



# Agenda for 28<sup>th</sup> GST Council Meeting

Volume – 2

21 July 2018





**File No: 390/28<sup>th</sup> GSTCM/GSTC/2018**  
**GST Council Secretariat**

Room No.275, North Block, New Delhi

Dated: 28 June 2018

**Notice for the 28<sup>th</sup> Meeting of the GST Council scheduled on 21 July 2018**

The undersigned is directed to refer to the subject cited above and to the earlier Meeting Notice dated 19 June 2018 and to say that in view of the Monsoon Session of the Parliament, scheduled to begin from 18 July 2018, the meeting of the GST Council will now be held on **21 July 2018 (Saturday)** as follows:

- Saturday, 21 July 2018 : 11:00 hours onwards (Physical Meeting)
2. In addition, an Officer's Meeting will be held as follows:
- Friday, 20 July 2018 : 10:00 hours onwards (Physical Meeting)
3. The Agenda Items and the Venue for the 28<sup>th</sup> Meeting of the GST Council will be communicated in due course of time.
4. Please convey the invitation to the Hon'ble Members of the GST Council to attend the meeting.

**-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 28<sup>th</sup> Meeting of the GST Council on 21 July 2018**

1. Confirmation of the Minutes of 27<sup>th</sup> GST Council Meeting held on 04<sup>th</sup> May, 2018
2. Deemed ratification by the GST Council of Notifications, Circulars and Orders issued by the Central Government
3. Decisions of the GST Implementation Committee (GIC) for information of the Council
4. Decisions/recommendations of IT Grievance Redressal Committee for information of the Council
5. Review of Revenue Position
6. Issues recommended by the Law Committee for consideration of the GST Council
  - i. Proposals for amendments in the CGST Act, 2017, IGST Act, 2017, UTGST Act, 2017 and GST (Compensation to States) Act, 2017
  - ii. Creation of GST Appellate Tribunal (GSTAT)
  - iii. Simplification of GST Returns
7. Issues recommended by the Fitment Committee for consideration of the GST Council
8. Reports/recommendations of different Committees/Group of Ministers (GoMs) for information/approval of the Council:
  - i. Recommendations of the Committee on Lottery
  - ii. Recommendations of the Committee on IGST
  - iii. Recommendations of the Report of the Task Force to suggest measures for creating an Eco-System for Seamless Road Transport Connectivity
  - iv. Recommendations of the Group of Ministers on Digital Payments
  - v. Interim report of the Group of Ministers on imposition of Sugar Cess
  - vi. Recommendations of the Group of Ministers on Reverse Charge Mechanism
9. Minutes of 9<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
10. *Ad hoc* exemption order issued under Section 25(2) of the Customs Act, 1962 for information of the GST Council
11. Any other agenda item with the permission of the Chairperson
12. Date of the next meeting of the GST Council

## TABLE OF CONTENTS

<u>Agenda No.</u>	<u>Agenda Item</u>	<u>Page No.</u>
8	Reports/recommendations of different Committees/Group of Ministers (GoMs) for information/approval of the Council: <ul style="list-style-type: none"> <li>i. Recommendations of the Committee on Lottery</li> <li>ii. Recommendations of the Committee on IGST</li> <li>iii. Recommendations of the Report of the Task Force to suggest measures for creating and Eco-System for Seamless Road Transport Connectivity</li> <li>iv. Recommendations of the Group of Ministers on Digital Payments</li> <li>v. Interim report of the Group of Ministers on Imposition of Sugar Cess</li> <li>vi. Recommendations of the Group of Ministers on Reverse Charge Mechanism</li> </ul>	6 16 21 22 23 54
9	Minutes of 9 <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	82
10	<i>Ad hoc</i> exemption order issued under Section 25(2) of the Customs Act, 1962 for information of the GST Council	93
11	Any other agenda item with the permission of the Chairperson	-
12	Date of the next meeting of the GST Council	-

# Discussion on Agenda Items

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## **Agenda Item 8: Reports/Recommendations of different Committee/Group of Ministers (GoMs) for information/approval of the Council**

### **Agenda Item 8(i): Recommendations of the Committee on Lottery**

Pursuant to the GST Council decision taken in its 25<sup>th</sup> Meeting held on 18.01.2018, a 'Committee on Lottery' was constituted vide GST Council Secretariat OM F.No. 60/Lottery-Comm-12/GSTC/2018 dated 04.04.2018 to study the issues relating to taxation of lottery.

2. The 'Terms of Reference' of the Committee were to examine and recommend ways to enable flow of GST on lottery to consuming States, and in this context to examine issues like continuance of reverse charge on lotteries, exemption from tax for supplies beyond the first stage of lottery distributor, any necessary changes in 'place of supply rules' or Lottery Regulation Act, 1998 and any other connected issues.

3. The report of the Committee is placed below (**Annexure A**).

4. The Committee has made the following recommendations:

4.1 A clarification may be issued that:

- a. If the organising State is registered in the State in which the organising State's lottery is being sold or has a fixed establishment there, then the supply of lottery by organising State to the lottery distributor or selling agent is an intra-State supply on which CGST and SGST of the consuming State is to be paid under reverse charge by the Lottery Distributor;
- b. If the organising State is not registered in the State in which the organising State's lottery is being sold or does not have a fixed establishment there, then since the distributor/ selling agent will necessarily be registered in the consuming State (requirement in terms of section 25 of GST Act and the [proposed] rules framed by State Governments under Section 12 of the Lotteries (Regulation) Act, 1998), the transaction at first point of distribution chain between the organising State Government and the lottery distributor/ selling agent, shall be an inter-State supply on which IGST is to be paid under reverse charge by the lottery distributor/ selling agent (Draft circular is annexed to the report of the Committee as **Annexure 3**).

4.2 The lottery organising States and the States in which lotteries are consumed, may frame following rules under Section 12 of the Lotteries (Regulation) Act, 1998:

- a. An organizing State shall sell lottery tickets meant for a particular <State> to a distributor located and registered in that <State> only.
- b. A distributor located and registered in a <State> selling tickets of another organizing State shall buy such tickets directly from the organizing State Government.
- c. It shall be compulsory for <the organising State> to print "FOR SALE IN <name of State> ONLY" on each paper lottery ticket (Draft rules are annexed to the report of the committee as **Annexure 4**).

5. Recommendations of the Committee on Lottery are placed before the GST Council for acceptance. It is also proposed that the circular as proposed by the Committee may be issued after the lottery organising and consuming States have framed the rules as proposed by the Committee.

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# REPORT OF THE COMMITTEE ON LOTTERY

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In pursuance of the decision of the 25<sup>th</sup> GST Council Meeting held on 18.01.2018, a ‘Committee on Lottery’ to study the issues relating to taxation of lottery so as to enable flow of GST revenues from lottery to the consuming States was constituted vide GST Council Secretariat OM F.No. 60/Lottery-Comm-12/GSTC/2018 dated 04.04.2018. [**Annexure 1**]

2. The Committee examined issues related to taxation of lottery in GST regime in its meeting held on 13.04.2018 at New Delhi. At the meeting, it was decided that a circular be issued clarifying as follows:
  - a. If the organising State is registered in the State in which the organising State’s lottery is being sold, then the supply of lottery by the organising State to the distributor in the State is an intra-State supply on which CGST and SGST of the consuming State is to be paid under reverse charge by the Lottery Distributor;
  - b. If the organising State is not registered in the State in which the organising State’s lottery is being sold, then since the distributor/ selling agent will necessarily be registered in the consuming State, the transaction at first point of distribution chain between the organising State Government and the distributor/ selling agent, such sale of lottery is an inter-State supply on which IGST is to be paid under reverse charge by the Lottery Distributor;
  - c. In either of the above two cases, tax will flow to the consuming State;
  - d. To completely allay the apprehension that the organising State may sell lotteries meant for other States to a distributor located/ registered in organising State, the States may consider issuing an appropriate notification under Section 12 of the Lottery Regulation Act to provide as under: -
    - (i) An organising State shall sell lottery tickets meant for another State to a distributor located in such other State only.
    - (ii) A distributor located in a State selling tickets of another organising State shall buy such tickets directly from the organising State Government.
  - e. For online lottery, it was suggested to prescribe an appropriate place of supply under Section 10(2) of the IGST Act.
3. The draft minutes of meeting were circulated to the members of the Committee on 07.05.2018 by email. Draft Circular and draft Rule to be framed by State Governments under Section 12 of the Lotteries (Regulation) Act, 1998, were circulated to the members of the Committee on 12.05.2018 by email for approval/ comments.

4. Comments have been received from the members as under:

Sl.No	From	Date	Comment
1	Shri Khalid A. Anwar Sr. Jt. Comm, West Bengal	17.05.18	The draft circular may be modified to include the condition of presence or absence of a fixed establishment of the organising State in the consuming state as an alternative to registration for classifying the supply as an intra-State or inter-State transaction respectively.
2	Shri Manoj Rai, Jt. Comm., CT, Sikkim	17.05.18	1. The draft rule may make it compulsory for the organising state to print “FOR SALE IN <name of State> ONLY” on each paper lottery ticket. 2. There should be a rule to compel the Marketing agent to maintain a parallel server in State Data Centre of each state where the online lottery is sold.
3	Shri Upender Gupta, Commissioner, GST	17.05.18	Okay with both draft minutes and circular
4	Shri Dipak Bandekar, CCT, Goa	18.05.18	Minutes and Circular may be confirmed



5. Two letters dated 03.05.2018 and 17.05.2018 were received from the GST Council Secretariat indicating that the States of Nagaland and Arunachal Pradesh also wish to include a representative in the Committee and present their views on the issue of Lottery to the Committee for examination on merit and appropriate action, respectively.
6. Since the meeting of the Committee on Lottery had already been concluded and draft minutes, circular and rule circulated to the existing members, an email was sent to Arunachal Pradesh and Nagaland seeking their comments on the draft MoM, Circular and Rule by 25.05.2018
7. Based on the inputs of West Bengal and Sikkim, the draft Circular and rule were modified. The minutes of meeting of the Committee, draft circular and draft rule are annexed as **Annexure 2, 3 and 4** respectively.

**Recommendations of the Committee:**

8. The Committee recommends that a clarification may be issued as per the annexed draft Circular (**Annexure 3**) and the lottery organising States and the States in which lotteries are consumed, may frame rules under Section 12 of the Lotteries (Regulation) Act, 1998, as per the annexed draft rules (**Annexure 4**).

## Annexure 1

**F. No.60/Lottery-Comm-12/GSTC/2018**  
**Office of the Goods & Service Tax Council**

Tower-II, 5<sup>th</sup> Floor,  
Jeevan Bharti Building, New Delhi.  
Dated: 04 April, 2018.

### OFFICE MEMORANDUM

**Subject: Committee on Lottery to study the issues relating to taxation of lottery in GST regime.**

In pursuance of the decision of the 25<sup>th</sup> GST Council Meeting held on 18 January 2018 at New Delhi, a 'Committee on Lottery' to study the issues relating to taxation of lottery so as to enable flow of GST revenues from lottery to the consuming States is hereby constituted with the following members:

- i. Shri Mahender Singh, Member (GST), CBIC (Convenor)
- ii. Shri Amitabh Kumar, JS, TRU-II, DoR
- iii. Shri Upender Gupta, Commissioner, GST Policy Wing, CBIC
- iv. Shri Dheeraj Rastogi, JS, GST Council
- v. Shri Dipak Bandekar, CCT, Goa
- vi. Dr. Rajan Khobragade, CCT, Kerala
- vii. Shri Dhananjay Akhade, Jt. Comm., CT, Maharashtra
- viii. Shri Manoj Rai, Jt. Comm., CT, Sikkim
- ix. Shri Khalid A. Anwar, Sr. Jt. Comm., West Bengal

2. The 'Terms of Reference' of the Committee will be to examine and recommend ways to enable flow of GST on lottery to consuming States, and in this context to examine issues like continuance of reverse charge on lotteries, exemption from tax for supplies beyond the first stage of lottery distributor, any necessary changes in 'place of supply rules' or Lottery Regulation Act, 1998 and any other connected issues.

3. The 'Committee on Lottery' shall submit its recommendations by 14<sup>th</sup> May 2018.

4. This issues with the approval of Finance Secretary.



(Arun Goyal)

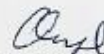
Special Secretary, GST Council

To:

1. The Members of the 'Committee on Lottery'.

Copy to: For Information

1. Secretary, GST Council;
2. Chairperson, CBEC;
3. PS to Hon'ble Union Finance Minister, Government of India, North Block, New Delhi;
4. PS to Hon'ble Minister of State (Finance), Government of India, North Block, New Delhi;
5. Nodal Officers of Central and State Taxes of all States.



Special Secretary, GST Council

## Annexure 2

### Minutes of Meeting of Committee on Lottery held on 13<sup>th</sup> April, 2018, New Delhi

The meeting of the Committee on Lottery was held on 13.4.18 (Friday) at 10.00 a.m. in Fresco, North Block, New Delhi under the Chairmanship of Shri. Mahender Singh, Member (GST). The list of attendees is annexed.

2. The meeting started with a brief background of the issues, given by Shri Amitabh Kumar, JS (TRU-II). While apprising the members in brief of the issues raised by Maharashtra, he stated that if only the first stage of lottery distribution chain is taxed and all subsequent transactions are exempted, then Maharashtra will not get its share of revenue from sale of lottery tickets in its State organized by other State, if first point of sale of lottery tickets by the organising State to the lottery distributor appointed by them is considered as an intra-State supply. This is because it will attract CGST + Sikkim SGST.

3. Shri Khalid A. Anwar, Senior JC, West Bengal stated that the apprehensions of Maharashtra are not well-founded. A large number of lottery tickets remain unsold and for disposal of such unsold tickets, the organising State is required to take registration in the State in which such tickets were meant and are in fact sold. In such a case, the sale of tickets by the organising State to a distributor in the State where tickets are sold will be an intra-State supply and SGST revenue will accrue to the State where the tickets are sold. This is because the SGST part of the revenue is of the State where lottery tickets are sold (for instance, Sikkim lottery sold in West Bengal, would suffer WBGST apart from CGST). Where the organising State does not take registration in the State where the tickets are sold, exemption from SGST of the State in which the tickets are sold will not be available because the appropriate State tax in such cases would not have been paid. Senior JC, West Bengal explained that the exemption on the supply of lottery by any person other than State Government, Union Territory or Local authority is subject to the condition that the supply of such lottery has suffered appropriate central tax, State tax, Union Territory tax or integrated tax, as the case may be, when supplied by the organising State to the lottery distributor or selling agent appointed by the organising State Government. If first point of sale is an intra-State supply, then SGST paid would have been that of the organising State Government. In that case, there will be no exemption under the IGST Act or SGST Act of the State in which lottery is being sold, since the "appropriate tax" would not have been paid. This interpretation is based on the definition of State Tax under SGST Act [Section 2(104)] to mean the tax levied under the relevant State Goods and Services Tax Act. This means that for the State of West Bengal, it is WBGST.

4. Shri Upender Gupta, Commissioner (GST Policy Wing) further stated that GST Act requires a distributor making supplies in a State to compulsorily register in that State [Section 22 of the CGST Act *refers*] As a result, when the said distributor procures lottery of any other organising State, then it becomes an inter-State supply, attracting IGST. He further stated that if organising State is registered in the State in which his lottery is being sold then it is an intra-State supply because the lottery tickets are being sold by the organising State to the distributor registered in the State where the lottery tickets are being sold. Resultantly, the tax paid here also would be CGST + SGST of the consuming State. In either case, the revenue will flow to the consuming State.

5.1. Shri Dhananjay Akhade, JC, Maharashtra, stated that there is no bar on an organising State to sell tickets meant for other State to a distributor located in the organising State. In this scenario where the distributor selling lottery tickets in one State (say, Maharashtra), is registered in the organising State as well (say, Sikkim), the entire supply will be intra-State supply and thus SGST of the organising State will remain with the organising State instead of flowing to the State where the lottery will be finally sold

by the lottery distribution chain since the entire lottery distribution chain post the first point of sale is exempted under GST. Though West Bengal felt that these are mere apprehensions of Maharashtra.

