the 52nd GST Council held on 07.10.2023.
- Municipalities collect various charges such as FSI premium, road permission charges, scrutiny fees, liasioning fees, staircase premium, lift NOC charges, fire NOC charges, sewerage charges, charges for change of land use etc for different services supplied to builders/developers.
- To understand the issue, data is being collected and the same is awaited.

Recommendations of Fitment Committee:

- **The matter may be deferred.**

CHAIRMAN'S INITIALS

ABD SINCE 1922

Agenda 4 (Annexure-VI)

4. To clarify that as long as transport of goods is undertaken entirely by road and the person transporting the goods issues consignment note, the service would be treated as Goods Transport Agency (GTA) service instead of courier services. *(pages 338-339)*

- Goods Transport Service by GTA attracts GST at the rate of 5% without ITC or 12% with ITC under forward charge. Courier service attracts GST at the rate of 18% with ITC.

Recommendations of Fitment Committee

- **To defer the issue for more comprehensive examination.**

Agenda 4 (Annexure-VI)

5. To examine the inclusion of services under the Notification No. 17/2017-CTR dated 28.06.2017 under which four services have been notified on which GST is paid by Electronic Commerce Operator under section 9(5) of CGST Act, 2017. *(pages 339)*

- Both Law Committee and Fitment Committee to jointly examine the issue.

Recommendations of Fitment Committee

- **To defer the issue.**

CHAIRMAN'S INITIALS

Agenda 4 (Annexure-VI)

6. To clarify whether all the services provided by an educational institution to its students, faculty and staff, irrespective of the SAC, are exempt from levy of GST. *(pages 339-341)*

- Notification No.12/2017-CT(R) dated 28.06.2017, in its opening para does not make any reference to the column no. 2 which relates to the Service Accounting Code but only to the description of services in column no.3. Further, the explanation clause in the said notification clearly says that the SAC is only indicative.
- Hence, the trade has been representing that all services provided by educational institutions to its students are exempt from tax irrespective of SAC to which the services belong.
- Fitment Committee examined the issue and felt that the issue requires further detailed examination.

Recommendations of Fitment Committee:

- **The matter may be deferred.**

Agenda 4 (Annexure-VI)

7. Harmonisation of GST Rate Schedule on Services and the Classification of Services adopted for GST *(pages 341-344)*

- Currently the GST rate schedule for services does not mention the classification of services at the 6-digit level. The sub-categorization of services beyond the 4-digit level has been carried out only for those services, on which a rate lower or higher than the standard rate of 18% was to be prescribed.
- The taxpayers are required to declare in the invoice/GST returns not the Sl. No. of GST Rate Schedule under which they have paid GST but the 6-digit classification of services in the Scheme of Classification annexed to the Rate Schedule. As a result, data of services for which a concessional rate of 5% or 12% or a higher rate of 28% has been notified is not captured.
- This data – the value of services, GST collected, GST paid in cash and through credit –is very important for policy formulation.
- The revised rate schedule has been placed in the public domain and the feedback received has been suitable incorporated.
- However, it is felt that more detailed feedback is required and the schedule may be notified after incorporating the changes recommended therein and after drop-down mechanism for selecting 6-digit classification of services is made available in GSTN portal.

Recommendations of Fitment Committee

- **The matter may be deferred.**

CHAIRMAN'S INITIALS

Agenda 4 (Annexure-VI)

8. To notify Delhi Development Authority (DDA) as a Local Authority and to remove the reference of DDA from the answer to question #5 of the "FAQs on GST in Government Services Sector" *(pages 344-345)*

- Issue was deferred in the 52nd GST Council meeting held on 07.10.2023.
- As per entry at Sl. No. 5 of notification No. 13/2017-CTR, services provided by local authority to a business entity are taxable under Reverse Charge Mechanism (RCM).
- Entry at Sl. No. 6 of notification No. 12/2017-CTR exempts services provided by local authority to individuals.
- DDA was inquired to inform whether DDA is legally entitled to or entrusted by the Government with the control or management of Municipal or Local Fund.
- For any authority to be treated as "Local Authority" they must fulfill the requirement of the definition of Local Authority as per Section 2 (69) of the CGST/SGST/UTGST Act. Local authority under CGST Act, 2017 has been defined as
  - *"2(69) —local authority\ means— (a) a —Panchayat\ as defined in clause (d) of article 243 of the Constitution; (b) a —Municipality\ as defined in clause (e) of article 243P of the Constitution; (c) a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund; (d) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006; (e) a Regional Council or a District Council constituted under the Sixth Schedule to the Constitution; (f) a Development Board constituted under article 371[and article 371J]8 of the Constitution; or (g) a Regional Council constituted under article 371A of the Constitution;"*
- Fitment Committee recommended that Local fund may be defined.
- Maharashtra and West Bengal were requested to send draft formulation on the same. However, reply is still awaited from Maharashtra.

Recommendations of Fitment Committee:

- **The matter may be deferred.**

Agenda 4(e) (Part II) (Annexure-VI)

9. (a) To amend Schedule 1 of the CGST Act to declare that there is no supply by Head Office of foreign shipping lines to its Indian GST registration or their agents with retrospective effect from 01.07.2017.

