

Draft Minutes of the 18th GST Council Meeting held on 30 June 2017

The eighteenth meeting of the GST Council (hereinafter referred to as ‘the Council’) was held on 30 June, 2017 in Vigyan Bhawan, New Delhi, under the Chairpersonship of the Hon’ble Union Finance Minister, Shri Arun Jaitley. The list of the Hon’ble Members of the Council who attended the meeting is at **Annexure 1**. The list of officers of the Centre, the States, the GST Council and the Goods and Services Tax Network (GSTN) who attended the meeting is at **Annexure 2**.

2. The following agenda items were listed for discussion in the 18th Meeting of the Council –
 1. Confirmation of the Minutes of the 17th GST Council Meeting held on 18 June, 2017
 2. Decisions of the GST Implementation Committee (GIC)
 3. Any other agenda item with the permission of the Chairperson
 - i. Rules and Forms for Compounding of Offences
 - ii. Rules and Forms for Enforcement
 - iii. Rules and Forms for Refund (Rule 96 amended to accommodate export without payment of tax)
 - iv. Rules and Forms for Demand and Recovery
 - v. Value for the purpose of levy of GST on transportation of goods by a vessel from a place outside India up to the customs station in India
 - vi. Notification of IGST Rules, 2017
 - vii. Proposal to amend rule 117 (1) of the CGST Rules, 2017
 - viii. High Sea Sales
 4. Date of the next meeting of the GST Council

Discussion on Agenda Items

Agenda Item 1: Confirmation of the Minutes of the 17th GST Council Meeting held on 18 June, 2017:

3. The Hon’ble Chairperson welcomed all the Members to the 18th Council Meeting and invited comments of the Hon’ble Members on the draft Minutes of the 17th Meeting of the Council (hereinafter referred to as ‘Minutes’) held on 18 June, 2017 before its confirmation.

4.1. The Secretary, GST Council (hereinafter referred to as ‘Secretary’) invited the Chairman, CBEC to lay before the Council requests received regarding the Minutes. Chairman, CBEC asked Additional Secretary, GST Council to inform the Council about the requests received. Additional Secretary, GST Council stated that a written request was received from the Joint Commissioner, Odisha to replace the version of the Principal Secretary (Finance), Odisha in paragraph 5.4.4 of the Minutes as follows:

‘Shri Tuhin Kanta Pandey, Principal Secretary (Finance), Odisha stated that presently the State of Odisha has an e-Way Bill system for inter-state movement and not for intra-state movement and in

principle, the State was against the implementation of e-Way Bill system. He explained that when one-to-one invoice matching was available in the system, there was no need for an e-Way Bill. He added that this would increase the compliance burden and that efforts should be taken to reduce compliance burden. He further informed that with effect from 1 April 2017, his State had abolished check posts and there was no problem because of that. If at all it is felt necessary to introduce the system, it should be done later after thorough deliberations, so that unnecessary compliance burden is avoided.'

The Council agreed to replace the version of the Principal Secretary (Finance), Odisha as requested.

4.2. Additional Secretary, GST Council further informed that a written request had also been received from Shri Alok Gupta, Commissioner, Commercial Taxes (CCT), Rajasthan to include the views of the Hon'ble Minister from Rajasthan in paragraph 8.7.2 of the Minutes after the views of the Hon'ble Chief Minister of Puducherry as follows:

'The Hon'ble Minister from Rajasthan stated that room of Rs. 5,000/- plus was not a luxury. He requested to reconsider the rate of GST on hotel rooms and services and to reduce it to 18% from 28% for room tariff up to Rs. 10,000/-.'

The Council agreed to include the version of the Hon'ble Minister from Rajasthan as requested.

4.3. Dr. C. Chandramouli, Additional Chief Secretary, Tamil Nadu informed that the name of the Hon'ble Minister from Tamil Nadu had been left out of Annexure 1 of the Minutes, i.e. List of Ministers who attended the 17th GST Council Meeting. Chairman, CBEC mentioned that this was an inadvertent error and that the name of the Hon'ble Minister from Tamil Nadu would be included in Annexure 1 of the Minutes.

4.4. The Hon'ble Minister from Bihar stated that his views regarding palm and date jaggery and *neera* were not recorded in the Minutes. The Council agreed to appropriately include the views of the Hon'ble Minister from Bihar in the Minutes as follows:

'The Hon'ble Minister from Bihar requested that palm and date jaggery and all kinds of non-intoxicating *neera* be exempted from tax in view of the immense potential for small entrepreneurs and the beneficial effects of *neera* on health.'

4.5. In view of the above discussion, for Agenda item 1, the Council decided to adopt the Minutes of the 17th Meeting of the Council with the changes as recorded below: -

- (i) To replace the version of the Principal Secretary (Finance), Odisha in paragraph 5.4.4 of the Minutes with the following:

'Shri Tuhin Kanta Pandey, Principal Secretary (Finance), Odisha stated that presently the State of Odisha has an e-Way Bill system for inter-state movement and not for intra-state movement and in principle, the State was against the implementation of e-Way Bill system. He explained that when one-to-one invoice matching was available in the system, there was no need for an e-Way Bill. He added that this would increase the compliance burden and that efforts should be taken to reduce compliance burden. He further informed that with effect from 1 April 2017, his State had abolished check posts and there was no problem because of that. If at all it is felt necessary to introduce the system, it should be done later after thorough deliberations, so that unnecessary compliance burden is avoided.'

- (ii) To include the version of the Hon'ble Minister from Rajasthan as requested in paragraph 8.7.2 after the statement of the Hon'ble Chief Minister of Puducherry as follows:

'The Hon'ble Minister from Rajasthan stated that room of Rs. 5,000/- plus was not a luxury. He requested to reconsider the rate of GST on hotel rooms and services and to reduce it to 18% from 28% for room tariff up to Rs. 10,000/-.'

- (iii) To include the name of the Hon'ble Minister from Tamil Nadu in Annexure 1 of the Minutes, i.e. List of Ministers who attended the 17th GST Council Meeting held on 18 June 2017.

- (iv) To appropriately include the views of the Hon'ble Minister from Bihar as follows:

'The Hon'ble Minister from Bihar requested that palm and date jaggery and all kinds of non-intoxicating *neera* be exempted from tax in view of the immense potential for small entrepreneurs and the beneficial effects of *neera* on health.'

Agenda Item 2: Decisions of the GST Implementation Committee (GIC)

5. Introducing this Agenda item, the Hon'ble Chairperson stated that the GST Council had decided to form the GST Implementation Committee (GIC) comprising of officers from the Central and State Governments to decide on procedural issues since it would not be feasible to bring all such issues to the Council. She invited Shri Upender Gupta, Commissioner (GST Policy Wing) to make a presentation highlighting the key decisions of the GIC for information of the Council. The presentation is included at **Annexure 3**.

5.1. Commissioner, (GST Policy Wing), CBEC explained that certain amendments and changes were discussed in the GIC meetings held on 18th June 2017, 23rd June 2017 and 28th June 2017 and that the GIC had approved the amendments, additions and deletions under the Central Goods and Services Tax Rules, 2017. The decisions of the GIC are recorded below –

- i. To defer by two months, bringing into force Section 51 (TDS) and Section 52 (TCS) of the Central Goods and Services Tax Act (CGST) , 2017/State Goods and Services Tax (SGST) Acts, 2017 owing to the lack of preparedness of government agencies to deduct TDS and the need to be linked to fund settlement mechanism of respective States. It was also pointed out that since GSTR 2 is not getting filed in the first two months, the TDS/TCS benefit cannot be passed on to the tax payer.
- ii. To defer to a later date implementation of provisos to section 42(9) and section 43(9) of the CGST Act, 2017/SGST Acts, 2017.
- iii. To bring into force from a later date section 15 of the Integrated Goods and Services Tax Act, 2017(13 of 2017) dealing with Tourist Refund.
- iv. To exempt those dealing in second hand goods and availing the margin scheme provided in Rule 32(5) of CGST Rules, 2017 from payment of tax under Section 9(4) of CGST Act, 2017/SGST Acts, 2017.
- v. To exempt persons liable to deduct tax under Section 51 from payment of tax under Section 9(4) of CGST Act, 2017 /SGST Acts, 2017, if registered only for TDS as they are not engaged in supply or receipt of goods or services.
- vi. To levy a uniform rate of 18% on all Information Technology (IT) software, irrespective of whether supplied on tangible media or through electronic downloads.
- vii. In respect of guest houses and hotels which are not liable to be registered under Section 22(1), their services to be taxed at the hands of the electronic commerce operator under Section 9(5) of the CGST Act, 2017/SGST Acts, 2017.

