

Confidential



# Agenda for 25<sup>th</sup> GST Council Meeting

Volume – 4

18 January 2018





**File No: 297/25<sup>th</sup> GSTC Meeting/GSTC/2017**  
**GST Council Secretariat**

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

**Notice for the 25<sup>th</sup> 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 25<sup>th</sup> 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 25<sup>th</sup> 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 25<sup>th</sup> Meeting of the GST Council on 18 January 2018**

1. Confirmation of the Minutes of 24<sup>th</sup> 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 4<sup>th</sup> and 5<sup>th</sup> 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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# Discussion on Agenda Items

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## **Agenda Item 13: Any other agenda item with the permission of the Chairperson**

### **Agenda Item 13(iii): Restriction of Transitional Credit in certain cases through the provisions for removal of difficulty under Section 172 of CGST Act**

Credit of taxes and duties paid under the existing law viz. Central Excise and Service Tax are allowed to be transitioned under section 140 of the CGST Act. It is proposed to clarify that in certain cases, credit of taxes and duties paid under the existing law shall not be allowed to be claimed as transitional credit. In this regard, following actions are being proposed:

- a. Ensure that the taxpayers do not avail of credit in cases under dispute (disputed credit) under the transition provisions.
  - b. Ensure that the taxpayers do not avail of any credit which has been blocked under sub-section (5) of section 17 of the CGST Act.
  - c. To take appropriate administrative steps as may be necessary to ensure that input tax credits which are not eligible for transition in terms of these orders or any other situation involving large revenue are not utilized for payment of tax.
2. Section 172 of the CGST Act, 2017 provides for removal of difficulties, if any difficulty arises in giving effect to any provisions of the Act, by an order on the recommendations of the GST Council. It is proposed to issue an order under section 172 to clarify and give effect to each of the actions proposed in the preceding para.
3. In view of above, approval of GST Council is sought to issue orders under section 172 of the CGST Act to remove difficulty and give effect to following actions:
- a. Ensure that the taxpayers do not avail of credit in cases under dispute (disputed credit) under the transition provisions.
  - b. Ensure that the taxpayers do not avail of any credit which has been blocked under sub-section (5) of section 17 of the CGST Act.
  - c. To take appropriate administrative steps as may be necessary to ensure that input tax credits which are not eligible for transition in terms of these orders or any other situation involving large revenue are not utilized for payment of tax.
  - d. As the issues are of urgent nature, after consulting the Ministry of Law, the orders would be issued and action taken along with the order issued would be submitted to the GSTC in the next meeting for information.

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**Agenda Item 13(iv): Exclusion of Cesses not specified in the list of eligible duties from transition**

Section 140(1) of the CGST Act, 2017 provides for transition of credit in the electronic credit ledger based on the closing value of the CENVAT credit in the last return filed under the existing law. Explanation 1 and 2 to the section 140 provide the list of ‘eligible duties’ in respect of which credit can be transitioned and if any duty is not mentioned therein, the credit in relation to such duty under the existing law cannot be transitioned under various provisions of section 140. Both explanation 1 and 2 apply to various sub-sections of section 140, but inadvertently do not apply to sub-section (1) of section 140.

2. Further, it has been observed that huge amount of credit of cess such as Education cess, SHE cess, Krishi Kalyan cess has been claimed as transitional credit which is not allowed under the CGST law. Similarly, cesses which have been collected as additional duty of customs under section 3(1) of Customs Tariff Act, 1975 such as clean environment cess, are also being claimed as transition credit because the law does not specifically exclude them from the list of eligible duties. To prevent the credit of ‘cesses’ to be transitioned under section 140, it is suggested that credit of cesses may be specifically excluded from the list of ‘eligible duties’ under explanation 1 and 2 of section 140 to remove any ambiguity.

3. In view of above, approval of GST Council is sought to amend following provisions of section 140 of the CGST Act,

- i. Amend sub-section (1) of section 140 to provide that only credit of eligible duties can be transitioned.
- ii. Amend Explanation 1 and 2 of section 140 to include reference to sub-section (1) of section 140.
- iii. Insert an Explanation 3 to the section 140 of CGST Act, 2017 to clarify that that the expression “eligible duties and taxes” does not include any cess which has not been specified in Explanation 1 or Explanation 2 above and any cess which is collected as additional duty of customs under sub-section (1) of section 3 of the Customs Tariff Act, 1975.
- iv. The above changes shall apply retrospectively.

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