(b) Since amendment to the schedule I would require completion of various legislative processes, following may be considered:

- **Notification may be issued retrospectively w.e.f 01.07.2017 to grant exemption for all alleged deemed supplies from Head office of Foreign shipping lines to its Indian GST registrations or agents in India.**
- **For ease of reporting in GST returns the value of alleged deemed supplies could also be clarified as nil.**
- **The exemption notification could also be supported by decision from GST Council to conclude all investigations in the matter.**
- **Once the amendments in the Schedule I of the CGST Act are completed, exemption notification may be rescinded. The process may be completed within next three months.**

(c) Request for parity in treatment in respect of GST for Indian shipping industry similar to exemptions being granted to foreign shipping lines for coastal and EXIM water transport services *(pages 53-55)*

- As per DGGI investigations, the shipping lines are liable to pay GST under RCM as recipient of services from their head offices located outside India.
- The same is on account of various costs incurred by head office such as lease of vessel, repairs and maintenance undertaken outside India etc.
- As per entry 4 of Schedule I of CGST Act, *"import of service by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business"* is to be treated as a supply even if made without consideration.
- Further, as per explanation to sub-section 2 of section 8 of IGST Act, where a person has an establishment in India and any other establishment outside India then such establishments shall be treated as establishments of distinct persons.
- Section 7(1)(c) of CGST Act, 2017 states that *"the expression supply includes the activities specified in Schedule I, made or agreed to be made without a consideration"*.

CHAIRMAN'S INITIALS

MINUTE BOOK

Agenda 4 (Annexure-VI)

9 *(contd...)*

- Section 2 (11) of IGST Act, 2017 defines 'import of services' as the "*supply of any service, where— (i) the supplier of service is located outside India; (ii) the recipient of service is located in India; and (iii) the place of supply of service is in India.*"
- Based on the above provisions, DGGI is of the view that branch offices of foreign shipping lines are liable to pay tax under RCM as recipient of services from their Head office located outside India.
- Indian National Shipowners' Association (INSA) has requested for parity in the treatment in respect of GST for Indian shipping industry similar to exemptions proposed to be granted to foreign shipping lines.
- Currently, transport of goods in vessel is taxed at 5% GST provided that ITC on the goods (other than on ships, vessels) used in supplying the service has not been taken.

Recommendations of Fitment Committee:

- **The issue may be deferred for more comprehensive examination and collection of data.**

THANK YOU

CHAIRMAN'S INITIALS

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Goods and Services Tax Council

ITGRC: 21st Meeting

1

ITGRC : 21st Meeting

Agenda

1. Technical issues requiring data fixes through back-end utilities.
2. Additional agenda items permitted by the chair.

32 issues presented by GSTN which required data fixes.

- **Issues with No Financial Implication:**
  - 27 issues with no financial implications
    - ✓ impacting 635 cases
    - ✓ ITGRC took note of the data fixes in these cases

- **Issues with Financial Implication:**
  - 3 issues with financial implications
    - ✓ 765 Cases involving Rs. 1,289.60
    - ✓ Took note of the data fixes in these cases

2

CHAIRMAN'S INITIALS

MINUTE BOOK

ITGRC : 21st Meeting

Court Directions:

- Data fixes carried out by GSTN in case of 2 Court Directions impacting 3 cases.

Additional Data Fixes:

- 23 data fixes done between April – June 2024
  - ✓ **13 Technical issues with no financial implication** where data was known, involving 62195 cases. ITGRC took notice of the data fix done in 9 issues. 4 issues were deferred
  - ✓ **10 Technical issues with financial implications** were deferred

- 1 issue involving 15960 cases which was an update on a previous ITGRC issue was also tabled before the Committee.

3

ITGRC : 21st Meeting

ITGRC Recommendation

- **Login Errors:** Examine allowing special characters in the system as taxpayers getting error during login due to double quotes in name.