- viii. To allow deemed credit of @ 40% on goods which were exempted under Central Excise (such as tractor and textile).
- ix. To approve certain changes in Rules relating to Registration, Composition, Return, Invoices, Refund, ITC & Transition as detailed below –

<u>S. No.</u>	<u>Chapter</u>	<u>Amendments in Rule No.</u>	<u>Addition/Deletion</u>	<u>Reason</u>
1	Registration	1, 10(4), 13(4), second proviso of 19(1), 21(b), 22(3), Second Proviso of 24(1), 26(3), Form GST REG-12, Form REG-25	Rule 24(3A) Addition	To enable deemed registration for migrating assesses also
2	Composition	Form GST CMP-03, CMP-04, GST CMP-07	---	Minor Changes in drafting
3	Return	FORM GSTR-7A, 45(3), 45(4), Rule 61(5)	FORM GSTR-3B (addition)	Shorter return for first two months of roll-out
4	Tax Invoice, Credit and Debit Notes	First proviso of rule 46, Second Proviso to Rule 46	Rule 46 (f) (addition)	Address of Delivery of recipient in the invoice if the recipient requests for the same
5	Refund	-----	New Rule No .96 (addition), second proviso in rule 89 (deletion)	Refund of IGST paid on goods to be refunded through automatic route
6	ITC	42(1)(i)	FORM GST ITC-04	To enable intimation on job work from taxpayer
7	Transition	FORM TRAN 1 & 2	-----	Minor changes in drafting

5.2. The Secretary informed that the decisions of GIC were discussed in the Officers' Meeting and many States were not agreeable to allowing 40% deemed credit on SGST as States would have to allow deemed credit even though they might not have collected any VAT. Therefore, in the Officers' Meeting, it was suggested to not implement the decision of the GIC regarding allowance of deemed credit of 40% on goods which were exempted under Central Excise. The Council agreed to the suggestion.

5.3. The Hon'ble Minister from Meghalaya requested for clarification on the Invoice Rules, whether the limit (for recording address in the Invoice) had been revised to Rs. 20,000/-. Commissioner (GST Policy Wing), CBEC clarified that it was decided to incorporate in the Invoice Rules that if the consumer insisted, even if the value of supply was less than Rs. 50,000/-, the address would be recorded in the Invoice.

5.4. For agenda item 2, the Council took note of the decisions of the GIC as referred to in paragraph 5.1. However, the Council decided not to implement the decision of the GIC regarding allowance of deemed credit of 40% on goods which were exempted under Central Excise /VAT.

Agenda Item 3: Any other agenda item with the permission of the Chairperson

Approval of draft GST Rules and related Forms

6.1. The Council then took up agenda item 3 for discussion. Commissioner (GST Policy Wing) proceeded to make a presentation on the Rules which is included in **Annexure 3**. The Hon'ble Deputy Chief Minister of Delhi suggested that since these Rules had already been discussed by the officers in the Officers' Meeting held earlier, these could be approved and only issues where there was no consensus among the officers could be flagged. The Chairperson agreed to this suggestion. Commissioner (GST Policy Wing), CBEC added that the officers were in agreement on all issues discussed regarding the Rules.

Agenda Item 3(i) – Compounding of Offences

6.2.1. Commissioner (GST Policy Wing), CBEC mentioned that some changes suggested by the officers in the Officers' Meeting have been incorporated in the Rules. The modified version of the Compounding of Offences Rules is at **Annexure 4**.

6.2.2. The Council approved the Rules and related Forms on Compounding of Offences including the changes made therein.

Agenda Item 3(ii) – Enforcement (Inspection, Search and Seizure)

6.3.1. Commissioner (GST Policy Wing), CBEC mentioned that some changes suggested by the officers in the Officers' Meeting have been incorporated in the Rules. The modified version of the Enforcement (Inspection, Search and Seizure) Rules is at **Annexure 5**.

6.3.2. The Council approved the Rules and related Forms on Enforcement (Inspection, Search and Seizure) including the changes made therein.

Agenda Item 3(iii) – Refund (Rule 96 amended to accommodate export without payment of tax)

6.4.1. Commissioner (GST Policy Wing) stated that with reference to the Refund Rules, it was desirable that the process followed for export of goods from SEZ (Special Economic Zone) should be followed for export of goods under bond also. The agreed amendment to the Refund Rules at **Annexure 6**.

6.4.2. The Council approved the changes made to the Refund Rules and Forms.

Agenda Item 3(iv) – Demand and Recovery

6.5.1. Commissioner (GST Policy Wing), CBEC mentioned that some changes suggested by the officers in the Officers' Meeting have been incorporated in the Rules. The modified version of the Demand and Recovery Rules is at **Annexure 7**.

6.5.2. The Council approved the Rules and related Forms on Demand and Recovery including the changes made therein.

6.6. Commissioner (GST Policy Wing), CBEC stated that there were two additional agenda items and two table agenda items listed. The Secretary informed that the remaining four items were also discussed during the Officers' Meeting and that the officers had agreed on all these items and that the Council could approve them. Accordingly, the Council approved the four items listed below. A brief summary of each of these additional agenda items is given below.

Agenda Item 3(v) – Value for the purpose of levy of GST on transportation of goods by a vessel from a place outside India up to the customs station in India

6.7.1. In the existing Service Tax Law, with a view to provide level playing field to the Indian shipping companies, it has been provided that in cases where the goods are imported by an importer in India on CIF (Cost, Insurance and Freight) basis and the service of transportation of goods by a vessel from a place outside India up to the customs station in India is provided by a person located in non-taxable territory (a foreign shipping line) to a person located in non-taxable territory (overseas supplier/exporter of goods), the importer in India shall be liable to pay Service Tax on freight. In view of the representations that where the importer purchases goods on CIF basis, he may not have the invoice issued by the shipping line for freight and may not know the amount of freight charged by the foreign shipping line from the foreign supplier; it was stipulated in the Service Tax Rules that in such cases the importer shall have the option to pay an amount calculated @ 1.4% of the CIF value of imported goods. This provision was stipulated on the basis that freight roughly constitutes 10% of the CIF value of goods on an average. Under GST too, it was decided that the liability to pay GST on such transportation service provided by a foreign shipping line to a foreign supplier shall be of the importer in India and the notifications are being issued accordingly. It is proposed that the similar provision deeming value of such service at 10% of the CIF value may be incorporated in the IGST notification. Considering the nature of the service, this provision is not required in the CGST, SGST or UTGST notifications. The Council approved the proposal.

Agenda Item 3(vi) – Notification of IGST Rules, 2017

6.8.1. Section 20 of the IGST Act, 2017 provides for application of certain provisions of the CGST Act, 2017 to the IGST Act and Section 22 of the said act provides for making rules for carrying out the provisions of the IGST Act. The Central Goods and Services Tax Rules, 2017 (comprising of chapters on registration and composition levy) were notified under section 164 of the CGST Act, 2017 vide Notification No. 3/2017 – Central Tax dated 19.06.2017 and have come into force with effect from 22.06.2017. Subsequently, minor non-substantive amendments were carried out in the CGST Rules, 2017 vide notification No. 7/2017-Central Tax dated 27.06.2017 and twelve new chapters comprising of provisions for valuation, tax payment, tax invoice, returns, refund, input tax credit, assessment, appeals and revision, etc. were added to the CGST Rules, 2017 vide notification No. 10/2017-Central Tax dated 28.06.2107. The issue relating to issuance of IGST Rules was discussed with the Union Law Ministry, which opined that the Integrated Goods and Services Tax Rules, 2017 are required to be notified under section 22 of the IGST Act, 2017 to carry out the provisions of the said Act. Since the CGST Rules were being adopted, in toto, as IGST Rules, the same were notified vide notification No. 4/2017-Integrated Tax dated 28.06.2017. Rule 2 of the said rules states that the Central Goods and Services Tax Rules, 2017, for carrying out the provisions specified in section 20 of the IGST Act, 2017 shall, as far as may be, apply in relation to the integrated tax as they apply in relation to the central tax. Further, these rules have been deemed to have come into force with effect from 22.06.2017. The Council was requested to grant post facto approval for adopting the CGST Rules as IGST Rules as has been advised by the Union Law Ministry and to notify the IGST Rules with effect from 22.06.2017. The Council agreed to this proposal.

Agenda Item 3(vii) – Proposal to amend rule 117 (1) of the CGST Rules, 2017

6.9.1. Rule 117 (1) of the CGST Rules, 2017 currently reads as:

“(1) Every registered person entitled to take credit of input tax under section 140 shall, within ninety days of the appointed day, submit a declaration electronically in FORM GST TRAN-1, duly signed, on

the common portal specifying therein, separately, the amount of input tax credit to which he is entitled under the provisions of the said section: . . .”

6.9.2 To clarify that there will be no transition of credit of various cesses in GST, it is proposed to add ‘*of eligible duties and taxes, as defined in Explanation 2 to section 140*’ since cesses are not covered in the definition of ‘eligible duties and taxes’ This will also ensure that it applies uniformly to transition of all credits. The amended sub-rule (1) shall read as:

“(1) Every registered person entitled to take credit of input tax under section 140 shall, within ninety days of the appointed day, submit a declaration electronically in FORM GST TRAN-1, duly signed, on the common portal specifying therein, separately, the amount of input tax credit of eligible duties and taxes, as defined in Explanation 2 to section 140, to which he is entitled under the provisions of the said section.”

