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Agenda for

25th GST Council Meeting

Volume – 2

18 January 2018

माल और सेवा कर परिषद
GOODS AND SERVICES TAX COUNCIL

File No: 297/25th GSTC Meeting/GSTC/2017
GST Council Secretariat

Room No.275, North Block, New Delhi
Dated: 22 December, 2017

Notice for the 25th Meeting of the GST Council scheduled on 18 January 2018

The undersigned is directed to refer to the subject cited above and to say that the 25th Meeting of GST Council will be held on **Thursday, 18 January 2018 from 12:20 pm onwards** at Hall No 2-3, Vigyan Bhavan, New Delhi. Before the meeting of the GST Council, Union Finance Minister will have discussions with the Finance Ministers of States on the budget proposals for the Union Budget 2018-19 from 10:00 am to 12:00 noon at the same venue.

2. The Meeting of the GST Council shall be followed by Cultural Programme and Dinner to be hosted by Government of NCT of Delhi from 7:00 pm to 10:00 pm on 18 January 2018.

3. The detailed agenda items for the 25th Meeting of the GST Council will be communicated in due course of time.

4. The main agenda in the GST Council Meeting will be to discuss the draft Amendment to CGST Act, SGST Act and IGST Act. In order to have detailed discussions on the draft proposals for amendment, Union Finance Secretary will take a separate meeting of Officers of State and Central Government from **11:00 am onwards on Thursday, 11 January 2018** at Hall No 2-3, Vigyan Bhavan, New Delhi.

5. Please convey the invitation to the Hon'ble Members of the GST Council to attend the Meeting on 18 January 2018.

(-*Sd*-)
(Dr. Hasmukh Adhia)
Secretary to the Govt. of India and ex-officio Secretary to the GST Council
Tel: 011 23092653

Copy to:

1. PS to the Hon'ble Minister of Finance, Government of India, North Block, New Delhi with the request to brief Hon'ble Minister about the above said meeting.
2. PS to Hon'ble Minister of State (Finance), Government of India, North Block, New Delhi with the request to brief Hon'ble Minister about the above said meeting.
3. The Chief Secretaries of all the State Governments, Delhi and Puducherry with the request to intimate the Minister in charge of Finance/Taxation or any other Minister nominated by the State Government as a Member of the GST Council about the above said meeting.
4. Chairperson, CBEC, North Block, New Delhi, as a permanent invitee to the proceedings of the Council.
5. Chairman, GST Network

Agenda Items for the 25th Meeting of the GST Council on 18 January 2018

1. Confirmation of the Minutes of 24th GST Council Meeting held on 16 December 2017
2. Revenue collected in the month of November and December 2017 under Goods and Services Tax, including the revenue accruing to Centre and States through settlement of funds
3. Deemed ratification by the GST Council of Notifications, Circulars and Orders issued by the Central Government
4. Decisions of the GST Implementation Committee (GIC) for information of the Council
5. Minutes of 4th and 5th Meeting of Group of Ministers (GoM) on IT Challenges in GST Implementation for information of the Council and discussion on GSTN issues
6. Recommendations of the 'Committee on Returns Filing' on Simplification of Returns under GST
7. Issues recommended by the Law Committee for consideration of the GST Council
8. Recommendations of the Committee on Handicrafts
9. Changes proposed to be made in the CGST Act, 2017, SGST Acts, the IGST Act, 2017 and the GST (Compensation to States) Act, 2017
10. Issues recommended by the Fitment Committee for the consideration of the GST Council
11. Carry forward items from the previous Council Meeting
    i. Presentation on GST in Real Estate sector
    ii. Incentivising Digital Payments in GST regime
12. Transfer of shares of Empowered Committee (EC) in GSTN to the State of Telangana
13. Any other agenda item with the permission of the Chairperson
14. Date of the next Meeting of the GST Council

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Agenda Item 10: Issues recommended by the Fitment Committee for the consideration of the GST Council

Agenda Item 10(ii): Recommendations on Services

The **Summary Sheet** of the recommendations of the Fitment Committee on Services was circulated as Agenda Item 10(ii) in **Volume – 1** of the Detailed Agenda Note. It was indicated therein that detailed justification for the recommendations will be circulated separately in Volume – 2 of the Detailed Agenda Note.

2. The detailed justification for the recommendations of the Fitment Committee on Services are attached as **Annexure 1**.

3. The recommendations of the Fitment Committee are placed before the Council for consideration and approval.

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Annexure 1

Sl. No.	Represented By	Proposal	Justification	Comments of Fitment Committee
1	Ministry of Civil Aviation	Request for extending GST exemption on **Viability Gap Funding (VGF)** for a period of 3 years from the date of commencement of **Regional Connectivity Scheme (RCS)** airport from the present period of one year.	Extending the period of exemption will help in making full funds available in Regional Air Connectivity Fund Trust (RACFT) account and enable connecting more unserved/under-served airports in the country. It will also reduce the liability on this account on respective State Governments/UTs who are also required to share 20% to 10% of the amount of VGF disbursed to the selected airline operators under RCS.	As per entry 16 of the notification No. 12/2017-CT(R), services provided to the Government by way of transport of passengers on RCS routes against consideration in the form of VGF are exempt for a period of 1 year from the commencement of operation of RCS airport. We may consider extending GST exemption on Viability Gap Funding (VGF) for a period of 3 years from the date of commencement of RCS airport from the present period of one year so as to make it co-terminus with the period for which VGF is to be disbursed to the airlines operating on RCS routes. **Fitment Decision** Agreed
2	Housing Board of Rajasthan	Request to clarify whether GST is leviable on the supply of information under RTI Act, by an entity which is not Government.	Provision of information under RTI Act is a statutory obligation on part of the Government departments/organization and does not amount to supply of service.	Section 3 of RTI Act, 2005, states that "*Subject to the provisions of this Act, all citizens shall have the right to information*". As per Article 5 of the Constitution of India the following person shall be a citizen of India, - "*At the commencement of this Constitution, every person who has his domicile in the territory of India and— (a) who was born in the territory of India; or (b) either of whose parents was born in the territory of India; or (c) who has been ordinarily resident in the territory of India for not less than five years immediately preceding such commencement, shall be a citizen of India.*". Under the RTI Act, the "public authorities" are obligated to facilitate the right to information under this Act. It is pertinent to note that "public authorities" defined under Section 2(h), means any authority or body or institution of self-government established or constituted— (a) by or under the Constitution; (b) by any other law made by Parliament; (c) by any other law made by State Legislature; (d) by notification issued or order made by the appropriate Government, and includes any— (i) body owned, controlled or substantially financed;

Sl. No.	Represented By	Proposal	Justification	Comments of Fitment Committee
				(ii) non-Government organisation substantially financed, directly or indirectly by funds provided by the appropriate Government; Sl. No. 6 of the notification No. 12/2017-Central Tax(Rate) exempts supply of services by Central Government, State Government, Union territory or local authority to a person other than a business entity. Thus, supply of information under RTI Act by the Central Government, State Government, Union territory or local authority to an individual is exempt from levy of GST under Sl. No. 6 of the notification No. 12/2017-Central Tax (Rate). However, information provided by an authority or body which is not Government as defined in Section 2(53) of the CGST Act, is subject to GST. Public authorities required to provide information under RTI Act may not be supplying any other taxable goods or services and thus may have to take registration only for payment of GST on fee collected under RTI. This will place compliance burden on bodies /NGO controlled/substantially financed by the Government. Moreover, the fee being only Rs 10/- per RTI application, the revenue impact will be insignificant, while the compliance burden on the public authorities will be substantial. Therefore, we may exempt supply of services by way of providing information under RTI Act, 2005 from GST. **Fitment Decision** Agreed
3	1.**Telecom Regulatory Authority of India (TRAI)** 2. **Commissioner Commercial Taxes (CCT)**, WB, 3. Additional Commissioner, Commercial Taxes, Rajasthan	Legal services received by Government or local authority are taxable under reverse charge mechanism, and should be exempt from levy of GST. As TRAI is in receipt of legal services and the liability to	A Government entity may not be providing any taxable supply and hence, would not be liable to take registration under GST. However, in order to comply with the GST liability arising on receipt of legal services the Government department shall have to take registration and file the monthly returns. At the same the ITC of the legal services will not be utilized by the Govt.	**Taxability of legal services provided to Government or local authority:** <u>Service Tax regime</u>: In the service tax regime, the legal services provided to business entities were subject to tax under reverse charge mechanism vide notification 30/2012-ST. As per Section 65B(17) of Finance Act, 1994 "business entity" was defined to mean *any person ordinarily carrying out any activity relating to industry, commerce or any other business or profession*; thus Government or a local authority was not liable to pay GST under reverse charge mechanism. <u>GST regime:</u>

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		discharge GST on legal services received is under RCM on the business entity i.e. TRAI. It has been requested to clarify whether the nature of activities carried out by TRAI is covered by definition of "business" as per section2(17) of the CGST Act and whether TRAI is exempt from payment of tax under reverse charge mechanism.	department and will be a cost. The services by TRAI is not a service in the nature of business hence should be outside the ambit of GST.	As per Section 2(17) of the CGST Act, "business" includes any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authority. Thus, the Central Government, a State Government or any local authority are covered by the definition of business entity and thus liable to pay GST on legal services received by them under RCM. [Notification No. 13/2017-Central Tax(rate) dated. 28.06.2017 places the liability to discharge GST on legal services on the business entity receiving the legal services.] In order to restore status quo, ante as existed on 30th June, 2017 in service tax, it is proposed that legal services provided to Central/State Government or local authority, may be exempted from levy of GST. **Liability of TRAI to pay GST on legal services under RCM** Definition of Government Service Tax regime: TRAI is a body corporate under TRAI Act [section 3 (2)]. In the service tax regime, Government was defined as under: "Government" means the Departments of the Central Government, a State Government and its Departments and a Union territory and its Departments, but shall not include any entity, whether created by a statute or otherwise, the accounts of which are not required to be kept in accordance with Article 150 of the Constitution or the rules made thereunder;". As per section 23 of TRAI Act 1997, accounts of TRAI are maintained as prescribed by Central Government in consultation with the Comptroller and Auditor-General of India, and audited by the CAG. Thus, TRAI was covered under the definition of "government" under Service Tax. GST regime: As per CGST Act, Government means "Central Government". As per clause (8) of section 3 of the General Clauses Act, 1897, the 'Central Government', in relation to anything done or to be done after the commencement of the Constitution, means the President. As per Article 53 of the Constitution, the executive power of the

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				Union shall be vested in the President and shall be exercised by him either directly or indirectly through officers subordinate to him in accordance with the Constitution. Further, in terms of Article 77 of the Constitution, all executive actions of the Government of India shall be expressed to be taken in the name of the President. Therefore, the Central Government means the President and the officers subordinate to him while exercising the executive powers of the Union vested in the President and in the name of the President. By virtue of Section 3 of TRAI Act, 1997, the TRAI is established as an authority by Central Government, and the chairperson and members of TRAI are appointed by the Central Government. The Central Government also after due appropriation makes grants to TRAI of such sums of money as are required to pay salaries of the chairperson and the members and meet other administrative expenses including salaries of other officers and employees of the authority. Moreover, the accounts are audited by C&AG as mandated under Article 150 of the Constitution. Thus, TRAI appears to fall under the definition of "Government" for the purposes of GST law. We may clarify to TRAI accordingly. **Fitment Decision** Legal services provided to Government, Local Authority, Governmental Authority, Government Entity may be exempted. This is for the reason that legal services to any person other than business entity was exempt under Service Tax (as on 30 June 2018).
4	Hon'ble CM Maharashtra and Secretary, Ministry of Housing and Urban Affairs	Request to reduce the GST rate from 18% to 12% for composite supply of works contract supplied by way of construction, erection, commissioning or installation of original works pertaining to Metro rail.	Levy of high rate of GST adversely affects the financial position of metro companies. The metro companies facilitate easy and quick movement of people and has positive impact on economic growth, apart from reduction in traffic congestion, pollution, road and parking cost. Reduces both cost and time of travel and improves competitiveness of the city.	Services provided by way of construction, erection, commissioning, or installation of original works pertaining to monorail or metro were exempt till 1-3-2016. Thereafter, the said services provided under a contract entered into prior to 1-3-2016 were exempt. Exemption to the said services was withdrawn in Budget, 2016 with a view to minimize exemptions in the run up to GST as exemptions break ITC chain, increase cost and result in distorted tax structure. However, GST rate on most of the services provided to the Govt. which were exempted under service tax has been reduced from 18% to 12% so as to reduce cost of Govt. projects.

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				Service of transportation of passengers by a monorail or metro rail has been exempted under GST so as to reduce the cost of supply of the said public transportation service to the public. Reduced rate of GST of 12% has been extended to services provided for construction of railways, road, bridge, tunnel or terminal for road transportation for use by general public vide notification No. 20/2017-CT(R) dated 22nd August, 2017. The same reduction in GST rate from 18% to 12% can be considered for construction of metro and monorail projects (construction, erection, commissioning or installation of original works). **Fitment Decision** **Agreed**
5	Ministry of Civil Aviation, IndiGo, Air India	Request is to give retrospective effect to notification No. 65/2017-Cus dated 8.7.17. To provide retrospective exemption to supply of aircrafts, aircraft engines and other aircraft parts imported into India under a transaction covered by item 1(b) or 5(f) of Schedule II of the Central Goods and Service Tax Act, 2017 from levy of integrated tax under section 3(7) of the Customs Tariff Act, 1975, from 01.07.2017.	The import of aircraft or aircraft parts on lease basis attracted IGST twice, once as IGST on import of goods under section 3(7) of the Customs Tariff Act and again as IGST on lease rentals as supply of service [as per entry 1(b) and 5(f) of Schedule II of the CGST Act read with section 20(i) of IGST Act]. This double incidence of IGST on the same transaction, though lawful, would have been unjustified and would have caused unintended financial burden on the civil aviation industry. To resolve this issue, rationalization in the levy was carried out by exempting aircrafts, aircraft engines and other aircraft parts imported into India under a transaction covered by item 1(b) or 5(f) of Schedule II of the Central Goods and Service Tax Act, 2017 from levy of integrated tax under section 3(7) of the Customs Tariff Act, 1975 subject to suitable conditions safeguarding	The intention of providing exemption was to avoid double incidence of tax on the import of aircraft/aircraft parts on lease. Since the intention is to avoid dual levy on import of aircrafts, aircraft engines and other aircraft parts, notification No. 65/2017-Customs dated 8.7.2017 may be applied retrospectively with effect from 01.07.2017 to 7.07.2017. The same may be done through amendment in Finance Bill, 2018. This would enable finalization of the provisional assessments. **Fitment Decision** Agreed.