4

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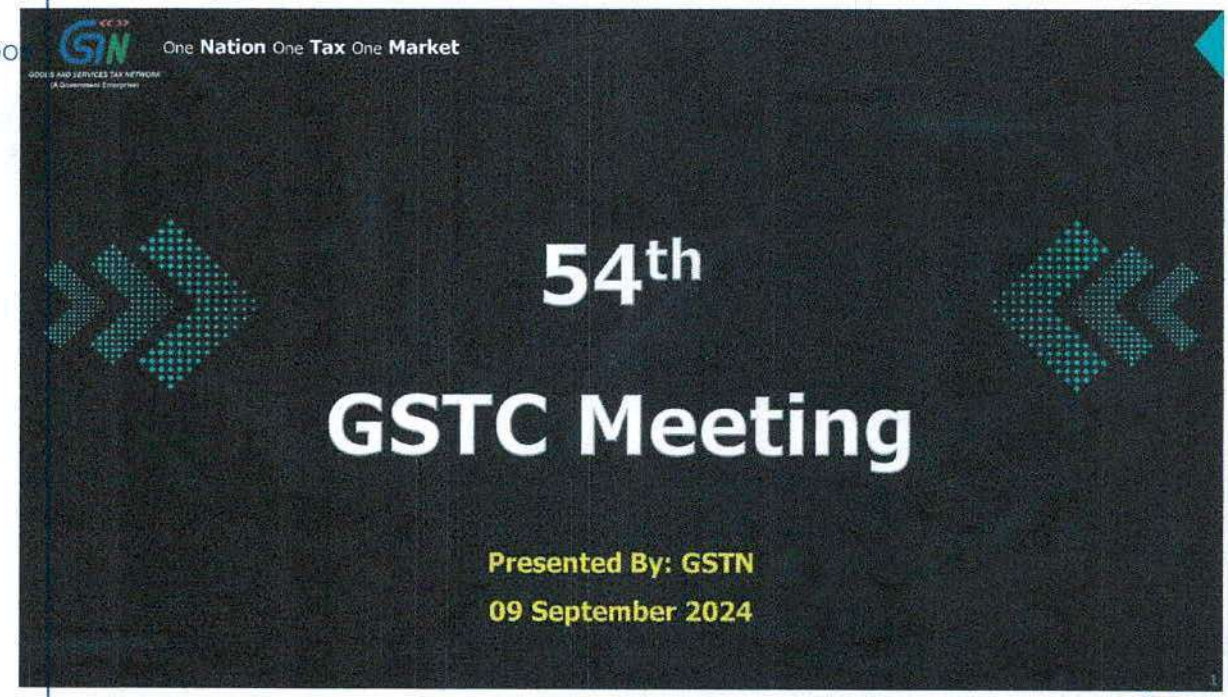
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Goods and Services Tax Council

Thank You

5

CHAIRMAN'S INITIALS



Agenda

1. B2C e-Invoicing Pilot Project
2. Integration of UPI/ Debit/Credit Cards
3. Enhancement in the Existing GST Return Architecture:
   - RCM & ITC Reclaim Ledger
   - IMS
   - GSTR – 1A

CHAIRMAN'S INITIALS

B2C e-Invoicing Pilot Project

B2C e-Invoicing: Background & Proposal

3

Background:

- ✓ The GST framework has successfully implemented e-Invoicing for B2B transactions and have reached a considerable level of maturity.
- ✓ It has proven to be robust tool for improving tax compliance, reducing errors and facilitating auto population of GSTR-1 for faster filing of returns.

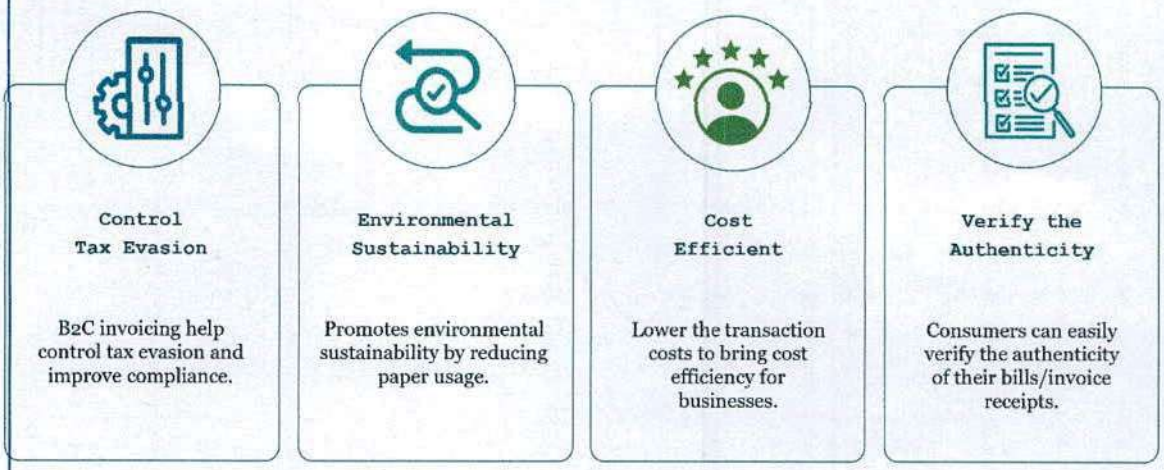
Proposal for B2C e-Invoicing Pilot Project

- ✓ Building upon the learnings of B2B e-Invoicing system, the pilot project of B2C e-Invoicing is proposed to start.
- ✓ It would be implemented on a **voluntary basis** in **selected sectors**, in collaboration with **willing States/UTs**.