The Council agreed to this proposal.

Agenda Item 3(viii) – High Sea Sales

6.10.1. “High Sea Sales” is a terminology used in common parlance for “Sales in the course of import.” In such cases, sale taking place by transfer of documents of title to goods before goods are cleared from customs, is a sale in the course of import. There is need to bring clarity on the issue of levy of IGST, when such sale (supply in GST parlance) takes place in high sea and a second-time levy of IGST when goods are cleared through Customs. It is proposed to clarify by way of a circular that when goods sold on high sea sales basis are imported the first time, IGST would be levied at the time of importation and the value addition due to high sea sales shall be part of the value on which IGST is collected. The Council agreed to this proposal.

Other Issues

7.1. The Hon’ble Minister from Haryana complimented the Chairperson for his efforts in ensuring that all decisions taken by the GST Council were unanimous and requested on behalf of Haryana and Punjab to take a relook at the issues of the agriculture sector. He stated that this sector was in some distress right now but the Council had decided to tax fertilisers, a major input for agriculture, at the rate of 12% (which was currently exempted in Haryana). He added that this meant that there would be an additional cost of Rs. 31 for every 50 kg. of urea and that this would, in addition, send a wrong signal on how the Council considered the issues pertaining to farmers. He further added that pesticides were being taxed at the rate of 18% and that tractor parts were taxed at the rate of 28%. He requested that these issues be reconsidered. The Hon’ble Minister from Telangana said that his Government too supported the suggestions of the Hon’ble Minister from Haryana. The Hon’ble Deputy Chief Minister of Gujarat supported the suggestion and added that the rate of tax on fertilisers should be 5% and that this would be in the interest of the farmers as well as the nation. The Hon’ble Minister from Chhattisgarh said that compared to the earlier rate, a rate of 12% would make fertilisers more expensive and that it would be a matter of concern for the farmers. He requested that the rate of tax on fertilisers should be reduced. The Hon’ble Minister from Uttar Pradesh stated that as discussed previously by the Council, gypsum, bio-fertilisers, organic fertilisers and zinc sulphate should also be considered along with fertilisers.

7.2. The Hon’ble Minister from Madhya Pradesh requested to reduce the rate of tax on fertilisers, pesticides and tractor parts. The Hon’ble Ministers from Uttarakhand and Rajasthan supported the proposal to reduce rate of tax on fertilisers. The Hon’ble Minister from Rajasthan also requested that the rate of tax on handicrafts, hand tools and textiles (Jaipur ‘*rajaai*’) should be relooked. The Hon’ble Deputy Chief Minister of Gujarat stated that the cake that came out of crushing cotton seed was not

treated as de-oiled cake and that it should be exempted as it was used as cattle feed by cattle herders who were not even land owners. He therefore requested to club this item along with de-oiled cake. The Secretary clarified that oil cake used as cattle feed would be exempt from GST. However, oil cake supplied to solvent extractors will be chargeable to 5% GST. The Hon'ble Minister from Kerala stated that tractor parts should be taxed at the same rate as tractors and that currently, they were taxed at a higher rate. He added that in the case of fertilisers, a rational decision should be taken. The Hon'ble Minister from Andhra Pradesh stated that he agreed with the view expressed regarding tractors and fertilisers.

7.3. The Hon'ble Minister from Karnataka stated that in the case of tractors, it was agreed in the past meetings that any exclusive tractor parts would be kept at 18% and that it was only a matter of establishing that something was an exclusive tractor part. He noted that some exclusively tractor parts had been deemed to be of dual usage and that these could be vetted by an expert taking representations from the tractor industry and those that were exclusively tractor parts could be placed in the 18% rate schedule. The Secretary stated that Government of Haryana had earlier submitted a list of exclusive tractor parts such as the rear wheel of tractors which were agreed to be put in the 18% category and that the tractor industry had submitted a list of items which they claimed could be used only for tractor-making. He added that this was being examined and that if the Chairperson could be authorized, those parts which were established as exclusive tractor parts could be notified (under the 18% category). The Hon'ble Minister from Karnataka supported this suggestion. The Hon'ble Minister from Odisha stated that his state also endorsed the point regarding tractors. The Hon'ble Minister from Bihar stated that tractors were used not only for agricultural purposes but commercially as well and that even in the case of fertilisers, if tax was collected today, benefit could be given back to the farmers in the form of direct benefit transfer to their accounts. He added that the Council had taken a decision and that it could be reviewed after one year. The Hon'ble Minister from Karnataka reiterated the request of the Hon'ble Minister from Kerala to provide information on embedded taxes (on fertilisers) and that a rational decision could then be taken.

7.4. The Hon'ble Minister from Tamil Nadu supported the request to reduce rates on fertilisers and tractor parts and also requested that the rates of unbranded sugar confectionaries, roasted gram (locally known as fried gram), sago, wet grinders and air compressors, fish net, fish net twines and sanitary napkins be reduced. He added that the rate of tax for supply of food and drinks in small restaurants should be brought down to 5% and that a distinction needed to be made between air-conditioned restaurants that served liquor and other air-conditioned restaurants that did not serve liquor. He also added that the proposal to levy tax at 28% on the fireworks industry might harm the sector and pave the way for the market to be flooded with imported fireworks. The Hon'ble Minister from Goa stated that he supported the view of the Hon'ble Minister from Tamil Nadu in the matter of fish nets and that fishermen were very agitated by the rate of tax proposed to be imposed. He added that having decided the rates, it was not prudent to go back and review the rates so soon. He further added that the GST Council was a continuous process and that it would be meeting frequently and would review the rates also accordingly. He requested that the decisions of so many meetings be implemented first.

7.5. The Hon'ble Minister from Karnataka stated that before jumping to any conclusion regarding reduction in rates of tax in the case of fertilisers, the correct data needed to be shared. The Secretary informed that for fertilisers, the rate decided was 12% and that there was an excise duty of 1% currently. He added that there was also an embedded tax of 2.44% on the inputs that went into the manufacture of fertilisers and that the weighted average of VAT rate of all States was 4.09% (except in States like Punjab and Haryana where VAT rate on fertilisers was nil). The tax components of CST (Central Sales Tax), Octroi, reversal of input tax credit (in the case of depot transfer) were also taken into account and the total incidence came to 9.75%. He added that since the existing rate fell between 5% and 12%, a call had to be taken on which slab to place fertilisers in. The Hon'ble Minister from Assam stated that

seeing the unrest among farmers and to give a good message, and also given that not all States had octroi, fertilisers could be placed in the 5% slab. The Hon'ble Minister from Telangana stated that fertilisers should be exempted. The Hon'ble Minister from Kerala wondered whether there would be any credit block if the tax rate (on fertilisers) was brought to 5%. The Secretary stated that there would be two implications – even at the current rate of 12%, the inputs (to fertilisers) were at 18% and there would be requirement to obtain refunds. If the rate was reduced to 5%, there would be an additional requirement for refund which would pose some difficulty for fertiliser units because they would first have to invest in the inputs (at the rate of 18%), there would be a blockage of funds for some time and depending on the sale, they would have to obtain refunds (which would be obtained in sixty days). He added that however, the current situation was tricky in the farming sector, with some fertiliser companies having already announced a price rise from 1 July 2017.

7.6. The Hon'ble Chairperson said that there were two points to consider – one was about what was being said about fertilisers and the second being what would be the process and mechanism for the Council's functioning when such issues came up for discussion after implementation. The Hon'ble Minister from Goa stated that given that data was still being collected, in the present circumstances, a message needed to go out that the GST Council cared for the farmers. The Hon'ble Chairperson stated that factually, fertiliser was exactly in between the two slabs of 5% and 12% and that a decision had been made to include it in the higher bracket and that it would be alright to decide on this either way. He suggested that the views of all the States could be taken on this matter. The Hon'ble Minister from Haryana stated that Punjab had requested him to take up the issue of taxing fertilisers at 5%. Shri Onkar Chand Sharma, Principal Secretary (Excise & Taxation), Himachal Pradesh stated that his state supported the rate of 5%. The Hon'ble Minister from Kerala supported 5% rate but with the caveat that he would not be able to grant refunds. The Secretary stated that this would be regressive on the fertiliser companies who would not be able to take the losses. He added that while being kind to the farmers, it would be unfair to the fertiliser companies and that they would possibly then increase the price of fertilisers to offset the losses due to denial of refund. The Deputy Chief Ministers of Delhi, Manipur, Arunachal Pradesh and the Hon'ble Ministers from Uttarakhand, Jharkhand, Jammu & Kashmir, Haryana, Bihar, Andhra Pradesh, Assam, Manipur, Karnataka, Madhya Pradesh, Odisha and Nagaland all supported a rate of 5% on fertilisers. The Hon'ble Chairperson observed that there was a consensus on a tax rate of 5% on fertilisers and proposed to adopt the same. The Council agreed to the suggestion.