5.2. To this, Shri Manoj Rai, Joint Commissioner, Sikkim stated that tickets meant to be sold in different States are printed accordingly with different serial numbers. In other words, the organising State is aware that which tickets are meant for which State. Therefore, the organising State sells tickets meant for sale in any State to a distributor located in that State only. He stated that when Sikkim is organising lottery, tickets to be sold in Maharashtra and West Bengal, for instance, shall be sold to distributors registered in Maharashtra and West Bengal respectively only and not anyone else. Thus, first point of sale will be inter-State supply attracting IGST. Therefore, in effect, revenue will accrue to the consuming State.

6. Dr. Rajan Khobragade, Principal Secretary/ Commissioner, Kerala further added that if a State has to sell lottery in another State, they mandatorily have to inform the same and thus it is evident that it will be an inter-State supply. This is also the requirement under the Lotteries (Regulation) Rules, 2010 whereby the organising State is required to designate an officer, not below the rank of Secretary to the Government of the State, as the designated authority, who shall be responsible for organising the lottery in the State. There is an official communication from the State Government concerned who is organising the lottery to the State Government where the former State's lottery is proposed to be sold.

7. Shri Mahender Singh, Member (GST) stated that as tickets meant for other States are sold by the organising State to distributors located in those States, we may clarify by way of a circular that if organising State is registered in the State in which the organising State's lottery is being sold, then it is an intra-State supply on which CGST and SGST of the consuming State is to be paid under reverse charge by the Lottery Distributor. Otherwise it would attract IGST at the first point of sale and the subsequent sale would be exempt.

8. Based on the above discussions, it was decided that a circular be issued clarifying the following:
- a) If the organising State is registered in the State in which the organising State's lottery is being sold, then it is an intra-State supply on which CGST and SGST of the consuming State is to be paid under reverse charge by the Lottery Distributor;
  - b) If the organising State is not registered in the State in which the organising State's lottery is being sold, then since the distributor/ selling agent will necessarily be registered in the consuming State, the transaction at first point of distribution chain between the organising State Government and the distributor/ selling agent, such sale of lottery is an inter-State supply on which IGST is to be paid under reverse charge by the Lottery Distributor;
  - c) In either of the above two cases, tax will flow to the consuming State;
  - d) To completely allay the apprehension that the organising State may sell lotteries meant for other States to a distributor located/ registered in organising State, the States may consider issuing an appropriate notification under Section 12 of the Lottery Regulation Act to provide as under: -
    - i. An organising State shall sell lottery tickets meant for another State to a distributor located in such other State only.
    - ii. A distributor located in a State selling tickets of another organising State shall buy such tickets directly from the organising State Government.
  - e) For online lottery, it was suggested to prescribe an appropriate place of supply under Section 10(2) of the IGST Act.

**Annexure**

**List of Attendees of the meeting of Committee on Lottery**

1. Shri Mahender Singh, Member (GST), CBIC (Convenor)
2. Shri Amitabh Kumar, JS, TRU-II, DoR
3. Shri Upender Gupta, Commissioner, GST Policy Wing, CBIC
4. Shri Dheeraj Rastogi, JS, GST Council
5. Dr. Rajan Khobragade, CCT, Kerala
6. Shri Dipak Bandekar, CCT, Goa
7. Shri Khalid A. Anwar, Sr. Jt. Comm., West Bengal
8. Shri Dhananjay Akhade, Jt. Comm., CT, Maharashtra
9. Shri Manoj Rai, Jt. Comm., CT, Sikkim
10. Shri Pramod Kumar, DS, TRU-II, DoR
11. Ms. Rachna, TO, TRU-II, DoR

**Annexure 3**

Circular No. \_\_\_/2018-GST

**F. No. 354/113/2018**  
Government of India  
Ministry of Finance  
Department of Revenue  
Tax Research Unit

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**Room No. 156, North Block,  
New Delhi, 28<sup>th</sup> May 2018**

To,

The Principal Chief Commissioners/Chief Commissioners/ Principal Commissioners/  
Commissioner of Central Tax (All) /  
The Principal Director Generals/ Director Generals (All)

Madam/Sir,

**Subject: Clarifications regarding GST on Lottery – reg.**

Doubts have been raised as to whether supply of lottery by an organising State Government to a lottery distributor/ selling agent for sale in a State other than the organising State is an intra-State supply or an inter-State supply given that only the first stage of lottery distribution chain is subjected to GST and the subsequent transactions in the supply chain are exempted.

In this context, it is hereby clarified that –

- a) If the organising State is registered in the State in which the organising State's lottery is being sold or has a fixed establishment there, then the supply of lottery by organising State to the lottery distributor or selling agent is an intra-State supply on which CGST and SGST of the consuming State is to be paid under reverse charge by the Lottery Distributor;
  - b) If the organising State is not registered in the State in which the organising State's lottery is being sold or does not have a fixed establishment there, then since the distributor/ selling agent will necessarily be registered in the consuming State (requirement in terms of section 25 of GST Act and the [proposed] rules framed by State Governments under Section 12 of the Lotteries (Regulation) Act, 1998), the transaction at first point of distribution chain between the organising State Government and the lottery distributor/ selling agent, shall be an inter-State supply on which IGST is to be paid under reverse charge by the lottery distributor/ selling agent;
2. Difficulty if any, in the implementation of this Circular may be brought to the notice of the Board.

Yours Faithfully,

Technical Officer (TRU)

#### **Annexure 4**

In exercise of the powers conferred by section 12 of the Lotteries (Regulation) Act, 1998,

The Government of <Conducting State> hereby makes the following rules, namely: -

- a) An organizing State shall sell lottery tickets meant for a particular <State> to a distributor located and registered in that <State> only.
- b) A distributor located and registered in a <State> selling tickets of another organizing State shall buy such tickets directly from the organizing State Government.
- c) It shall be compulsory for <the organising State> to print “FOR SALE IN <name of State> ONLY” on each paper lottery ticket.

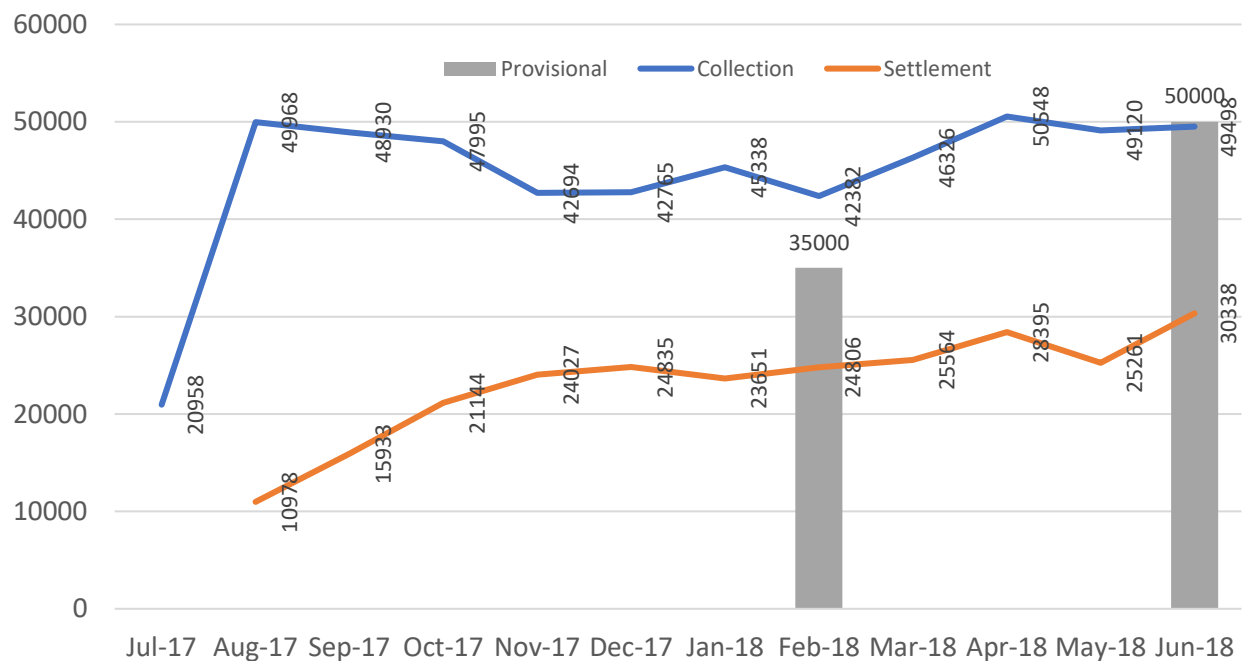
**Agenda Item 8(ii): Recommendations of the Committee on IGST**

In its 26<sup>th</sup> meeting held on 10<sup>th</sup> March, 2018, the GST Council constituted a Committee on IGST with the following Terms of Reference

**Terms of Reference:**

2. The Terms and Reference of the Committee were:
  - a. To examine the reasons as to why IGST is getting accumulated and not getting utilized further for payment of CGST/SGST/UTGST
  - b. Whether the data available with GSTN is adequate to distribute IGST as per provisions of Section 17(1) to 17(5) of the IGST Act, 2017
- 2.1. Committee was to submit its recommendations by 11<sup>th</sup> May, 2018.
3. The subject matter was discussed and deliberated at length by the Committee and the data regarding collection, refund and settlement of IGST was discussed. In the meeting, certain issues were flagged for which a solution needs to be found which could make IGST apportionment hassle-free.

**Details of balance IGST after monthly settlement:**

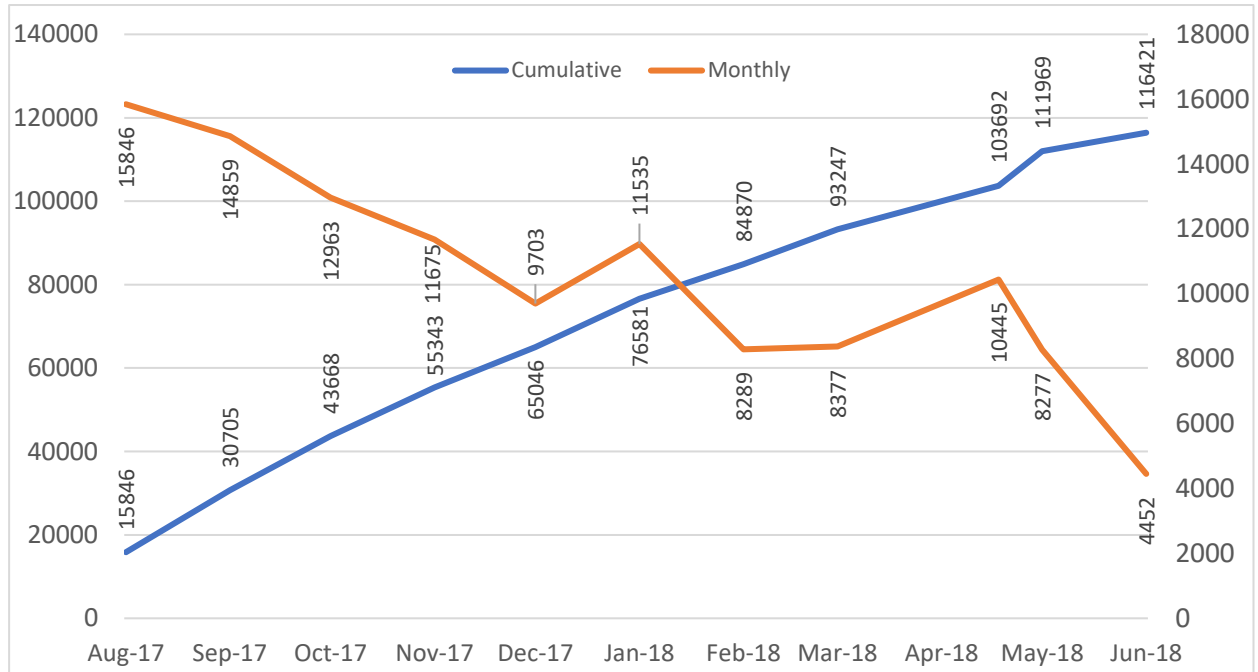


4. The graph above shows the gross amount of IGST collected in each month and the amount of IGST settled in every month. It may be noted that refund of ₹ 12,730 crore of IGST was disbursed in 2017-18 and ₹ 16,875 crore has been disbursed in the current financial year till June 2018, which has not been netted out from the figures shown in the graph. As may be seen, while the monthly collection of IGST has been steady at around ₹ 50,000 crore, the settlement has grown from around ₹ 10,000 crore in August, 2017 to more than ₹ 30,000 crore in June, 2018 (the IGST collection in July, 2017 pertains only to IGST on import of goods imported during July 2017, the IGST paid through returns of July have started coming only after August, 2017). In addition, two rounds of provisional settlement has been done, once in February 2018 for ₹ 35,000 crore and another in June 2018 for ₹ 50,000 crore. It is expected that over next few months, the amount of IGST settlement will progressively increase.



## IGST CREDIT LEDGER

5. One of the main reasons identified for this accumulation of unsettled IGST is the balance in IGST credit ledger. Since the most important trigger for settlement of IGST into CGST/SGST is cross utilization of IGST credit for payment of CGST/SGST liability, build-up of balance in IGST credit ledger will prevent full settlement of IGST. The graph below shows the monthly accumulation and cumulative accumulation in the IGST credit ledger.



6. In the short run, this amount that is lying in the credit ledger can be apportioned only on *ad hoc* basis to be recovered when the amount is settled on account of cross-utilisation. However, in the long run, there is a need to have a mechanism to ensure that either the accumulation of balances in IGST credit ledger are minimized or the amount of balance in IGST credit ledger is apportioned based on the place of supply.

7. **As a first step, a new proviso is proposed in the cross-utilization provisions of the GST laws that require the tax-payers to first use the IGST credit for payment of CGST/SGST before using CGST/SGST credit. This will increase IGST cross utilization and therefore reduce the balance in the IGST credit ledger.**

## INELIGIBLE ITC AND ITC REVERSAL

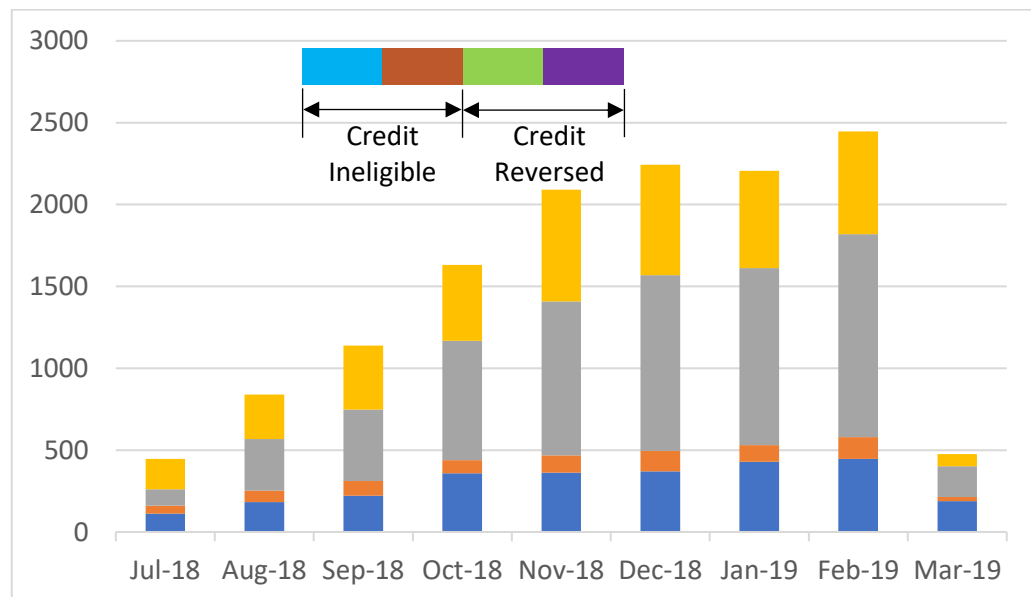
8. Section 17 of the CGST Act provides that in certain circumstances, the credit will not be available or will have to be partially reversed. In such a scenario, as per Section 17 of the IGST Act, where IGST credit is either not available or has to be reversed, the amount of credit not available or reversed has to be apportioned equally into CGST and SGST. For this purpose, the return format in GSTR-3B requires taxpayers to declare ineligible ITC and ITC reversed in Table 4 as shown below:

**ITC Table (4) of GSTR-3B**

Details	Integrated Tax	Central Tax	State/UT Tax	Cess
<b>(A) ITC Received</b>				
(1) Import of goods				

(2) Import of services				
(3) Reverse charge inward supplies (other than 1 & 2 above)				
(4) Inward supplies from ISD				
(5) Others				
<b>(B) ITC Reversed</b>				
(1) As per Rule 42 & 43 of CGST rules				
(2) Others				
<b>(C) Net ITC Available (A) – (B)</b>				
<b>(D) Ineligible ITC</b>				
(1) As per section 17(5)				
(2) Others				

9. The graph below shows the details of ineligible ITC and ITC reversed as declared by the taxpayers over the country. The figures imply that taxpayers are not showing the ineligible ITC and ITC credit reversed in Form GSTR-3B. To analyse this in further details, taxpayer-wise detail was extracted for two States and was shared with Tax authorities. It was also discussed with some individual taxpayers to ascertain the reasons for the same. From this exercise, it was apparent that many taxpayers are only showing the amount of ITC that is eligible to be credited in the ITC ledger of the taxpayer. For example, as per section 17 of the CGST Act, a bank is eligible to avail 50% of the ITC available to it. Instead of showing 100% of the ITC available and 50% reversal, a bank may have just shown 50% of the credit available to it.