4

CHAIRMAN'S INITIALS

Benefits of B2C e-Invoicing



5

Proposal before the GST Council

In view of the above, the GST Council is requested to kindly:

1. Accord in principle approval for initiating the B2C e-Invoicing pilot project on a voluntary basis.

2. Direct Law Committee to propose necessary amendments in the law to enable the same.

3. Authorise the GSTN Board to prepare and finalise the commercial model for this.

6

CHAIRMAN'S INITIALS

Proposal before the GST Council

In view of the above, the GST Council is requested to kindly:

1. Accord in principle approval for initiating the B2C e-Invoicing pilot project on a voluntary basis.

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7

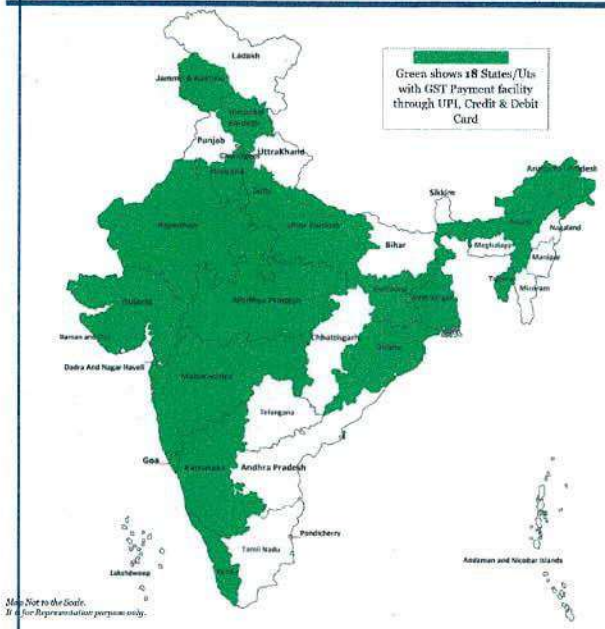
Integration of UPI/ Debit/Credit Cards

8

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Integration of UPI, CC & DC Payment Options for GST Payments



The remaining States/UTs and their respective accounting authorities are requested to expedite the integration of the above three additional payment options.

9

Enhancement in the Existing GST Return Architecture:

RCM & ITC Reclaim Ledger, IMS, GSTR-1A

10

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ITC Reclaim Ledger & RCM Ledger

ITC Reclaim Ledger

i. Introduced in August 2023

ii. For accurate reporting of reversal and reclaim of ITC

iii. Taxpayers were given 3 opportunities to amend the same till 29th Feb 2024.

RCM Ledger



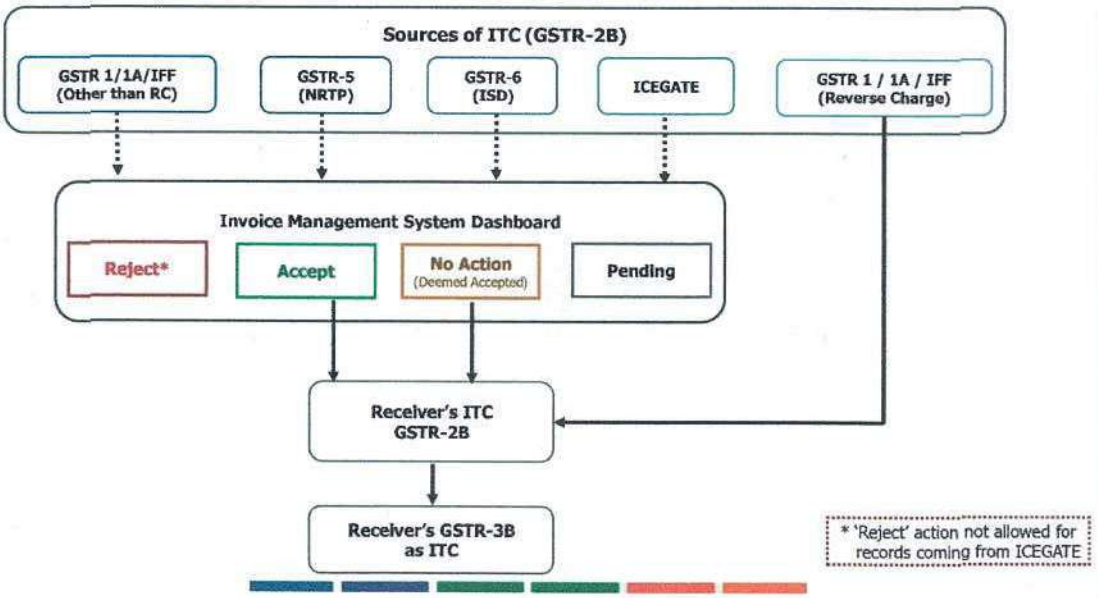
i. As per LC's decision, a running RCM Ledger has been introduced wherein the RCM liability and its corresponding ITC is monitored in the system.

ii. Taxpayer is given a warning message in case of availing excess ITC than paid in GSTR-3B.

Note: Taxpayer will be given **one more opportunity** to declare opening balance till **31st Oct 2024** and to amend it till **30th Nov 2024**.