7.7. The Hon'ble Minister from Uttar Pradesh stated that he had requested for reconsideration of rates of some items to which the Hon'ble Chairperson responded that the Fitment Committee would examine the requests. The Hon'ble Minister from Telangana stated that on the subject of works contract, the Hon'ble Chief Minister of Telangana had written a letter to the GST Council stating that a rate of 18% on it would make it very difficult for his State since they had many projects relating to water such as Water Grid, Irrigation, etc. He also raised the issue of granite and *beedis*.

7.8. The Hon'ble Chairperson added that as per the suggestion of the Hon'ble Minister from Karnataka on tractor parts, any items that were exclusively tractor parts would be put in the 18% tax bracket. He added that any further matters could be taken up for discussion by the Council starting from the first Saturday of August.

8. In respect of Agenda Item 3, the Council approved the following –

- i. the Rules and related Forms on Compounding of Offences including the changes made therein.
- ii. the Rules and related Forms on Enforcement (Inspection, Search and Seizure) including the changes made therein.
- iii. the changes made to the Refund Rules (Rule 96 amended to accommodate export without payment of tax) and Forms

- iv. the Rules and related Forms on Demand and Recovery including the changes made therein.
- v. to incorporate a provision in the IGST notification that in cases where the goods are imported by an importer in India on CIF (Cost, Insurance and Freight) basis and the service of transportation of goods by a vessel from a place outside India up to the customs station in India is provided by a person located in non-taxable territory (a foreign shipping line) to a person located in non-taxable territory (overseas supplier/ exporter of goods) and in case the importer did not know the amount of freight charged by the foreign shipping line from the foreign supplier, the deemed value of such service shall be at 10% of the CIF value.
- vi. post facto, adopting the CGST Rules as IGST Rules.
- vii. to amend Rule 117(1) of the CGST Rules, 2017 as follows:
“(1) Every registered person entitled to take credit of input tax under section 140 shall, within ninety days of the appointed day, submit a declaration electronically in FORM GST TRAN-1, duly signed, on the common portal specifying therein, separately, the amount of input tax credit of eligible duties and taxes, as defined in Explanation 2 to section 140, to which he is entitled under the provisions of the said section.”
- viii. to clarify by way of a circular that when goods sold on high sea sales basis are imported the first time, IGST would be levied at the time of importation and the value addition due to high sea sales shall be part of the value on which IGST is collected.
- ix. to include fertilisers in the list of 5% items.
- x. to authorize the Chairperson to, after establishing parts used exclusively in tractors, include those parts in the list of 18% items.

Agenda Item 4: Date of the next meeting of the GST Council

9. The Hon’ble Chairperson suggested that for the first three or four months (after implementation), the Council could meet on the first Saturday of every month (starting from August 2017) for the Council to review implementation of GST and consider the recommendations of the GIC.

10. The meeting ended with a vote of thanks to the Chair.

Annexure – 1

List of Ministers who attended the 18th GST Council Meeting on 30 June 2017

<u>S No</u>	<u>State/Centre</u>	<u>Name of the Minister</u>	<u>Charge</u>
1	Govt. of India	Shri Arun Jaitley	Finance Minister
2	Govt. of India	Shri Santosh Kumar Gangwar	Minister of State (Finance)
3	Manipur	Shri Yumnam Joykumar Singh	Deputy Chief Minister
4	Arunachal Pradesh	Shri Chowna Mein	Deputy Chief Minister
5	Delhi	Shri Manish Sisodia	Deputy Chief Minister
6	Gujarat	Shri Nitinbhai Patel	Deputy Chief Minister
7	Andhra Pradesh	Shri Yanamala Ramakrishnudu	Minister - Finance, Planning, Commercial Taxes & Legislative Affairs
8	Assam	Dr. Himanta Biswa Sarma	Finance Minister
9	Bihar	Shri Bijendra Prasad Yadav	Minister - Commercial Taxes & Energy
10	Chhattisgarh	Shri Amar Agrawal	Minister - Commercial Taxes
11	Goa	Shri Mauvin Godinho	Minister - Panchayat
12	Haryana	Captain Abhimanyu	Minister - Excise & Taxation
13	Jammu & Kashmir	Dr. Haseeb A Drabu	Finance Minister
14	Jharkhand	Shri C.P. Singh	Minister - Urban Development, Housing & Transport
15	Karnataka	Shri Krishna Byre Gowda	Minister - Agriculture
16	Kerala	Dr. Thomas Isaac	Finance Minister
17	Madhya Pradesh	Shri Jayant Malaiya	Finance Minister
18	Maharashtra	Shri Sudhir Mungantiwar	Finance Minister
19	Meghalaya	Shri Zenith Sangma	Minister - Taxation
20	Mizoram	Shri Lalsawta	Minister - Taxation
21	Nagaland	Shri Vikheho Swu	Minister - Roads & Bridges
22	Odisha	Shri Shashi Bhusan Behera	Minister - Finance & Excise
23	Rajasthan	Shri Rajpal Singh Shekhawat	Minister - Industries
24	Tamil Nadu	Shri D. Jayakumar	Minister - Fisheries, Finance, Personnel & Administrative Reforms
25	Telangana	Shri Etela Rajender	Finance Minister
26	Uttar Pradesh	Shri Rajesh Agarwal	Finance Minister
27	Uttarakhand	Shri Prakash Pant	Finance Minister

Annexure – 2

List of Officials who attended the 18th GST Council Meeting on 30 June 2017

<u>S No</u>	<u>State/Centre</u>	<u>Name of the Officer</u>	<u>Charge</u>
1	Govt. of India	Dr. Hasmukh Adhia	Revenue Secretary
2	Govt. of India	Ms. Vanaja N. Sarna	Chairman, CBEC
3	Govt. of India	Dr. Arvind Subramanian	Chief Economic Adviser
4	Govt. of India	Shri Mahender Singh	Member (GST), CBEC
5	Govt. of India	Shri R.K. Mahajan	Member (Budget), CBEC
6	Govt. of India	Shri P.K. Jain	Chief Commissioner, (AR), CESTAT, CBEC
7	Govt. of India	Shri B.N. Sharma	Additional Secretary, Dept of Revenue
8	Govt. of India	Shri P.K. Mohanty	Advisor (GST), CBEC
9	Govt. of India	Shri P.K. Srivastava	Joint Secretary (UT), MHA
10	Govt. of India	Shri Alok Shukla	Joint Secretary (TRU), Dept of Revenue
11	Govt. of India	Shri Simanchala Dash	OSD to FM
12	Govt. of India	Shri Upender Gupta	Commissioner (GST), CBEC
13	Govt. of India	Shri Udai Singh Kumawat	Joint Secretary, Dept of Revenue
14	Govt. of India	Shri Amitabh Kumar	Joint Secretary (TRU), Dept of Revenue
15	Govt. of India	Shri Manish Kumar Sinha	Commissioner, CBEC
16	Govt. of India	Shri G.D. Lohani	Commissioner, CBEC
17	Govt. of India	Shri D.S. Malik	ADG, PIB
18	Govt. of India	Ms Sheyphali B. Sharan	ADG, PIB
19	Govt. of India	Shri Hemant Jain	OSD to MoS (Finance)
20	Govt. of India	Shri S.K. Rai	Director (UT), Ministry of Home Affairs
21	Govt. of India	Shri G.G. Pai	Director, TRU
22	Govt. of India	Shri Reyaz Ahmed	Director, TRU
23	Govt. of India	Shri Saurabh Shukla	PS to FM
24	Govt. of India	Ms. Aarti Saxena	Deputy Secretary, Dept of Revenue
25	Govt. of India	Shri Pramod Kumar	Deputy Secretary, TRU
26	Govt. of India	Ms. Himani Bhayana	Joint Commissioner
27	Govt. of India	Shri Ravneet Singh Khurana	Joint Commissioner
28	Govt. of India	Shri Vishal Pratap Singh	Joint Commissioner