10. To further analyse this phenomenon, the ITC available as per GSTR-2A and ITC availed as per GSTR-3B was compared. Before presenting the data of ITC in GSTR-2A and GSTR-3B, one needs to evaluate how reliable the GSTR-2A data is. To analyse the reliability of GSTR-2A data, the most important test is the comparison of details of B2B supplies shown in GSTR-1 and GSTR-3B. The following table shows this comparison for period Jul-Dec 2017.

**Table: Comparison of B2B Outward Supply**

₹ crore

	<b>GSTR-3B</b>	<b>GSTR-1</b>	<b>Diff</b>
<b>Non-zero-rated supplies</b>	1,82,00,986	1,80,24,064	1,76,922
<i>Jul-Sep</i>	<i>1,04,32,606</i>	<i>1,02,65,357</i>	<i>1,67,249</i>
<i>Oct-Dec</i>	<i>77,68,381</i>	<i>77,58,708</i>	<i>9,673</i>

<b>Zero-rated supplies</b>	13,225	13,872	-647
<i>Jul-Sep</i>	5,195	4,825	370
<i>Oct-Dec</i>	8,031	9,048	-1,017
<b>Total Outward supplies</b>	1,82,14,212	1,80,37,937	1,76,275

11. As may be seen, the difference of the outward supply as declared in GSTR-3B (based on which the actual tax payment has been made) and the GSTR-1 (based on which the GSTR-2A has been populated) is very less in percentage terms. The GSTR-2A data is very reliable to estimate the ITC available to a taxpayer. Since the amount shown in GSTR-1 is less, as and when more GSTR-1s are filed, the credit available in GSTR-2A will only increase.

12. An analysis of the credit available in GSTR-2A and the credit availed in GSTR-3B is shown in the table below

**Table: Comparison of ITC Availed**

₹ crore

	<b>Taxpayers</b>	<b>GSTR-3B</b>	<b>GSTR-2A</b>	<b>Diff</b>
<b>Net</b>	65,78,843	7,33,710	7,17,009	16,701
<b>3B&gt;2A</b>	15,88,822	3,56,065	2,94,224	61,841
<b>3B&lt;2A</b>	15,31,554	3,75,650	4,20,790	-45,139
<b>Equal</b>	34,58,467	1,995	1,995	0

13. It may be seen from the table above that while the difference between the credit availed by taxpayers in GSTR-3B is higher than the credit available in GSTR-2A by only ₹ 16,700 crore on a base of more than ₹ 7 lakh crore, a different picture emerges when the data is segregated between taxpayers who have availed more credit in GSTR-3B as compared to that available in GSTR-2A and taxpayers who have availed less credit in GSTR-3B as compared to that available in GSTR-2A. While those who have availed more credit in GSTR-3B are a matter of concern for a different reason, for the purpose of the issue under consideration here, the cases where less credit is availed are of concern. For this amount of over ₹ 45,000 crore, the tax has been paid but the credit has not even been availed.

14. On detailed discussions, two reasons were identified for this phenomenon. The first is that many large taxpayers, having their own system for receipt and accounting of inward supplies, take time for availing credit. The second reason pertains to what has been explained above where taxpayers have not declared ineligible ITC and ITC liable for reversal.

15. This data is extremely essential for settlement of IGST amount pertaining to

- where credit is not eligible;
- where credit is to be reversed; and
- where credit is not taken till September.

16. While the ITC availed in GSTR-3B from July, 2017 to March, 2018 clearly pertains to the invoices in financial year 2017-18, the same will not be true for the GSTR-3B pertaining to April, 2018 to September, 2018 as in these returns, the taxpayers will be availing credit on invoices issued in 2017-18 as well as in 2018-19. Therefore, this comparison of credit available in GSTR-2A (of July, 2017 to March, 2018) and credit availed in GSTR-3B (of July, 2017 to September, 2018) will not be possible, especially in light of the fact that the filling of GSTR-2 is being dispensed with.

17. The only possibility is to get this data from the taxpayer himself for the entire financial year 2017-18 in one place. This data can only be obtained after the last date of filing of return for September, 2018 as the taxpayers are allowed to avail the credit on all invoices issued in 2017-18 till September, 2018. The best place to get this data would be in annual return of 2017-18.

18. Accordingly, following table is being inserted in the format for annual return:

**Table: Reconciliation of ITC available and ITC availed**

	IGST	CGST	SGST	CESS
<b>1. ITC as per GSTR-2A</b>	<Auto>	<Auto>	<Auto>	<Auto>
<b>2. ITC in addition to GSTR-2A</b>				
<i>of which, ITC on imports</i>				
<b>3. Total ITC available (1+2)</b>	<Derived>	<Derived>	<Derived>	<Derived>
<b>4. Net ITC availed in GSTR-3B [4(C)]</b>				
(a) ITC availed till Mar 2018 returns	<Auto>	<Auto>	<Auto>	<Auto>
(b) ITC availed in Apr-Sep 2018 returns				
<b>5. ITC available but not availed (3-4)</b>	<Derived>	<Derived>	<Derived>	<Derived>
<b>6. Ineligible ITC out (5)</b>				
<b>7. ITC liable for reversal - out of (5)</b>				
<b>8. ITC that would lapse (5) – [(6) +(7)]</b>				

#### **PENDING IGST REFUNDS**

19. Pending IGST Refunds on all accounts, namely, IGST paid on exports, ITC of IGST on exports or inverted duty structure or cash ledger are one of the other reasons of non-apportionment of IGST. While the amount for which the refund application has been filed but the refund has not been paid, is available in the IGST account, the same is no longer available in the ITC ledger. However, with reduction in time period for payment of refunds, this amount will progressively reduce over next few months and no further action is required on this front.

20. The recommendation at paragraph 6 above is part of the proposal for amendment in the CGST Act /SGST Acts and the recommendation at paragraph 18 above will be brought into effect as part of the GST Annual Return which is presently under preparation. This is submitted for the consideration of the GST Council.

**Agenda Item 8(iii): Recommendations of the Report of the Task Force to suggest measures for creating an Eco-System for Seamless Road Transport Connectivity**

In order to comprehensively review the benefits of the GST to reduce the burden on logistic sector, the GST Council in its 12<sup>th</sup> Meeting held on 16<sup>th</sup> March, 2017, decided to constitute a Task Force of officers to suggest measures for creating an ecosystem for seamless road transport connectivity across the country. With the introduction of GST and a uniform nation-wide system of e-way bill with no physical check posts, transportation of goods has substantially become smoother and seamless in the country. Riding on this basic framework, there is a possibility of further improvement provided a multi-sectoral approach is taken. The Task Force has submitted its Report which has been circulated separately to all the States on 17<sup>th</sup> July 2018.

2. Some of the important recommendations of the Task Force are as follows: -
  - i. Keeping check posts for activities such as checking fitness of the vehicle, Pollution Under Control Certificate (PUC), payment of road tax, etc. should be done away with. The vehicles may be mandated to get fitness certificate from the transport office with the validity of one year. The fitness certificate can take care of vehicle being cleared of road tax, permits, pollution check etc.
  - ii. All enforcement agencies must be mandated to record every instance of inspection/checking. E-way bill system can be used to create user identities for all departments to enable them to create reports based on verification.
  - iii. There should be real-time updating of data by all Regional Transport Offices (RTOs) in VAHAN database. VAHAN database fields can be expanded to include details of vehicle fitness, PUC, National Permits, etc.
  - iv. The VAHAN database can be integrated with E Way bill database to extract the vehicle related information. Ideal situation is to allow e-waybill generation when the data from VAHAN databases flags the vehicle as fit-to-ply.
  - v. The Ministry of Road Transport and Highways (MoRTH) may mandate the fitment of Vehicle Tracking System (VTS) devices using GPS technology on all goods transport vehicles which can be implemented within two years. A legal provision should be made under the Motor Vehicles Act to mandate GPS service providers to share data with transport department and NIC. In GST Acts also, a provision should be made to call-for-information from NIC and the GPS service providers. GSTN should establish a control centre to track the movement of vehicles on the roads on the basis of GPS data and give information on real-time basis to State and Central authorities.
  - vi. To facilitate checking of vehicles on risk assessment basis, information captured from e-waybill, VAHAN, SARATHI, National Crime Records Bureau (NCRB) databases should be shared through APIs with relevant agencies on 'need-to-know' basis.
  - vii. With the abolition of State VAT and entry tax, there is no need for a permit system to restrict the movement of the vehicle in a State. Hence the State permits, National permits can be abolished. Loss of permit fees can be compensated by enhancing the fees at registration or at periodical fitness certification.
3. The recommendations of the Task Force are placed for the consideration of the GST Council.

### **Agenda Item 8(iv): Recommendations of the Group of Ministers on Digital Payments**

Briefly stated, with an aim to incentivize digital transactions an agenda note was circulated for consideration by the GST Council in its 23<sup>rd</sup> Meeting [held on 10.11.2017] for providing a concession of 2% in GST rate on B2C supplies, for which payment is made through digital mode [1% each from applicable CGST and SGST rates, if the applicable GST rate is 3% or more] subject to a ceiling of Rs. 100 per transaction. The Agenda Note sought in principle approval of the Council for the proposal, along with authorization to the GST Implementation Committee (GIC) to approve changes in the CGST/SGST/UTGST Rules necessary for implementing this proposal. However, due to paucity of time the Agenda Note could not be discussed by the GST Council in its 23<sup>rd</sup> meeting held on 10.11.2017 and in 25<sup>th</sup> meeting held on 18.01.2018.

2. Consequently, an addendum to the said agenda note was again placed before the GST Council in its 27<sup>th</sup> Meeting [held on 04.05.2018] seeking approval of the proposal. As consensus could not be arrived at, the GST Council decided in the 27<sup>th</sup> meeting to constitute a Group of Ministers (GoM) under the Hon'ble Deputy Chief Minister, Government of Bihar as the Convenor with the Deputy Chief Minister, Gujarat and Finance Ministers of Haryana, West Bengal and Punjab as the members. The mandate for the said GoM was considering the aspects related to incentivising digital payments under GST such as revenue loss, rural and urban divide, availability of network & debit cards etc and to suggest solutions to mitigate the same.

3. The GoM met on 11.05.2018 and 08.07.2018 and deliberated on various issues related to the proposal including the following:

- (a) Revenue implication, coverage and effectiveness
- (b) Compliance asymmetry and cost to business
- (c) Discriminatory- Urban vs Rural, e-commerce vs brick and mortar, big vs small (like exempt and composition dealer)
- (d) Lack of infrastructure
- (e) Exploring other alternatives like direct tax incentive, refund route, other incentive

4. The GoM after considering all the aspects has concluded that, in principle, the proposal to incentivize digital payments is a good idea. The GoM, however, observed that this may not be the opportune time to implement the proposal as GST is yet to fully stabilize, the new return process is still work-in-progress, GST revenue is still to reach a comfortable level and the revenue implication of the proposal is significant and would vary. Further, there are issues like tax inversion, infrastructure, compliance etc.

5. Therefore, the GOM has recommended deferring the proposal at least by a year stating that the Council may take a fresh view after a year or so for the revival of this proposal.

### Agenda Item 8(v): Interim Report of the Group of Ministers on Imposition of Sugar Cess

The Group of Ministers on Imposition of Sugar Cess (herein after referred to as 'GoM') under GST was constituted vide Office Memorandum dated 4<sup>th</sup> May 2018 issued by GST Council Secretariat in pursuance of the decision taken in the 27<sup>th</sup> GST Council Meeting held on 4<sup>th</sup> May 2018. The GoM had the following members:

S. No.	Name	Charge	
1	Shri Himanta Biswa Sarma	Hon'ble Finance Minister, Govt. of Assam	Convener
2	Shri Rajesh Agarwal	Hon'ble Finance Minister, Govt. of Uttar Pradesh	Member
3	Shri Sudhir Mungatiwar	Hon'ble Finance Minister, Govt. of Maharashtra	Member
4	Shri D.Jayakumar	Hon'ble Minister for Fisheries and Personnel & Administrative Reforms, Govt. of Tamil Nadu	Member
5	Dr. T. M. Thomas Isaac	Hon'ble Finance Minister, Govt. of Kerala	Member

3. The terms of reference of the GoM were -

- i. *To examine whether imposition of one-time sugar cess for a limited period is likely to create any distortion in the GST structure;*
- ii. *To examine if there are better alternatives available in which State and Central Government together can create a kitty of fund for being used in situations such as glut of sugar production resulting into dropping of ex-factory price below the cost of production;*
- iii. *To deliberate on short term and long-term impact of this on consumers.*

4. Three meetings of the GoM were conducted which were attended by officials of the Central and State Governments. The GoM considered the issue of levy of a cess on sugar under GST from every possible angle. It also considered the representations from the trade and industry. Based on the deliberations and discussions, the GoM has recommended the following:

- i. **Power to levy Cess by the Union or States:** The GoM is of the view that since the matter is sub judice in the Hon'ble Supreme Court, it would be advisable to wait till the final judgement of the Hon'ble Supreme Court is given on Constitutional validity of imposition of compensation cess under GST.
- ii. **Levy of 1% Agriculture Cess on certain commodities:** It was decided that the idea of levy of an agriculture cess can be further deliberated in detail in the next meeting of the GoM on 21<sup>st</sup> July, 2018.
- iii. **Reduction of GST on ethanol:** GST on ethanol can be reduced from 18% to 12% only when it is supplied to oil marketing companies.

5. The interim report (enclosed as **Annexure A**) and recommendations of the GoM are placed before the Council for consideration.

Interim Report of the  
Group of Ministers on  
Imposition of Sugar Cess  
under GST



## **1. Constitution of the Group of Ministers on Sugar Cess**

1.1 The Group of Ministers on Imposition of Sugar Cess (herein after referred to as 'GoM') under GST was constituted vide Office Memorandum dated 4<sup>th</sup> May 2018 issued by GST Council Secretariat in pursuance of the decision taken in the 27<sup>th</sup> GST Council Meeting held on 4<sup>th</sup> May 2018. A copy of the Office Memorandum is enclosed as **Annexure 1**.