11

Invoice Management System – for Accept/Reject functionality

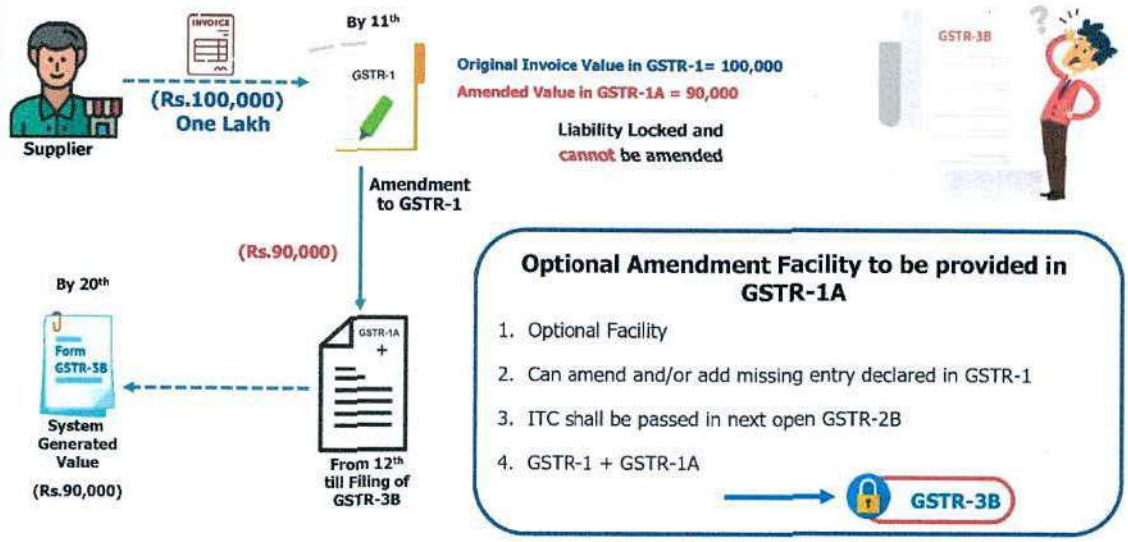


12

CHAIRMAN'S INITIALS

MINUTE BOOK

Form GSTR-1A



13

Proposal before the GST Council

The Council is requested to kindly:

1. Take note of the above developments related to ITC re-claim ledger, RCM ledger and IMS.

2. Approve the above timelines of opportunity given for declaration of opening balance and amendment thereof in ITC re-claim ledger and RCM ledger.

3. Further authorise the Law Committee to revise the timelines if necessary. This would present an opportunity in due course of time to prevent erroneous claim of ITC and will reduce erroneous return filing.

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GOODS AND SERVICES TAX NETWORK
(A Government Enterprise)

THANK YOU!!

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MINUTE BOOK

Agenda Note for 54th GST Council Meeting

Department of Revenue

9th September 2024

AGENDA ITEMS

1. Revenue Position
2. IGST Settlement
3. Status update - Compensation Cess
4. GST Appellate Tribunal
5. GST Data sharing

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1. Revenue Position (1/4)

Monthly Gross & Net GST collection (Rs. In Crore)

GST Collection (Amount in Crores)	Jan'24	Feb'24	Mar'24	Apr'24	May'24	Jun'24	Jul'24	Aug'24
CGST	32,685	31,785	34,532	43,846	32,409	32,627	32,386	30,862
SGST	40,895	39,615	43,746	53,538	40,265	40,715	40,289	38,411
IGST	88,550	84,098	87,947	99,623	87,781	87,310	96,447	93,621
Domestic	*48,952*	*45,505*	*47,625*	*61,797*	*47,902*	*47,270*	*49,437*	*44,593*
Imports	*39,598*	*38,593*	*40,322*	*37,826*	*39,879*	*40,040*	*47,009*	*49,028*
Comp Cess	11,976	12,839	12,259	13,260	12,284	13,160	12,953	12,068
Domestic	*11,173*	*11,854*	*11,263*	*12,252*	*11,207*	*12,188*	*11,923*	*11,120*
Imports	*803*	*984*	*996*	*1,008*	*1,076*	*972*	*1,029*	*948*
Gross Total	**1,74,106**	**1,68,337**	**1,78,484**	**2,10,267**	**1,72,739**	**1,73,812**	**1,82,075**	**1,74,962**
YoY Growth%	*11%*	*13%*	*11%*	*12%*	*10%*	*8%*	*10%*	*10%*
Less – Refunds (Domestic + Imports)	19,255	17,810	13,891	18,507	28,410	19,946	16,283	24,460
Net GST Collection	**1,54,851**	**1,50,527**	**1,64,593**	**1,91,760**	**1,44,329**	**1,53,866**	**1,65,792**	**1,50,502**