Sl. No.	Represented By	Proposal	Justification	Comments of Fitment Committee
			revenue vide notification No. 65/2017-Cus dated 8.7.2017. In the intervening period from 01.07.2017 to 08.07.2017, it has been informed by Member (Customs & EP), CBEC that Air India and Indigo Airlines were hit by the dual levies they had filed bill(s) of entry for import of aircraft during this intervening period. The aircraft were released provisionally without payment of IGST under section 3(7) of the Customs Tariff Act, 1975.	
6	NASSCOM, UrbanClap	De-notify housekeeping services under section 9 (5) of GST Act. This would bring parity in tax treatment between online housekeeping service (through ECO and below threshold limit) and offline housekeeping service (below threshold limit). [It is requested to withdraw notification No. 23/2017- Central Tax (which amended notification No 17/2017- Central Tax) thereby removing 'housekeeping services' from the list of specified services [viz. specified under Section 9(5) of	The offline housekeeping service providers below threshold limit are exempt from levy of GST on the supply of services, while a similar housekeeping service when provided by service provider (below threshold limit) through an **Electronic Commerce Operator (ECO)** platform is subjected to GST of 18% and the liability to discharge GST on the same is on the ECO (notification No. 17/2017-CT(R)).	Services by way of providing accommodation in hotels, inns, guest houses etc. (AIR BNB) and house-keeping, such as plumbing, carpentering etc., provided through an ECO have been notified under section 9 (5) of CGST Act, except where such service provider is above the threshold exemption limit and is liable for registration [notification 17/207 as amended by notification 23/2017]. Subsequently, service providers with turnover below the threshold limit for registration have been exempted from taking registration, except those notified under section 9 (5), i.e., those providing services through ECO [notification No. 65/2017-CT dated 15.11.2017]. Hence, the request to de-notify house-keeping services under section 9 (5), would enable below-threshold providers of housekeeping services through ECO to avoid paying GST. Housekeeping service providers, below threshold and providing services directly are not required to pay GST. That there should be parity between the 2 classes of service providers. This argument may not be valid for the reason that a small service provider is able to extend his reach and access to many more customers, if he operates through an ECO vis-à-vis a similar service provider who has no such online access to customers. Quality of service is also assured. No doubt there is duty differential of 18% between the two classes of service providers. The differential may perhaps be narrowed to, say 5% or

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		CGST law]]. **OR** It is requested that rate of tax should be reduced to 5 per cent on such services, wherever the annual turn-over of a service professional is less than Rs. 20 lacs.		12%. Therefore, we may levy GST @ 5% on the small housekeeping service providers, notified under section 9 (5) of GST Act, who provide housekeeping service through ECO. **Fitment Decision** Agreed for 5% for supply of services through ECO without ITC.
7	Darzi (India) LLP Jade Blue, Ahmedabad	To exempt tailoring services from GST. To reduce the GST rate on tailoring services to 5%.	There is difference between the rate on the fabric and the tailoring service, and this often leads to misclassifying the service as supply of goods(fabric). Tailors are competing against suppliers of ready-made garments who pay tax @5%/12%.	The service by way of tailoring, stitching carried out on fabric belonging to a registered person, being a service by way of job work in relation to textiles, attracts GST @ 5%. ["Job work" means any treatment or process undertaken by a person on goods belonging to another registered person and the expression "job worker" shall be construed accordingly.] Tailoring services provided to an individual un-registered customer is not a service by way of job work and attracts tax @18%. Mis-classification or mis-declaration of supply of service as supply of goods to evade taxes is an enforcement issue. However, there is merit in the argument that tailors have to compete against suppliers of ready- made garments who pay tax @5%/12%. There is no doubt that demand for tailoring services has reduced since advent of readymade garments manufactured by organized players in India during the last 2 decades. All fabrics falling under chapters 51 to 55 attract GST of 5%. In order to remove the arbitrage between the supply of goods (RMG) and service, reduction in GST rate on tailoring service to 5% may be considered. **Fitment Decision** Agreed
8	Minister, Finance & Planning, Forest, Government of Maharashtra forwarding the representation	Request to reduce the GST rate on admission to amusement park from 28% to 12%	The industry is capital intensive and margin is low. The industry does not consume major raw material and the ITC is only around 4-5%.	We may consider revising the rate of GST on admission to the amusement parks to 18%. However, this proposal runs the risk of States raising the tax on entertainment and amusement levied by virtue of Entry 62 of List II in the Seventh Schedule to the Constitution amended vide the Constitution (101st) Amendment Act, 2016, which reads

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	of Indian Association of Amusement Parks and Industries		It is a labour intensive market and generates lot of employment opportunities. Amusement park promotes social wellness and begets fun and learning for children and their families in a real active entertainment world. It is also a major attraction for domestic and international tourists. It also acts as catalyst for allied industries such as transportation, hotels, restaurants, manufacturing.	"*62. Taxes on entertainments and amusements to the extent levied and collected by a Panchayat or a Municipality or a Regional Council or a District Council*." So, in view of the same it is felt that GST Council may consider reducing GST, provided the States agree to not increase the entertainment/amusement tax on the same. [This will ensure that the rate cut of GST is passed on to children for whom it is ostensibly being done.] **Fitment Decision:** GST rate on services by way of admission to theme parks, water parks, joy rides, merry-go-rounds, go-carting and ballet to be reduced from 28% to 18%. No condition to be put.
9	Chairman, APEDA	Request to exempt the transportation service of goods provided by air and vessel, when provided for export of goods.	Timely refund of GST paid on inputs and input services used in export of goods would not have led to blockage of working capital of exporters. However, delays in granting refund appear to be causing financial hardship to the exporters.	The original intention of zero-rating the export and to provide refund of either the integrated tax paid on export of goods/service or alternatively to provide refund of the unutilized input tax credit when goods/services are exported under bond or letter of undertaking was to have transaction trail for audit. However, in view of reported delays in processing the refund, we may restore status quo ante as it existed under service tax with respect to the service of outward transportation of all goods by air and sea by exempting the same. In order to restore status quo ante for the transport of goods by vessel services, it would also need amendment of CGST Rules so as to allow the shipping lines to avail ITC of ~~specified capital goods (ships, vessels including bulk carriers and tankers)~~ inputs, capital goods and input services against the service of outward transportation of export goods by sea, which is proposed to be exempted. Such an amendment would be on the lines similar to notification No. 55/2017-Central Tax dated 15.11.2017 which allows ITC against supply of services to Nepal & Bhutan against INR which have been exempted. Accordingly, the following may be considered, - (i) the service of transportation of goods from India to a place outside India by air may be exempted; (ii) the service of transportation of goods from India to a place outside India by sea may be exempted and value of such service may be excluded from the value of

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				exempted services for the purpose of reversal of ITC. The above exemptions may be granted with a sunset clause upto 30th September, 2018. **Fitment Decision:** Agreed
10	Coast Guard HQ	Request to provide both prospective as well as retrospective exemption to services provided by Naval Group Insurance Fund to members of Coast Guard from GST	**Naval Group Insurance Fund (NGIF)** is set up as a society for the benefit of Naval personnel to provide compensation in the eventuality of death, disability and retirement. The facilities of NGIF are extended to Coast guard personnel with directives that rules for operation of Naval Officers & Sailors Family Assistance (Group Insurance) Fund shall apply to Coast Guard personnel mutatis mutandis vide Ministry of Defence sanction letter dated 17-05-1980. All the terms and conditions for availing benefits under NGIF are same for both Navy and Coast Guard. Vide Finance Act, 2017 special provision for exemption to life insurance services provided to members of armed forces of Union was made which provided that no Service Tax shall be levied or collected in respect of taxable services provided by the Army, Navy and Air Force Insurance Fund by way of life insurance to the members of Army, Navy and Air Force. However, the name of Indian Coast Guard was not mentioned although they receive the services provided by NGIF as per MoD sanction letter.	The request for both retrospective and prospective exemption from Service Tax to Life Insurance Services under Army, Navy & Air Force Group Insurance Scheme was received from Hon'ble Defence Minister, Ministry of Defence vide letter dated 28.07.2016. Upon examination in Budget 2017-18, the said exemption from service tax was granted retrospectively w.e.f. 10th September, 2004 [vide section 105 of Finance Act, 1994 and notification No. 25/2012-ST dated 20.06.2012 S.No.26D refer]. Exemption was granted on the grounds that, - (i) the aforesaid funds, benefits and Regimental and Non-Public Funds have been fully exempted from Income Tax vide Finance Act 1980 with retrospective exemption from 1962; (ii) there was inadvertent disparity in service tax treatment amongst civilian (CGEIS) and defence employees of the country. However, the said exemption was for the services provided to the personnel of Army, Navy or Air Force. Coast Guard are not members of Army, Navy or Air Force. Therefore, the services provided by NGIF to Coast Guard personnel are not covered by the said exemption. Ministry of Defence vide sanction letter 17.05.1980 has extended the membership under the Naval Officers' and Sailors Family Assistance (Group Insurance) Scheme to Coast Guard Personnel. Extending the said exemption from GST to coast guard retrospectively w.e.f. 1.7.2017 may be considered. **Fitment Decision** Agreed

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11	Film Producers Guild	Request is to exempt IGST under Section 3(7) of the Customs Tariff Act on the royalty payable by the importer as a condition of sale of such goods.	Prior to GST, on import of motion pictures, music and gaming software for use on gaming consoles when printed or recorded on media falling under chapter heading 3706 or 8523, the following duties, were levied- • Countervailing Duty (CVD) u/s 3(1) of CTA • Special Additional Duty (SAD) u/s 3(5) of the CTA The said duties were to be computed on the value to be determined in accordance with valuation rules prescribed under the Customs Act. In accordance with Section 14 of the Customs Act, value of the imported goods was deemed to be the transaction value of the goods. Further, under Rule 10(1)(C) of the Customs Valuation Rules, for the purpose of determination of transaction value, any amount paid as royalties or license fees related to the imported goods, was to be added to the transaction value of the imported goods for the purpose of computation of customs duty. CBEC vide notification No 27/2010 – Cus [dt.27.2.2010] had exempted the levy of BCD, CVD and SAD on the royalty payable by the importer for the import of motion pictures, music and gaming software on media falling under chapter heading 3706 or 8523, except motion pictures, music or gaming software	Though, the two levies of IGST on import of motion pictures, music and gaming software for use on gaming consoles when printed or recorded on media falling under Chapter heading 3706 or 8523 would be on different aspects of the same transaction, the former on import of goods in India and the latter on import of service into India, and thus lawful, such high tax incidence would be unjustified and cast unintended financial burden. There are two options to resolve this issue – (a) No IGST be charged on import of motion pictures, music and gaming software for use on gaming consoles when printed or recorded on media falling under Chapter heading 3706 or 8523. (b) No IGST be charged on import of service by way of temporary transfer or permitting the use or enjoyment of any intellectual property right. Explanation to Article 269A of the Constitution as amended by the 101st Constitutional Amendment Act, states that supply of goods, or of services, or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-State trade or commerce. Secondly, supply of service by way of temporary transfer or permitting the use or enjoyment of any intellectual property right has been treated as supply of service under entry 5(c) of Schedule II of the CGST Act. It would be in harmony with these provisions if we tax royalty/ license fee or copyright part of such transactions as import of service into India under section 5(1) of the IGST Act and exempt such transactions from levy of integrated tax under section 3(7) of the Customs Tariff Act, 1975. Import of motion pictures, music and gaming software for use on gaming consoles when printed or recorded on media falling under chapter heading 3706 or 8523 may be exempted from as much of IGST as is in excess of the IGST applicable on the cost of the media (including freight and insurance) on which such motion picture is imported under section 3(7) of the Customs Tariff Act, 1975 subject to the condition that the importer pays integrated tax leviable under section 5(1) of the IGST Act, 2017 on supply of service covered by item 5(c) of

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			imported in pre-packaged form for retail sale. Service tax was applicable on import of copyrights in cinematographic films for a temporary period for the purpose of non-theatrical distribution [Section 66E(c) of the Finance Act, 1994 refers]. Temporary transfer of copyrights for theatrical distribution were exempted from service tax by virtue of mega exemption notification 25/2012 dated 20 June 2012, entry 15. Given this, the importer was liable to discharge service tax @ 15% on the royalty value payable towards such import. The notification No. 30/2017-Customs dated 30/06/2017 does not exempt IGST under Section 3(7) of the CTA on the royalty payable by the importer as a condition of sale of such goods. Further, IGST is payable under Section 5 of the IGST Act on the import of copyrights in cinematographic films for a temporary period (classified as import of service by virtue of entry 5(c) of Schedule II to the CGST Act). Thus, under GST, IGST is to be computed and discharged twice on the royalty value paid by the importer, which is as follows: • 18% under Section 3(7) of CTA • 12% under Section 5(1) of IGST Act	Schedule II of the Central Goods and Services Tax Act, 2017. When the issue came up for discussion in the officers meeting before the 23rd GST Council meeting, Advisor Punjab Government suggested that this was a structural issue and would be relevant in cases where something was defined as goods under the Customs Act and as service under the GST law. It was suggested by the Finance Secretary that the issue should be reexamined by Fitment Committee. It is therefore proposed to exempt IGST payable under section 5(1) of the IGST Act, 2017 on supply of services covered by item 5(c) of Schedule II of the CGST Act, 2017 to the extent of aggregate of the duties and taxes leviable under section 3(7) of the Customs Tariff Act, 1975 read with sections 5& 7 of IGST Act, 2017 on part of consideration declared under section 14(1) of the Customs Act, 1962 towards royalty and license fee includible in transaction value as specified under Rule 10(c) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. **Fitment Decision:** Agreed

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12	CII, FICCI	The input tax reversal by way of Section 17(2) of the CGST Act should be amended to exclude the value of supply by way of extending deposits, loans or advances as was under Service Tax.	Explanation I(e) to Rule 6 under CENVAT Credit Rules, 2004 provided that value of exempt services for the purpose of reversal of Cenvat credit shall be exclusive of value of the service by way of extending deposits, loans or advances in so far as consideration is represented by way of interest. This provision did not apply to a banking company and a financial institute including a non-banking financial company, engaged in providing services by way of extending deposits, loans or advances.	Position in Service Tax Services by way of extending deposits, loans or advances against consideration in the form of interest was in the Negative List. Under the CENVAT Credit Rules, 2004 (CCR), services in the Negative List were treated at par with exempted services for the purpose of reversal of input tax credits [Rule 2(e) of CCR refers]. Therefore, CENVAT credit of common inputs and input services used in exempted or negative list services was required to be reversed proportionately. However, as a business-friendly measure, it had been provided in the CENVAT Credit Rules, 2004 [Explanation-I(e) to Rule 6], that value for the purpose of reversal of common input tax credit shall not include the value of service by way of extending deposits, loans or advances against consideration in the form of interest. This provision, which was incorporated in the CENVAT Credit Rules in June, 2012, was meant for assessees in manufacturing and service sector who invested surplus cash available with them for earning interest but did not engage in advancing deposits, loans, advances etc. as their main or regular economic activity. Position in GST In GST an identical exemption for services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services) exists in notification No. 12/2017-CT(R) S.No. 27. However, there is no provision for excluding the interest income earned by an assessee by investing surplus cash available with him. This may result in reversal of ITC disproportionate to the inputs and input services consumed by him in the activity of investing or lending such surplus on interest. In exercise of powers under section 17(3) of the CGST Act, it may be provided in CGST rules that value of exempt supply under sub-section (2) of section 17, in case of any person other than banking company and a financial institution including a non-banking financial company engaged in providing services by way of extending deposits, loans or advances, shall not include the value of the service by way of extending deposits, loans or advances in so

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				far as consideration is represented by way of interest or discount. This will restore the position as existed in service tax as on 30.06.2017. **Fitment Decision** Approved.
13	Government of Rajasthan, Indian Association of Tour Operators	Request to allow input tax credit of services procured by the tour operators from service providers in the same line of business at the existing GST rate of 5% It has also been requested that either the GST may be only on the Mark up charges (margin) of the tour operator or at the rate of 1.8% of the total value of services provided by the tour operator.	GST rate of 5% without ITC is leading to cascading of taxes. In the service tax regime, prior to 22-01-2017, service tax was levied at the rate of 4.5% with CENVAT credit of input services procured from a tour operator. Later, w.e.f. 22-01-2017 the rate on services by tour operator was revised to 9% with credit of input services.	In view of the service tax rates existing during the period 22-01-2017 to 30-06-2017 and during the period prior to 22-01-2017 and the broad principle of carrying forward the same incidence of taxes under GST as existed in the pre GST era, it is proposed that, - (a) Credit of input services in the same line of business may be allowed at the GST rate of 5% (this would correspond to service tax rate of 4.5% with CENVAT credit of input services of a tour operator used for providing the tour operator services). [prior to 22-1-2017] (b) Option of GST rate of 12% with input tax credit of all input services may be provided (this would correspond to the service tax rate of 9% with credit of all input services during the period from 22-01-2017 to 30-06-2017). Needless to say that tour operator will continue to have the option of paying GST at the rate of 18% with ITC of all goods and services. This issue was also discussed in the officers meeting before the 23rd GST Council meeting where it was felt that there were too many rates for this service, 5%, 12% and 18%. We may allow ITC of input services in the same line of business at the GST rate of 5%. **Fitment Decision** ITC of input services in the same line of business approved, for the GST rate of 5%.
14	1. Minister for Finance and Planning, Commercial Taxes, Govt. of Andhra Pradesh 2. Builder's Association of India	GST rate on works contract service executed for Govt at reduced rate of 12% should be made applicable to sub-contractors executing the	Service tax law had provision of exempting the sub-contractor where they were executing the works contract for the main contractor who was enjoying exemption. On similar lines, it is requested to extend the	The standard rate of GST for works contract service is 18%. In any contract there will be multiple sub-contracts. The Government contracts, to which the reduced GST rate is applicable are verifiable while sub-contractors' services to the main contractor may or may not be directly linked to the output services of the main contractor and the agreements may not be verifiable. Extending the lower rate to sub-contractors