1.2 The GoM had the following members:

<b>S. No.</b>	<b>Name</b>	<b>Charge</b>	
1	Shri Himanta Biswa Sarma	Hon'ble Finance Minister, Govt. of Assam	Convener
2	Shri Rajesh Agarwal	Hon'ble Finance Minister, Govt. of Uttar Pradesh	Member
3	Shri Sudhir Mungatiwar	Hon'ble Finance Minister, Govt. of Maharashtra	Member
4	Shri D.Jayakumar	Hon'ble Minister for Fisheries and Personnel & Administrative Reforms, Govt. of Tamil Nadu	Member
5	Dr. T. M. Thomas Isaac	Hon'ble Finance Minister, Govt. of Kerala	Member

1.3 The terms of reference of the GoM were -

- iv. *To examine whether imposition of one-time sugar cess for a limited period is likely to create any distortion in the GST structure;*
- v. *To examine if there are better alternatives available in which State and Central Government together can create a kitty of fund for being used in situations such as glut of sugar production resulting into dropping of ex-factory price below the cost of production;*
- vi. *To deliberate on short term and long-term impact of this on consumers.*

1.4 Sh. Upender Gupta, Commissioner (GST), CBIC was requested to assist the GoM. Three meetings of the GoM were conducted which were attended by officials of the Central and State Governments (list of attendees enclosed as **Annexure 2**).

## **2. Deliberations in the 1<sup>st</sup> meeting of the GoM**

2.1 The first Meeting of the GoM was held on 14<sup>th</sup> May, 2018 in the office of the GST Council Secretariat, Jeevan Bharati Building, New Delhi.

2.2 A presentation was made by Commissioner (GST) before the GoM. The presentation covered explaining the terms of reference of the GoM, nature of sugar industry in India, sugar production, consumption, employment impact, size of sugar industry, leading producing States; levy of cess on sugar under Sugar Development Fund Act, 1982 and modes of utilization of fund created from sugar cess; rate of cess on sugar imposed in pre-GST regime and revenue collected therefrom; the current proposal of imposition of cess on sugar and the pros and cons thereof. Copy of the presentation is enclosed as **Annexure 3**.

2.3 The GoM deliberated upon the following key issues -

2.3.1 Whether the GST Council is vested with the power, under the Constitution of India, of imposing a 'sugar cess' or any similar cess with the specific purpose of compensating a specific section of the population (in this case sugarcane producers) adversely affected by a calamity of economic nature? If not, then whether the Government of India, or any State Government, is empowered to levy a cess on the supply of goods or services? The GoM desired that a reference to the Union Law ministry be made regarding the same.

2.3.2 The amount of cane arrears has often exceeded the amount collected as sugar cess under the Central Excise. How have the Centre and State Governments managed to finance the difference between the amount of cane arrears and the amount collected as sugar cess? What are the other sources of funds which have been used to finance this deficit? What has been the source and application of funds from the Sugar Development Fund since its inception to its closure? The GoM also desired that state-wise details of sugarcane production, prices, cane arrears and state budgetary support towards sugarcane cultivation be provided for the relevant period.

2.3.3 The GoM further desired to know whether similar funds have also been created for other agricultural commodities and whether similar incentives have been granted to the farmers producing agricultural commodities other than sugarcane. If yes, then what have been the modalities of such support.

2.3.4 What would be the mechanism of direct support to the cultivators of sugarcane from the sugar cess fund?

2.3.5 Whether other ways like a small increase in the rates of custom duty across the board, for a specified period, or an increase in the rate of cess on certain commodities like aerated water can be alternatively used to achieve the same objective?

2.3.6 The GoM directed that a brief on the issues/questions discussed may be prepared and circulated amongst members of the GoM. It was also decided that the next meeting would be held in Mumbai on 3<sup>rd</sup> June, 2018.

### **3. Deliberations in the 2<sup>nd</sup> Meeting of the GoM**

3.1 The second meeting of the GoM was held on 3<sup>rd</sup> June, 2018 in Mumbai, Maharashtra. The meeting started with a presentation by Sh. Upender Gupta, Commissioner (GST). A copy of the said presentation is enclosed as **Annexure 4**. Commissioner (GST) explained that the issue of raising resources by a small increase in customs duty or by an increase in the rate of cess on certain commodities like aerated water was deliberated upon. He explained that cess imposed under GST (Compensation to States) Act, 2017 can be used only for the purpose of compensating States on account of loss of revenue under GST. It was also opined, on the basis of comment received from Tax Research Unit, that it was not advisable to increase customs duty on all commodities to manage fund issue of one industry. He informed the GoM that representations from Indian Beverage Association, CII and PHD Chamber of Commerce have been received on the issue of imposition of sugar cess. In their representations, industry representatives have advised against levy of cess as it would be cascading in nature and would lead to distortion in the GST structure. Hon'ble Minister of Finance, Andhra Pradesh had also written to the Hon'ble Union Finance Minister arguing against levy of sugar cess. The Hon'ble Minister was not in favour of sugar cess for three reasons, cess was against the spirit of GST; it would lead to increase in price of sugar and ipso facto increased burden on common man; and it would increase burden on States in form of subsidy on sugar.

3.2 Sh. Ritvik Pandey, Joint Secretary, Department of Revenue made a presentation on legal issues involved in levy of sugar cess. A copy of the presentation is enclosed as **Annexure 5**.

3.2.1 GoM was informed about a case pending in the Hon'ble Supreme Court. The original petition was filed by M/s Mohit Minerals before the Hon'ble High Court of Delhi challenging levy of compensation cess. It was contended that Section 18 of the 101<sup>st</sup> Constitution Amendment Act did not empower Parliament to levy a cess to pay compensation. The Hon'ble Delhi High Court issued an interim order in this regard and noted that there is a prima facie case. Against the order, a SLP was filed by the Government of India in the Hon'ble Supreme Court. It was informed by the Joint Secretary, Department of Revenue that the Hon'ble Supreme Court has stayed the order of the Hon'ble Delhi High Court.

3.2.2 While filing the SLP before the Hon'ble Supreme Court, the Union Law Ministry opined that the terms "tax", "duty", "cess" falls in the same class. It was explained that "cess" is essentially a tax levied for a specific purpose – difference between cess and tax is not in the nature of levy but in application of the proceeds.

3.2.3 It was also informed that the Union Law Ministry is examining that even if the Parliament is empowered to levy tax on supply of goods and services as per Article 246A, whether it is not empowered to levy a cess under the same Article. On this the Hon'ble Chairman requested to closely examine the language of Article 246A read with Article 279A of the constitution where it can be interpreted that the Parliament and the Legislature of every State have equal powers to levy a cess on all intra-State transactions subject to the condition that such decision is recommended by the GST Council. The Hon'ble GoM requested JS (Revenue) to get this matter examined in consultation with the Union Law Ministry.

3.3 A presentation was made by Sh. Suresh Vashishth, Joint Secretary (Sugar), Department of Food and Public Distribution, GoI on overview of sugar industry. A copy of the presentation is enclosed as **Annexure 6**.

3.3.1 JS (Sugar) explained that there was excess production of sugar in the country, where the estimated closing stock for the year 2016-17 was 39.60 LMT. For the year 2017-18, the Ministry tried to incentivise exports of 20 LMT but still the closing stock was 92.10 LMT.

3.3.2 It was informed that the rate of cess per quintal was increased from Rs. 5/- per quintal in 1982 to Rs. 124/- per quintal in the year 2016. It was because of this increase in rate of cess that higher collections were made in the Sugar Development Fund. Since all the cesses were subsumed in GST, there is no fund available for the current and future interventions to protect the interest of cane farmers, hence, creation of a Sugar Cane Farmers' Welfare Fund was proposed by the Department of Food and Public Distribution.

3.3.3 It was proposed that an Act called Sugarcane Farmers' Welfare Fund Act, 2018 may be passed where the upper ceiling of cess per kilogram of sugar shall not exceed 1% of the FRP fixed per quintal of sugarcane at basic recovery rate for that sugar season. By an example, it was shown that if the cess was levied @ 0.25% of FRP (assumed at Rs. 255/-) and total consumption at 250 LMT– the estimated sugar cess collection would be Rs. 1575 crore.

3.3.4 Dr. T.M. Thomas Isaac, Hon'ble Minister of Finance, Government of Kerala enquired about the total collection of cess till date and how much of it has been adjusted against sugar cess arrears. JS (Sugar) informed that till date Rs. 12,684 crore has been collected since 1983 and amount of Rs. 10,000 crore has been utilized for various schemes. In FY 2016-17 the total cess collection was of Rs. 2881 crore. The GoM enquired that since the arrears were of the tune of Rs. 22,000 crore, how could this gap be bridged by sugar cess. It was also stated that the sugar cess collected is not directly utilized for payment of arrears to farmers but is provided in the form of various support schemes.

3.3.5 JS (Sugar) informed the GoM that this challenge was peculiar to the sugar industry where the input prices are regulated by the Government whereas the output prices are determined by the market

forces. So, on the one hand support price of sugarcane is going up, the market price of sugar has been dropping in the domestic as well as international market due to excess supply of sugar.

3.4 After deliberating upon all the facts, the GoM directed to examine various issues and options. These are as follows:

- i. Increase in rate of GST on sugar from 5% to 12%
- ii. Levy of 1% Agriculture Cess on GST
- iii. Examination of power to levy cess by Union or State
- iv. Reduction of GST on ethanol from 18% to 12%
- v. Fixing of Minimum Sales Price (MSP) of sugar
- vi. Increasing import duty on sugar to deter sugar imports
- vii. Increasing export subsidy on sugar to encourage sugar exports

#### 4. **Deliberations in the 3<sup>rd</sup> Meeting of the GoM**

4.1 The 3<sup>rd</sup> meeting of the GoM was held on 11<sup>th</sup> July, 2018 in the office of the GST Council Secretariat, Jeevan Bharati Building, New Delhi.

4.2 Shri Upender Gupta, Commissioner (GST), CBIC made a presentation to brief the GoM about the outcomes of examination of various issues and options discussed in the last meeting of GoM. A copy of the presentation is enclosed as **Annexure 7**.

4.2.1 On the suggestion of increase in rate of GST on sugar from 5% to 12% to finance arrear of sugarcane, it was informed that currently total revenue from Sugar is Rs. 2340 crore and the increased rate would lead to additional revenue of Rs. 3276 crore. But this increase would lead to high inflation as sugar is an essential commodity and also a major raw material for food and beverage industry.

4.2.2 On legal validity of levy of cess on sugar, the law ministry was of the opinion that the Union and States have the power to levy cess under GST, but the opinion of the Attorney General in this matter is pending as the matter is sub-judice in the Hon'ble Supreme Court.

4.2.3 On reduction of GST on ethanol, some States may have reservations as it would benefit the distilleries by reducing the tax burden on alcoholic liquor for human consumption. It was recommended by the Tax Research Unit of Ministry of Finance, GoI that GST rates may be reduced from 18% to 12% only on the ethanol supplied to Oil marketing companies for blending with petrol. As the recipients are public sector companies, the probability of its misuse will be minimal.

4.2.4 On fixing of Minimum Sales Price (MSP) on sugar, it was informed by JS (Sugar) that ex-factory MSP for sugar has now been decided vide the Sugar Price (Control) Order, 2018 (under Essential Commodities Act, 2018) dated 07.06.2018. No sugar producer shall sell white/refined sugar at factory gate at a rate below Rs. 29/kg. This rate may be revised by the Department of Food and Public Distribution on revision of FRP. The GoM inquired about the total revenue collected till date from the increase in MSP. JS (Sugar) informed that from the mid of May, 2018 the price of sugar has increased to about Rs. 31-32 per kg from Rs. 24-25 per kg. Due to this increase, the sugar arrears have decreased by approximately Rs. 5000 crore (from Rs. 23000 crore to Rs. 18000 crore) in the last one and a half month.

4.2.5 On increasing import duty on sugar, it was informed that import duty on all types of sugar is 100% against the WTO bound rate of 150%. After increase in import duty on sugar to 100% the value of sugar imports has decreased as compared to the previous year. The change is tabulated below:

#### **Table**

<b>Monthly Sugar (Imports)</b>	<b>2017 (Figs in LMT)</b>	<b>2018 (Figs in LMT)</b>	<b>% Change</b>
<b>February</b>	<b>297</b>	<b>75</b>	<b>-74%</b>
<b>March</b>	<b>515</b>	<b>142</b>	<b>-72%</b>
<b>April</b>	<b>270</b>	<b>7</b>	<b>-97%</b>

4.2.5.1 It was discussed that the imports are such a low level that further increase in customs duty would have marginal impact only.

**5. Recommendations of the GoM:**

The GoM considered the issue of levy of a cess on sugar under GST from every possible angle. It also considered the representations from the trade and industry. Based on the deliberations and discussions, the GoM recommends the following: -

5.1 **Power to levy Cess by the Union or States:** The GoM is of the view that since the matter is sub judice in the Hon'ble Supreme Court, it would be advisable to wait till the final judgement of the Hon'ble Supreme Court is given on the Constitutional validity of imposition of compensation cess under GST.

5.2 **Levy of 1% Agriculture Cess on certain commodities:** It was decided that the idea of levy of an agriculture cess can be further deliberated in detail in the next meeting of the GoM on 21<sup>st</sup> July, 2018.

5.3 **Reduction of GST on ethanol:** GST on ethanol can be reduced from 18% to 12% only when it is supplied to oil marketing companies.

6. **The interim report and recommendations of the GoM is placed before the Council for consideration.**

(Dr. Himanta Biswa Sarma)  
 Convenor  
 Finance Minister, Government of Assam

## Annexure 1

**OFFICE OF THE GOODS AND SERVICES TAX COUNCIL**  
Tower-II, 5<sup>th</sup> Floor, Jeevan Bharti Building,  
Connaught Place, New Delhi

F. No. 305/GoM-SugarCess/GSTC/2018

Date: 04/05/2018

### OFFICE MEMORANDUM

In pursuance of decision taken in the 27<sup>th</sup> Meeting of GST Council held on 04 May 2018, a Group of Ministers (GoM) has been constituted for considering issues relating to agenda on 'Imposition of Cess on Sugar under GST'. The GoM shall consist of the following Members:

S.No.	Name	Charge	
1.	Shri Himanta Biswa Sarma	Hon'ble Finance Minister, Government of Assam	Convenor
2.	Shri Rajesh Agrawal	Hon'ble Finance Minister, Government of Uttar Pradesh	Member
3.	Shri Sudhir Mungatiwar	Hon'ble Finance Minister, Government of Maharashtra	Member
4.	Shri D. Jayakumar	Hon'ble Minister for Fisheries and Personnel & Administrative Reforms, Government of Tamil Nadu	Member
5.	Dr. T.M. Thomas Isaac	Hon'ble Finance Minister, Government of Kerala	Member

2. The GoM shall have the following Terms of Reference:

- i. To examine whether imposition of one time Sugar Cess for a limited period is likely to create any distortion in the GST structure;
- ii. To examine if there are better alternatives available in which State and Central Government together can create a kitty of fund for being used in situations such as glut of sugar production resulting into dropping ex-factory price below the cost of production;
- iii. To deliberate on short term and long term impact of this on consumers

3. This group shall be assisted in its work by Shri Upender Gupta, Commissioner (GST Policy Wing), CBIC.

4. The group shall submit its report within a period of 15 days.

5. This issues with approval of Hon'ble Union Finance Minister and Chairperson, GST Council.

  
(Arun Goyal)  
Special Secretary

Copy to:

- 1) PS to Hon'ble Minister of Finance, Government of India, North Block, New Delhi;
- 2) PS to Hon'ble Minister of State (Finance), Government of India, North Block, New Delhi;
- 3) All Members of GoM through the nodal officers of the States of Assam, Uttar Pradesh, Maharashtra, Tamil Nadu and Kerala with the request to intimate the Hon'ble Ministers regarding their nomination as Member of the Group of Ministers;
- 4) Nodal officers of all the States;
- 5) Finance Secretary, North Block, New Delhi;
- 6) Chairperson, CBIC, North Block, New Delhi;
- 7) Shri Upender Gupta, Commissioner (GST Policy Wing), CBIC;

  
Special Secretary

## Annexure 2

### Officials attending the meeting of the GOM on Sugar Cess (the list includes officials attending either/all the meetings of GOM)