Source: GSTN & ICEGATE

Department of Revenue 09-09-2024 3

1. Revenue Position (2/4)

Monthly Gross Collection Trend and YoY Growth



x axis – Amount in INR Rs Lakh Crore

Department of Revenue 09-09-2024 4

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MINUTE BOOK

1. Revenue Position – State wise (3/4)

In Rs Crore

Pre-Settlement Revenue ***Overall growth - 9%***

State/UT	Apr'23-Aug'23	Apr'24-Aug'24	YoY %
Manipur	148	181	23%
Dadra and Nagar Haveli and Daman and Diu	268	317	18%
Haryana	8,304	9,664	16%
Delhi	6,430	7,342	14%
Odisha	6,870	7,816	14%
Uttarakhand	2,202	2,507	14%
Goa	945	1,068	13%
Ladakh	79	90	13%
Karnataka	16,628	18,631	12%
Uttar Pradesh	13,552	15,146	12%
Chandigarh	284	316	11%
Maharashtra	42,053	46,588	11%
Tamil Nadu	16,638	18,535	11%
Assam	2,458	2,709	10%
Puducherry	204	225	10%
Bihar	3,444	3,768	9%
Gujarat	17,439	18,925	9%
Punjab	3,555	3,890	9%
Madhya Pradesh	5,334	5,783	8%
Telangana	7,909	8,437	7%
Rajasthan	7,167	7,569	6%
Chhattisgarh	3,505	3,674	5%
Mizoram	132	138	5%
Andhra Pradesh	5,905	6,147	4%
Himachal Pradesh	1,130	1,172	4%
Kerala	5,819	6,034	4%
Tripura	223	227	2%
West Bengal	10,062	10,313	2%
Jammu and Kashmir	1,284	1,289	0%
Meghalaya	269	268	0%
Jharkhand	3,824	3,719	-3%
Andaman and Nicobar Islands	99	95	-4%
Nagaland	131	125	-5%
Arunachal Pradesh	306	263	-14%
Other Territory	95	80	-15%
Sikkim	237	165	-31%
Lakshadweep	14	3	-82%

1. Revenue Position – State wise (4/4)

In Rs Crore

Post-Settlement Revenue ***Overall growth 11%***

State/UT	(Apr'23-Aug'23)	(Apr'24-Aug'24)	YoY %
Odisha	9,218	11,156	21%
Tamil Nadu	26,767	31,338	17%
Uttar Pradesh	30,822	35,512	15%
Uttarakhand	3,444	3,880	13%
Haryana	14,403	16,251	13%
Jharkhand	5,152	5,845	13%
Madhya Pradesh	13,139	14,906	13%
Ladakh	239	270	13%
Chhattisgarh	5,484	6,162	12%
Maharashtra	61,783	69,274	12%
Andaman and Nicobar Islands	229	257	12%
Delhi	13,300	14,804	11%
Manipur	486	537	11%
Tripura	667	739	11%
Bihar	10,723	11,768	10%
Gujarat	26,870	29,423	10%
Dadra and Nagar Haveli and Daman and Diu	471	517	10%
Karnataka	30,369	33,330	10%
Rajasthan	16,060	17,479	9%
Jammu and Kashmir	3,457	3,717	8%
Himachal Pradesh	2,415	2,604	8%
Assam	6,085	6,494	7%
West Bengal	17,637	18,825	7%
Telangana	16,466	17,664	7%
Andhra Pradesh	12,914	13,797	7%
Goa	1,670	1,770	6%
Punjab	9,052	9,464	5%
Meghalaya	737	772	5%
Chandigarh	929	950	2%
Mizoram	425	428	1%
Kerala	13,080	13,252	1%
Nagaland	455	451	-1%
Puducherry	625	599	-4%
Arunachal Pradesh	882	811	-8%
Sikkim	486	410	-16%
Lakshadweep	56	39	-31%
Other Territory	545	372	-32%

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2. IGST Settlement (1/6)

Current Position

1. Negative Balance in IGST FY 2023-24: Rs. 5,516 crore [even after accounting for the recovery of ₹ 18,000 crore carried out in November, 2023].
2. Cumulative negative balance as of August 2024 in this current FY – Rs.8,702 crore.
3. Total negative balance for FY 2023-24 and FY 2024-25 (till Aug 24) – Rs.14,218 crore.

In Rs Crore

Month	Balance for the month
Upto March 2024	-5,516
April 2024	-2,645
May 2024	-8,238
June 2024	707
July 2024	-483
August 2024	1,957
Cumulative Balance	-14,218

2. IGST Settlement (2/6)

Apportionment of IGST Balance made from time to time so far are tabulated below:

In Rs Crore

FY	STATES			CENTRE		
	Positive Balance	Negative Balance	Net	Positive Balance	Negative Balance	Net
2017-18	17,500	0	17,500	17,500	0	17,500
2018-19	65,000	-3,500	61,500	65,000	-3,500	61,500
2019-20	16,500	-14,500	2,000	16,500	-14,500	2,000
2020-21	38,000	0	38,000	38,000	0	38,000
2021-22	39,500	-5,500	34,000	39,500	-5,500	34,000
2022-23	24,500	-1,500	23,000	24,500	-1,500	23,000
2023-24	0	-9,000	-9,000	0	-9,000	-9,000
TOTAL	**2,01,000**	**-34,000**	**1,67,000**	**2,01,000**	**-34,000**	**1,67,000**

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2. IGST Settlement (3/6)

Apportionment of Positive or Negative Balance

Guided by section 17(2A) of the IGST Act, 2017 read with GST Settlement of Funds Rules, 2017

- Apportionment of position or negative balance is carried out periodically.
- The objective is to maintain the balance in the IGST account as close to zero as possible.
- Both apportionment and recovery are carried in the **50:50 ratio between Centre and States / Union Territories**
- Ratio of recovery amongst the States is not specified. Surplus balance was apportioned done in the ratio of base year (FY 15-16) revenue and negative balance was apportioned in the ratio the respective month's IGST settlement.