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	3. Patil Construction and Infrastructure limited 4. Telangana RWS Contractors Association 5. Patel Filters Infrastructure 6. Note by Construction Industry forwarded by Finance Minister 7. NBCC 8. Addl. Commr., CT, AP	works contract. If not feasible then section 54 of the CGST Act should be amended to include input services along with inputs so as to enable the main contractor to claim refund of excess credit on account of higher tax rate on input services. A clarification may be issued if the same rate of GST on Govt. works contract (i.e. 12%) is also applicable to the sub-contractors who are executing the works under main contractors belonging to Govt.	benefit of 12% to the subcontractor whether executing a works contract or a pure labor contract project under the main contractor. Currently, the services supplied by sub-contractor to main contractor attracts GST @ 18%. As a result, the input tax being higher than the output tax, input tax remains stranded and ultimately leads to the increase in cost of Government contracts. The ITC stranded cannot be claimed as refund as because provision of Section 54 is silent about input services.	will be prone to misuse. Moreover, the contractor can avail the ITC of the services provided by the sub-contractor. The request is for deepening of the exemption. However, Fitment Committee may decide whether or not to reduce GST (from 18% to 12%) on the WCS provided by sub-contractor to the main contractor providing WCS which attract GST of 12%. **Fitment Decision** Fitment Committee decided to reduce GST (from 18% to 12%) on the WCS provided by sub-contractor to the main contractor providing WCS which attract GST of 12%. Likewise, WCS attracting 5% GST, their sub-contractor would also be liable @ 5%.
15	Hon'ble Minister of Finance, Karnataka [raised in 23rd GSTC Meeting] B S V Murthy (former member CESTAT), Hon'ble Minister of Commerce, The Senbhagam Residents Welfare Association, Hon'ble Minister of Road Transport	GST exemption in respect of RWAs may be enhanced from Rs. 5000 to Rs. 10,000. Shri Murthy has requested to increase the limit to Rs 6000 per month per member.		Services by RWA (unincorporated or nonprofit entity) to its members against contribution of up to an amount of five thousand rupees per month per member are exempt. The limit is sufficient to cover most of the housing societies. Those paying more than Rs. 5000 for the services of the RWA alone may afford to pay GST on such contribution. The limit of Rs 3000 was set in year 2007 and in the Budget, 2014 the limit was revised to Rs 5000. Further considering the Consumer Price Index of April 2014 and November 2017, and accounting for the same, the adjusted limit for November 2017 based on growth in the, - (i) General Index would be Rs 5977 (ii) Residential building and land [cost of repairs only] would be Rs 5969 (iii) Other consumer services excluding conveyance would be Rs 6076

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	Highways & Shipping Govt. of India			The limit may be enhanced to Rs 6000 per month per member. **Threshold may be increased to Rs 7500/.** **Fitment Decision** Decided in favor of Rs 7500/- per month per member.
16	FIPI HPCL-Mittal Energy Limited(HMEL)	Request to lower GST rate from 18% to 5% with respect to transportation of crude and petroleum products via pipeline in line with relief granted to Natural gas and already available to transportation via railway and road.	Under GST rate notification there is no specific category of transportation of crude oil or petroleum products through pipeline. As a result, transportation of crude and petroleum products through cross country pipeline falls under residual category and attracts GST @ 18%. Transportation through pipeline is not only safe and environmental friendly but also ensures energy supplies at optimum cost. 75% to 80% of petroleum products are not subject to GST, input credit for GST on the stock transfer of services is adding to the burden of tax.	In pre-GST era, the service of transportation of goods in pipelines attracted service tax of 15%. The reason for the rate of 15% on transportation through pipes as against 4.5% on transportation services through rail and GTA was that the latter use POL whose ITC was not allowed. Presently, transportation services through rail and GTA is 5% for the same reason. However, recently GST on transportation service in respect of transportation of natural gas through pipelines has been reduced to 12% with ITC and 5% without ITC. This was done for the reason that natural gas is outside GST and ITC of transportation service is therefore not available. This causes stranding of taxes. Total revenue collected during 2016-17 on the service of transportation through pipes was about Rs 752 crore (@15%. We may reduce the GST on transportation of petroleum crude and petroleum products (MS, HSD, ATF) to 5% without ITC and 12% with ITC. **Fitment Decision** Agreed
17	International Financial Services Centre (IFSC) SEZ	To treat IFSC SEZ as a territory outside India in accordance with SEZ Act (Section 53). Various regulations of RBI, IRDAI, SEBI treat financial intermediaries located in IFSC SEZ as persons outside India. Therefore, GST should not apply to services provided by such financial intermediaries.	When such financial services are provided by entities located in offshore areas, there is no GST. As a result, it is proving to be very difficult to attract such service providers from offshore locations to IFSC SEZ. Therefore, the purpose of setting up of IFSC SEZ is defeated.	1. Section 53 (1) of the SEZ Act 2015 reads as under: *"A special economic zone shall, on and from the appointed day, be deemed to be a territory outside the customs territory of India for the purposes of undertaking the authorised operations."* *2.* However, the argument that IFSC SEZ is a territory outside India, is not legally tenable and acceptable in view of the provisions in the Customs Act, and Article XXVI of GATT and also the decision of the Hon'ble Gujarat High Court in the case of Essar Steel Ltd. Vs. Union of India [cited in 2010 (249) E.L.T. 3 (Guj)], as upheld by the Hon'ble Apex Court. 3. Various notifications have been issued by financial regulators like IRDAI, RBI and SEBI which provide that services rendered by units in IFSC SEZ are outside the territory of India. For instance,

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				A. Under notification dated 27th March, 2015 of Department of Financial Services it has been stated that *(i) any placement of reinsurance business by an Indian insurer to an insurer in IFSC SEZ shall be deemed as reinsurance placed outside India.* *(ii) Further, the insurer in IFSC SEZ carrying on the business of reinsurance shall not be deemed to be an Indian reinsurer within the meaning of Section 101A of the Insurance Act 1938*. B. Under notification dated 2nd March, 2015, by RBI on Foreign Exchange Management (International Financial Services Centre) Regulations 2015, *any financial institution or a branch of a financial institution set up in the IFSC and permitted/recognised as such by the Government of India or a Regulatory Authority shall be treated as a person resident outside India* (Regulation 3). *Financial institution has been defined in the said Regulations to include banks, NBFCs, insurance companies, brokerage firms, merchant banks etc. and any other entity as may be specified by GoI or a Financial Regulatory Authority*. C. Under the Guidelines dated 27th March, 2015 issued by SEBI [International Financial Services Centres Guidelines, 2015] intermediary has been defined *to mean and include a stock broker, merchant banker etc. or any other intermediary or any person associated with the securities market.* 3. The deeming provisions issued by IRDAI, RBI and SEBI for various financial intermediaries operating in IFSC SEZ are basically to keep them at par with their counterparts in offshore locations and provide them with policy framework consistent with international policy environment in which such entities operate abroad. 4. In order to promote exports, the SEZ Act accords wide encompassing meaning and a preferential and facilitative treatment to export. Besides physical export out of country, supplies from domestic tariff area to a unit or Developer in SEZ and from one unit in SEZ to another in the SEZ is also regarded as export. Section 7 of the SEZ

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				Act, provides for exemption from the payment of taxes, duties or cess under all enactments specified in the First Schedule to the SEZ Act, on any goods or services exported out of, or imported into, or procured from Domestic Tariff Area by a unit in a Special Economic Zone; or a Developer, subject to such terms, conditions and limitations, as may be prescribed. Section 26 of the SEZ Act provides for exemption, drawbacks and concessions to every Developer and entrepreneur. The Act, therefore, provides for a very wide coverage to the definition of export and also provides for non-levy of duties, taxes, cess etc. on such exports. Unit/ branch, despite being in an IFSC SEZ, has to pay IGST for various financial services provided to customers located outside India. 5. Intention of the legislature is not to export taxes and hence export of goods and services have been zero rated. This is done to make exports globally competitive. 6. Thus, under section 6 of IGST Act, services provided by financial intermediaries located in IFSC SEZ, which have been deemed to be outside India under the various regulations by IRDAI, or RBI or SEBI or any financial regulatory authority, to a person outside India may be exempted. Along with zero rating of supply of services to a SEZ developer or SEZ unit, this would effectively zero rate the supply by financial intermediaries to offshore units. **Fitment Decision** Agreed
18	CCT, West Bengal	Request to clarify whether services provided by the Government or a Local authority or a Government Authority or a Government Entity by way of construction of residential buildings or other buildings on a lease- hold land attracts levy of 12% GST	As per clause (b) of paragraph 5 of the Schedule II read with Sec. 7 of the WBGST/CGST Act, 2017 "construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier" is a	In the case of construction of a complex, building, civil structures built on lease hold land, the underlying undivided share of land is leased by the original lessor (State Govt./Local Authority) or sub-leased by the developer (usually by way of tripartite agreement between the Govt./LA, developer, and buyer) to the flat owner along with the sale of the super structure, the cost of the lease of land is embedded in the supply of the constructed superstructure. In other words, price of the sale of a super structure built on lease hold land includes the portion of the upfront amount paid for the lease of the land attributable to the share of underlying land on which the superstructure has been built.

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		instead of 18% GST.	supply of service and is taxable @ 18%. The explanation provided in notification No. 11/2017-Central Tax(Rate) in case of supply of the aforesaid service, "involving transfer of property in land or undivided share of land, as the case may be, where the value of supply of service and goods portion in such supply shall be equivalent to the total amount charged for such supply less the value of land or undivided share of land, as the case may be, in such supply shall be deemed to be one third of the total amount (i.e, the sum total of - (a) consideration charged for aforesaid service, and (b) <u>amount charged for transfer of land or undivided share of land, as the case may be charged for such supply</u>". The buildings constructed by Government or a Local authority or a Government Authority or a Government Entity are made on lease- hold land. Hence, there is no involvement of any transfer of land. Therefore, the valuation as per explanation to notification 11/2017-CT(R) will not apply and the rate of GST shall be 18% instead of effective rate of 12%	Since the services provided by Govt., UT and local authorities to individuals are exempt, the leasing/sub-leasing of such undivided share of land underlying the flats would not be taxable. However, this would not be the case where the land is leased/sub-leased by a Governmental Authority or Govt. entity in which case tax on such portion of the sale price of the flat which can be attributed to the upfront amount paid for the underlying portion of leased land will be taxable at 18%. This issue is further complicated by the fact that such authorities (Government or a Local authority or a Government Authority or a Government Entity) do not show the price attributable to the upfront amount for lease of the underlying land separately in case of the buildings constructed by Government or a Local authority, which are sold on lease hold basis To resolve the issue, - (a) the said provision for valuation provided in paragraph 2 of notification No. 11/2017-CT(R) may be amended as shown in bold below: "2. In case of supply of service specified in column (3) of the entry at item (i), item (iv) sub-item (b), sub-item (c) and sub-item (d), item (v) sub-item (b), sub-item (c) and sub-item (d), item (vi) sub-item (c) against serial no. 3 of the Table above, involving transfer of property in land or undivided share of land **or lease/sub-lease of land or undivided share of land**, as the case may be, the value of supply of service and goods portion in such supply shall be equivalent to the total amount charged for such supply less the value of **supply of** land or undivided share of land, as the case may be, **including by way of lease/sublease,** and the value of **supply of such** land or undivided share of land, as the case may be, in such supply shall be deemed to be one third of the total amount charged for such supply. Explanation. –For the purposes of paragraph 2, "total amount" means the sum total of, - (a) consideration charged for aforesaid service; and (b) amount charged for transfer of land or undivided share of land, as the case may be." (b) Services by government or local authority to governmental authority or

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				government entity, by way of lease of land, may be exempted. (c) supply of land or undivided share of land by way of lease or sub lease where such supply is a part of composite supply of construction of flats etc specified in column (3) of the entry at item (i), item (iv) sub-item (b), sub-item (c) and sub-item (d), item (v) sub-item (b), sub-item (c) and sub-item (d), item (vi) sub-item (c) against serial no. 3 of the Table in the notification No. 11/2017-CT(R) may be exempted. Discussed with CCT/WB. Alternatively, it is felt that the problem appears to be "transfer of property". Transfer of property is governed by TP Act, 1882. As per the said Act, lease is also one of the ways of effecting transfer of property, which may be clarified. **Fitment Decision:** In principle agreed. The proposal at (a), (b) and (c) are approved.
19	CCT, West Bengal	Services provided to the Government Entity by way of pure services in relation to an activity to perform a function entrusted to a Panchayat or Municipality should also be included in the entry 3 of notification No. 12/2017-CT(R) which reads: "Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local	"Governmental Entity" defined under clause (zfa) of Para. 2 of notification No. 12/2017-CT(R) means "An authority or a board or any other body including a society, trust, corporation, which is: (a) set up by an Act of Parliament or State Legislature; or (b) 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. The definition of Government Entity indicates that it carries out a function entrusted by the Central Government, State government, Union territory or a local authority itself with a rather broader perspective of work compared to a	Discussed the issue with CCT, WB. The issue relates to bodies like Kolkata Metropolitan Development Authority (KMDA), whose normal function is not covered by Article 243W but are procuring cleaning and other municipal functions. Entry 3 of notification No. 12/2017-CT(R) may be amended to exempt pure services provided to Govt. entity. **Fitment Decision** Agreed

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		authority or a Governmental 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"	Governmental authority. But, strangely enough, the facility of exemption of pure services received by a Government Entity, even if such is 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, turn out to be taxable.	
20	CCT, West Bengal	To amend entry 3 of the notification No. 12/2017-CT(R) so as to expand the scope of pure service and to include composite supplies where the principal supply is of service, or to create a separate entry. OR alternatively, to tax the composite supply (where the principal supply is of service) at a lower tax rate of 5%	To carry out the seamless provision of such scheduled services, a Local Authority like Kolkata Municipal Corporation (KMC) has to involve into contracts with third parties for procuring certain supplies from external agencies. Such supplies received generally involve both services as well as materials. e.g., (i) Water supply for domestic, industrial and commercial purposes [Sl. No. 5 of the Twelfth Schedule of Article 243W of the Constitution] a Contract for purification of water given to an external agency involving mainly purification service involving some portion of supply of materials like alum, chlorine, water treatment agents etc. (ii) Public health, sanitation conservancy and solid waste management [Sl. No. 6 of the Twelfth Schedule of Article 243W of the Constitution] a contract for maintenance of Compactor	GST Council decision was to exempt only pure services not involving supply of any goods. Supply of goods was charged to VAT in the pre-GST period. Expanding scope of exemptions shall adversely affect revenue. **Fitment Decision** Pure services exemption [S No 3 of 12/2017-CTR] may be expanded to include composite supply involving predominantly supply of services i.e. upto 25% of supply of goods.