Sl. No.	Centre/State	Name	Charge
1	GST Council	Shri Shashank Priya	Joint Secretary
2	GST Council	Shri Dheeraj Rastogi	Joint Secretary
3	GST Council	Shri Rahul Raja	Under Secretary
4	GST Council	Shri Mahesh Singarapu	Under Secretary
5	Govt. of India	Shri Upender Gupta	Commissioner, GST Policy Wing, CBIC
6	Govt. of India	Shri Suresh Kr. Vashistha	Joint Secretary (Sugar), DoFPD
7	Govt. of India	Shri Ritvik Pandey	Joint Secretary, Department of Revenue
8	Govt. of India	Shri Gaurav Singh	Deputy Secretary, Tax Research Unit
9	Govt. of India	Shri Vishal Pratap Singh	Joint Commissioner, GST Policy Wing, CBIC
10	Govt. of India	Shri Siddharth Jain	Deputy Commissioner, GST Policy Wing, CBIC
11	Govt. of India	Shri Manoj Sharma	Under Secretary, Directorate of Sugar
12	Maharashtra	Shri Rajiv Jalota	CCT, Maharashtra
13	Assam	Shri Anurag Goel	CCT, Assam
14	Uttar Pradesh	Shri Alok Sinha	Additional Chief Secretary
15	Kerala	Dr. Rajan N. Khobragade	Principal Secretary and Commissioner of State Tax, Kerala
16	Tamil Nadu	Shri K. Balachandran	Principal Secretary
17	Tamil Nadu	Shri S. K. Prabakar	Principal Secretary
18	Tamil Nadu	Shri C. Palani	Joint Commissioner (Taxation)
19	Uttar Pradesh	Shri Sanjay Kumar Pathak	Joint Commissioner (Law), Commercial Tax

## Annexure 3

Presentation made in the 1<sup>st</sup> Meeting of GoM on Sugar Cess held on 14 May 2018



### Agenda of the Presentation

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1. Constitution and Terms of Reference (ToR) of Hon'ble GoM
2. Nature of sugar industry
3. Sugar Development Fund Act, 1982
4. Current compliance architecture
5. Cane arrears
6. Proposed Solution: Sugar Cess
7. Pros & Cons



## Constitution & ToR of Hon'ble GoM



- ❖ Constituted, vide O.M. of GST Council Secretariat dated 04.05.2018 issued vide F.No. 305/GoM-SugarCess/GSTC/2018, in pursuance of decision taken in the 27<sup>th</sup> Meeting of the GST Council
- ❖ **Terms of Reference:**
  - ❑ To examine whether imposition of one time Sugar Cess for a limited period is likely to create any distortion in the GST structure
  - ❑ To examine if there are better alternatives available in which State and Central Government together can create a kitty of fund for being used in situations such as glut of sugar production resulting into dropping of ex-factory price below the cost of production
  - ❑ To deliberate on short term and long term impact of this on consumers

3

## Nature of Sugar Industry



- ❖ India is the largest consumer and second largest producer (after Brazil) of sugarcane in the world
- ❖ Effects livelihood of about 50 million sugarcane farmers and around 5 lakh sugar mill workers
- ❖ Size of Sugar Industry

Description	Detail
Installed sugar factories	732
Production capacity	339 lakh MT
Annual turnover	Rs. 80,000 crores

- ❖ Three main by-products in sugar production: bagasse, molasses and press-mud.
- ❖ Water intensive crop, monsoons play important role in production cycle
- ❖ Cyclicity of production : extreme shortage in one year and extreme over supply in the other
- ❖ Uttar Pradesh, Maharashtra, Tamil Nadu, Karnataka, Andhra Pradesh, Gujarat, Punjab and Haryana are the leading producers

4

## Sugar Development Fund Act, 1982 (1/2)

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- ❖ In pre-GST regime, a cess was levied and collected under the Sugar Development Fund Act, 1982, as a duty of excise
- ❖ Sugar Development Fund Act, 1982 provides that the proceeds shall be applied for:
  - ❑ making loans for:
    - ✓ facilitating the rehabilitation and modernization of any sugar factory and development of sugarcane in its area
    - ✓ bagasse co-generation power projects
    - ✓ production of ethanol
  - ❑ making grants for the purpose of research aimed at development of sugar industry
  - ❑ defraying expenditure for the purposes of building up buffer stock of sugar with a view of stabilising price of sugar

5

## Sugar Development Fund Act, 1982 (2/2)

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- ❖ Sugar Development Fund Act, 1982 provides that the proceeds shall be applied for:
  - ❑ defraying expenditure to a sugar factory on internal transport and freight charges on export shipment of sugar with a view to promoting its export
  - ❑ defraying expenditure for the purpose of financial assistance to sugar factories towards interest on loans in terms of any scheme approved by the Government
  - ❑ defraying any other expenditure for the purpose of the Act

6

## Sugar Cess: Rates & Collection



Financial Year	Sugar Cess	
	Rate/quintal	Amount (Rs Crore)
2013-14	24	565
2014-15	24	565
2015-16	24/124 <sup>1</sup>	1008
2016-17	124	2881

<sup>1</sup> Rate of cess increased from Rs. 24 per quintal to Rs. 124 per quintal, with effect from 1<sup>st</sup> February, 2016

7

## Current compliance architecture



- Price of the raw material, i.e. sugarcane, is fixed by the Centre(FRP)/State(SAP), while the price of the final product, i.e. sugar, is market determined depending on domestic and international supply/demand.
- Although an FRP (Fair and Remunerative Price) is announced based on the recommendations of CACP, many State Governments announce their own SAP (State Advised Price) - SAPs are generally higher than the FRP.

	2013-14	2014-15	2015-16	2016-17	2017-18
	[Rs. Per Quintal]				
<b>FRP</b>	<b>210</b>	<b>220</b>	<b>230</b>	<b>230</b>	<b>255</b>
<b>SAP</b>					
Uttar Pradesh	280	280	280	305	315
Maharashtra	-	-	-	237.5	-
Punjab	285	285	285	290	300
Haryana	295	305	305	315	325
AP	260	-	236-240	-	-
Karnataka	250	250	230-262.5	230-305	-
Tamil Nadu	265	265	285	275	285
Uttarakhand	285	280	280	307	316

Source: DoFPD and agricorp.gov.in

- Prices are not linked directly to the sugar price. When sugar prices fall, mills cannot viably finance payments at these prices and this leads to accumulation of cane arrears.

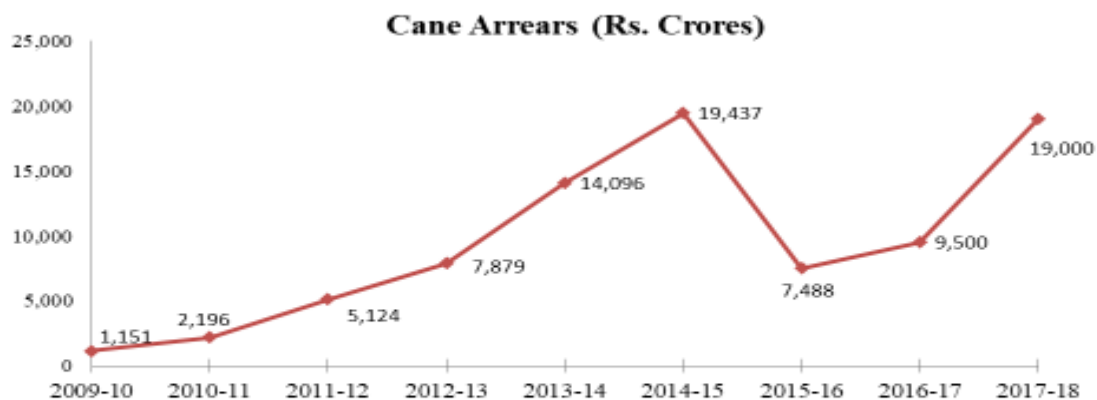
8

## Cane Arrears : Indian Sugar Cycle (1/2)



9

## Cane Arrears : Trend (2/2)



Source: Price Policy for Sugarcane, 2017-18 season, published by CACP

Data as on 31.05.2017

Data for 2017-18 season up to 31<sup>st</sup> January, 2018

**Sugar prices likely to remain depressed in FY 2018-19 due to bumper Indian and global production, leading to a likely further increase in cane arrears**

10

## Proposed Solution: Sugar Cess



- ❖ Imposition of one time Sugar Cess, for a limited period, at a rate not exceeding Rs. 3 per kg on supply of sugar (over and above 5 per cent GST)
- ❖ Estimated revenue collection from proposed cess, at Rs. 3 per kg, shall be **Rs. 6700 crores**
- ❖ Council may authorize the Central Government to fix effective amount of cess within the proposed limit
- ❖ To avoid complexities of a multi-state cess, the proposed cess could be a single point cess, imposed only on supply of sugar from sugar mills
- ❖ Cess also to apply on import of sugar
- ❖ All other domestic supplies of sugar, beyond the factory gate, to be exempt from the proposed cess

11

## Sugar Cess: Pros & Cons



- ❖ Pros
  - ❑ Proceeds could be used to reduce magnitude of cane arrears
  - ❑ Immediate relief to mill and sugarcane growers
  - ❑ Piggyback on GST, similar to piggy-backing of erstwhile sugar cess on Central Excise
  - ❑ No financial burden on either Centre or State Government
- ❖ Cons
  - ❑ Administration and collection will require changes in GST Acts, rules, forms and system processes
  - ❑ Since demand for sugar is inelastic, almost the entire burden on cess will be passed on to the buyers and may therefore be inflationary
  - ❑ Credit will not be available, leading to cascading of taxes

*"While it is not government's responsibility to ensure that a business does well, government ought not to impose costs on the firm to deliver on State's goals. Other than this, policy should be designed with an objective of achieving industrial and rural growth and providing incentive to firms to innovate, invest and improve its efficiency."*

*-Rangarajan Committee Report*

## Annexure 4

Presentation made in the 2<sup>nd</sup> meeting of GoM on Sugar Cess held on 3<sup>rd</sup> June 2018



## Review of Decisions in the 1<sup>st</sup> meeting of GOM



Legal Opinion on powers of Central / State Government to levy a cess on supply of goods or services

- JS (DOR)

Use of Sugar cess appropriated to the Sugar Development fund. Other sources used by the Government to finance this deficit earlier.

Have similar funds and similar incentives granted for other agricultural commodities?

Mechanism for ensuring that proceeds reach the sugarcane cultivators directly?

- Presentation by JS (Food)

Whether other mechanisms like increasing rate of duty on customs or levy of cess on commodities like aerated water be used as an alternative to this scheme ?

- Explained in following slides

2

## Alternate Mechanisms to levy of Cess



- In the first meeting in Delhi, it was discussed if other mechanisms like a minor increase in the rates of custom duty across the board or an increase in rate of cess on certain commodities like aerated water can be used to achieve the same objective of sugar cess.
- ✓ Cess levied under GST (Compensation to States) Act can be used only for the purposes of compensation to States on account of loss of revenue under GST
- ✓ It is not advisable to increase Custom duties broadly to resolve issues of one particular industry

3

## Representations received on sugar cess (1/2)



### Representation by Sh. Yanamala Ramakrishnudu, Hon'ble Minister for Finance & Planning Commercial Taxes, Legislative Affairs, Andhra Pradesh

- ✓ Against the spirit of GST
- ✓ Increase burden on common man
- ✓ Increase burden of sugar subsidy on the State

### Representation by Indian Beverage Association

- ✓ Cascading effect of sugar cess due to non-availability of credit
- ✓ Nature of cess is in the form of additional tax or surcharge which is prohibited under Article 271
- ✓ Proposal to increase GST on sugar with availability of ITC

4

## Representations received on sugar cess (2/2)



### Representation by CII and PHD Chamber

- ✓ States empowered to levy VAT from 2011 only. States of Andhra Pradesh, Tamil Nadu, Orissa and Maharashtra imposed concessional VAT rate on suagr
- ✓ Such a levy will set precedent for more such cesses
- ✓ Sugar cess may be levied only when supplies to persons other than industrial consumers
- ✓ Sugar Cess may be levied under GST (Compensation to States) Act with credit availability

5



Presentation made by Shri.Ritvik Pandey, JS (DOR) in the 2<sup>nd</sup> meeting of GoM

Cess on Supply of Goods and Services

## Background

Proposal to levy cess on supply of sugar discussed in GST Council

Several Issues including legal question on levy of cess were raised

Council constituted a GoM

GoM has sought for legal opinion if cess can be levied on supply of goods and services

## Mohit Minerals Vs Union of India

M/s Mohit Minerals challenged that Parliament/Council is wrong in imposing cess on supply of coal

Their contention is that

- Section 18 of the 101<sup>st</sup> Constitution Amendment Act does not empower Parliament to levy a cess to pay compensation
- Compensation Act draws power from section 18
- The objective of introduction of GST was to subsume all the existing cesses
- Other issues relating to levy of compensation cess on coal that has suffered coal cess and credit of coal cess against liability of compensation cess

# Mohit Minerals Vs Union of India

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Delhi High Court noted that there is prima facie case

Interim order

- Prohibiting levy of compensation cess on stock of coal that has suffered coal cess
- Subjecting levy of cess on other items to be outcome of this petition

Gol filed an SLP against the interim order of Delhi High Court in the Supreme Court

Before filing SLP, Department of Revenue took opinion of Law Ministry and Attorney General has argued the case for Central Government

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## Opinion of Law Ministry

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While agreeing to the stand to file SLP against interim order of Delhi High Court, Department of Legal Affairs, Ministry of Law and Justice opined

- Terms “tax”, “duty”, “cess” belong to the same class
- Denoting to various kinds of imports by States in its sovereign power of taxation to raise revenue for the State
- Each expression denotes a different kind of import depending on the purpose for which they are levied

In this case, Law Ministry was specifically of the opinion that Parliament is well within its right to impose a cess

AG has appeared on behalf of the Central Government and H’ble Supreme Court has stayed the order of Delhi High Court

## Nature of Cess

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Kerala High Court in *Raja Oil Mills and others Vs. Union of India* observed that the word 'cess'

- has a definite legal connotation, indicating tax allocated to a particular thing, not forming part of a general fund
- means a tax and is generally used when the levy is for some special administrative expense which the name (health cess, education cess, road cess, etc.) indicates

"Cess" is essentially a tax levied for a specific purpose – difference between cess and tax is not in the nature of levy but in application of the proceeds

If Parliament is empowered to levy tax on supply of goods and services as per Article 246A, whether it is not empowered to levy a cess under the same Article? – Under submission to Law Ministry and their opinion is awaited.

Presentation made by Sh. Suresh Vashishtha, Joint Secretary (Sugar), Department of Food and Public Distribution in the 2<sup>nd</sup> meeting of GoM

## **Presentation before GoM on “Cess on Sugar under GST”**

**Department of Food & Public Distribution  
03.06.2018**

1

### **Sugar Sector : Overview**

- Sugar industry an important agro-based industry.
- Annual turnover approx. Rs.80,000 cr.
- Over 5 crore persons (farmers and families) involved in sugarcane cultivation.
- Around 5 Lakh workers directly employed in sugar mills
- Around 50 Lakh ha area under sugarcane cultivation (Out of 18.20 crore ha under agricultural crops).
- 732 installed sugar factories - 362 Private and 368 Co-operative/Public sector.
- Stand alone sugar refineries - 2

2

## Contd....

- 526 sugar mills functioned in SS 2015-16; 493 in 2016-17; 528 in 2017-18.
- Sugar Season from Oct. to Sept.
- Primary by products: Bagasse (used for co-gen), Molasses (used for alcohol production), Press-mud (used for fertilizer/gum/marking ink)
- Major sugar producing states: Maharashtra (186 mills), UP (119 mills), Karnataka (65 mills), Tamil Nadu (43 mills), Gujarat (17 mills), AP (18 mills), MP (16 mills), Punjab (16 mills), Haryana (14 mills), Bihar (11 mills).
- Per capita consumption: 20 kg per year (annual growth @2%).