2. IGST Settlement (4/6)

- It is proposed to revise the method of apportionment of surplus and negative balance of IGST among States / Union Territories:
  - Share of revenue of each state has changed significantly post implementation of GST – so base year ratios may not reflect the current picture.
  - Ideally, recovery should be in the ratio of the IGST Utilized , and not on the share of revenue of each State/UT. IGST utilisation of a state is a good indicator of the IGST accumulation in the state.
  - The adopted method needs to be dynamic enough to reflect current realities and at the same time stable for administrative ease and better predictability.

CHAIRMAN'S INITIALS

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2. IGST Settlement (5/6)

BASIS FOR APPORTIONMENT OF IGST BALANCE

Proposals for Approval of GST Council:

- It is proposed that the decided methodology may be implemented and followed for advance apportionment and recovery adjustments to be made **from 01.04.2024 onwards.**
- Accordingly, it is proposed that the apportionment of surplus and negative balance of IGST may be done to each state in the ratio of the amount of **IGST utilised by the state to that of the total IGST utilised by all the states together in the recent past.**
- In the interest of stability, a **rolling period of the immediate three previous financial years** may be used.
  - The advance apportionment for **FY 2024-25** would be based on the total amount of **IGST utilisation of the states in FYs 2021-22 to 2023-24.**

2. IGST Settlement (6/6)

Proposals for Approval of GST Council:

- The negative balance of Rs.14,218 would be recovered from the Centre (50%) and States (50%) over 4 instalments starting September 2024.
- Henceforth, any surplus or negative in IGST account in any month shall be apportioned on monthly basis in the IGST settlement of the succeeding month as follows:

Month	Backlog recovery (Rs. Cr)	Monthly Apportionment of Surplus/Negative Balance
September 2024	1,777	-
October 2024	1,777	Surplus/Negative of Sep 24
November 2024	1,777	Surplus/Negative of Oct 24
December 2024	1,778	Surplus/Negative of Nov 24
January 2025	-	Surplus/Negative of Dec 24
February 2025	-	Surplus/Negative of Jan 25
March 2025	-	Surplus/Negative of Feb 25 and Mar 25

CHAIRMAN'S INITIALS

MINUTE BOOK

3. Status update - Compensation Cess (1/3)

Project Collection up to March 2025

In Rs Crore

Year	Total
2017-18 (from July 2017)	62,612
2018-19	95,081
2019-20	95,551
2020-21	85,191
2021-22	1,04,609
2022-23	1,25,863
2023-24	1,41,809
2024-25 (upto August, 2024)	63,725
Collection from July '17 to August '24	**7,74,441**
Projected (September, 2024 -March 2025)	92,265
Projected Total (till Mar 2025)	**8,66,706**

3. Status update - Compensation Cess (2/3)

Compensation account summary projected as of March 31, 2026

In Rs Crore

Particulars	Amount
Total Cess Collections (actual + projected) up to March 2025	8,66,706
Compensation Paid till 05th September 2024	-6,64,203
Back-to-Back Loan Repayable	-2,69,208
Estimated Compensation payable	-13,000
Interest on B2B Loan (projected)	-51,561
Excess compensation to be recovered	213
Shortfall in Compensation Account as of March 31, 2025	**-1,31,053**
Projected Collection in FY 2025-26 (10% growth)	**1,71,589**
Projected surplus as of March 2026	**40,536**

CHAIRMAN'S INITIALS

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3. Status update - Compensation Cess (3/3)

PROPOSAL

- As can be seen from the table shown in previous slide, it is estimated that there will still be a **shortfall of ₹ 1,31,053 crore** in the compensation account as of March 31, 2025.
- Therefore, the Compensation Cess levy would have to be continued beyond FY 2024-25 and well into FY 2025-26.
- Updated Status to be presented before the council on regular basis.
- The Council may entrust the Fitment Committee with the responsibility to decide on the form and manner in which the amount being collected as cess may continue to be collected in future. [*As discussed in the Officer's Meeting*]

4. GST Appellate Tribunal (1/3)

Proposal to notify the amendments in section 109 & 171 of the CGST Act with effect from 15.09.2024

- In Finance Act 2024, amendments were carried out for empowering the Principal Bench of GSTAT to undertake examination of the Anti-Profiteering measures under GST.
- Further, there is an enabling provision for introducing a sunset clause for Anti-Profiteering measures.
- Approval of the GST Council to sought to notify the amendments in sections 109 and 171 of the CGST Act w.e.f 15.09.2024.
- Post the notification, Principal Bench of GSTAT would be notified as an Authority under section 171 to adjudicate anti-profiteering cases.