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			machines used for garbage disposal given to an external agency involves both maintenance service as well as supply of damaged spare parts. (iii) Provision of urban amenities and facilities such as parks, gardens, playgrounds [Sl. No. 12 of the Twelfth Schedule of Article 243W of the Constitution] a contract for maintenance of parks/gardens given to an external agency involves both maintenance service as well as supply of damaged items like decorative litter bins, display boards etc.	
21	DGFT (Minutes of the Meeting of Committee on Export held on 27.11.2017) South Gujarat Yarn Dealers Association	It is proposed that there should be a standard rate of GST for all kinds of job works across sectors. 100% Pure job work units registered in GST should be exempted from GST (and ITC).		The rate of job work services in entire textile sector has been reduced to 5%. All products falling under chapter 71 in the first schedule of CTA has been reduced to 5%. Printing of books and all goods falling under chapter 48, 49 which attract GST@5% has been reduced to 5%. Job work services for manufacture of all food and food products falling under chapter 1 to 22 and products under Chapter 23 except cat and dog food, also attracts GST at the reduced rate of 5%. Manufacture of clay bricks falling under tariff item 69010010 and manufacture of handicrafts goods attract GST of 5%. The above reduction in job work rate has been effected only where the final goods attract a rate lower than the standard rate so as to avoid accumulation of ITC. However, notifying a standard reduced rate for the supply of all job work services will result in distortion in the ITC chain and affect revenue and cash flow of the Govt. where the supply of goods is at standard or higher rate and may result in refunds. The basic principle of GST is to tax supply of goods and services at each stage of value addition and to allow ITC of tax paid at the preceding stage for discharge of tax at the succeeding stage. Advantages of this system are visibility of a transaction trail and better compliance as well as better cash flow of revenues for the Govt. Mere fact that ITC is available of tax paid on job work services

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				is not a sufficient ground for not taxing them or taxing them at a lower rate. If this criterion is adopted, then none of the inputs and input services used in making a taxable supply should be taxed. Moreover, job work services by a person having turnover below the threshold of Rs. 20 lakh per annum is not taxable. Thus small job workers are already saved from the compliance burden of payment of GST on their services. **Fitment Decision** Job work services rate for manufacture of leather goods (Chapter 42) and footwear (Chapter 64) may be reduced to 5%.
22	1) CREDAI, 2) Bhavik Thakker	To clarify time of supply in case of transfer of development rights by land owner to a developer (Shri Bhavik Thakker) To defer the time of supply in case of transfer of development rights under section 13(5) of CGST Act, 2017 to 3 years after the date of receipt of payment or transfer of the units.	Under GST Law, in a case where the supply of development rights is by a land owner for construction services in return, the time of supply becomes the time when agreement is entered into between the land owner and the developer. It shall lead to undue financial hardship on the supplier of the development rights i.e. land owner as well construction service provider i.e. developer/builder, in addition to the fact the valuation of the said supplies would not be available at that point.	In GST Law, time of supply is earliest of the following: - date of issue of invoice, if invoice is issued within the prescribed time period or date of receipt of payment, whichever is earlier If invoice is not issued within the prescribed time, date of provision of service or date of receipt of payment, whichever is earlier, or date on which the recipient of service shows receipt of services in his books of accounts. In view of time of supply provisions, the point of taxation in case of transfer of development rights would be the date when the agreement for transfer of development rights is signed or payment is received, whichever is earlier. (Normally, invoice is not issued in case of transfer of development rights). There is no doubt regarding time of supply where consideration for development rights is paid in the form of money. However, where the consideration is to be paid by the builder in the form of constructed property such as flats, on the date of execution of the agreement, the value of supply (to be determined on the basis of value of flats booked nearest to transfer of development rights as per CBEC circular dated 10th February, 2012) would not be available, making it impossible for the land owner to pay tax on the services provided by him by way of transfer of development rights at the time of supply of service i.e. execution of the agreement. As regards the builder, he is liable to pay tax on the service of construction provided by him to the land owner. He has received payment for the same in advance in the form

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				of transfer of development rights on the date of execution of agreement. Therefore, the point of taxation for the service of construction provided by builder/developer to the land owner, again, is the date of execution of agreement for transfer of development rights. However, the value of the construction service is not available on such date. ITC of tax paid by the builder on service of development rights procured by them from the land owner is available for discharge of tax liability on construction service provided by them to the land owner and other buyers. It is proposed that we may notify under Section 148 of the CGST Act, the following classes of registered persons, - (a) registered person who supply development rights to a developer/builder against consideration in the form of construction service, and (b) registered person who supply construction service to landowner against consideration in the form of transfer of development rights, as the persons in whose case the liability to pay GST on supply of the services in question shall arise at the time when the possession or right in the property of the said flats are transferred to the land owner by entering into a conveyance deed or similar instrument (e.g. allotment letter). **Fitment Decision** Agreed and have to accommodate the partial cash payment and part by construction service. No deferment in point of tax in respect of cash component, where payment is partly by cash and part by construction service.
23	Reference from PMO based on feedback received on issues and problems faced in GST.	To address taxability and GST exemption on admission fee charged by educational institutions and entrance fee charged for appearing in entrance examinations for getting admission into	With a view to promote education, achieve higher gross enrolment ratio and enhance and upgrade education and skill levels of the students GST exemption may be provided for conduct of entrance examination.	1. Services provided by an educational institution to its students are exempt [Notification No. 12/2017-Central Tax (Rate) S.No. 66(a)]. Educational institution has been defined to mean an institution providing services by way of - *Preschool and school education upto higher secondary school or equivalent;* *Education as part of curriculum for obtaining a qualification recognized by any law;* *Education as part of an approved vocational education course.* The admission fee charged by the educational institutions as referred above

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		educational institutions.		from its students is exempt from GST. However, the entrance fee charged for appearing in competitive entrance examinations for admission to educational institution is leviable to GST. This anomaly/ discrepancy exist as no specific exemption has been provided to the services provided for conducting the competitive entrance examinations for admission to these educational institutions. 2. These educational institutions may either conduct the entrance examination themselves or may outsource it to some other agency which may be government or non-government. The educational institution, if a government department themselves and conducts entrance examinations themselves or through another government department or government entity, the services would be exempt under Sl. No. 6 of exemption notification No. 12/2017-CT(R). However, if they engage the service of a private entity, the GST would be payable. In case, the educational institution is an autonomous body, the entrance examinations conducted by the institution either themselves or through any other person would be taxable under GST. 3. It may be noted that services relating to admission to, or conduct of examination by, educational institutions upto higher secondary level, are exempt from GST. The request is to extend this exemption to all educational institutions defined in para 1 above [definition 2 (y) of notification No 12/2017-CTR.]. We may extend this to all educational institutions. **Fitment Decision:** Agreed to exempt services relating to admission to, or conduct of examination provided to all educational institutions, as defined in the notification and to also exempt services by educational institution (as defined above) by way of conduct of entrance examination against consideration in the form of entrance fee.
24	Kotak Mahindra Bank Ltd.	Enhancement of Insurance Limit from Rs 50,000 to Rs 2,00,000 for GST exemption on Micro Insurance Products	As per Finance Act, 2014, all micro Life Insurance products approved by IRDAI with sum assured upto Rs 50,000 were exempt from Service Tax and Cess. Similar exemption has been	Sl. No. 36 of exemption Notification No. 12/2017-C.T.(Rate) exempts services of life insurance business provided under life micro insurance product approved by IRDAI upto maximum cover amount of Rs. 50,000. In pre-GST regime, identical exemption existed for life micro insurance products under Sl. No. 26A of mega

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			extended in GST to ensure higher penetration among Lower Income Group. In the recent past when GoI launched the Pradhan Mantri Jeevan Jyoti Bima Yojana (with a sum assured of Rs 2 Lakhs), GST exemption was given to customers purchasing this policy. In 2015, IRDAI has issued revised regulation pertaining to Micro Insurance under which the maximum sum assured has been increased to Rs 2,00,000 however the GST exemption limit continues to be Rs 50,000	exemption notification No. 25/2012-S.T. inserted vide notification No. 6/2014-ST dated 11.07.2014. In pre-GST notification, the exemption limit was based on maximum coverage amount of Rs. 50,000 specified under Schedule–II of regulation 2(e) of IRDA (Micro Insurance) Regulation, 2005. Said regulation has been rescinded and superseded by IRDA (Micro Insurance) Regulation, 2015 issued on 13th March, 2015. In new regulation, under Schedule-II, the sum assured under the insurance product offering life or pension or health benefit has been revised to a maximum amount of Rs. 2 lac. Since the objective of these regulations and the exemption was to benefit the economically weaker sections of the society, in line with the revision of limit of insurance coverage from Rs. 50,000 to Rs. 2 lac, clause (c) of existing entry no. 36 of exemption notification No. 12/2017-CT(R) may be amended to enhance the existing maximum amount of cover from Rs. 50,000 to Rs. 2 lac. **Fitment Decision** Agreed
25	1. Secretary, Department of Financial Services, Ministry of Finance 2. Reference received from General Insurance Council.	PM Fasal Bima Yojana has been exempted from GST to reduce premium which is paid by government. Reinsurance of this scheme should also be exempted from GST as 90% of the scheme is reinsured. Non-provision of GST negates the exemption given to insurance.	1. The PMFBY scheme is part of the crop insurance scheme exempted from service tax as per notification no. 25/2012 dated 20.6.2012. Under the service tax law, the taxable services of general insurance business included reinsurance as per the definition of taxable services under section 65(105) (d) of the Finance Act, 1994. 2. Primary insurance companies take reinsurance protection as a support to ensure business continuity and financial strength to meet the policy holder liabilities. In respect of Crop insurance business, in view of the highly volatile nature of the crop insurance portfolio, the Reinsurance support ranges between	In pre-GST regime, [Sr.no. 26 of mega exemption notification No. 12/2017-CT(R) refers], Rashtriya Krishi Bima Yojana was exempt from payment of service tax. In GST, crop Insurance under PMFBY scheme is exempt from GST [Sr.No. 35 of notification No. 12/2017-CT(R)]. 2. The argument that taxable service of general insurance business also included reinsurance as per definition of taxable services under Clause (d) of section 65 (105) of Finance Act, 1994 was not valid in the positive list period. This is because under the said clause, taxable service meant any *service provided or agreed to be provided to a policy holder or any person, by an insurer, including re-insurer carrying on general insurance business in relation to general insurance business*. While insurance service is provided by an insurance company to a policy holder, service of re-insurance is provided by re-insurance company to the insurance company (*any person*). Therefore, <u>re-insurance service is an input service to the insurance company</u>. So, it is not correct to say that insurance service included re-insurance service in the positive list approach. In negative list period also, the re-

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			80-90% of the premium of PMFBY. 3. Without reinsurance support, the direct insurance companies' financial strength and balance sheet would stand exposed resulting in severe stress on the insurance companies and restrict or curtail the ability of insurers to continue to offer such insurance protection to farmers.	insurance business was not exempt and Service Tax was payable. Re-insurance for any segment/category of insurance business is not exempt in GST also (and therefore reversal of ITC is required which is resented by insurance companies). 3. The Pradhan Mantri Fasal Bima Yojna was launched on 18th February 2016. 21 states implemented the scheme in Kharif 2016 whereas 23 states and 2 UTs have implemented the scheme in Rabi 2016-17. Approximately 3.7 Crore farmers have been insured in the Kharif 2016 for 3.7 crore ha of land at premium of Rs 16,212 crore for a sum insured of Rs 1,28,568.94 crore as per figures available on 31.03.2017. 4. PMFBY provides a comprehensive insurance cover against failure of the crop thus helping in stabilizing the income of the farmers. The Scheme covers all Food & Oilseeds crops and Annual Commercial/Horticultural Crops for which past yield data is available and for which requisite number of Crop Cutting Experiments (CCEs) are conducted being under General Crop Estimation Survey (GCES). The scheme is implemented by empaneled general insurance companies. Selection of Implementing Agency (IA) is done by the concerned State Government through bidding. The scheme is compulsory for loanee farmers availing Crop Loan /KCC account for notified crops and voluntary for other others. The scheme is being administered by Ministry of Agriculture. 5. The scheme is offering enhanced insurance protection, against natural and localised calamities, mid-season adversities and post-harvest losses. It has been represented that due to highly volatile nature of the crop insurance business, the Reinsurance support ranges from 80 to 90% of the premium of PMFBY. 6. Reinsurance is mandatorily required to provide financial strength to the insurance companies to meet any liability. As per IRDAI notification dated 13.7.2016, there is no upper limit on the cession in sum assured for crop insurance. The liability of the Insurance companies in case of catastrophic losses computed at the National level for an agricultural crop season, is upto 350% of total premium collected (farmer share plus Govt. subsidy) or 35% of total Sum Insured

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				(SI), of all the Insurance Companies combined, whichever is higher. The losses at the National level in a crop season beyond this ceiling shall be met by equal contribution (i.e. on 50:50 basis) from the Central Government and the concerned State Governments. 7. The objective of the government is to provide insurance coverage and financial support to the farmers in the event of failure of any of the notified crop as a result of natural calamities, pests & diseases; to stabilise the income of farmers to ensure their continuance in farming, to encourage farmers to adopt innovative and modern agricultural practices and ensure flow of credit to the agriculture sector. As the ITC of GST paid on re-insurance is not available with the insurance company on account of the exemption on the PMFBY, the burden of GST on re-insurance will eventually be borne by governments (Central and State), Fitment Committee may recommend to exempt it. [Exemptions are a cost in a multi-stage tax as GST]. It may be noted that PMFBY has been notified under the DBT scheme of the government. However, exempting re-insurance service relating to PMFBY, would make the scheme very attractive to insurance companies and would certainly meet the social objectives of the government. (As per para 5 above, the loss of the insurer beyond the ceiling is already being met by the governments). We may exempt re-insurance of all those insurance products which are exempt under GST vide S.No. 35 and 36 of notification No. 12/2017-CT(Rate). **Insurance schemes exempted under S.No. 35 are listed below:** (a) Hut Insurance Scheme; (b) Cattle Insurance under Swarnajayanti Gram Swarozgar Yojna (earlier known as Integrated Rural Development Programme); (c) Scheme for Insurance of Tribals; (d) Janata Personal Accident Policy and Gramin Accident Policy; (e) Group Personal Accident Policy for Self-Employed Women; (f) Agricultural Pumpset and Failed Well Insurance; (g) premia collected on export credit insurance;

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				(h) Restructured Weather Based Crop Insurance Scheme (RWCIS), approved by the Government of India and implemented by the Ministry of Agriculture; (i) Jan Arogya Bima Policy; (j) Pradhan Mantri Fasal Bima Yojana (PMFBY); (k) Pilot Scheme on Seed Crop Insurance; (l) Central Sector Scheme on Cattle Insurance; (m) Universal Health Insurance Scheme; (n) Rashtriya Swasthya Bima Yojana; (o) Coconut Palm Insurance Scheme; (p) Pradhan Mantri Suraksha Bima Yojna; (q) Niramaya Health Insurance Scheme implemented by the Trust constituted under the provisions of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999). **Insurance schemes exempted under S.No. 36 are listed below:** (a) Janashree Bima Yojana; (b) Aam Aadmi Bima Yojana; (c) Life micro-insurance product as approved by the Insurance Regulatory and Development Authority, having maximum amount of cover of fifty thousand rupees; (d) Varishtha Pension Bima Yojana; (e) Pradhan Mantri Jeevan Jyoti Bima Yojana; (f) Pradhan Mantri Jan Dhan Yogana; (g) Pradhan Mantri Vaya Vandan Yojana. **Fitment Decision** To exempt reinsurance services. [It is expected that the premium amount charged from government/insured in respect of future insurance services is reduced.]
26	Director, Lok Sabha Secretariat	Request to exempt the supply of goods and services by Lok Sabha and Rajya Sabha Secretariats.	Article 12 of the Constitution says that "the State" includes the Government and Parliament of India. Lok Sabha and the Rajya Sabha Secretariat have been constitutionally empowered under Article 98 of the Constitution to discharge their duties. They are fully funded to discharge their functions through Consolidated Fund of India and the revenue, if any, are	1. Supply of services by Government to a person other than business entity (except supply of a few specified services including transportation of goods and passengers), is exempt. Therefore, service by way of photocopying/typing, admission to parliament museum, etc. are exempt from levy of GST. However, services provided by way of transportation of MPs will be taxable. 2. As far as the supply of services to business entities (PSUs) is concerned, liability to pay GST on the same is on the business entity under reverse charge. Therefore, GST on supply of services such as by way of selling of time space for campaigns/ advertisements