3

## Sugar Balance Sheet For 2016-16 & 2017-18 (Estimated) Sugar Season

S. No.	Particulars	Figures in Lakh MT	
		2016-17 (Provisional)	2017-18 (Projected)
1.	Carry over stock from previous season	77.00	39.60
2.	Production of sugar(provisional)	202.10	320.00
3.	Imports	5.00	2.50
4.	Estimated total availability (1+2+3)	284.10	362.10
5.	Estimated Domestic Consumption	244.00	250.00
6.	Export under OGL	0.50	20.00
7.	Estimated closing stock	<b>39.60</b>	<b>92.10</b>

4

## **Salient features: Sugar Sector**

- Sugar sector impacted by cyclicity; regular and cyclical alternation between deficit and surplus phases.
- Central Govt. fixes FRP of cane; mills mandatorily to purchase all sugarcane at FRP.
- Under provisions of Sugarcane (Control) Order, 1966, payment of cane price within 14 days of supply; failing which interest @ 15% p.a. on amount due for the delayed period.
- Only sector where Govt. directs private entrepreneur (sugar mills) to buy input at predetermined price; but sale at market determined price.
- Surplus stock has depressed price; liquidity of mills affected; inability of sugar mills to make payment of cane price dues of farmers.
- Accumulation of cane price arrears; presently over Rs.22,000 cr.
- Govt. interventions required to ensure clearance of cane dues of farmers

5

## **Government interventions in the past**

- In the past realization from sugar cess was used for policy interventions to improve domestic sugar price by regulating domestic supply or evacuating surplus sugar through export; cause of arrear accumulation.
- In order to improve liquidity position of the sugar mills and to facilitate clearance of cane price arrears of farmers, several interventions made in the past:
- Buffer Stock Subsidy : created to maintain demand/supply balance of sugar in the domestic market; to stabilise price
- Subsidy for Internal Transport & Freight Charges : provided to evacuate excess sugar from the country during surplus phase
- Soft loan schemes : Extended financial assistance through bank loans at concessional rate of interest for clearance of cane dues
- Incentive on raw sugar production : provided to evacuate excess sugar from the country.
- Production Subsidy : provided to offset cost of cane.

6

## Collection of Sugar Cess

- Sugar Cess Act, 1982 provided levy and collection of sugar cess together with excise duty
- Rate of cess:

Cess Ceiling Per Quintal of Sugar	Date from which Applicable	Rate of Cess Levied Per Quintal of Sugar	Date from which Applicable
Rs. 10	20.03.1982	Rs. 5	20.03.1982
Rs. 15	29.10.1982	Rs. 14	29.10.1982
		Rs. 15	01.01.2008
Rs. 25	05.02.2008	Rs. 24	01.03.2008
Rs.200	11.01.2016	Rs.124	01.02.2016

7

## **Current and future interventions: no fund**

- With introduction of GST, the Sugar Cess Act, 1982 has been repealed.
- No fund available for current and future intervention in the sector to protect interest of cane farmers and ensure clearance of cane dues
- Proposal for creating Sugar Cane Farmers' Welfare Fund for use in the interest of farmers.

8

## **Salient features of proposed Sugarcane Farmers' Welfare Cess Act, 2018**

- An Act to provide for imposition of cess on sugar to facilitate policy interventions; to protect the interest of sugarcane farmers and for matters connected therewith.
- A dedicated Sugar Cane Farmers' Welfare Fund to be created; funded by cess collected under the proposed Act.
- An amount equivalent to the proceeds of the cess levied and collected under the Act, reduced by the cost of collection and after due appropriation made by Parliament shall be credited to the fund.

9



## **Contd....**

- Funds to be utilized for financing various schemes to improve liquidity of sugar mills enabling them to clear cane price arrears of the farmers.
- Under proposed Sugarcane Farmers' Welfare Fund Act, 2018, the upper ceiling of cess per kilogram of sugar shall not exceed 1% of the FRP fixed per quintal of sugarcane at basic recovery rate for that sugar season.
- Linkage to FRP will ensure increase in the ceiling with increase with FRP avoiding the need for frequent amendment of the Act

10

## **Accruals from proposed cess @ 0.25% of FRP (Indicative : for the purpose of calculation)**

- FRP at basic recovery rate - Rs. 255 per qtl
- Cess @ 0.25% of FRP =  $255 \times 0.25$  : Rs. 0.63/kg of sugar
- Total quantity of sugar likely to be dispatched - 250 LMT
- Total estimated cess collection per year - Rs.1575 crore

11



**3<sup>rd</sup> Meeting of Hon'ble GOM on Sugar Cess**

**Key Points for Discussion**

## **Terms of Reference of Committee**



- To examine whether imposition of one time Sugar Cess for a limited period is liked to create any distortion in the GST Structure
- To examine if there are better alternatives available in which State and Central Government together can create a kitty of fund for being used in situations such as glut of sugar production resulting into dropping ex-factory price below the cost of production
- To deliberate on short term and long term impact of this on consumers

## Review of Decisions in the 2<sup>nd</sup> meeting of GOM



- To examine if the rate on sugar can be increased from 5 % to 12%
- To examine levy of a 1% agricultural cess on all or certain selected commodities for use in interventions in the agriculture sector
- To examine the reduction of GST on ethanol
- To examine increase in Import duty on sugar to deter sugar imports
- To examine levy of a 1% agricultural cess on all or certain selected commodities for use in interventions in the agriculture sector
- To examine if the MRP for sugar may also be fixed by the Government in line with other agricultural commodities
- To obtain legal opinion from the Law Ministry - if both the Union and States have the power to levy cess under GST

3

### To examine if the rate of sugar can be increased from 5 % to 12%.



	Imports		Domestic Supply	
	Value	Tax	Value	Tax
	1146	14	36550	1741
Annualized	1528	19	54825	2321

In Crores

- Increase in GST rate from 5% to 12% will lead to additional revenue of Rs. 3276 Cr.
- Will lead to high inflation as sugar is an essential commodity and also a major raw material for food and beverage industry

4

## To examine the reduction of GST on ethanol



- Some states may have reservations as it would benefit the distilleries by reducing the tax burden on alcoholic liquor for human consumption
- GST rates may be reduced from 18% to 12% only on the ethanol supplied to Oil marketing companies for blending with petrol
- It is suggested that it will be an end use based concession, the probability of its misuse will be minimal, since the recipient are public sector companies

5

## To increase in Import duty on sugar to deter sugar imports



- Import duty on all types of sugar under tariff head, 1701 [Raw Sugar, Refined or white sugar if imported by bulk consumer] was increased to Tariff rate of 100% vide notification No. 24/2018 – Customs dated 06.02.2018
- Decision was taken in view of lower international prices of sugar and in order to rule out any possibility of import of sugar from any country
- After increase in import duty on sugar to 100% the value of sugar imports have decreased as compared to the previous year

Monthly Sugar	2017	2018	% Change
February	297	75	-74%
March	515	142	-72%
April	270	7	-97%

6

## To examine if the MRP for sugar may also be fixed



- The minimum retail price (MRP) for sugar has already been decided vide the Sugar Price (Control) Order, 2018 (under Essential Commodities Act 2018) dated 07.06.2018:
  - ✓ No sugar producer shall sell white/refined sugar at factory gate at a rate below Rs. 29/kg.
  - ✓ This rate may be revised by the Department of Food and Public Distribution on revision of FRP

7

## Legal opinion from the Law Ministry - Power to levy cess under GST



- Prima facie the Union and States have the power to levy cess under GST under Article 246A itself, but the opinion of the AG in this matter is awaited

8

## **Agenda Item 8(vi): Recommendations of the Group of Ministers on Reverse Charge Mechanism**

In pursuance of the decision of the 26<sup>th</sup> GST Council Meeting held on 10 March 2018, a Group of Ministers on Reverse Charge Mechanism (GoM on RCM) was constituted to examine introduction of Reverse Charge Mechanism (RCM) on Composition and any other categories of taxpayers.

2. The Terms of Reference of the GoM on RCM was: *“The GoM on RCM may examine all aspects relating to re-introduction of Reverse Charge Mechanism under Section 9(4) of the CGST/SGST Acts, 2017, keeping in mind specially the need to plug tax evasion as well as interest of small scale taxpayers. The Committee can suggest certain categories of taxpayers to be brought under RCM and the date for its introduction.”* The GoM held two meetings on 16 April 2018 and 08 July 2018. The report of the GoM on RCM is at **Annexure 1**.

3. The summary of recommendations of the GoM is as below:

i. The existing Section 9(4) of the CGST Act/SGST Acts may be omitted and a new provision may be inserted in line with the formulation proposed by the Law Committee and the Law Review Committee which reads as follows:

*“9 (4) The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of taxable goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.”*

ii. The proposed formulation at paragraph 3 (i) above should be modified to also provide for prescribing certain conditions by the GST Council while recommending introduction of RCM on a class of registered persons receiving goods or services or both from an unregistered supplier.

iii. The Law Committee may consider the issue of exclusion of Brick Kilns, Menthol and Sand Mining activities from the benefit of Composition scheme.

4. The report and recommendations of the GoM on RCM is placed before the GST Council for consideration.

## Annexure 1

### **Report and Recommendations of the Group of Ministers on Reverse Charge Mechanism (RCM)**

The Group of Minister on Reverse Charge Mechanism (hereafter referred as “GoM on RCM” or the “GoM”) was constituted vide Office Memorandum dated 21 March 2018 issued by GST Council Secretariat in pursuance of the decision taken in the 26<sup>th</sup> GST Council Meeting held on 10 March 2018 (**Annexure 1**).

2. The “GoM on RCM” had following Members:

S. No.	Name	Charge	
1	Shri Sushil Kumar Modi	Hon’ble Deputy Chief Minister, Govt. of Bihar	Convener
2	Shri Amar Agrawal	Hon’ble Minister of Commercial Taxes, Govt. of Chattisgarh	Member
3	Dr. T. M. Thomas Isaac	Hon’ble Finance Minister, Govt of Kerala	Member
4	Shri Manpreet Singh Badal	Hon’ble Finance Minister, Govt of Punjab	Member
5	Shri Rajesh Agarwal	Hon’ble Finance Minister, Govt of Uttar Pradesh	Member

3. The **terms of Reference of the GoM on RCM** was to examine as follows:

*“The GoM on RCM may examine all aspects relating to re-introduction of Reverse Charge Mechanism under Section 9(4) of the CGST/SGST Acts, 2017, keeping in mind specially the need to plug tax evasion as well as interest of small scale taxpayers. The Committee can suggest certain categories of taxpayers to be brought under RCM and the date for its introduction.”*

4. The list of officials who attended the meeting of the GoM on RCM is at **Annexure 2** (the list includes officials who attended either/both the meetings of GoM)

5. The first Meeting of the GoM was held on 16 April 2018 in the Office of the GST Council, New Delhi. The following Hon’ble Members participated in the Meeting:

- i. Shri Sushil Kumar Modi, Deputy Chief Minister, Bihar
- ii. Shri Amar Agrawal, Minister of Commercial Taxes, Chhattisgarh
- iii. Shri Rajesh Agarwal, Finance Minister, Uttar Pradesh

6. The first Meeting was assisted by the then Special Secretary, GST Council and attended by the Officers from Central and State Government and views of States (received through email) namely Chhattisgarh, Gujarat, Karnataka, Maharashtra, Odisha, Punjab, Tamil Nadu, Telangana, Uttar Pradesh and Uttarakhand were presented by the then Special Secretary, GST Council (**Annexure 3**).

7. **Summary of the views of States based on written inputs or conveyed during the first meeting:**

- i. RCM can be introduced for purchases by composition dealer from unregistered persons. – **Karnataka, Maharashtra, Odisha, Tamil Nadu**
- ii. RCM suspension must not go beyond 30 June 2018. – **Karnataka, Uttarakhand, Uttar Pradesh**
- iii. RCM should be restricted only for goods. – **Punjab**
- iv. The tax rate under RCM should be uniform without the need for HSN classification. – **Punjab**

- v. All regular taxpayers + composition taxpayers with turnover > Rs. 50 lakhs should be brought under RCM. – **Telangana**
- vi. RCM should be introduced for all registered taxable persons buying from unregistered persons with a provision for exemption for those making annual purchases up to Rs. 20 lakh. Credit for the tax paid under RCM may be available. – **Centre**; the Hon'ble minister from **Chattisgarh** observed that it would complicate the composition scheme.
- vii. Composition dealers may be required to buy only from registered dealers. – **Punjab**
- viii. List of goods under Section 9(3) of the CGST Act/SGST Acts can be expanded and RCM may be limited to specific goods only. – **Adviser (GST), CBIC**
- ix. Total purchases by composition taxpayers from unregistered dealers is 0.3% only. – **Economic Survey, 2018**
- x. Under VAT regime, the composition dealers could only buy from registered taxpayers. – **Uttar Pradesh**

#### 8. Views of the Hon'ble Ministers:

- i. Hon'ble Dy. Chief Minister from Bihar
  - Evasion-prone commodities can be brought under RCM instead of a blanket RCM on purchase of all goods from unregistered persons
  - Revenue impact of reintroducing RCM must be studied.
- ii. Hon'ble Minister from Chhattisgarh
  - The issue of splitting turnover by composition taxpayers should be addressed through better enforcement rather than by reintroducing RCM.
  - There is no justification for introducing a complication of imposing tax on supplies from unregistered dealers.
- iii. Hon'ble Minister from Uttar Pradesh
  - Tax evasion had increased due to lack of reverse charge mechanism.

9. Due to different views, the GoM decided that another meeting could be convened after sometime and in the meantime, GST Council Secretariat should get views of the remaining States regarding introduction of reverse charge mechanism.

10. The meeting ended with the following directions from GoM:

- i. Obtain inputs/views from the States on RCM
- ii. Obtain details of Composition Scheme existing in other states – Threshold; Whether RCM or not; Whether RCM on all or few goods, Revenue Collected and rate.
- iii. CEO, GSTN to provide statistical analysis about pre-GST/ post GST for composition schemes of States
- iv. Call senior officers from the States who supported introducing RCM
- v. Consider possible options which could be alternative to RCM

11. The second Meeting of the GoM was held on 08 July 2018 in the Office of the GST Council, New Delhi. The following Hon'ble Members participated in the Meeting:

- i. Shri Sushil Kumar Modi, Deputy Chief Minister, Bihar
- ii. Shri Rajesh Agarwal, Finance Minister, Uttar Pradesh

12. Hon'ble Member from Kerala sent his written views on RCM.

13. The second Meeting of the GoM was assisted by Shri Shashank Priya, Joint Secretary, GST Council and attended by the Officers from Central and State Government. The presentation made before



the GoM on RCM by the Joint Secretary, GST Council is at **Annexure 4**. The broadsheet containing details of Composition scheme and RCM during the VAT regime is at **Annexure 5**.

14. During the meeting, various views were expressed. Adviser (Financial Resources), Punjab stated that levying RCM on services would be burdensome, as this would make large number of small service providers like car parking services, renting services etc. liable to tax under reverse charge. He stated that historically too, reverse charge in services was limited mostly to those that were necessitated by administrative convenience and very limited number of services were put under reverse charge to curb tax evasion. He further stated that this would discourage purchases from small taxpayers and may lead to increase in unaccounted cash transactions. He stated that the view of Punjab on introduction of RCM was as follows:

- i. Section 9(4) of CGST Act/SGST Acts should only cover goods, that too, the evasion prone ones;
- ii. Services may be covered under Section 9(3) of the CGST Act/SGST Acts, if required;
- iii. No RCM may be levied on goods/services received without consideration and on second-hand goods;
- iv. An option may be given to the taxpayer to pay tax either at a uniform prescribed rate or on the actual rate;
- v. No RCM should be levied on non-business goods

15. Hon'ble Deputy Chief Minister of Bihar observed that RCM could be applied only on evasion prone goods. He added it would not be a good idea to force Composition taxpayers to only buy from registered taxpayers. Commissioner, Commercial Taxes, Chhattisgarh reiterated the views of the Hon'ble Minister from Chhattisgarh in the first Meeting of GoM and stated that RCM under Section 9(4) of the CGST/SGST Acts should be completely done away with and should not also apply to Composition dealers. Additional Commissioner, Commercial Taxes, Gujarat stated that the State of Gujarat is of the opinion that RCM should be applicable on composition dealers to check evasion and to create a level playing field for registered and unregistered dealers. Additional Commissioner, CT, Uttar Pradesh stated that RCM should be re-introduced to curb tax evasion and to create level playing field for the registered and unregistered dealers. He stated that presently it gave an unfair advantage to sales by unregistered dealers vis-à-vis the registered dealers.