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MINUTE BOOK

4. GST Appellate Tribunal (2/3)

Changes in the notified locations of some GSTAT State Benches

- **Kerala** - The request of Kerala (*for interchanging the Location of the Bench to the location of the Additional Sitting between Ernakulum and Thiruvananthapuram*) has already been incorporated in notification **No. S.O. 3048(E) dated 31.07.2024. Post facto approval of GST Council sought.**
- **Uttar Pradesh** – The proposal of Government of Uttar Pradesh is for notifying Prayagraj as location of the Bench and Varanasi as the additional sitting of Prayagraj
- **Punjab** - The State of Punjab has requested that the location of Bench be changed from Jalandhar to Chandigarh and notify Jalandhar as the additional sitting of Chandigarh.
- **Above requests of Kerala, Uttar Pradesh and Punjab placed for approval of GST Council and these are updated in the draft notification circulated.**

4. GST Appellate Tribunal (3/3)

Proposal to notify jurisdictions of the State benches of the GSTAT

- As per the provisions of sub-section 4 of section 109 of CGST Act, 2017, jurisdiction of the State Benches (and the additional Sittings associated with the State Benches) is required to be notified.
- **Approval of the GST Council is sought to notify the jurisdictions of the State Benches as per draft notification in the Agenda Note.**
  - **State of Gujarat, Tamil Nadu and Haryana have sent their updated jurisdiction post circulation of Agenda. Same will be updated in the notification.**
  - **States may revert within 5 days if any corrections in the name of the districts is required.**
  - **Council may empower the GIC to decide on issues related to jurisdiction, upon request of the States.** [*As discussed in the Officer's Meeting*]

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5. GST Data Sharing (1/4)

Sharing of Personally Identifiable Information of Taxpayers with other Ministries / Departments

- As approved in the 48th GST Council Meeting, requests for data sharing of the residual category (D) would be approved only on specific approval of the GST Council/GST Implementation Committee on a case-to-case basis.
- The merits of each case should fall within the requirements of section 158 (3).
- Few requests regarding personally identifiable data have been received. Some were placed before GIC but were rejected / returned by the GIC.
- Accordingly, Five of the requests which have been examined for feasibility are placed before the GST Council for decision on the matter.
- **There are other requests from various states/agencies including the State of Tamil Nadu. GIC may be authorised to approve the said requests on a case-to-case basis with the safeguards circulated in the Agenda.**

5. GST Data Sharing (2/4)

Details of Requests received :

1. Request from M/o Labour and Employment –

- Data for E-commerce sector for FY 2022-23 and 2023-24 including supplier's name, GSTIN, annual turnover, HSN Code.
- Purpose: For identification of digital platforms / aggregators (such as Ola, Uber, Zomato etc.), to assess the implementation of schemes for social security coverage of platform workers.
- Status: *Sent to GIC – Sent back*

2. Request from Gujarat Infrastructure Development Board (GIDB)

- Data of GST and e-way bill including "From Address" and "To Address".
- Purpose: Preparation of Integrated Logistics Master Plan for the State of Gujarat.
- Status: *Sent to GIC - Haryana had reservation on sharing of data on recurring basis*

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5. GST Data Sharing (3/4)

3. National Industrial Corridor Development Corporation Limited (NICDC)

- Requested data is to provide bulk data of E-way Bill numbers along with vehicle number of carriage.
- Purpose: For analyzing commodity-wise origin and consumption points mapping and preferred mode of transportation, to identify bottlenecks in the logistics sector.
- Status: *Sent to GIC – Yet to be approved*

4. Directorate General of Commercial Intelligence & Statistics, M/o Commerce & Industry

- Data includes Mobile number and Email address of suppliers.
- Purpose: To develop a comprehensive Business Directory of Service Exporting Units.
- Status: *Not yet sent to GIC*

5. GST Data Sharing (3/4)

5. IMF project on GST Rate sensitivity project:

- GSTN in collaboration with other concerned entities is developing a model to understand the impact of GST rate changes on revenue in a scientific and deterministic manner.
- IMF has been engaged to assist in this project. IMF has requested certain data to be made available.
- Requested data is anonymized taxpayer data pertaining to sector of business, turnover data, tax payments, imports, type of transactions, date of registration etc. Only about 10-20% of anonymized data is proposed to be shared for initiating the model. The model will be extrapolated on the entire data, internally by GSTN.
- This does not involve any personally identifiable information. Result of this exercise may prove beneficial for taking policy decisions regarding tax rate changes.

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3. Compensation Cess - Status

Status of AG's certificate received and processed

S.No	Name of State/UT	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23(Q1)
1	Andhra Pradesh						
2	Arunachal Pradesh						
3	Assam						
4	Bihar						
5	Chhattisgarh						
6	Delhi						
7	Goa						
8	Gujarat						
9	Haryana						
10	Himachal Pradesh						
11	J & K						
12	Jharkhand						
13	Karnataka						
14	Kerala						
15	Madhya Pradesh						
16	Maharashtra						
17	Manipur						
18	Meghalaya						
19	Mizoram						
20	Nagaland						
21	Odisha						
22	Puducherry						
23	Punjab						
24	Rajasthan						
25	Sikkim						
26	Tamil Nadu						
27	Telangana						
28	Tripura						
29	Uttar Pradesh						
30	Uttarakhand						
31	West Bengal						

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5. GST Data Sharing

Extract of Section 158(3)
"(h) any particulars when such disclosure is occasioned by the lawful exercise by a public servant or any other statutory authority, of his or its powers under any law for the time being in force; or

...
(k) any particulars to an officer of the Government as may be necessary for the purposes of any other law for the time being in force; or

(l) any information relating to any class of taxable persons or class of transactions for publication, if, in the opinion of the Commissioner, it is desirable in the public interest, to publish such information."