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			deposited in government account under the Head of account "0070-Miscellaneous". The source of revenue are: (i) Supply of DVDs/CDs containing recordings of proceedings to MPs and others [It is supplied free of cost to President, VP, PM, Dy. Chairman RS, Dy. Chairman LS] (ii) Charges of photocopy/typing (iii) Ferry charges from MPs (iv) Sale of Souvenirs/publications on no profit basis [the GST charged by the supplier is included in the cost of the souvenir] (v) Entry ticket to parliament museum [school children are not charged entry fee] (vi) Services provided by LSTV Channel by way of telecasting awareness and publicity campaigns of Ministries/Departments and PSUs. Previously Service Tax was being charged and the same was being deposited in the Government account, which practically entailed transfer of government money from one head to another.	of business entities on LSTV and RSTV shall be payable by the business entities. Services provided by Government and local authorities to business entities were taxable under Service Tax also under RCM. 3. Service provided by one Government or local authority to another Government or local authority or its departments are exempt. Therefore, services provided by LSTV RSTV by way of selling of time space for campaigns of other Department/Ministries will be exempt. 4. Sale of souvenirs/publications are made to MPs and visitors to Parliament. They are made on No Profit basis. **GST charged on these goods is included in the cost of the souvenir**. [Though the correct practice would be to take ITC and levy GST on the outward supply.] [In view of the above, RS and LS Secretariats are not required to take registration under GST except for the service of transportation provided to MPs and sale of souvenirs/publications/supply of DVDs/CDs. The service provided by RS and LS Sectts. by way of transportation of passengers may be exempted. It has been ascertained that revenue from this service to the RS and LS Sectts is less than Rs. 1 lakh per annum. However, overall revenue of the Secretariats is more than the threshold for registration.] **Fitment Decision** Approved to exempt supply of service by Parliament and State Legislatures by way of transportation service by road of Hon'ble MPs/MLAs/ MLCs and sale of souvenirs/ publications to visitors and Hon'ble MPs/MLAs/MLCs.
27	Hon'ble Minister Finance & Planning, Forests Govt. of Maharashtra	To increase the exemption figure in clause No. 80 of GST from Rs.250 to 500 for all the theatrical performances like Music, Dance, Drama, Orchestra, Folk or Classical Arts and all other such activities in	To promote Indian Culture	The threshold was decided after due deliberation in the Fitment Committee. The issue may not be reopened. Pertains to S No 81 of relevant notification. Threshold exemption may be increased from Rs 250 to Rs 500. **Fitment Decision** Agreed and also extend threshold exemption to planetarium upto Rs 500/- per person.

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		any Indian language in theatre.		
28	1) Ministry of Commerce & Industry forwarding the representation of: the Indian Chamber of Commerce & Industry and Council for Leather Exports (CLE) 2) Bangalore Apartments Federation 3) Chairman, Council for Leather Exports (Ministry of Commerce & Industry Government of India) 4) MLA, Adampur Punjab	1) Request for GST exemption on Common Effluent Treatment Plants (CETPs) for the leather industry 2) Exemption under GST for services provided by way of erection, construction, maintenance, repair, alteration, renovation or restoration of pollution control or effluent treatment plant may be continued	1) 18% GST will significantly increase the financial burden on the tanning industry which will affect the value-added products segment as well. Further, there is only minimal input tax credit for CETPS. 2) Implementation & maintenance of sewage treatment plants entails large investments as well as running expenses apart from costs incurred in engaging right technical experts. An additional levy of GST will be burdensome for apartments & establishments that are looking to contribute to the environment and will act as a disincentive to implement the same.	1) CETP services are B2B services and GST paid on CETP services would be available to recipients as ITC and thus do not represent additional cost. On the other hand, exempting CETPs from GST will lead to blocking of ITC and consequent increase in their cost. It was also observed that Bulk Drug Manufacturers Association had requested for withdrawal of exemption from service tax on CETP services as the exemption blocks ITC. The issue was discussed in Fitment Committee and not accepted. **GST on CETP may be considered for reduction to 12%, if agreed by Fitment Committee.** 2) These attract concessional GST of 12%. **Fitment Decision:** Agreed 12% on common effluent treatment plants.
29	Agri warehousing Industry Representatives through Secretary, Food & Public Distribution and through Joint Commissioner, GST Council Secretariat	Clarification and exemption may be provided for Agri warehousing activities as well as its related input components like warehouse space rent, security service, fumigation/ preservation etc. used for storage and warehousing of Agriculture produce.	Storage and warehousing services is composition of warehouse + security + Fumigation + Maintenance etc. The actual benefit of keeping it in exempt list to the ultimate users like Farmers, processors, consumers etc. is possible only if all input components are exempted.	Storage and warehousing of agricultural produce has been exempted and not zero rated. Zero rating is done only for exports. Fumigation of agricultural produce in warehouse may be considered for exemption under S No 54 of not 12/2017-CTR. **Fitment Decision:** Agreed. Services by way of fumigation in a warehouse.
30	Govt. of India Ministry of Human Resource Development,	Grant exemption under GST for the institutes which are registered as charitable trust	Hostel accommodation provided by Trusts to students are not covered within the definition of Charitable Activities and thus, not covered under the	Hostel or any other accommodation upto Rs 1000 per day per room is already exempt. No merit. It may be clarified to him that exemption of Rs 1000 per day is available.

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	Department of Higher Education CDN Section Dy. Commissioner, Gujarat, forwarding the request of Shri Saurashtra Patel Kelavani Mandal, Ahmedabad Greater Rajkot Chamber of Commerce and Industries	like in education, hosteling which provide lodging and boarding service to the weaker sections of the society.	exemption notification no. 9/2017 (R). Many Trusts provide hostel to students pursuing education in Institutions that do not have hostels or are at unaffordable prices. Hostel provided by Educational Institution even at exorbitant charges would be exempt but provided by Charitable Trusts at concessional prices to needy students is taxable @ 18%. It is unreasonable to tax hostel accommodation merely because the student seeks educational and hostel accommodation services from different entities.	**Fitment Decision:** Agreed
31	ONGC, Dy. Commissioner, Gujarat	1) Temporary Imports of equipment (re-exported after exploration/drilling project) required for Petroleum Operation should be exempted from IGST 2) Reduce GST on rigs service to 5% and other services to 12%. Alternately, the IGST on goods should be exempted specially for offshore. 3) Movement of capital goods from one State to another or from onshore to offshore and vice versa for conducting petroleum operation should be exempted	1. Pre-GST – Sl. No. 356A of 12/2012 – Cus allowed import of equipment for petroleum operations without payment of any Customs Duty (BCD and CVD Nil). This was for all imports - on lease or otherwise. Imports were regulated by certificate from Director General hydrocarbon. Post GST – Notification no. 77/2017 provides exemption of IGST on import of rigs under lease subject to prescribed conditions. This should be extended to imports of all equipment required for petroleum operations (as specified in List 33 of notification 50/2017 relevant to Sl. No 404) such as survey vessels, subsea equipments, logging equipments etc. This is committed in the NELP policy and PSC. As per global / India industry practice, most of these equipments are imported by service providers	1. Vide notification 77/2017-Customs dated 13.10.2017 the IGST rate on "Rigs and ancillary items imported for oil or gas exploration and production taken on lease by the importer for use after import." has been exempted. Vide notification No. 72/2017-Customs, the machinery, equipment or tools, falling under chapters 84, 85, 90 or any other chapter of the First schedule of the Customs Tariff Act, 1975, being imported on lease for execution of a contract and to be re-exported within a period of 18 months shall be exempted from whole of IGST and from so much of Customs duty as prescribed in column (3) of the notification. Furthermore, the service providers such as (Schlumberger, Baker Hughes) are importing the equipment on lease for performing the operations and providing end service to the explorer (ONGC). So, the service providers (Schlumberger, Baker Hughes) can use the credit to offset the output tax liability, ITC is a pass through. 2. The mining services attract 18% and the support services to mining also attract GST of 18%. Creating a specific rate for oil exploration does not hold merit, as similar treatment has been made to entire mining services. As for the reason that the output goods are exempt from levy of GST hence leads to cascading of taxes, it is pertinent to mention that there was cascading of taxes

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		based on an Essentiality Certificate from the Director General of Hydrocarbons.	(Schlumberger, Baker Hughes) and not imported on lease basis by the explorer (ONGC). This will be revenue neutral as GST will be paid on full rates on supply of services by the service provider. 2. Pre-GST –taxes were ~ 8%. Post GST – Taxes have increased to 12.5% mainly due to increase in the rate from 0% to 5%. The reduction in tax rates would make overall taxes at par with pre - GST 3. Post GST – Interstate movement of goods or from onshore to offshore is treated as taxable supply which wasn't the case Pre-GST.	earlier under ST and it is cascading under GST. The issue will be resolved after the review by GSTC to bring petroleum products under GST. 3. In terms of notification No. 03/2017-IGST (R) dated 28th June, 2017 such transfer would attract 5% of GST on submission of EC from DGH. A view may be taken with respect to request to have 5% GST on drilling services provided by rig owning companies and 12% on other services provided to E&P. There could be a case for reducing GST rate on mining, exploration services of crude oil and natural gas to 5%/12%. Movement of capital goods from one State to another or from offshore to onshore or vice-versa is not a "supply" and thus does not attract GST, which may be clarified by way of Circular (TRU I Circular). **Fitment Decision:** (Revenue collection was of the order of about Rs 5000 crore in 2016-17) Agreed for reducing GST to 12% in respect of mining or exploration services of petroleum crude and natural gas and for drilling services in respect of the said goods.
32	Consumer Disputes Redressal Commission, Dy. Commissioner, Gujarat	Exempt following services from GST- 1) A customer pays fees while registering complaints to Consumers Disputes Redressal Commission office and its subordinate offices. These fees are credited into State Customer Welfare Fund's bank account 2) Consumers Disputes Redressal Commission		Services by any Court or Tribunal established under any law is neither a supply of goods nor services. In the context of service tax, it was clarified by CBEC vide Circular No. 192/02/2016-Service Tax dated 13-4-2016 that fines and penalty charged by government and local authority for violation of statutes, bye-laws, rules and regulations are not leviable to service tax. Consumer Disputes Redressal Commissions (National/ State/ District) may not be tribunals literally as they may not have been set up directly under Article 323B of the Constitution. However, they are clothed with the characteristics of a tribunal on account of the following: - (1) Statement of objects and reasons as mentioned in the Consumer Protection Bill stated that one of its objects was to provide speedy and simple redressal to consumer disputes, for which a quasi-judicial machinery is sought to be set up at District, State and Central levels. (2) The President of the District/ State/National Disputes Redressal Commissions is a person who has been is qualified to be a District Judge, High

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		office and president of its subordinate offices charges penalty in cash when it is required. 3) When a customer files an appeal to Consumers Disputes Redressal Commission against order of district forum, amount an equal to 50% or Rs. 25000/- which of the two is less, is charged by Commission		Court Judge and Supreme Court Judge respectively. (3) These Commissions have been vested with the powers of a civil court under CPC for issuing summons, enforcing attendance of defendants/witnesses, reception of evidence, discovery/production of documents, examination of witnesses, etc. (4) Every proceeding in these Commissions is deemed to be judicial proceedings as per sections 193/228 of IPC. (5) The Commissions have been deemed to be a civil court under CrPC. (6) Appeals against District Commissions lie to State Commission while appeals against the State Commissions lie to the National Commission. Appeals against National Commission lie to the Supreme Court. In view of the aforesaid, it may be clarified that fee paid by litigants in the Consumer Disputes Commissions are not leviable to GST. It may also be clarified that any penalty imposed by these Commissions will not attract GST. **Fitment Decision:** **May be clarified as above.**
33	Symbiosis Society, Shri. Manu Bharadwaj through, Ministry for HRD, Govt. of India,	1) GST and its implications on Libraries in Institutes of Higher Learning 2) Exempting GST on services used by Universities.	1) Higher learning institutions buy periodicals from various Indian and foreign publishers. Print Journals with HSN 4902/ 4901 fall under 0% GST and online Journals with SAC 998431 fall under 18% GST. In case of mixed supply, (Print + Online), 18% GST is levied, irrespective of the fact whether Online is free or not. Colleges subscribe the journal for its content which helps in upgradation of knowledge and not for the format per se. Because of 18% GST on Online journals and periodicals, the overall costs will increase by a minimum of 18%. All degree awarding institutions are exempt from GST and hence	1) GST on mixed supply. In case of different billing for online and offline journals, then separately GST shall be collected. **Online educational journals/periodicals subscribed by educational institutions who provide degree recognized by any law, may be exempted from GST.** 2) Services like transport, canteen, security or cleaning or housekeeping etc. provided by private players to educational institutions were subject to service tax in pre-GST era and status quo has been continued under GST regime. This is a request for new exemption, may not be considered. **Fitment Decision:** **Agreed**

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			cannot levy GST to students. Therefore, there is an additional burden which, in case of Govt. institutions will lead to increased budgetary allocation (this becomes revenue neutral) and in case of Private institutions, will lead to curtailing purchases of Cutting edge journals or an increase in Fees for the students. 2) University is required to pay GST on Rent, Legal Fees, Transportation of Students, Faculty and Staff, Cleaning & Sanitation Expenses-Housekeeping expenses, Food, Tea Refreshment Expenses, Honorarium paid to Visiting Faculty, Hotel & Guest House Expenses, IT Expenses Licenses for Administration, Registration Charges, Security Service Charges, Test Centre Charges etc. which increase the cost of education of the students.	
34	Hon'ble Chief Minister, Rajasthan Commissioner State Tax, Rajasthan, Jaipur, (Commercial Taxes Department) Govt. of Rajasthan Finance (Tax) Department Hon'ble Minister of State (IC) for Tourism, GoI	1) Peak rate of 28% for hotels including 5 Star & above rated hotels, will be too high in relation to the rates prevailing in international circuit of tourism. 28% may be reduced to 18% 2) Clarification sought on whether the services of elephant or camel ride, rickshaw ride and boat ride can	1) 28% GST for Hotels is very high as compared to rates prevailing in other countries of tourism importance. 2) Input services of tourism such as services of excursion agents, arrangement of folk dance performances, elephant, camel, horse and boat rides are provided by unregistered persons. Given the fact that Tour Operators are usually registered, the GST on such input services will have to be borne by them on reverse charge basis. However, since they would be opting to pay tax at the rate of 5%, they will	1) The all-India weighted average of the headline rate and embedded taxes in the pre-GST regime was almost to the tune of 30% (including luxury tax). So, no action. 2) Elephant/ camel joy rides cannot be classified as transportation services. These attract GST @ 18%. Threshold exemption is available to small service providers. Proposal has been separately put up for allowing credit of input services in the same line of business at GST rate of 5% and for all other input services at GST rate of 12%. The above proposal has been sent back to the Fitment Committee for reconsideration by GSTC in its 23rd meeting at Guwahati. It may be clarified that Elephant/ camel joy rides cannot be classified as transportation services. These attract GST @ 18%. Threshold exemption is available to small services providers. **Fitment Decision:** **Agreed**