S No	State/Centre	Name of the Officer	Charge
29	Govt. of India	Shri Paras Sankhla	OSD to FM
30	Govt. of India	Shri Arjun Raghavendra M	OSD to Revenue Secretary
31	Govt. of India	Shri Manjunath AN	Assistant Commissioner, GST Policy
32	Govt. of India	Ms. Rachna	OSD, TRU
33	GST Council	Shri Arun Goyal	Additional Secretary
34	GST Council	Shri Dheeraj Rastogi	Commissioner
35	GST Council	Shri Gauri Shankar Sinha	Joint Commissioner
36	GST Council	Shri Jagmohan	Joint Commissioner
37	GST Council	Ms. Thari Sitkil	Deputy Commissioner
38	GST Council	Shri Rakesh Agarwal	Assistant Commissioner
39	GST Council	Shri Kaushik TG	Assistant Commissioner
40	GST Council	Shri Shekhar Khansili	Superintendent
41	GST Council	Shri Sandeep Bhutani	Superintendent
42	GST Council	Shri Mukesh Gaur	Superintendent
43	GST Council	Shri Amit Soni	Inspector
44	GST Council	Shri Anis Alam	Inspector
45	GSTN	Shri Navin Kumar	Chairman
46	GSTN	Shri Prakash Kumar	CEO
47	GSTN	Shri Nitin Mishra	EVP (Technology)
48	GSTN	Shri Jagmal Singh	VP
49	Andaman & Nicobar	Shri S.C.L. Das	Principal Secretary (Finance)
50	Andhra Pradesh	Dr. Sambasiva Rao	Special Chief Secretary
51	Andhra Pradesh	Shri J. Syamala Rao	Commissioner, Commercial Taxes
52	Andhra Pradesh	Shri T. Ramesh Babu	Additional Commissioner, Commercial Taxes
53	Arunachal Pradesh	Shri Marnya Ete	Commissioner (Tax & Excise)
54	Assam	Dr. Ravi Kota	Principal Secretary (Finance)
55	Assam	Shri Anurag Goel	Commissioner, Commercial Taxes
56	Bihar	Ms. Sujata Chaturvedi	Principal Secretary & Commissioner, Commercial Taxes
57	Bihar	Shri Arun Kumar Mishra	Additional Secretary
58	Chandigarh	Shri Parimal Rai	Adviser/Chief Secretary

S No	State/Centre	Name of the Officer	Charge
59	Chhattisgarh	Shri Amitabh Jain	Principal Secretary (Finance)
60	Chhattisgarh	Ms. Sangeetha P	Commissioner, Commercial Taxes
61	Daman & Diu/Dadra Nagar Haveli	Shri J.B. Singh	Advisor to Administrator
62	Delhi	Shri S. N. Sahai	Principal Secretary (Finance)
63	Delhi	Shri H. Rajesh Prasad	Commissioner, VAT
64	Goa	Shri Dipak Bandekar	Commissioner, Commercial Taxes
65	Gujarat	Shri Anil Mukim	Additional Chief Secretary
66	Gujarat	Dr. P.D. Vaghela	Commissioner, Commercial Taxes
67	Gujarat	Shri Sanjiv Kumar	Secretary (Economic Affairs)
68	Haryana	Shri Sanjeev Kaushal	Additional Chief Secretary
69	Haryana	Shri Rajeev Chaudhary	Deputy Commissioner
70	Himachal Pradesh	Shri Onkar Chand Sharma	Principal Secretary (Excise & Taxation)
71	Himachal Pradesh	Shri Pushpendra Rajput	Commissioner, Excise & Taxation
72	Jammu & Kashmir	Shri P.I. Khateeb	Commissioner, Commercial Taxes
73	Jharkhand	Shri K.K. Khandelwal	Principal Secretary & Commissioner, Commercial Taxes
74	Jharkhand	Shri Sanjay Kumar Prasad	Joint Commissioner, Commercial Taxes
75	Karnataka	Shri Ritvik Pandey	Commissioner, Commercial Taxes
76	Kerala	Dr. Rajan Khobragade	Commissioner, Commercial Taxes
77	Madhya Pradesh	Shri Manoj Shrivastav	Principal Secretary (Finance)
78	Madhya Pradesh	Shri Raghendra Kumar Singh	Commissioner, Commercial Taxes
79	Madhya Pradesh	Shri Sudip Gupta	Deputy Commissioner
80	Maharashtra	Shri Rajiv Jalota	Commissioner, Sales Tax
81	Maharashtra	Shri Dhananjay Akhade	Joint Commissioner, Commercial Taxes
82	Manipur	Shri Vivek Kumar Dewangan	Commissioner (Finance) & Finance Secretary
83	Manipur	Shri Hrisheekesh Modak	Commissioner, Commercial Taxes
84	Mizoram	Shri Vanlalchhuanga	Secretary (Taxation)
85	Mizoram	Shri Kailiana Ralte	Joint Commissioner (Taxation)
86	Nagaland	Shri Abhijit Sinha	Finance Commissioner
87	Nagaland	Shri Wochamo Odyuo	Additional Commissioner, Commercial Taxes
88	Odisha	Shri Tuhin Kanta Pandey	Principal Secretary (Finance)

S No	State/Centre	Name of the Officer	Charge
89	Odisha	Shri Sahadev Sahu	Joint Commissioner, Commercial Taxes
90	Puducherry	Dr. V. Candavelou	Secretary (Finance)
91	Puducherry	Shri G. Srinivas	Commissioner, Commercial Taxes
92	Rajasthan	Shri Alok Gupta	Commissioner, Commercial Taxes
93	Rajasthan	Shri Ketan Sharma	Deputy Commissioner
94	Tamil Nadu	Dr. C. Chandramouli	Additional Chief Secretary
95	Tamil Nadu	Shri D. Soundararajapandian	Joint Commissioner
96	Telangana	Shri Somesh Kumar	Principal Secretary (Revenue)
97	Telangana	Shri Anil Kumar	Commissioner, Commercial Taxes
98	Telangana	Shri Laxminarayan Jannu	Joint Commissioner, Commercial Taxes
99	Tripura	Shri M. Nagaraju	Principal Secretary (Finance)
100	Uttarakhand	Shri Sridharbabu Addanki	Commissioner, Commercial Taxes
101	Uttarakhand	Shri Piyush Kumar	Additional Commissioner, Commercial Taxes
102	Uttar Pradesh	Shri R.K. Tiwari	Additional Chief Secretary
103	Uttar Pradesh	Shri Mukesh Kumar Meshram	Commissioner, Commercial Taxes
104	Uttar Pradesh	Shri Vivek Kumar	Additional Commissioner, Commercial Taxes
105	West Bengal	Ms. Smaraki Mahapatra	Commissioner, Commercial Taxes
106	West Bengal	Shri Khalid Anwar	Senior Joint Commissioner

Annexure 3

Presentation on Decisions of the GIC and GST Rules



Agenda



- Key GIC Decisions
- Compounding of Offences
- Enforcement (Inspection, Search, Seizure and Arrest)
- Refund (Amendment to Rule 96)
- Demand and Recovery

Key GIC Decisions – Policy and Exemptions



- Delegation of Power to GIC in the 17th GSTC Meeting
- Sections to be brought into force from a later date
 - TDS (section 51) & TCS (Section 52)
 - Proviso to Section 42(9) & 43(9)
 - Tourist refund (Section 15 of IGST Act)
- Exemption from applicability of section 9(4)
 - Persons dealing with second hand goods and availing margin scheme
 - Persons (mostly Govt. agencies) registered for TDS but not making supplies

Key GIC Decisions – Policy and Exemptions



- All IT Software, irrespective of the media on which it is supplied should be taxed at 18%
- Hotels / Guest Houses not liable to be registered - tax to be paid by Aggregator in terms of Section 9(5)
- Deemed credit @ 40% for goods which were earlier exempted (for example tractor and textile)
- Certain changes in Rules relating to Registration, Composition, Return, Invoices, Refund, ITC & Transition

Key GIC Decisions – Amendment in Notfn.



Sr. No.	Chapter	Amendments in Rule No.	Addition/Deletion	Reason
1	Registration	1, 10(4), 13(4), second proviso of 19(1), 21(b), 22(3), Second Proviso of 24(1), 26(3), Form GST REG-12, Form REG-25	24(3A) Addition	To enable deemed registration for migrating assesses also
2	Composition	Form GST CMP-03, CMP-04, GST CMP-07	---	Minor Changes in drafting
3	Return	FORM GSTR-7A, 45(3), 45(4), Rule 61(5)	FORM GSTR-3B (addition)	Shorter return for first two months of roll-out

Key GIC Decisions – Amendment in Notfn.