16. Additional Secretary, CTD, Bihar stated that if no RCM was levied on Composition dealers it may lead to lesser revenue and if it is put in the law but not enforced properly, it would lead to suppression of sales and purchase details. It was also stated that one approach could be to draw up a list of sensitive goods State wise for introducing RCM on composition taxpayers, but this list of goods should apply uniformly across the country.

17. Commissioner, GST Policy Wing, CBIC stated that provision of Section 9 (4) of the CGST Act/SGST Acts, which mandates that all registered persons shall pay tax on reverse charge basis on purchases made from unregistered persons, is presently under suspension. The issue was discussed in the joint meetings of the Law Committee and the Law Review Committee and the consensus was that the existing Section 9 (4) of the CGST Act/SGST Acts may be omitted and a new Section 9 (4) may be inserted in the CGST Act/SGST Acts to enable and empower the Government to specify a class of registered persons who shall be required to pay the tax on reverse charge basis on purchases made from unregistered persons. The amended version shall read as follows:

*“9 (4) The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of taxable goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such goods*

or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.”

18. He further stated that this would provide flexibility to the GST Council to modulate the policy on reverse charge mechanism as per the evolving situation.

19. Adviser (Financial Resources), Punjab expressed that Section 9(4) of the CGST Act/SGST Acts should not be made applicable to services. He further stated that the law could also provide for the conditions under which reverse charge would apply. Commissioner, GST Policy Wing stated that in view of the evolving scenarios, there should be an enabling provision to levy RCM across goods and services, and that in any case, any such levy would apply only on the recommendation of the Council.

20. The GoM on RCM also discussed the issue of excluding Brick kilns, Menthol and Sand mining activities from the Composition scheme. Additional Secretary, Commercial Tax Department (CTD), Bihar stated that in VAT regime Brick kilns were giving fixed revenue, based on capacity, and this revenue had drastically come down in the GST regime. Additional Commissioner, CTD, Uttar Pradesh stated that in their State too, the revenue from Brick kilns had come down substantially as they were reporting very low turnover. The Hon’ble Minister from U.P. observed that his State faced similar problem regarding loss of revenue from Menthol which earlier attracted purchase tax. He suggested to add these two items in the negative list for Composition. The Hon’ble Deputy Chief Minister of Bihar observed that in Bihar, composition tax on sand mining was based on capacity and in the GST regime, revenue figures from sand mining had fallen sharply. The GoM decided that the Law Committee may consider the exclusion of Brick Kilns, Menthol and Sand Mining activities from the benefit of Composition scheme.

21. In view of the inputs (from the States and Centre) and discussions thereon, the Group of Ministers on Reverse Charge Mechanism concluded that the existing Section 9(4) of the CGST Act/SGST Acts may be omitted and a new provision may be inserted as proposed by the Law Committee and the Law Review Committee mentioned in paragraph 17 above that gave Government the power to levy tax on reverse charge on a class of registered persons receiving goods or services or both from an unregistered supplier, on the recommendations of the Council, It further agreed that the proposed formulation in paragraph 17 should be modified to also provide for prescribing certain conditions by the GST Council while recommending introduction of RCM on a class of registered persons receiving goods or services or both from an unregistered supplier.

22. The report and recommendations of the GoM on RCM contained in paragraphs 20 and 21 is placed before the Council for consideration.

## Annexure 1

3

**OFFICE OF THE GOODS AND SERVICES TAX COUNCIL**  
**Tower-II, 5<sup>th</sup> Floor, Jeevan Bharti Building,**  
**Connaught Place, New Delhi**

F. No.186/GoM-RCM/GSTC/2018

Date: 21/03/2018

### OFFICE MEMORANDUM

In pursuance of decision taken in the 26<sup>th</sup> Meeting of GST Council held on 10 March 2018 at Vigyan Bhavan, New Delhi, a Group of Ministers (GoM), who are also Members of the GST Council, has been constituted to examine introduction of Reverse Charge Mechanism (RCM) on Composition and any other categories of taxpayers. "GoM on RCM" shall consist of the following Members:

S. No.	Name	Charge	
1	Shri Sushil Kumar Modi	Hon'ble Deputy Chief Minister, Govt. of Bihar	Convener
2	Shri Amar Agrawal	Hon'ble Minister of Commercial Taxes, Govt. of Chattisgarh	Member
3	Dr. T. M. Thomas Isaac	Hon'ble Finance Minister, Govt of Kerala	Member
4	Shri Manpreet Singh Badal	Hon'ble Finance Minister, Govt of Punjab	Member
5	Shri Rajesh Agarwal	Hon'ble Finance Minister, Govt of Uttar Pradesh	Member

2. The terms of reference of the "GoM on RCM" shall be to examine as follows:

*"The GoM on RCM may examine all aspects relating to re-introduction of Reverse Charge Mechanism under Section 9(4) of the CGST/SGST Acts, 2017, keeping in mind specially the need to plug tax evasion as well as interest of small scale taxpayers. The Committee can suggest certain categories of taxpayers to be brought under RCM and the date for its introduction."*

3. The "GoM on RCM" will be assisted in its work by the Special Secretary, GST Council and can invite officers as "Special Invitees" to assist in its deliberations.

4. The Committee shall submit its report by 27 April 2018.

5. This issues with the approval of the Hon'ble Union Finance Minister and Chairperson, GST Council.

  
(Arun Goyal)  
Special Secretary

Copy to:

- PS to Hon'ble Finance Minister, Government of India, North Block, New Delhi;
- PS to Hon'ble Minister of State (Finance), Government of India, North Block, New Delhi;
- All Members of GoM on RCM through the Nodal officers of the State of Bihar, Chhattisgarh, Kerala, Punjab and Uttar Pradesh with a request to intimate the Hon'ble Ministers regarding their nomination as Members of the Group of Minister on Reverse Charge Mechanism ("GoM on RCM");
- The Finance Secretary, Government of India, North Block, New Delhi;
- Chairperson, CBEC, North Block, New Delhi;
- Nodal officers of all the States and Centre from CBEC

  
Special Secretary

**Annexure 2**

**List of officials attending the meeting of the GoM on RCM (the list includes officials attending either/both the meetings of GoM)**

<b>Sl No</b>	<b>Centre/State</b>	<b>Name</b>	<b>Charge</b>
1	GST Council	Shri Arun Goyal	Special Secretary
2	GST Council	Shri Shashank Priya	Joint Secretary
3	GST Council	Shri Dheeraj Rastogi	Joint Secretary
4	Govt of India	Shri Mahender Singh	Member (GST), CBIC
5	Govt. of India	Shri P.K. Mohanty	Adviser (GST), CBIC
6	Govt of India	Shri Yogendra Garg	ADG, DGGST, CBIC
7	Govt. of India	Shri Upender Gupta	Commissioner, GST Policy Wing, CBIC
8	Govt. of India	Shri Nagendra Goel	Consultant
9	GST Council	Shri G.S. Sinha	Joint Commissioner
10	GST Council	Shri Rahul Raja	Under Secretary
11	GST Council	Shri Mahesh Singarapu	Under Secretary
12	GSTN	Prakash Kumar	CEO
13	Bihar	Shri Arun Kumar Mishra	Additional Secretary, CTD
14	Chhattisgarh	Ms Sangeetha P	Commissioner, CT
15	Chhattisgarh	Shri Shankar Agrawal	Additional Commissioner, CT
16	Gujarat	Shri Supreet Singh Gulati	Additional Commissioner, CT
17	Gujarat	Shri R P Rawal	Dy. Commissioner
18	Punjab	Shri V K Garg	Advisor (Financial Resources) to Chief Minister
19	Uttar Pradesh	Shri Alok Sinha	Additional Chief Secretary, CTD
20	Uttar Pradesh	Shri Vivek Kumar	Additional Commissioner, CT

**Annexure 3**

**Presentation made during the 1<sup>st</sup> Meeting of GoM on RCM held on 16 April 2018**

1<sup>st</sup> meeting of GoM  
on  
Reverse Charge Mechanism

16-04-2018

1

ToR

- To examine all aspects related to re-introduction of Reverse Charge Mechanism under Section 9(4) of the CGST/SGST Acts, 2017, keeping in mind specially the need to plug tax evasion as well as interest of small taxpayers. The Committee can suggest certain categories of taxpayers to be brought under RCM and the date for its introduction

2

## Section 9(3)

- The Government may, on the recommendations of the Council, by notification, **specify categories of supply of goods or services** or both, the tax on which shall be paid on **reverse charge basis** by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both

3

## Section 9(4)

- The central tax in respect of the **supply of taxable goods or services or both by a supplier, who is not registered, to a registered person** shall be paid by such person on **reverse charge basis** as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

4

# Insights from Economic Survey - 2018

Table 4. Cross-table of Supplier and Purchaser by Turnover Group

		Purchaser Turnover Category					Total
		Threshold	Below composition	SME	Medium	Large	
Supplier Turnover Category	Threshold	0.0%	0.1%	0.1%	0.1%	0.1%	0.3%
	Below composition	0.2%	0.4%	0.5%	0.6%	0.4%	2.2%
	SME	0.5%	1.0%	1.6%	2.2%	1.3%	6.7%
	Medium	1.0%	2.0%	4.8%	10.9%	8.3%	27.0%
	Large	0.7%	1.1%	4.1%	17.3%	40.6%	63.8%
	Total	2.5%	4.6%	11.1%	31.1%	50.7%	100.0%

Source : Survey calculations based on GST data.

\* Defined as those which filed non-zero GSTR3B returns in the first 5 months.

5

## Comments from States

State	Comment
Chhattisgarh	<ul style="list-style-type: none"> <li>A person under composition scheme should be exempted from the provisions of reverse charge</li> </ul>
Gujarat	<ul style="list-style-type: none"> <li>Turnover limit for Composition scheme may not be increased</li> <li>Tax on Reverse Charge basis should be imposed on composition taxpayers on purchases from unregistered suppliers</li> <li>List of goods should be prescribed on which RCM is applicable or list of goods should be prescribed on which RCM is not applicable</li> </ul>

6

## Comments from States

State	Comment
Karnataka	<ul style="list-style-type: none"> <li>• 9(4) suspension must not go beyond 30<sup>th</sup> June 2018 to provide a level playing field for Composition and Regular taxpayers</li> <li>• If the Committee is looking at introducing reverse charge mechanism for certain categories of taxpayers, it can be re-introduced to the extent of purchases by a composition dealer from unregistered persons.</li> </ul>

7

## Comments from States

State	Comment
Maharashtra	<ul style="list-style-type: none"> <li>• RCM u/s 9(4) can be reintroduced to the extent of purchases by a composition dealer from unregistered person</li> <li>• In the alternative, the purchases can be made subject to reverse charge u/s. 9(3). (where recipient of supply can be any registered person and supplier of goods can be unregistered person as a category of supply.)</li> <li>• Also an enabling provision u/s.9(4) can be introduced so as to have RCM on certain class of suppliers as against the total suspension of section 9(4).</li> </ul>
Odisha	<ul style="list-style-type: none"> <li>• Section 9(3) may remain as such</li> <li>• Section 9(4) may be made applicable only to registered persons paying composition u/s 10. It should not be made applicable to all registered persons.</li> </ul>

8



## Comments from States

State	Comment
Punjab	<ul style="list-style-type: none"> <li>RCM provisions should be sparingly used</li> <li>RCM should be restricted only for goods and not services</li> <li>As a principle, supplies by following unregistered persons or to registered persons only should be subjected to RCM: <ul style="list-style-type: none"> <li>Composition dealers in respect of goods sold as such or after minimal operations (same CH) and not goods consumed by such a dealer;</li> </ul> </li> <li>In order to make the scheme simple, the tax rate should be uniform without the need of HSN classification. Tax rate may uniformly be decided @12%, so that there is no need for individual classification.</li> <li>As there will be no classification of such goods, ITC of such RCM should be invariably be allowed to the recipient overriding the provision of Section 17(5). However, prorata reversal should be continued.</li> </ul>

9

## Comments from States

State	Comment
Tamil Nadu	<ul style="list-style-type: none"> <li>RCM may be introduced for composition dealers</li> <li>Need to look into the IT framework to be developed for RCM to facilitate capture of data in a simple way before extending 9(4) to other taxpayers</li> </ul>
Uttar Pradesh	<ul style="list-style-type: none"> <li>Introduce provisions of Section 9(4) as soon as possible as it will be in the interest of revenue</li> </ul>
Uttarakhand	<ul style="list-style-type: none"> <li>RCM suspension should not be extended beyond 30-06-2018</li> <li>Should be applicable to all traders irrespective of their turnover</li> <li>Main objection against RCM from small manufacturers is the cumbersome accounting process – quoting of HSN</li> </ul>

10

## Comments from States

State	Comment
Telangana	<ul style="list-style-type: none"> <li>The following categories of tax payers may be brought under RCM, under Section 9(4) of CGST                             <ul style="list-style-type: none"> <li>All regular tax payers i.e., other than composition tax payers.</li> <li>Composition tax payers whose aggregate turnover is above Rs.50 lakhs</li> </ul> </li> <li>The liability on RCM may be discharged by way of debiting the electronic credit ledger also</li> </ul>

11

## Numerical example – Without RCM

Seller	Buyer	Input Price	Assume Gross Profit / Value addition as 10% purchase	Sale Price	Tax Burden	Final Sale price
URD – 100 12% Commodity	Composition Dealer	100	10% of 100 = Rs. 10	110	1% Compo. Tax 1.10	110
	Regular Dealer	100	10% of 100 = Rs. 10	110	12% Tax 13.2	123.2 (110+13.2)
RD – 100 12% Commodity	Composition Dealer	100 + 12 (Tax) = Rs.112	10% of 112 = Rs. 11.2	112+11.2 = Rs. 123.2	1% Compo. Tax = Rs. 1.23 Total Burden 1.23 + 12 = 13.23	123.2
	Regular Dealer	100 + 12 (Tax) = Rs. 112	10% of 100 = Rs. 10	110 @ 12%	Total Tax burden 1.20 + 12 = 13.20	123.2

12

## Numerical example – With RCM

Seller	Buyer	Input Price	Assume Gross Profit / Value addition	Sale Price	Tax Burden	Final Sale price
URD – 100 12% Commodity	Composition Dealer	100 + 12	10% of 112 = Rs. 11.2	112+11.2 = Rs. 123.2	1.23 (1% Compo. Tax) + 12 (RCM) = Rs. 13.23	123.2 (Margin – Rs. 9.97)
	Regular Dealer	100	10% of 100 = Rs. 10	110 @ 12% = Rs. 123.2	12 % Tax = Rs. 13.2	123.2 (110+13.2) (Margin Rs.10)
RD – 100 12% Commodity	Composition Dealer	100 + 12 (Tax) = Rs.112	20% of 112 = Rs. 22.4	112+22.4 = Rs. 134.4	1% Compo. Tax = Rs. 1.34 Total Burden 1.34 + 12 = 13.34	134.4 (Margin Rs. 21.06)
	Regular Dealer	100	20% of 100 = Rs. 20	120 @ 12%	14.40	134.4 (Margin Rs. 20)

13

# 2<sup>nd</sup> meeting of GoM on Reverse Charge Mechanism

08-07-2018

1

## Term of Reference

- To examine all aspects related to re-introduction of Reverse Charge Mechanism under Section 9(4) of the CGST/SGST Acts, 2017, keeping in mind specially the need to plug tax evasion as well as interest of small taxpayers. The Committee can suggest certain categories of taxpayers to be brought under RCM and the date for its introduction