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		be classified under mode of transportation to reach point to point location. Thereby, the rate of tax on such services will be 5% under the heading 9964 (passenger transport service) or 28% treating as joy rides under the heading 9996 (recreational, cultural and sporting services)? It is suggested that the rate of tax on joyrides and other input services may be reduced to 12% to lower the burden on tour operators. Alternatively, the tax rate may be retained at 5% but with the benefit of allowing ITC for the payment thereof.	be unable to claim the input tax credit. As a result, such tax paid on reverse charge basis will become a part of the cost of their service and their profit margins would get severely affected. 3) Monuments in our country showcase the cultural heritage and visit to monuments form a part of tourists' itinerary.	
35	Director, Manlift India Pvt. Ltd. Also representing Aerial Platform Association of India	Clarification sought on GST rate of rental services of self-Propelled Access Equipment (Boom. Scissors/ Telehandlers) – The equipment is imported at GST rate of 28% and leased further in India where operator is supplied by		It may be clarified that leasing or rental services, with or without operator, for any purpose shall be taxed at the same rate of central tax as on supply of like goods involving transfer of title in goods. Thus, the GST rate for the rental services in the given case shall be 28% [entry 17(vii), notification No. 11/2017-CT(R) dated 28.6.17 as amended]. May be clarified **Fitment Decision:** **Agreed**

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		the leasing company, diesel for working of machine is supplied by customer and transportation including loading and unloading is also paid by the customer.		
36	CCT Maharashtra	Clarifications sought on: 1) Senior doctors/ consultants/ technicians that a hospital may hire independently, without any contract of such persons with the patient; and pay them consultancy charges, without there being any employer-employee relationship - Will such charges be also exempt from GST? Will revenue take a stand that they are providing services to hospitals and not to patients and hence they must pay GST? 2) Retention money: Hospitals charge the patients Rs.10000/- and pay to the consultants/ technicians only Rs. 7500/- and keep the balance	There are concerns that the exemption is only on outward service i.e. when the clinical establishment; authorized medical practitioners and para-medicos charge the patient. There is no exemption on procurement of inputs, capital goods, rentals etc. or input service. Regarding visiting doctors, these doctors and technicians provide health care services to the patients though via the hospitals they are made to visit. Hence exemption must be made available. GST may not be attracted if it could be established that the hospitals are not deducting any money from the fixed fee payable to such consultants/technicians- of course they may charge more to the patient for ancillary services. For all exempt services, the service providers get no ITC for inputs; input services and capital goods and rates of all of such services or goods have increased considerably.	1& 2) Health care services by a clinical establishment, an authorised medical practitioner or para-medics are exempt. Services provided by senior doctors/consultants/technicians hired by the hospitals, whether employees or not are healthcare services. There is no question of charging GST on services provided by them to hospitals. Hospitals also provide healthcare services. The entire amount charged by them from the patients including the retention money and the fee/payments made to the doctors etc., is towards the healthcare services provided by the hospitals to the patients and is exempt. 3) Clarification may be issued that food supplied to the in-patients as advised by the doctor/nutritionists is a part of composite supply of healthcare and not separately taxable. Other supplies of food by a hospital to patients (not admitted) or their attendants or visitors would be taxable. We may clarify as per comments given. **Fitment Decision:** Agreed

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		for providing ancillary services which include nursing care, infrastructure facilities, paramedic care, emergency mishaps, checking of temperature, weight, blood pressure etc. Will GST be applicable on the same? 3) Food supplied to the patients: health care services provided by the clinical establishments will include food supplies to the patients; but such food supplies may be prepared by the canteens run by the hospitals or may be outsourced by the Hospitals from outdoor caterers. When outsourced there should be no ambiguity that the suppliers shall charge tax as per Section 9 read with Section 15 of the CGST Act and hospital will get no ITC. If hospitals have their own canteens and prepare their own food; then no ITC on inputs		

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		including capital goods and in turn if they supply food to the doctors and their staff; such supplies, even when not charged, may be subjected to GST.		
37 (a)	Reliance Jio InfoComm Limited	Clarification is required on whether giving the right of way or right of use is a service amounting to renting of immovable property. If yes, this may be taxed under forward charge. In cases where right of way is mandated by law, it may not be considered to be in course of furtherance of business since it is not given by farmers on their own volition but under a mandate prescribed by law. So, GST should not be leviable on the same.	For laying optical fibres/ conduits/ pipelines, right of way or right of use needs to be acquired by corporates from landowners (mainly farmers) or Govt. / local authorities. Govt. sometimes issues notifications mandating landowners to provide right of way and fixes compensation to be given for the same. The compensation is paid by corporate to a competent authority appointed by the Govt. who in turns pays the land owner. Clarification regarding taxability of this will help in avoiding litigations as most Govt. / local bodies refuse to discharge tax on grant of such right of use/ way.	It may be clarified that these are supplies against consideration in the course of business. It is immaterial whether compensation is fixed by the government or not. Admission of persons to any property against consideration has been specifically declared as business under section 2(17)(f) of CGST Act. It is a grant of right of way to a business entity by Govt. and the tax is payable under reverse charge mechanism vide entry 5 of notification No. 13/2017-CT(R). Provision of right of way provided by government or local authority or farmer or individual person, to business entity, amounting to renting of immovable property, may be put under reverse charge. **Fitment Decision:** West Bengal also raised the issue of renting of immovable property by local authority to registered person and that the same should be put under reverse charge in order to obviate the local authorities from compliance burden. This was agreed to.
37 (b)	CCT, West Bengal	Request to levy GST on services provided by the Central Government, State Government, Union territory or a local authority by way of renting of immovable property other	Government Departments and Local Authorities have immovable properties like community halls, guest houses etc. which are provided to the public on rent for various purposes. But, in terms of Sl. Nos. 6 & 8 of the exemption Notification No. 1136-F.T. read with Notification No.12/2017 – Central Tax (Rate), both dated	Ideally all supplies by the Government should be charged on forward charge basis. This will ensure collection of due revenue on such supplies, obviating any scope of evasion of tax on supplies by Govt. There is no doubt that Governments would be far more compliant taxpayers than a distributor/agent This will also reduce disputes and litigation. Though, the compliance burden on Government departments would increase somewhat, it will promote ease of doing business. Govt. has qualified personnel who deduct TDS of

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		than the exemption conditions as per Sl. Nos. 6, 7, 8 & 9 of the Notification No. 1136-F.T. read with Notification No.12/2017 – Central Tax (Rate), both dated 28/06/2017, under reverse charge mechanism under the provisions of sub-section (3) of section 9 of the CGST/SGST Acts, 2017.	28/06/2017, such "renting out of immovable properties" to an individual or to another Central Government, State Government, Union territory or local authority are exempted. Also, in terms of Sl. Nos. 7 & 9 of the afore-stated exemption Notification, such service provided by the Central Government, State Government, Union territory or local authority to a business entity with an aggregate turnover of up to twenty lakh rupees (ten lakh rupees in case of a special category state) in the preceding financial year as well as when the consideration for such services does not exceed five thousand rupees, are exempted. **OBSERVATIONS:** 1. It is thus clear that the taxability of such service of "renting out of immovable properties" is restricted only to a very limited situation where: (i) it is provided to a business entity having an aggregate turnover of more than twenty lakh rupees (ten lakh rupees in case of a special category state) in the preceding financial year; and, (ii) the consideration for such services exceeds Rs. 5000/-. 2. In terms of Notification No. 1137 – F.T. read with Notification No.13/2017 – Central Tax (Rate), both dated 28/06/2017, services supplied by the Central Government, State Government, Union territory or local authority	income tax and earlier of VAT on works contract services. Foreign jurisdictions such as New Zealand, Australia tax supply of goods and services by Govt. on forward charge basis. However, the reality is that services provided by government/local authority to business entity are under reverse charge barring supplies by Indian Railways, Postal Department, Air India. Therefore, the request may be accepted. **Fitment Decision**: To tax renting of immovable property by government or local authority to registered business entity under reverse Charge. Renting of immovable property by government or local authority to un-registered business entity shall continue under forward charge

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			to a business entity excluding renting of immovable property are taxable on reverse charge basis. Thus, rental services provided in terms of conditions laid down as per Sl. No. 1 above are taxable on a forward charge basis. 3. This automatically implies that a Government or a Local Authority engaged in renting out of any such immovable property has to discharge all statutory procedural liabilities like obtaining registration, depositing the tax collected and furnishing the returns. This definitely adds to the work burden of a Government or a Local Authority in addition to the various functions they perform. This can well be avoided if the said service is made taxable on reverse charge basis. 4. It may be mentioned in this context that another major activity of a Government or a Local Authority, i.e. sale of used vehicles, seized and confiscated goods, old and used goods, waste and scrap made to any registered person has already been made taxable on reverse charge basis in terms of Notification No. 1800-F.T. read with Notification No.36/2017 – Central Tax (Rate), both dated 13/10/2017, 5. Thus, receipt of a rental service (if made taxable on reverse charge basis) by a business entity will not create any further addition to his legal liabilities, because the recipient will	

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			normally be well conversant with the procedural aspects of GST Laws.	
38	Dr. Kirit Somaiya, MP	Renting of cab to the education institute & non-AC buses run under contract carriage has been exempt from the GST, but sub vendor has been charging GST to the principal service provider, even though ultimate service has been used for the providing the exempted service, So the purpose of the law has been defeated increasing the cost of the service. So, request to grant exemption to the service provider in the same line/ similar service to the principal for the provision of the exempted service.		Request is for zero rating which is done only for exports. This was not there in service tax. Deepening of exemption as in case of sub-contractors may be considered. **Fitment Decision:** Agreed to exempt the service provided by way of renting of transport vehicles provided to a person providing services of transportation of students, faculty and staff to an educational institution providing education upto higher secondary or equivalent.
39	Ministry of Housing and Urban Affairs	Request to modify the items in (iv) and (v) of Sl. No. 3 of the notification No. 12/2017- CT (R) as under, (iv) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017,	No justification has been provided for the proposal.	**Proposal of Ministry of Housing &Urban Affairs at Sl. No.3, item no (iv)** The exemptions proposed at item no (iv) sub-items (a), (b), (d), (g) and (h) already exist in the same form. In case of proposal at sub-item (c), the main change proposed by MHUPA from the existing entry is to drop the words *"only for existing slum dwellers"*. This will expand the scope of exemption to cover the services of construction provided by builders to buyers other than the existing slum dwellers who will buy at the final prices (inclusive of GST) prevailing for the property (flats/shops) in the area. There is no stipulation in the PMAY to control or put a

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		supplied by way of completion, fitting out, repair, maintenance, renovation, by way of construction, erection, commissioning, installation, or alteration of, - (a) a road, bridge, tunnel, or terminal for road transportation for use by general public; (b) a civil structure or any other original works pertaining to a scheme under Jawaharlal Nehru National Urban Renewal Mission or Rajiv Awas Yojana; (c) a civil structure or any other original works pertaining to the ""ln-situ redevelopment of existing slums using land as a resource, under the Housing for All (Urban) Mission/Pradha n Mantri Awas Yojana (Urban); (d) a civil structure or any other original works pertaining to the ""Beneficiary led individual house construction / enhancement"" under the		ceiling on the prices at which the property in such projects will be sold by builders to persons other than existing slum dwellers. Thus, the tax concession may not be transferred to buyers and may only line the pockets of builders as in case of ITC benefits. There is a distinct possibility that the builder will pocket the tax exemption and raise the prices of the flats, shops in such projects as happened in case of ITC. The proposal at sub-item (e) is a proposal for insertion of a new entry at 12%. However, the service sought to be covered by the proposed entry is already covered by sl. no. 3 (v)(d) of notification no 11/2017- CT (R). The houses constructed for "Economically Weaker Section (EWS)" under the Affordable Housing in partnership will support construction of houses upto 30 sqm carpet area. Although existing exemption vide Sl.No. 3 (v)(d) of the said notification already covers houses having carpet area upto 60 sqm, it is a revenue neutral proposal and therefore, may be accepted. The proposal at sub-item (f) is a proposal to extend the concessional rate of 12% to services by way of construction of houses constructed / acquired under the Credit Linked Subsidy Scheme (CLSS) under PMAY. Under this component Credit linked subsidy will be provided on home loans taken by eligible urban poor (EWS/LIG/ MIG-I/ MIG-II) for acquisition, construction of house. Credit linked subsidy would be available for housing loans availed for new construction and addition of rooms, kitchen, toilet etc, to existing dwellings as incremental housing. The carpet area of houses constructed under this component of the mission would be upto 30 square meters and 60 square meters, 120 sqm and 150 sqm for EWS, LIG, MIG I and MIG II respectively. It appears that under this component, beneficiary may purchase a house of up to specified sizes from any builder (and not projects approved under HFA/PMAY). The benefit of CLSS may be taken by the Economically Weaker sections or Low/Middle Income Groups for purchase of houses under any project. The maximum annual income for eligibility of beneficiaries under the scheme can be upto 18 lakhs. It

<table>
<tr><th>Sl. No.</th><th>Represented By</th><th>Proposal</th><th>Justification</th><th>Comments of Fitment Committee</th></tr>
<tr><td></td><td></td><td>Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana (Urban); (e) a civil structure or any other original works pertaining to the “Economically Weaker Section (EWS) houses” constructed under the Affordable Housing in partnership by State / Union Territory / local authority/ urban development authority"" under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana (Urban); (f) a civil structure or any other original works pertaining to the ""houses constructed/ acquired under the Credit Linked Subsidy Scheme for Economically Weaker Section (EWS) / Lower Income Group (LIG) / Middle Income Group-1 (MlG-1) / Middle Income Group-2 (MlG-2)"" under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana (Urban);</td><td></td><td>covers a large section of population which aspires to own a home. However, the projects are not required to be approved by any competent authority under PMAY; nor is there any stipulation in the PMAY to control or put a ceiling on the prices at which the houses acquired under CLSS will be sold by builders to persons belonging to EWS/LIG/MIG. Thus, the tax concession may not be transferred to beneficiaries of CLSS (buyers) and may only line the pockets of builders as in case of ITC benefits.

Refund of overflow of ITC on input goods is not available for WCS and stranded ITC of services can also not be availed as refund.

<table><tr><th>Details</th><th>Land Cost is One Third of flat cost</th><th>PMAY</th></tr><tr><td>Output TAX</td><td>12.00</td><td>8</td></tr><tr><td>ITC</td><td>11.79</td><td>11.79</td></tr><tr><td>Net Tax Inceidence</td><td>0.21</td><td>-3.79</td></tr></table>
If we bring CLSS component of PMAY to 12% GST bracket, it may not lead to significant revenue loss as refund of overflow of ITC is not available. From demand side, the reduction of tax from 18% to 12 % (effective 8% after deduction of 1/3rd value of land) will have positive impact on the growth of economy and give boost to the real estate sector.

Proposal of MHUPA at Sl. No.3, Item no (v)

The exemptions proposed at item no (v), sub-items (a), (b), (c), (e) and (f) already exist in the same form.