Sr. No.	Chapter	Amendments in Rule No.	Addition/Deletion	Reason
4	Tax Invoice, Credit and Debit Notes	First proviso of rule 46, Second Proviso to Rule 46	Rule 46 (f) (addition)	Address of Delivery of recipient in the invoice if the recipient requests for the same
5	Refund	-----	New Rule No .96 (addition) second proviso in rule 89 (deletion)	Refund of IGST paid on goods to be refunded through automatic route
6	ITC	42(1)(i)	FORM GST ITC-04	To enable provision intimation on job work from taxpayer
7	Transition	FORM TRAN 1 & 2	-----	Minor changes in drafting

Compounding of offences Rules



- Application for compounding of offences – before or after institution of prosecution
- Commissioner can pass order for compounding
- Compounding amount to be paid within thirty days of order
- Immunity can be withdrawn at any time if information given during compounding was incorrect

Enforcement (Inspection, Search, Seizure and Arrest)



- JC and above rank officer to issue for authorization of search & inspection in a **standard form**
- **Standard format** for seizure of goods or documents
- Goods can be handed over for safe upkeep to the person from whose custody they have been seized
- **Order for prohibition** to be served if the goods cannot be seized
- Goods may be provisionally released on execution of bond & furnishing a security for an amount equal to tax, interest and penalty
- Procedure for disposal of perishable or hazardous nature provided

Amendment in Rule 96 - Refund



- Rule 96 (Refund rules) already notified vide Notification 10 / 2017 dated 28.06.2017
- To provide for procedure for export of goods without payment of duty – under Bond or Letter or Undertaking
- Undertakes to pay tax
 - if the goods are not exported within 3 months from date of invoice
 - if the foreign exchange is not received within one year from date of invoice of services
- Facility for export without payment may be withdrawn if goods are not exported or payment is not made by the exporter

Demand and Recovery (1/3)



- Notice under Section 73 / 74 is served with summary of details of amount payable (for electronic tracking)
- Standardized procedure for taxpayer for payment of tax, interest and penalty before issue of SCN or within 30 days of service of SCN
- Final order passed after adjudication also to be passed with electronic summary
- Provision for rectification of order
- Standardized procedure for recovery of Arrears
- E-Auction for sale of goods under control of proper officer

Demand and Recovery (2/3)



- Standardized procedure for recovery
 - by sale of goods
 - from third person
 - through execution of a decree etc.
 - by sale of movable or immovable property
- No officer is allowed for bidding or purchase of property
- No sale on holidays
- Disposal of proceeds of sale of goods and movable or immovable property
- Recovery process for land revenue authority, court and surety

Demand and Recovery (3/3)



- Procedure for payment of tax and other amounts in not more than 24 installments
- Payment in installments not permitted in certain cases
- Provisional attachment of property and bank accounts
- Procedure for recovery from company in liquidation

Annexure 4

Compounding of Offences (Offences and Penalties)

162. Procedure for compounding of offences.- (1) An applicant may, either before or after the institution of prosecution, make an application under sub-section (1) of section 138 in FORM GST CPD-01 to the Commissioner for compounding of an offence.
- (2) On receipt of the application, the Commissioner shall call for a report from the concerned officer with reference to the particulars furnished in the application, or any other information, which may be considered relevant for the examination of such application.
- (3) The Commissioner, after taking into account the contents of the said application, may, by order in FORM GST CPD-02, on being satisfied that the applicant has co-operated in the proceedings before him and has made full and true disclosure of facts relating to the case, allow the application indicating the compounding amount and grant him immunity from prosecution or reject such application within ninety days of the receipt of the application.
- (4) The application shall not be decided under sub-rule (3) without affording an opportunity of being heard to the applicant and recording the grounds of such rejection.
- (5) The application shall not be allowed unless the tax, interest and penalty liable to be paid have been paid in the case for which the application has been made.
- (6) The applicant shall, within a period of thirty days from the date of the receipt of the order under sub-rule (3), pay the compounding amount as ordered by the Commissioner and shall furnish the proof of such payment to him.
- (7) In case the applicant fails to pay the compounding amount within the time specified in sub-rule (6), the order made under sub-rule (3) shall be vitiated and be void.
- (8) Immunity granted to a person under sub-rule (3) may, at any time, be withdrawn by the Commissioner, if he is satisfied that such person had, in the course of the compounding proceedings, concealed any material particulars or had given false evidence. Thereupon such person may be tried for the offence with respect to which immunity was granted or for any other offence that appears to have been committed by him in connection with the compounding proceedings and the provisions the Act shall apply as if no such immunity had been granted.”;

Annexure 5

Enforcement (Inspection, Search and Seizure)

139. Inspection, search and seizure.- (1) Where the proper officer not below the rank of a Joint Commissioner has reasons to believe that a place of business or any other place is to be visited for the purposes of inspection or search or, as the case may be, seizure in accordance with the provisions of section 67, he shall issue an authorisation in FORM GST INS-01 authorising any other officer subordinate to him to conduct the inspection or search or, as the case may be, seizure of goods, documents, books or things liable to confiscation.

(2) Where any goods, documents, books or things are liable for seizure under sub-section (2) of section 67, the proper officer or an authorised officer shall make an order of seizure in FORM GST INS-02.

(3) The proper officer or an authorised officer may entrust upon the owner or the custodian of goods, from whose custody such goods or things are seized, the custody of such goods or things for safe upkeep and the said person shall not remove, part with, or otherwise deal with the goods or things except with the previous permission of such officer.

(4) Where it is not practicable to seize any such goods, the proper officer or the authorised officer may serve on the owner or the custodian of the goods, an order of prohibition in FORM GST INS-03 that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer.

(5) The officer seizing the goods, documents, books or things shall prepare an inventory of such goods or documents or books or things containing, inter alia, description, quantity or unit, make, mark or model, where applicable, and get it signed by the person from whom such goods or documents or books or things are seized.

140. Bond and security for release of seized goods.- (1) The seized goods may be released on a provisional basis upon execution of a bond for the value of the goods in FORM GST INS-04 and furnishing of a security in the form of a bank guarantee equivalent to the amount of applicable tax, interest and penalty payable.

Explanation.- For the purposes of the rules under the provisions of this Chapter, the “applicable tax” shall include central tax and State tax or central tax and the Union territory tax, as the case may be and the cess, if any, payable under the Goods and Services Tax (Compensation to States) Act, 2017 (15 of 2017).

(2) In case the person to whom the goods were released provisionally fails to produce the goods at the appointed date and place indicated by the proper officer, the security shall be encashed and adjusted against the tax, interest and penalty and fine, if any, payable in respect of such goods.

141. Procedure in respect of seized goods.- (1) Where the goods or things seized are of perishable or hazardous nature, and if the taxable person pays an amount equivalent to the market price of such goods or things or the amount of tax, interest and penalty that is or may become payable by the taxable person, whichever is lower, such goods or, as the case may be, things shall be released forthwith, by an order in FORM GST INS-05, on proof of payment.

(2) Where the taxable person fails to pay the amount referred to in sub-rule (1) in respect of the said goods or things, the Commissioner may dispose of such goods or things and the amount realized thereby shall be adjusted against the tax, interest, penalty, or any other amount payable in respect of such goods or things.

Annexure 6

Amendment to Refund Rules (Rule 96 amended to accommodate export without payment of tax)

96. Refund of integrated tax paid on goods exported out of India and export of goods or services under bond or Letter of Undertaking.-(1) The shipping bill filed by an exporter shall be deemed to be an application for refund of integrated tax paid on the goods exported out of India and such application shall be deemed to have been filed only when:-

(a) the person in charge of the conveyance carrying the export goods duly files an export manifest or an export report covering the number and the date of shipping bills or bills of export; and

(b) the applicant has furnished a valid return in FORM GSTR-3 or FORM GSTR-3B, as the case may be;;

(2) The details of the relevant export invoices contained in FORM GSTR-1 shall be transmitted electronically by the common portal to the system designated by the Customs and the said system shall electronically transmit to the common portal, a confirmation that the goods covered by the said invoices have been exported out of India.

(3) Upon the receipt of the information regarding the furnishing of a valid return in FORM GSTR-3 from the common portal, the system designated by the Customs shall process the claim for refund and an amount equal to the integrated tax paid in respect of each shipping bill or bill of export shall be electronically credited to the bank account of the applicant mentioned in his registration particulars and as intimated to the Customs authorities.

(4) The claim for refund shall be withheld where,-

(a) a request has been received from the jurisdictional Commissioner of central tax, State tax or Union territory tax to withhold the payment of refund due to the person claiming refund in accordance with the provisions of sub-section (10) or sub-section (11) of section 54; or

(b) the proper officer of Customs determines that the goods were exported in violation of the provisions of the Customs Act, 1962.

(5) Where refund is withheld in accordance with the provisions of clause (a) of sub-rule (4), the proper officer of integrated tax at the Customs station shall intimate the applicant and the jurisdictional Commissioner of central tax, State tax or Union territory tax, as the case may be, and a copy of such intimation shall be transmitted to the common portal.

(6) Upon transmission of the intimation under sub-rule (5), the proper officer of central tax or State tax or Union territory tax, as the case may be, shall pass an order in Part B of FORM GST RFD-07.

(7) Where the applicant becomes entitled to refund of the amount withheld under clause (a) of sub-rule (4), the concerned jurisdictional officer of central tax, State tax or Union territory tax, as the case may be, shall proceed to refund the amount after passing an order in FORM GST RFD-06.

(8) The Central Government may pay refund of the integrated tax to the Government of Bhutan on the exports to Bhutan for such class of goods as may be notified in this behalf and where such refund is paid to the Government of Bhutan, the exporter shall not be paid any refund of the integrated tax.

(9) Any registered person availing the option to supply goods or services for export without payment of integrated tax shall furnish, prior to export, a bond or a Letter of Undertaking in FORM

GST RFD-11 to the jurisdictional Commissioner, binding himself to pay the tax due along with the interest specified under sub-section (1) of section 50 within a period of—

(a) fifteen days after expiry of three months from the date of issue of invoice for export if the goods are not exported out of India; or

(b) fifteen days after expiry of one year, or such further period as may be allowed by the Commissioner, from the date of issue of invoice for export if the payment of such services is not received by the exporter in convertible foreign exchange.

(10) The details of export invoices contained in FORM GSTR-1 furnished on the common portal shall be electronically transmitted to the system designated by Customs and a confirmation that the goods covered by the said invoices have been exported out of India shall be electronically transmitted to the common portal from the said system.

(11) Where the goods are not exported within the time specified in sub-rule (9) and the registered person fails to pay the amount mentioned in the said sub-rule, the facility to allow export under bond or Letter of Undertaking shall be withdrawn forthwith and the said amount shall be recovered from the registered person in accordance with the provisions of section 79.

(12) The facility to allow export under bond or Letter of Undertaking withdrawn in terms of sub-rule (11) shall be restored immediately when the registered person pays the amount due.

(13) The Board, by way of notification, may specify the conditions and safeguards under which a Letter of Undertaking may be furnished instead of a bond.

Annexure 7

DEMANDS AND RECOVERY

142. Notice and order for demand of amounts payable under the Act.- (1) The proper officer shall serve, along with the

(a) notice under sub-section (1) of section 73 or sub-section (1) of section 74 or sub-section (2) of section 76, a summary thereof electronically in FORM GST DRC-01,

(b) statement under sub-section (3) of section 73 or sub-section (3) of section 74, a summary thereof electronically in FORM GST DRC-02,

specifying therein the details of the amount payable.

(2) Where, before the service of notice or statement, the person chargeable with tax makes payment of the tax and interest in accordance with the provisions of sub-section (5) of section 73 or, as the case may be, tax, interest and penalty in accordance with the provisions of sub-section (5) of section 74, he shall inform the proper officer of such payment in FORM GST DRC-03 and the proper officer shall issue an acknowledgement, accepting the payment made by the said person in FORM GST DRC-04.

(3) Where the person chargeable with tax makes payment of tax and interest under sub-section (8) of section 73 or, as the case may be, tax, interest and penalty under sub-section (8) of section 74 within thirty days of the service of a notice under sub-rule (1), he shall intimate the proper officer of such payment in FORM GST DRC-03 and the proper officer shall issue an order in FORM GST DRC-05 concluding the proceedings in respect of the said notice.

(4) The representation referred to in sub-section (9) of section 73 or sub-section (9) of section 74 or sub-section (3) of section 76 shall be in FORM GST DRC-06.

(5) A summary of the order issued under sub-section (9) of section 73 or sub-section (9) of section 74 or sub-section (3) of section 76 shall be uploaded electronically in FORM GST DRC-07, specifying therein the amount of tax, interest and penalty payable by the person chargeable with tax.

(6) The order referred to in sub-rule (5) shall be treated as the notice for recovery.

(7) Any rectification of the order, in accordance with the provisions of section 161, shall be made by the proper officer in FORM GST DRC-08.

143. Recovery by deduction from any money owed.- Where any amount payable by a person (hereafter referred to in this rule as “the defaulter”) to the Government under any of the provisions of the Act or the rules made thereunder is not paid, the proper officer may require, in FORM GST DRC-09, a specified officer to deduct the amount from any money owing to such defaulter in accordance with the provisions of clause (a) of sub-section (1) of section 79.

Explanation.- For the purposes of this rule, “specified officer” shall mean any officer of the Central Government or a State Government or the Government of a Union territory or a local authority, or of a Board or Corporation or a company owned or controlled, wholly or partly, by the Central Government or a State Government or the Government of a Union territory or a local authority.

144. Recovery by sale of goods under the control of proper officer.- (1) Where any amount due from a defaulter is to be recovered by selling goods belonging to such person in accordance with the provisions of clause (b) of sub-section (1) of section 79, the proper officer shall prepare an inventory and estimate the market value of such goods and proceed to sell only so much of the goods as may be

required for recovering the amount payable along with the administrative expenditure incurred on the recovery process.

(2) The said goods shall be sold through a process of auction, including e-auction, for which a notice shall be issued in FORM GST DRC-10 clearly indicating the goods to be sold and the purpose of sale.

(3) The last day for submission of bid or the date of auction shall not be earlier than fifteen days from the date of issue of the notice referred to in sub-rule (2):

Provided that where the goods are of perishable or hazardous nature or where the expenses of keeping them in custody are likely to exceed their value, the proper officer may sell them forthwith.

(4) The proper officer may specify the amount of pre-bid deposit to be furnished in the manner specified by such officer, to make the bidders eligible to participate in the auction, which may be returned to the unsuccessful bidders, forfeited in case the successful bidder fails to make the payment of the full amount, as the case may be.

(5) The proper officer shall issue a notice to the successful bidder in FORM GST DRC-11 requiring him to make the payment within a period of fifteen days from the date of auction. On payment of the full bid amount, the proper officer shall transfer the possession of the said goods to the successful bidder and issue a certificate in FORM GST DRC-12.

(6) Where the defaulter pays the amount under recovery, including any expenses incurred on the process of recovery, before the issue of the notice under sub-rule (2), the proper officer shall cancel the process of auction and release the goods.

(7) The proper officer shall cancel the process and proceed for re-auction where no bid is received or the auction is considered to be non-competitive due to lack of adequate participation or due to low bids.

145. Recovery from a third person.- (1) The proper officer may serve upon a person referred to in clause (c) of sub-section (1) of section 79 (hereafter referred to in this rule as “the third person”), a notice in FORM GST DRC-13 directing him to deposit the amount specified in the notice.

(2) Where the third person makes the payment of the amount specified in the notice issued under sub-rule (1), the proper officer shall issue a certificate in FORM GST DRC-14 to the third person clearly indicating the details of the liability so discharged.

146. Recovery through execution of a decree, etc.- Where any amount is payable to the defaulter in the execution of a decree of a civil court for the payment of money or for sale in the enforcement of a mortgage or charge, the proper officer shall send a request in FORM GST DRC- 15 to the said court and the court shall, subject to the provisions of the Code of Civil Procedure, 1908 (5 of 1908), execute the attached decree, and credit the net proceeds for settlement of the amount recoverable.

147. Recovery by sale of movable or immovable property.- (1) The proper officer shall prepare a list of movable and immovable property belonging to the defaulter, estimate their value as per the prevalent market price and issue an order of attachment or distraint and a notice for sale in FORM GST DRC- 16 prohibiting any transaction with regard to such movable and immovable property as may be required for the recovery of the amount due:

Provided that the attachment of any property in a debt not secured by a negotiable instrument, a share in a corporation, or other movable property not in the possession of the defaulter except for property deposited in, or in the custody of any Court, shall be attached in the manner provided in rule 151.

(2) The proper officer shall send a copy of the order of attachment or distraint to the concerned Revenue Authority or Transport Authority or any such Authority to place encumbrance on the said movable or immovable property, which shall be removed only on the written instructions from the proper officer to that effect.

(3) Where the property subject to the attachment or distraint under sub-rule (1) is-

(a) an immovable property, the order of attachment or distraint shall be affixed on the said property and shall remain affixed till the confirmation of sale;

(b) a movable property, the proper officer shall seize the said property in accordance with the provisions of chapter XIV of the Act and the custody of the said property shall either be taken by the proper officer himself or an officer authorised by him.

(4) The property attached or distrained shall be sold through auction, including e-auction, for which a notice shall be issued in FORM GST DRC- 17 clearly indicating the property to be sold and the purpose of sale.

(5) Notwithstanding anything contained in the provision of this Chapter, where the property to be sold is a negotiable instrument or a share in a corporation, the proper officer may, instead of selling it by public auction, sell such instrument or a share through a broker and the said broker shall deposit to the Government so much of the proceeds of such sale, reduced by his commission, as may be required for the discharge of the amount under recovery and pay the amount remaining, if any, to the owner of such instrument or a share.

(6) The proper officer may specify the amount of pre-bid deposit to be furnished in the manner specified by such officer, to make the bidders eligible to participate in the auction, which may be returned to the unsuccessful bidders or, forfeited in case the successful bidder fails to make the payment of the full amount, as the case may be.

(7) The last day for the submission of the bid or the date of the auction shall not be earlier than fifteen days from the date of issue of the notice referred to in sub-rule (4):

Provided that where the goods are of perishable or hazardous nature or where the expenses of keeping them in custody are likely to exceed their value, the proper officer may sell them forthwith.

(8) Where any claim is preferred or any objection is raised with regard to the attachment or distraint of any property on the ground that such property is not liable to such attachment or distraint, the proper officer shall investigate the claim or objection and may postpone the sale for such time as he may deem fit.