The proposal at sub item (d) is to extend the concessional rate of 12% to services by way of construction of low cost houses upto a carpet area of 60 sqm in a housing project which has been given infrastructure status vide notification No. 13/06/2009 dated 30th March, 2009. The said notification of Department of Economic Affairs provides infrastructure status to Affordable Housing.</td></tr>
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		(g) a pollution control or effluent treatment plant, except located as a part of a factory; or (h) a structure meant for funeral, burial or cremation of deceased. (V) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, supplied by way of construction, erection, commissioning, or installation of original works pertaining to, _ (a) railways, excluding monorail and metro; (b) a single residential unit otherwise than as a part of a residential complex; (c) low-cost houses up to a carpet area of 60 square metres per house in a housing project approved by competent authority empowered under the 'Scheme of Affordable Housing in Partnership'		Affordable Housing has been defined in the said notification as a housing project using at least 50% of the FAR/FSI for dwelling units with carpet area of not more than 60 sqm. The proposal effectively is to extend the concessional rate of 12% GST to flats/ houses of less than 60 sqm in projects other than those which have been approved by the competent Authority under the Affordable Housing in Partnership component of PMAY. The Affordable Housing in Partnership component of PMAY stipulates approval of the project by the competent authority which includes approval/ fixation of the price at which the builders may sell the houses to the beneficiaries of the scheme. Extending the concessional rate to the projects other than those approved by CA under PMAY may not translate into any benefit for the buyers of the houses in absence of any control on the prices at which they can be sold. As is evident from the Table above, we will not get any revenues from construction services if the recommendations of MHUPA are accepted. However, as the excess ITC of input goods is blocked and of ITC of input services is not allowed to be refunded, there may not be any revenue loss *per se*; Construction of residential complex gave service tax revenues of about Rs 5700 crore in 2016-17. **Fitment Decision:** To carry out the amendments in the scheme of concessional GST of 12% applicable to construction of houses under Pradhan Mantri Awas Yojana (PMAY) and to include houses constructed/ acquired under the Credit Linked Subsidy Scheme for Economically Weaker Section (EWS) / Lower Income Group (LIG) / Middle Income Group-1 (MlG-1) / Middle Income Group-2 (MlG-2) under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana (Urban) and low-cost houses up to a carpet area of 60 square metres per house in a housing project which has been given infrastructure status, as proposed by Ministry of Housing & Urban Affairs, under the same concessional rate.

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		framed by the Ministry of Housing and Urban Poverty Alleviation, Government of lndia; (d) low-cost houses up to a carpet area of 60 square metres per house in a housing project which has been given infrastructure status vide Gazette Notification F. No. 13/6/2009-INF, dated 30th March ,2017; (e) post-harvest storage infrastructure for agricultural produce including a cold storage for such purposes; or (f) mechanised food grain handling system, machinery or equipment for units processing agricultural produce as food stuff excluding alcoholic beverages."		
40	Indian National Ship-owner's Association, FICCI, Oil India, FIPI	Provide clarity on rate of GST applicable on time charter of shipping vessel	Oil manufacturing companies avail the services of vessel on time charter from ship-owner for transporting crude oil. There is no clarity as to whether the time charter services rendered by the ship owners by way of charter hire of ships falls under Service Accounting Code 996602 (rental services of water vessel	A time charter is one in which the ownership and also possession of the ship remains with the original owner, whose remuneration or hire is generally calculated at a monthly rate on the tonnage of the ship. The vessel's employment is put under the order of the charterer, while possession remains with the owner who provides the crew and pays the running costs, excluding the voyage costs such as fuel and cargo handling, port charges. Therefore, in time-charter, right to exploit earning capacity of vessel is

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			including passenger vessel, freight vessels and the like with or without operator) attracting a rate of 18% or under the Service Accounting Code 997311(leasing or rental services concerning transport equipment including containers, with or without operator) attracting the rate of 5%.	transferred from owner of ship to the charterer of ship. In the positive list regime, services provided in relation to supply of tangible goods including machinery, equipment and appliances for use, without transferring right of possession and effective control of such machinery, equipment and appliances were specified as a taxable service under Section 65(105)(zzzzj) of Finance Act and were taxable at the standard rate of 10%/12% as applicable at that time. In the negative list regime, the same was taxable at the standard rate of 15% as a declared service u/s 66E (f) [transfer of goods by way of leasing, hiring etc. without transfer of right to use such goods]. Time charter, is renting of vessels with operator (crew and master) for a period of time, which falls under heading 9966 (rental services of transport vehicles) taxable @18% with full ITC. However, since heading 9973 [leasing or rental services with or without operator] covers renting or leasing of goods with operators also, classification of leasing or renting of vessel with master and crew (time charter) cannot be precluded from this heading. If classified under heading 9973, time charter of vessels would attract GST at the same rate as applicable on vessels, i.e. 5%. [It has been reported that ONGC is not ready to pay GST @18% to ship owners on time charter service under heading 9966 on the ground that time charter falls under heading 9973 and is thus taxable @5%.] In this regard, it is submitted that the major difference between bare boat charter on the one hand and time/voyage charter on the other hand, is the degree of effective control and possession over the ship: in the former it is with the charterer while in the latter it is with the ship owner. The difference between time charter and voyage charter it is the remuneration charged by the ship owner: in voyage charter is calculated as per the cargo carried while in time charter, it is calculated on the tonnage of the ship, i.e., the earning capacity of the ship. Thus, in effect, both

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				time and voyage charter are providing service of transportation of goods in a vessel and should be classified under section 6 of the scheme of classification of services and not under section 7. **Conflict of interest:** INSA has requested to classify Time Charter @18% as it has ITC of 5% paid on ships. FICCI has requested for a clarification on taxability of Time Charter Service. Oil Industry wants Time Charter to be classified at 5% as their output products are not in GST and any extra tax paid on inputs will have a cascading effect on final product. Federation of Indian Petroleum Industry (FIPI) has taken a similar view. **Conclusion:** It is felt that there is a conflict of interest between service providers and service recipients. There is no doubt that in pre GST regime on 30th June, 2017, bare Boat Charter attracted VAT at 5%, Voyage Charter attracted ST at 4.5% and Time Charter attracted ST at 15%. As a neutral umpire it is felt that, perhaps the rate of tax may not be determined with respect to the availability of ITC with service providers but taxation ought to be business neutral and not influence business decisions. Taxation should not influence business decisions. It is felt that since already BBC and Voyage Charter are taxed at 5% in GST and there is a lack of clarity on Time Charter, we may tax Time charter service also at 5%. No doubt this decision may lead to revenue loss in GST regime vis-a-vis pre-GST regime, but ultimately it will rationalise the issue. **Fitment Decision:** To tax time charter service at GST rate of 5%, that is at the same rate as applicable to voyage and bare boat charter, with the same conditions.
41	1. Representation of General Insurance Council for Union Budget 2018-19.	1. Covering output services provided by corporate insurance agent to Insurance Companies under forward charge basis as	The objective of taxation of services under reverse charge mechanism is to tax the economic activity provided by the unorganized sector by way of collecting tax from the organized sector. Since the provision covers insurance	2.1 Services supplied by an insurance agent to any person carrying on insurance business are chargeable to GST on reverse charge basis under section 9(3) of the CGST Act [Sr.No. 7 of notification No. 13/2017-CT(R) refers]. 2.2 Under CGST Act or Rules, insurance agent has not been defined. However, in Service Tax Rules, insurance agent had *the*

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	2. Chairman, Indirect Tax Committee, Bengal Chamber of Commerce and Industry	has been done in the case of GTA. 2. A new definition of corporate agent adopted from IRDA Act may be introduced in GST.	auxiliary services by insurance agents, a large number of corporate agents who are fully organized also stand covered by such provision and therefore the GST in respect to the said services being provided by them are taxed under RCM in hands of the insurance companies. In the course of providing such services, such Corporate Agents procure various types of services and goods from their vendors on which they either pay GST to the provider of such services or goods or discharge GST under reverse charge mechanism if so required under the law. Example of few such Goods/Services purchased by these agents is renting of property, security services, telephone, business travel, stationery, audit fee, consultancy charges, manpower procurement charges, etc. The quantum of such GST paid by the agents for the purpose of providing output services is reasonably large. Now, since output services of insurance agents are under RCM and paid by the Insurance Companies, these Corporate Insurance Agents cannot avail the ITC of the GST paid on goods/services purchased by them in the course of providing the output services. Consequently, all ITC become a part of their cost. This is cascading in nature resulting in significant additional cost	*meaning assigned to it in clause (10) of section 2 of the Insurance Act, 1938*. 2.3 Section 2(10) of the Insurance Act, 1938 defines Insurance Agent to *mean an Insurance Agent licensed under Section 42 who agrees to receive payment by way of commission or other remuneration in consideration of his soliciting or procuring insurance business including business relating to the continuous common renewal or revival of policies of insurance*. 2.4 Section 2 (10B) of Insurance Act defines *intermediary or insurance intermediary to have the same meaning assigned to it in clause (f) of sub-section 2 of Insurance Regulatory and Development Authority Act, 1999*. 2.5 IRDA Act, 1999 has been amended in 2015 so as to define "Intermediary" or "insurance intermediary" under section 2 (1 (f) of IRDA Act to include insurance brokers, re-insurance brokers, insurance consultants, **corporate agents**, third party administrator, surveyors and loss assessors and such other entities, as may be notified by the Authority from time to time. 2.6 A corporate agent is an insurance intermediary [Source: Regulation 2 (d) of Insurance Regulatory and Development Authority of India (Payment of Commission or Remuneration or Reward to Insurance Agents and Insurance Intermediaries) Regulations 2016] for the purposes of the said regulations. 2.7Section 2(f) of the Insurance Regulatory and Development Authority of India (Registration of Corporate Agents), Regulations, 2015 defines Corporate Agents to mean any applicant specified in Clause 2(b) of Regulation who holds a valid certificate of registration issued by the Authority under these Regulations for solicitation and servicing of insurance business for any of the specified category of life, general and health. Clause 2(b) of the Regulation defines applicant to mean– i. A company formed under the Companies Act, 2013 (18 of 2013) or any enactment thereof or under any previous company law which was in force; or

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			which could have been otherwise set off by the availment of ITC and utilization thereof for the GST payable on the Insurance Auxiliary services under forward charge.	ii. A limited liability partnership formed and registered under the Limited Liability Partnership Act, 2008; or iii. A Co-operative Society registered under Co-operative Societies Act, 1912 or under any law of registration of co-operative societies; or iv. a banking company as defined in clause (4A) of section 2 of the Act; or v. a corresponding new bank as defined under clause (da) of sub-section (I) of section 5 of the Banking Companies Act, 1949 (10 of 1949); or vi. a regional rural bank established under section 3 of the Regional Rural Banks Act, 1976 (21 of 1976); or vii. a Non-Governmental organisation or a micro lending finance organization covered under the Co-operative Societies Act, 1912 or a Non-Banking Financial Company registered with the Reserve Bank of India; or viii. Any other person as maybe recognized by the Authority to act as a corporate agent. 2.8 Insurance Agent has been defined in Insurance Regulatory and Development Authority of India (Appointment of Insurance Agents) Regulations, 2016 to mean an individual appointed by an insurer for the purpose of soliciting or procuring of insurance business including business relating to the continuance, renewal or revival of policies of insurance. 2.9 In short, insurance agent and corporate agent have different meaning and connotation. Once we define insurance agent in the reverse charge notification as in Service Tax rules to have *the meaning assigned to it in clause (10) of section 2 of the Insurance Act, 1938*, corporate agent would automatically get excluded from reverse charge. We may do so. **Fitment Decision:** To define insurance agent in the reverse charge notification to have *the same*

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				meaning as assigned to it in clause (10) of section 2 of the Insurance Act, 1938, so that corporate agent gets excluded from reverse charge.
42	ISCON (through Hon'ble MOS (F&S)]	Services provided by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of building owned by an entity registered under section 12AA of Income Tax Act were exempt from service tax. So, these should be exempt under GST.	Hardship to these organizations.	Services provided by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of building used for providing (for instance, centralized cooking or distributing) mid-day meal scheme by an entity registered under section 12AA of IT Act, may attract 12% concessional GST. **Fitment Decision:** Services provided by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of building owned by an entity registered under section 12AA of Income Tax Act, which is used for providing (for instance, centralized cooking or distributing) mid-day meal scheme, may be taxed at 12% concessional GST.
43	CCT, Maharashtra	The revenue from taxation on lotteries should flow to the state in which the final buyer is located. For this, **Option 1** is that it could be made mandatory that the distributor must be registered in the state under the Lottery Regulation Act, 1998 in which he is selling lottery to the final customer. This could be either by amendment of the Lottery Regulations of Centre or the Lottery rules of the States since	If the organizing State and the distributor are located in the same state, but the final buyer is in some other state, then the first supply would be an intra-state supply and the subsequent supply by the distributor to the final buyer would be an inter-state supply. In the first supply, the revenue would remain in the organizing state only even though the final buyer is located in some other state because subsequent stages are exempt. But then this could happen in case of reverse charge. This is not intended really.	Option 2 may not be workable in case of paper lotteries. The only way to ensure that tax accrues to the State where lotteries are sold is to tax each transaction upto the last stage and not collect the entire tax on face value in the very first transaction. **Fitment Decision:** A small subcommittee consisting of the officials of the States where lottery is sold along with the States who authorize/ organise such lotteries may be constituted to study the issues relating to taxation of lottery.

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		the Centre as well as the states are empowered u/S 11 and S 12 respectively to make rules "to carry out the provisions of the Act". But it needs amendment in other laws by the Parliament and regulations there-under by Centre and all States. This may take long time. **Option 2** is Modifications in the place of supply of provisions to provide that in case of lottery, the place of supply shall be the state in which the ultimate buyer is located or the state where he buys the ticket. Ensuring this is very simple for online lottery taking into account IP address of the computer terminal. Change in place of supply under IGST Act also seems to be very difficult task and also needs to be deliberated upon in detail so as to examine repercussions on other trade.		
44	CCT, Maharashtra	Reverse charge on lotteries is	In GST, reverse charge is normally made applicable,	Ideally all supplies by the Government should be charged on forward charge basis.

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		required to be done away with by deleting Entry no. 5 from Notification No. 4 /2017 Central Tax (Rate) and State Tax (Rate) and Integrated Tax (Rate) issued on 29thJune 2017, under respective CGST Act/ SGST/ IGST Act. Supply of Lottery should be brought under forward charge.	when suppliers are in an unorganized sector but the recipients are organized. Logic for reverse charge (or even TDS) is that the revenue should be collected from a smaller number of entities, rather than the actual suppliers, who may be quite large in number. For example, in case of supply of cashew nuts, Bidi wrapper leaves (tendu) and silk yarn, the recipient registered person is notified to be liable for reverse charge, instead of agriculturist etc. For services such as GTA, sponsorship, director, insurance, recovery, author, music composer, photographer, artist etc. the recipients, who are better organized and are lesser in number are made liable for reverse charge. For government services, renting of immovable property, services by the Department of Posts by way of speed post, express parcel post, life insurance, agency services, aircraft or a vessel, transport of goods or passengers are liable for forward charge. Thus, it seems that for commercial activities of government, forward charge has been made applicable. The only deviation appears to be lottery tickets, where even though the distributors/agents could be more in number than the promoting governments, the recipient distributors have been made liable for reverse charge. One major advantage of this reverse charge is that the organizing governments	This will ensure collection of due revenue on such supplies, obviating any scope of evasion of tax on supplies by Govt. There is no doubt that Governments would be far more compliant taxpayers than a distributor/agent. This will also reduce disputes and litigation. Though, the compliance burden on Govt. departments would increase somewhat, it will promote ease of doing business. Govt. has qualified personnel who deduct TDS of income tax and earlier of VAT on works contract services. Presently, Govt. departments are paying GST on renting, transportation, postal services etc. on forward charge basis. Foreign jurisdictions such as New Zealand, Australia tax supply of goods and services by Govt. on forward charge basis. However, the reality is that services provided by government/local authority to business entity are under reverse charge baring supplies by Indian Railways, Postal Department, Air India. This is a larger issue which needs to be discussed with the States who authorize lotteries sold in Maharashtra, WB and Punjab. **Fitment Decision:** A small subcommittee consisting of the officials of the States where lottery is sold along with the States who authorize/ organise such lotteries may be constituted to study the issues relating to taxation of lottery.