(9) The person making the claim or objection must adduce evidence to show that on the date of the order issued under sub-rule (1) he had some interest in, or was in possession of, the property in question under attachment or distraint.

(10) Where, upon investigation, the proper officer is satisfied that, for the reason stated in the claim or objection, such property was not, on the said date, in the possession of the defaulter or of any other person on his behalf or that, being in the possession of the defaulter on the said date, it was in his possession, not on his own account or as his own property, but on account of or in trust for any other person, or partly on his own account and partly on account of some other person, the proper officer shall make an order releasing the property, wholly or to such extent as he thinks fit, from attachment or distraint.

(11) Where the proper officer is satisfied that the property was, on the said date, in the possession of the defaulter as his own property and not on account of any other person, or was in the possession of some other person in trust for him, or in the occupancy of a tenant or other person paying rent to him, the proper officer shall reject the claim and proceed with the process of sale through auction.

(12) The proper officer shall issue a notice to the successful bidder in FORM GST DRC-11 requiring him to make the payment within a period of fifteen days from the date of such notice and after the said payment is made, he shall issue a certificate in FORM GST DRC-12 specifying the details of the property, date of transfer, the details of the bidder and the amount paid and upon issuance of such certificate, the rights, title and interest in the property shall be deemed to be transferred to such bidder:

Provided that where the highest bid is made by more than one person and one of them is a co-owner of the property, he shall be deemed to be the successful bidder.

(13) Any amount, including stamp duty, tax or fee payable in respect of the transfer of the property specified in sub-rule (12), shall be paid to the Government by the person to whom the title in such property is transferred.

(14) Where the defaulter pays the amount under recovery, including any expenses incurred on the process of recovery, before the issue of the notice under sub-rule (4), the proper officer shall cancel the process of auction and release the goods.

(15) The proper officer shall cancel the process and proceed for re-auction where no bid is received or the auction is considered to be non-competitive due to lack of adequate participation or due to low bids.

148. Prohibition against bidding or purchase by officer.- No officer or other person having any duty to perform in connection with any sale under the provisions of this Chapter shall, either directly or indirectly, bid for, acquire or attempt to acquire any interest in the property sold.

149. Prohibition against sale on holidays.- No sale under the rules under the provision of this chapter shall take place on a Sunday or other general holidays recognized by the Government or on any day which has been notified by the Government to be a holiday for the area in which the sale is to take place.

150. Assistance by police.- The proper officer may seek such assistance from the officer-in-charge of the jurisdictional police station as may be necessary in the discharge of his duties and the said officer-in-charge shall depute sufficient number of police officers for providing such assistance.

151. Attachment of debts and shares, etc.- (1) A debt not secured by a negotiable instrument, a share in a corporation, or other movable property not in the possession of the defaulter except for property deposited in, or in the custody of any court shall be attached by a written order in FORM GST DRC-16 prohibiting.-

(a) in the case of a debt, the creditor from recovering the debt and the debtor from making payment thereof until the receipt of a further order from the proper officer;

(b) in the case of a share, the person in whose name the share may be standing from transferring the same or receiving any dividend thereon;

(c) in the case of any other movable property, the person in possession of the same from giving it to the defaulter.

(2) A copy of such order shall be affixed on some conspicuous part of the office of the proper officer, and another copy shall be sent, in the case of debt, to the debtor, and in the case of shares, to

the registered address of the corporation and in the case of other movable property, to the person in possession of the same.

(3) A debtor, prohibited under clause (a) of sub-rule (1), may pay the amount of his debt to the proper officer, and such payment shall be deemed as paid to the defaulter.

152. Attachment of property in custody of courts or Public Officer.- Where the property to be attached is in the custody of any court or Public Officer, the proper officer shall send the order of attachment to such court or officer, requesting that such property, and any interest or dividend becoming payable thereon, may be held till the recovery of the amount payable.

153. Attachment of interest in partnership.- (1) Where the property to be attached consists of an interest of the defaulter, being a partner, in the partnership property, the proper officer may make an order charging the share of such partner in the partnership property and profits with payment of the amount due under the certificate, and may, by the same or subsequent order, appoint a receiver of the share of such partner in the profits, whether already declared or accruing, and of any other money which may become due to him in respect of the partnership, and direct accounts and enquiries and make an order for the sale of such interest or such other order as the circumstances of the case may require.

(2) The other partners shall be at liberty at any time to redeem the interest charged or, in the case of a sale being directed, to purchase the same.

154. Disposal of proceeds of sale of goods and movable or immovable property.- The amounts so realised from the sale of goods, movable or immovable property, for the recovery of dues from a defaulter shall,-

- (a) first, be appropriated against the administrative cost of the recovery process;
- (b) next, be appropriated against the amount to be recovered;
- (c) next, be appropriated against any other amount due from the defaulter under the Act or the Integrated Goods and Services Tax Act, 2017 or the Union Territory Goods and Services Tax Act, 2017 or any of the State Goods and Services Tax Act, 2017 and the rules made thereunder; and
- (d) any balance, be paid to the defaulter.

155. Recovery through land revenue authority.- Where an amount is to be recovered in accordance with the provisions of clause (e) of sub-section (1) of section 79, the proper officer shall send a certificate to the Collector or Deputy Commissioner of the district or any other officer authorised in this behalf in FORM GST DRC- 18 to recover from the person concerned, the amount specified in the certificate as if it were an arrear of land revenue.

156. Recovery through court.- Where an amount is to be recovered as if it were a fine imposed under the Code of Criminal Procedure, 1973, the proper officer shall make an application before the appropriate Magistrate in accordance with the provisions of clause (f) of sub-section (1) of section 79 in FORM GST DRC- 19 to recover from the person concerned, the amount specified thereunder as if it were a fine imposed by him.

157. Recovery from surety.- Where any person has become surety for the amount due by the defaulter, he may be proceeded against under this Chapter as if he were the defaulter.

158. Payment of tax and other amounts in instalments.- (1) On an application filed electronically by a taxable person, in FORM GST DRC- 20, seeking extension of time for the payment of taxes or any amount due under the Act or for allowing payment of such taxes or amount in instalments in accordance

with the provisions of section 80, the Commissioner shall call for a report from the jurisdictional officer about the financial ability of the taxable person to pay the said amount.

(2) Upon consideration of the request of the taxable person and the report of the jurisdictional officer, the Commissioner may issue an order in FORM GST DRC- 21 allowing the taxable person further time to make payment and/or to pay the amount in such monthly instalments, not exceeding twenty-four, as he may deem fit.

(3) The facility referred to in sub-rule (2) shall not be allowed where-

(a) the taxable person has already defaulted on the payment of any amount under the Act or the Integrated Goods and Services Tax Act, 2017 or the Union Territory Goods and Services Tax Act, 2017 or any of the State Goods and Services Tax Act, 2017, for which the recovery process is on;

(b) the taxable person has not been allowed to make payment in instalments in the preceding financial year under the Act or the Integrated Goods and Services Tax Act, 2017 or the Union Territory Goods and Services Tax Act, 2017 or any of the State Goods and Services Tax Act, 2017;

(c) the amount for which instalment facility is sought is less than twenty-five thousand rupees.

159. Provisional attachment of property.- (1) Where the Commissioner decides to attach any property, including bank account in accordance with the provisions of section 83, he shall pass an order in FORM GST DRC-22 to that effect mentioning therein, the details of property which is attached.

(2) The Commissioner shall send a copy of the order of attachment to the concerned Revenue Authority or Transport Authority or any such Authority to place encumbrance on the said movable or immovable property, which shall be removed only on the written instructions from the Commissioner to that effect.

(3) Where the property attached is of perishable or hazardous nature, and if the taxable person pays an amount equivalent to the market price of such property or the amount that is or may become payable by the taxable person, whichever is lower, then such property shall be released forthwith, by an order in FORM GST DRC-23, on proof of payment.

(4) Where the taxable person fails to pay the amount referred to in sub-rule (3) in respect of the said property of perishable or hazardous nature, the Commissioner may dispose of such property and the amount realized thereby shall be adjusted against the tax, interest, penalty, fee or any other amount payable by the taxable person.

(5) Any person whose property is attached may, within seven days of the attachment under sub-rule (1), file an objection to the effect that the property attached was or is not liable to attachment, and the Commissioner may, after affording an opportunity of being heard to the person filing the objection, release the said property by an order in FORM GST DRC- 23.

(6) The Commissioner may, upon being satisfied that the property was, or is no longer liable for attachment, release such property by issuing an order in FORM GST DRC- 23.

160. Recovery from company in liquidation.- Where the company is under liquidation as specified in section 88, the Commissioner shall notify the liquidator for the recovery of any amount representing tax, interest, penalty or any other amount due under the Act in FORM GST DRC -24.

161. Continuation of certain recovery proceedings.- The order for the reduction or enhancement of any demand under section 84 shall be issued in FORM GST DRC- 25.