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			are spared from registration and other GST compliances. But the flip side is that we would be required to deploy machinery to collect this revenue just to spare the government from some GST compliances, which even a small supplier having a miniscule turnover is expected to do. Secondly, under any circumstances, the Governments would be far more compliant taxpayers than a distributor/agent. Tax payment through RCM also gives the distributor an option to pay taxes under either SGST and CGST (showing the transaction as intra-state) or IGST (showing the transaction as inter-state). Since the onus to pay tax on supply of Lottery is cast upon the distributor through RCM, the distributor can very well refrain from showing the transaction inter-state and show it intra-state. As the subsequent sale whether intra-state or inter-state is exempt from payment of tax, no tax will flow to the actual consumption state (where lottery is actually being supplied).	
45	CCT, Maharashtra	Exemption under IGST Act for certain supplies of Lottery may be done away with, by omitting Entry 149 (related to lottery) of Notification No. 2/2017-		Exemption may be removed/ modified only if lottery is taxed at each stage of value addition on transaction value and not on face value in the very first transaction. **Fitment Decision:** A small subcommittee consisting of the officials of the states where lottery is sold along with the states who authorize/ organise such lotteries may be constituted to study the issues relating to taxation of lottery.

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		Integrated Tax(Rate). The exemption admissible under the IGST Act (vide the said notification) is required to be removed.		
46	CCT, Maharashtra	Exemption under SGST and CGST Act for certain supplies of Lottery may be modified, and the exemption should be made available only on further/subsequent Intra-State supplies of Lottery where SGST and CGST are paid in Govt. Treasury on the First Intra-State supply of the same transaction. Accordingly Entry 149 of Notification No. 11/2017 – Central Tax (Rate) dated 29th June, 2017 under CGST Act to be amended and redrafted as follows – *"Supply of lottery by any person subject to the condition that Central Tax and State Tax or Union Territory tax has been paid into Government treasury on the first intra state*		Condition will be difficult to comply with by the retailers down the chain. **Fitment Decision:** A small subcommittee consisting of the officials of the States where lottery is sold along with the States who authorise/ organise such lotteries may be constituted to study the issues relating to taxation of lottery.

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		supply of such lottery in the state by the State Government or by the lottery distributor or selling agent appointed by any State Government or Union Territory or by any other person as the case may be." Similarly, Entry 149 of Notification No. 11/2017 – State Tax (Rate) dated on 29th June, 2017 under SGST Act to be amended and redrafted as follows – *"Supply of lottery by any person subject to the condition that Central Tax and State Tax has been paid into Government treasury on the first intra state supply of such lottery in the state by the State Government or by the lottery distributor or selling agent appointed by any State Government or Union Territory or by any other person as the case may be."*		
47		Valuation of Lottery for the purpose of taxation should be done as per	At present, the value of supply is provided in the rate schedule so as to exclude the GST element to arrive at the net value on	The value of lottery has been prescribed in the notification (prescribing rates of 12%/28%) as 100/112 or 100/128 of the price of lottery ticket notified in the Gazette. Though powers under section 15 (5) of GST

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		mandate of sub-section 5 of Section 15 of GST Laws strictly.	which GST is to be levied. Notification No. 11/2017 – Central Tax (Rate) has been issued under Sub-Section 1 Section 9, Sub section 1 of Section 11 and Sub Section 5 of Section 15 of the act. This notification does not provide clear picture and supply for the purpose of Sub section 5 of Section 15 of the Act needs to be issued separately. Further, for valuation of the specified Goods, i.e. Lottery- valuation rules need to be prescribed separately on lines of Para 3 of Notification No. 11/2017 – Central Tax (Rate) / State Tax (Rate). Valuation rule should be prescribed as valuation rule under Sub section 5 of Section 15 of the Act and not under Section 9. The rule may be drafted as follows- *Rule: Notwithstanding anything contained in the provisions of this chapter, value of supply of lottery shall be 100/112 of the face value or the price notified in the Official Gazette by the organising State, whichever is higher, in case of lottery run by State Government and 100/128 of the face value or the price notified in the Official Gazette by the organising State, whichever is higher, in case of lottery authorised by State Government.*	Act have been exercised in notification No 11/2017-CTR, these powers may also be exercised in the notification prescribing the goods rates. **Fitment Decision:** The value of lottery has been prescribed in the notification (prescribing rates of 12%/28%) as 100/112 or 100/128 of the price of lottery ticket notified in the Gazette. A provision to this effect may *be inserted in GST valuation rules under section 15 of Act.*
48	CCT, Maharashtra	It should be decided whether betting & gambling are goods (i.e. actionable	Section 2(1) "actionable claim" shall have the same meaning as assigned to it in section 3 of the Transfer of Property Act, 1882;	Casinos and racecourses like organizers of lotteries sell a chance to win, which the Supreme Court has very clearly held in the Sunrise case to be an actionable claim. Entry 6 of Schedule III, which includes *actionable claims, other than lottery, betting &*

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		claims) and whether they are taxable as per entry 453 of Schedule III of Notification No. 1/2017-Cenral Tax (Rate) / State Tax (Rate). Separate entries, Entry 229 and Entry 230 for betting & gambling respectively may be inserted in Schedule IV of goods notification No. 1/2017 and be made taxable at 28% (14% each)	Section 2(52) "goods" means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply; Section 2(102) "services" means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged; As per Entry 6 of Schedule III, lottery, betting & gambling are treated as actionable claim. Definition of goods as per Sec. 2(52) is provided to include actionable claims. Thus, by combined reading of these provisions, it may be concluded that betting and gambling are goods along with lottery.	*gambling* in activities or transactions that are neither supply of goods nor services, also supports this view. Therefore, betting and gambling may also be included in the goods schedule at 28%. **Fitment Decision:** Actionable claim in the form of chance to win in betting and gambling including horse racing should be added in the GST rate schedule for goods at 28%.
49	CCT, Maharashtra	If betting and gambling are goods as per GST Law, then clarification is sought on what will be the rate of tax?	As per entry 453 of Notification No. 1/2017, goods which are not specified in Schedule I, II, IV, V or VI are taxable at 18%. In view of this, betting & gambling will be taxable as goods and rate of tax will be 18%.	-DO- **Fitment Decision:** Actionable claim in the form of chance to win in betting and gambling including horse racing should be added in the GST rate schedule for goods at 28%.
50	CCT, Maharashtra	The provision in rate schedule notification No. 11/2017-Central Tax (Rate) dated the 28th June	It is opinion of State of Maharashtra that, following services will be taxable as services at 28% (14% each).	All services listed in the proposal by Maharashtra are taxable at 28% except services given by race-course by way of license to bookmaker which is not a service by way of betting and gambling.

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		2017 does not clearly state the tax base to levy GST on horse racing. This may be clarified.	1. Services by way of admission to entertainment events or access to amusement facilities including casinos, race-course 2. Ancillary services provided by casinos and race-course in relation to such admission. 3. Services given by race-course by way of license to bookmaker in such club. 4. Services given by race-course by way of totalisator (if given through some other person or charged separately as fees for using totalizator for purpose of betting). It may be argued that supply of betting and services by way of totalisator are two taxable supplies in the composite supply, supply of betting being a principal supply. In such situation any amount paid into totalisator will attract 18% GST. However, in the judgment by Hon'ble Supreme Court in case of Sunrise Associates Vs. Government of NCT of Delhi and Ors. dated 28th April 2006, relating to lottery it is upheld that admission to lottery and chance to win the lottery cannot be separated and treated as two different transactions. Same analogy applies in case of betting also. Services of race-club by way of totalisator cannot be treated as separate transaction from supply of betting. Therefore, the total transaction value will be taxable @ 18%.	**Fitment Decision:** It may be clarified that services by way of 1. admission to entertainment events or access to amusement facilities including casinos, race-course; 2. ancillary services provided by casinos and race-course in relation to such admission; 3. services given by race-course by way of totalisator (if given through some other person or charged separately as fees for using totalisator for purpose of betting); are taxable at 28%. Services given by race-course by way of license to bookmaker which is not a service by way of betting and gambling, is taxable at 18%.
51	CCT, Maharashtra	Clarification is sought on	Valuation of betting & gambling (goods) will be	Proposal of Maharashtra to insert following valuation rule in the rules may be accepted:

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		valuation of supply of betting in Horse Racing. To provide clarity in the matter of valuation of these goods, provisions of section 15(5) may be invoked. Supply of Betting & Gambling is also required to be notified separately as per the mandate of Sub section 5 of Section 15 of the Act. Further, for valuation of the specified Goods, i.e. Betting & Gambling - valuation rules need to be prescribed separately on lines of Para 3 of Notification No. 11/2017 – Central Tax (Rate) / State Tax (Rate). Following rule 35A (2) may be inserted after Rule 35 in chapter IV, Determination of Value of Supply in CGST / SGST Rules, 2017. *Rule 35A (2): Notwithstanding anything contained in the provisions of this chapter, value of supply of Betting & Gambling shall*	under the provisions of Section 15(1) or Section 15(4) or Section 15(5). In view of the aforesaid sections and valuation rules, it is opinion of State of Maharashtra that since for betting & gambling, rules are not framed under Section 15(4) and 15(5), provisions of Section 15(1) will be applicable. But this provision may be mis-used by the trade by deducting the prize money from the amount paid for betting and treating the remaining amount as the transaction value liable to be taxed under Section 15(1). The same issue is applicable in case of lottery also. However, in case of lottery, the issue is handled by providing rule of valuation of lottery in Notification No. 11/2017-Central Tax (Rate). Similar rule is also required for valuation of betting in order to eliminate the possibility of deducting prize money from the bet amount for the purpose of valuation.	*Notwithstanding anything contained in the provisions of this chapter, value of supply of Betting & Gambling shall be 100 % of the face value of the bet or the amount paid into the totalisator* **Fitment Decision:** Following provision may *be inserted in GST rules under section 15 of Act, -* *Notwithstanding anything contained in the provisions of this chapter, value of supply of Betting & Gambling shall be 100 % of the face value of the bet or the amount paid into the totalizator.*

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		be 100 % of the face value of the bet or the amount paid into the totalisator. (It is assumed that a new Rule 35A(1) for lottery on similar lines is inserted in CGST / SGST Rules, 2017) The whole discussion with respect to betting is equally applicable to gambling also. (Refer Entry (v) of Entry 35 in the Notification 11/2017-Central Tax (Rate) dated 28th June 2017). Hence, the amendments or the clarifications should be done considering gambling also. A legally binding clarification explaining taxation of lottery, betting & gambling be issued as per present provisions of Law.		
52	Ministry of Sports	To exempt services provided by and to Fédération Internationale de Football Association (FIFA) and its subsidiaries directly or indirectly related	This is required in terms of government's guarantee extended to FIFA for hosting under-20 world cup 2019 in India.	Already similar exemption from GST has been given for under-17 world cup that was held in 2017, based on the guarantee provided by GOI to FIFA. **Fitment Decision:** Agreed

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		to any of the events under FIFA U-20 World Cup to be hosted in India		
53	Ministry of Minority Affairs	To delete Ministry of External Affairs from the exemption at S. No 60 of notification No 12/2017-CTR, relating to Mansarovar Yatra and Haj pilgrimage	Haj pilgrimage is now handled by the Ministry of Minority Affairs and not MEA.	The exemption presently reads thus: - *Services by a specified organization in respect of a religious pilgrimage facilitated by the Ministry of External Affairs, the Government of India, under bilateral arrangement* We may delete MEA from the exemption entry. Only Government of India will remain, which covers both MEA and Ministry of Minority Affairs. **Fitment Decision:** Agreed
54	MOPNG	To exempt government share in Profit Petroleum and clarify that cost petroleum is not taxable *per se*	**Profit Petroleum** 1. Petroleum and Natural Gas Rules, 1959 provide that subject to the Oilfields (Regulation & Development) Act (ORD Act), Rules made thereunder and the terms of agreement (Production Sharing Contract or PSC) between the Central Government and licensee or the lessee, every licensee shall have the exclusive right to carry out surveys, drilling operations for petroleum in the area covered by the license. The ORD Act provides that the holder of a mining lease shall pay royalty in respect of any mineral oil mined, quarried or collected by him from the leased area at the specified rates. The PSC provides for payment of a pre-determined share of profit petroleum to the Government as a condition for grant of mining lease. Therefore, like royalty, profit share paid to the Government by oil exploration companies for acquiring the right to explore and exploit	The State representatives said that they need to consult with their CCTs. The issue may be discussed in the GST Council.

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			mineral oils is a payment for service and liable to Goods and Services Tax. In this case also, GST is leviable on reverse charge basis. 2. This view though legally correct may not appear to be in harmony with the overall scheme of the production sharing contract under NELP (New Exploration Licensing Policy). 3. P = T – C P is profit petroleum T is value of petroleum produced in the year C is total cost of exploration, development and production of petroleum during the year ('C' includes taxes but not share of profit petroleum paid to the government). Production Sharing Contract (PSC) provides for payment of a pre-determined share of profit petroleum to the government as a condition for grant of mining lease. Therefore, the government's share in the profit petroleum is subjected to GST and not the entire profit petroleum. However, the government's share of profit petroleum is not allowed to be recovered as cost, i.e., part of cost petroleum. Therefore, it was proposed in the 20th GST Council meeting to exempt it from GST. Further, it is submitted that the liability to pay GST on profit petroleum is on the E&P companies (under reverse charge) and not the government. It is a tax	

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			payable on an input service of E&P companies. Thus, there is no question of any reversal of ITC by the E&P companies. As for the Government, it does not take ITC. In so far as the past liability is concerned, the same may be addressed by way of Finance Act. **Cost Petroleum** 1. As per the PSC between the Government and the contractors, in case of a commercial discovery of petroleum, the contractors are entitled to recover from the sale proceeds all expenses incurred in exploration, development, production and payment of royalty. Portion of the value of petroleum which the contractor is entitled to take in a year for recovery of these contract costs is called "Cost Petroleum". Having acquired the right to explore, exploit and sell petroleum in lieu of royalty and a share in profit petroleum, contractors carry out the exploration and production of petroleum for themselves and not as a service to the Government. 2. It is sometimes argued that under Article 297 of the Constitution, all minerals beneath the ocean belong to the government and therefore, the E&P companies are providing mining/exploration service to the government.[Article 297 refers only to minerals beneath territorial waters, continental shelf and exclusive economic zone. It does not cover oil, coal and other minerals	

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			beneath the territory of India.] In this regard, it is submitted that as per Article 27.1 of the Model Production Sharing Contract, government is the sole owner of the petroleum underlying the contract area except as regards that part of the crude oil/gas the title whereof has passed to the contractor or any other person in accordance with the provisions of the Production Sharing Contract. A harmonious reading of Article 297 of the Constitution and the Contract leads us to believe that government is the sole owner till the contractor mines it out and sells it, in which case the title passes to the buyer. Before sale to the buyer, the contractor is the owner of the crude mined so long as he pays royalty and profit petroleum to the government. The relationship between the Government and the contractor under PSC is not that of partners but of an assignor and assignee. Para 8.1 of the Production Sharing Contract states that subject to the provisions of the PSC, the Contractor shall have exclusive right to carry out Petroleum Operations to recover costs and expenses as provided in this Contract. Having acquired the right to explore, exploit and sell petroleum in lieu of royalty and a share in profit petroleum, contractors carry out the exploration and production of petroleum	

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			for themselves and not as a service to the Government. Hence, cost petroleum is not a consideration for service to GOI and thus not taxable per se. There is no doubt that the entire mineral wealth below the earth or the waters belong to the Governments all over the world. Different types of contract for oil and gas exploration and production have been developed to meet the different goals of governments. India follows the production sharing contract arrangement where the contractor bids for the rights to explore and exploit against payment of royalty and predetermined share in profit petroleum. India does not enter into a service agreement under which the State hires the services of mining from an oil and gas company or joint venture and retains the risks and benefits of exploration and pays the oil and gas company only for its services. Cost petroleum could be a measure of value of mining/exploration service provided by the operating member to the joint venture, in a situation when details of cash calls or bills raised by the operator on the joint venture have not been made available to the tax authorities.	

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