2

## Legal provisions

- Section 9(3)
  - The Government may, on the recommendations of the Council, by notification, **specify categories of supply of goods or services** or both, the tax on which shall be paid on **reverse charge basis** by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both
- Section 9(4)
  - The central tax in respect of the **supply of taxable goods or services or both by a supplier, who is not registered, to a registered person** shall be paid by such person on **reverse charge basis** as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

3

## Directions of the GoM after the 1<sup>st</sup> Meeting (16 April 2018)

- Obtain inputs/views from the States on RCM
- Obtain details of Composition Scheme existing in other states – Threshold; Whether RCM or not; Whether RCM on all or few goods, Revenue Collected and rate.
- CEO, GSTN to provide statistical analysis about pre-GST/ post GST for composition schemes of States
- Call senior officers from the States who supported introducing RCM
- Consider possible options which could be alternative to RCM

4

## Composition taxpayers – A profile

- Total **number of taxpayers** under Composition scheme = **19,31,060**
  - Top 10 States\* account for 76% of the total
- Average Turnover per taxpayer under Composition scheme for FY 2017-18 = **Rs 35300701/36 = Rs 9.80 lakh**
- Total **amount of tax** deposited by the taxpayers under Composition scheme during FY 2017-18 = **~Rs. 1700 crore**
  - Only tax component; Fee, Interest, Penalty are not included
  - Top 10 States\* account for ~77% of the total
- **Average tax paid = ~Rs. 8803**

\* Andhra Pradesh, Bihar, Gujarat, Karnataka, Madhya Pradesh, Maharashtra, Rajasthan, Tamil Nadu, Uttar Pradesh, West Bengal

(Source - GSTN)

5

## Data on Revenue through Reverse Charge

RETURN PERIOD	RETURN TYPE		REVENUE THROUGH REVERSE CHARGES (in Rs crore)
	GSTR-3B	GSTR-4	
Jul-17	6447.35		6447.35
Aug-17	7900.33		7900.33
Sep-17	8451.16	5.16	8456.32
Oct-17	7082.78		7082.78
Nov-17	6271.16		6271.16
Dec-17	8298.61	3.26	8301.87
Jan-18	7418.40		7418.40
Feb-18	6652.90		6652.90
Mar-18	12110.86	3.34	12114.20
Apr-18	6977.62		6977.62
May-18	6248.91		6248.91
Grand Total	83860.09	11.76	83877.91

During the **July' 17 to March' 18**  
**Total Revenue through Reverse Charge – Rs 70645 crore**  
**Average Revenue per month = Rs 7849.44 crore**

Source - GSTN

6

## Inputs from States for pre GST regime

- Inputs received from 21 States
- RCM was not made applicable in following States  
Arunachal Pradesh, Assam, Chhattisgarh, Delhi, Goa, Jharkhand, Manipur, Mizoram, Puducherry, Rajasthan, Tripura, Uttarakhand,
- RCM was made applicable in following 9 States:

### Inputs from States where RCM was made applicable in pre GST regime

Andhra Pradesh	<p><u>Pre-GST</u>: RCM was applicable when VAT dealer purchased from unregistered dealers while making exempt supplies/inter-state supplies/exports;</p> <ul style="list-style-type: none"> <li>• Revenue collected through RCM - Rs. 24.02 Cr (2016-17)</li> <li>• Revenue collected through Composition - Rs. 56.91 Cr (2016-17)</li> </ul>
Bihar	<p><u>Pre-GST</u>: RCM was applicable in form of purchase tax when a registered dealer purchases from unregistered dealer (ITC available in case of sale)</p> <ul style="list-style-type: none"> <li>• Revenue collected through Composition - Rs. 43.48 Cr (2016-17)</li> </ul>

### Inputs from States where RCM was made applicable in pre GST regime (2)

Gujarat	<p><u>Pre-GST</u>: RCM in the form of purchase tax was specified for all goods;</p> <ul style="list-style-type: none"> <li>• Revenue collected through RCM - Rs. 4.38 Cr (2016-17)</li> <li>• Revenue collected through Composition - Rs. 245.37 Cr (2016-17)</li> </ul> <p><u>Comment</u>: A positive list or negative list can be prescribed for reverse charge</p> <p><u>Views on proposals</u>:</p> <ol style="list-style-type: none"> <li>1. Composition dealers purchasing only from registered dealers – Not acceptable, as it would affect sales by agriculturists, artisans and unorganised sector</li> <li>2. RCM on select goods – Leads to double taxation and will disturb level playing field between small and large manufacturers</li> <li>3. Presumptive turnover tax – leads to complex tax structure</li> <li>4. Standard rate of RCM – problem of arbitrage</li> </ol>
Himachal Pradesh	<p><u>Pre-GST</u>: RCM was applicable on specific goods (Resin, Khair, Eucalyptus)</p>

8

**Inputs from States where RCM was made applicable in pre GST regime (3)**

Karnataka	<p><u>Pre-GST:</u> RCM was applicable in all goods when a registered dealer purchases from unregistered dealer;</p> <ul style="list-style-type: none"> <li>• Revenue collected through RCM - Rs. 23.21 Cr (2016-17)</li> <li>• Revenue collected through Composition - Rs. 1263.37 Cr (2016-17)</li> </ul> <p><u>Views:</u> RCM must be introduced for purchases by a composition dealer from unregistered persons.</p>
Maharashtra	<p><u>Pre-GST:</u> RCM was applicable only on Oil seeds</p> <ul style="list-style-type: none"> <li>• Revenue collected through Composition - Rs. 769.97 Cr (2016-17)</li> </ul> <p><u>Views:</u> RCM must be introduced for purchases by a composition dealer from unregistered persons. Also an enabling provision u/s.9(4) can be introduced so as to have RCM on certain class of suppliers as against the total suspension of section 9(4)</p>

9

**Inputs from States where RCM was made applicable in pre GST regime (4)**

Tamil Nadu	<p><u>Pre-GST:</u> RCM levied on all dealers under certain specific circumstances</p> <p><u>Comments:</u> RCM may be introduced for composition dealers; Need to look into the IT framework to be developed for RCM to facilitate capture of data in a simple way before extending 9(4) to other taxpayers</p> <p><u>Views on proposals:</u></p> <ol style="list-style-type: none"> <li>1. Composition dealers purchasing only from registered dealers – Negative impact on micro enterprises</li> <li>2. RCM on select goods – Not acceptable as it won't solve the problem of arbitrage</li> <li>3. Presumptive turnover tax – RCM is better mechanism</li> <li>4. Standard rate of RCM – Creates problem of arbitrage</li> </ol>
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10



Inputs from States where RCM was made applicable in pre GST regime (5)	
Uttar Pradesh	<p><u>Pre-GST</u>: Purchases from unregistered dealers were not allowed to the composition dealers</p> <ul style="list-style-type: none"> <li>• Revenue collected through Composition - Rs. 0.211 Cr (2016-17)</li> </ul> <p><u>Comments</u>: Introduce provisions of Section 9(4) as soon as possible as it will be in the interest of revenue</p>
West Bengal	<p><u>Pre-GST</u>: RCM was applicable on all goods when a registered dealer purchases from unregistered dealer;</p> <ul style="list-style-type: none"> <li>• Revenue collected through RCM - Rs. 9.1 Cr (2016-17)</li> <li>• Revenue collected through Composition - Rs. 370 Cr (2016-17)</li> </ul>

11

## Views of Hon'ble Minister of Finance, Kerala on Reverse Charge (1)

- Two types of RCM
    - Section 9(3) – For all goods and services notified under this sub-section, tax is purported to be paid on reverse charge basis even if the supplier is registered.
    - Section 9(4) – For all goods and services procured by the registered person from an unregistered person.
- The revenue concerns of erstwhile services were taken care of by the notification under 9(3) whereas the goods notification mentions only certain agricultural produce, that too without concern of State specific conditions

12

## Views of Hon'ble Minister of Finance, Kerala on Reverse Charge(2)

### Recommendations of Law Reforms Committee

- i. To continue 9(3)
- ii. To delete 9(4), except for compounded dealers
- iii. In lieu of 9(4), cast liability on the registered person to keep identity of the unregistered supplier from whom he purchases the goods

Deletion of 9(4) may not be acceptable, since suppliers identity is not the only issue. If such system is not there , there could not be proper accounting of such stock and result in higher evasion in goods having fast moving inventory such as agricultural produce and old gold etc.

13

## Views of Hon'ble Minister of Finance, Kerala on Reverse Charge(3)

### Suggestions

- 9(4) RCM on all services can be dispensed with; and 9(4) or RCM should be continued for inward supplies of all goods from unregistered persons
- If not, the law should allow to notify State specific goods liable for RCM;
- Compounded dealers should be made liable for RCM on all goods;
- In any case old gold and rubber sheets and latex should be included in the notification issued under Section 9(4)

14

**Annexure 5**

**Details of Composition scheme and RCM during the VAT regime**

Sl. No.	State	Composition Scheme		RCM Applicable or not
		Details	Revenue Collected from Composition dealers	
1	Andhra Pradesh	<p>Yes</p> <p>3 categories.</p> <p>i. Registered as Turnover Tax dealer – Threshold - Gross Turnover of Rs 50 Lakhs, Rate of Tax-1% of Taxable Turnover</p> <p>ii. Works Contractors - 5% on Total goods turnover</p> <p>iii. Works Contractors - Builders of Apartments etc - 1.25% of Total value of Apartment etc</p>	<p>Through Composition</p> <p>2015-16 – Rs 52.79 crore</p> <p>2016-17 - Rs 56.91 crore</p> <p>Through RCM –</p> <p>2015-16 – 24.71 crore</p> <p>2016-17 - Rs 24.02 crore</p>	<p>Yes</p> <p>When VAT dealer purchases goods from unregistered dealer and (i)used as inputs for goods which are exempted from Tax, (ii) used as inputs for goods disposed of otherwise than by way of sale in the state or in the course of interstate sale or export outside the country (iii) disposed of otherwise than by way of consumption or sale in the state or in the course of interstate sale or export outside the country.</p>
2	Arunachal Pradesh	<p>Yes</p> <p>Threshold for small retailers – Rs. 50 Lakhs</p> <p>No threshold for works contractor</p>	Not provided	No
3	Assam	<p>Yes.</p> <p>Retail dealers – Rs 60 lakh,</p> <p>Works Contractors – without limit of turnover,</p> <p>Brick Dealers – based on production capacity,</p> <p>Marble Dealers – based on monthly statements, Sweet Meat Dealers – Rs 10 lakh,</p> <p>Real Estate developers –</p>	No separate data available with the State	<p>No.</p> <p>ITC was allowed in any of the Composition Schemes. Tax as levied on gross output value. Hence, the RCM is not applicable. The dealers under composition scheme are allowed to purchase from both registered and unregistered dealers.</p>

Sl. No.	State	Composition Scheme		RCM Applicable or not
4	Bihar	Yes For small traders (excluding manufacturers) – Rs 40 lakh Brick kiln dealers – Lumpsum amount based on location of the unit	Through Composition 2015-16 – Rs 44.34 crore 2016-17 – Rs 43.48 crore  Through RCM – Not provided	Yes In the form of Purchase Tax when a registered dealer purchases from unregistered dealer and – i. Consumes in the manufacturing for sale ii. Or otherwise disposes of in any manner other than by way of sale iii. ITC was available only in case of sale.
5	Chhattisgarh	Yes. Traders and Restaurant owners except manufacturers – Rs 60 lakh	Through Composition 2015-16 – Rs 16.88 crore 2016-17 – Rs 22.61 crore  Through RCM – Nil	No
6	Delhi	Yes All dealers engaged in trading, manufacturing, leasing etc – Rs 50 lakh	Through Composition 2015-16 – Rs 16.88 crore 2016-17 – Rs 22.61 crore  Through RCM – Nil	No
7	Goa	Yes Dealer other than dealer of liquor in packed bottles, Reseller of liquor in packed bottles, Hotels & Restaurants, - Rs 100 lakh Work contractor – No threshold Shacks – Rs 20 lakh	Through Composition 2015-16 – Rs 18.56 crore 2016-17 – Rs 25.43 crore  Through RCM – Nil	No
8	Gujarat	Yes, There were five composition schemes namely on reseller – 75 lakh, work contractors – No threshold,	Through Composition 2015-16 – Rs 226.04 crore 2016-17 - Rs 245.37 crore  Through RCM –	Yes. RCM in the form of purchase tax was specified for all goods.  <b>Remarks</b> – Tax on reverse charge basis should be imposed on composition taxpayers on purchases from unregistered suppliers to bridge the difference in total tax burden on

Sl. No.	State	Composition Scheme		RCM Applicable or not
		<p>composition of tax on agricultural produce – No threshold</p> <p>Composition of tax on turnover of right to use the goods, and composition of tax on sales of eatables by hotels, restaurants caterers etc</p>	<p>2015-16 – Rs 7 crore 2016-17 - Rs 4.38 crore</p> <p>Remarks –</p> <ol style="list-style-type: none"> <li>1. Revenue received from composition dealers from 1.7.17 to 31.12.17 was 48.70 crore (low revenue collection indicates possible tax evasion)</li> <li>2. GoM should consider whether the limit of composition should increase at all or not).</li> </ol>	<p>supply of similar goods and create level playing field for normal tax payers and taxpayers under composition scheme. The purpose of composition scheme is to reduce the compliance cost for small taxpayers and not necessarily to provide any incentive in form of tax benefit or incentivizing them to hide their turnover.</p> <p>GoM may consider either of the options</p> <ol style="list-style-type: none"> <li>i. The list of goods should be prescribed on which RCM is applicable (i.e. RCM will be applicable only on those goods which are specified) or</li> <li>ii. The list of goods should be prescribed on which RCM is not applicable (i.e. RCM will be applicable on all goods except those goods which are specified)</li> </ol> <p><b>Views on other points:</b></p> <ol style="list-style-type: none"> <li>i. Dealers can buy only from registered dealers – such type of conditions should not be inserted in composition scheme as it will severely affect unorganized sector.</li> <li>ii. Putting RCM only on select goods – Most of the goods bear the burden of tax at the time of manufacturing. Therefore, if RCM is imposed on such goods, it will lead to double taxation.</li> <li>iii. Putting presumptive tax based on turnover – it creates discrimination based on turnover and creates a complex tax structure.</li> <li>iv. Standard rate of RCM instead of multiple rates – easy to implement but creates discrimination among the taxpayers dealing in purchasing goods from unregistered persons having different rate of tax.</li> </ol> <p><b>Comments on trends of Revenue collected:</b> On levying RCM on composition taxpayers on procurement of goods from unregistered</p>

Sl. No.	State	Composition Scheme		RCM Applicable or not
				persons, they prefer to purchase goods from registered persons.
9	Himachal Pradesh	Yes Lumpsum schemes were available to Brick-kiln owners, Lottery dealers, village industries, Retailers selling goods exclusively within the State – No Threshold	Not provided	RCM was not levied on all goods. It was leviable on the following goods and certain circumstances <ol style="list-style-type: none"> <li>1. Resin (crude pine gum),</li> <li>2. Khair, Eucalyptus &amp; poplar Trees (with conditions)</li> <li>3. Certain circumstances such as a dealer who was liable to pay tax under this Act purchased any goods other than those specified in Schedule 'B' from any source, and - <ol style="list-style-type: none"> <li>a. used them within the State in the manufacture of exempted goods under the Act, or, or</li> <li>b. used them within the State in the manufacture of any goods, other than exempted goods, and sent the goods so manufactured outside the State in any manner otherwise than by way of sale in the course of inter-State trade or commerce or in the course of export out of the territory of India, or</li> <li>c. used such goods for a purpose other than that of resale within the State or sale in the course of inter-State trade or commerce or in the course of export out of the territory of India, or</li> <li>d. sent them outside the State in any manner otherwise than by way of sale in the course of inter-State trade or commerce or in the course of export out of the territory of India,</li> </ol> </li> </ol> and no tax was payable on the purchase of such goods under any other provisions of this Act, tax was levied on the purchase of such goods equal to the rate as notified, under the HPVAT Act, 2005
10	Jharkhand	Yes Applicable to Restaurant, eating house etc., Bakery products, Brick Klin, Stone crusher units, all dealers engaged in resale of goods,	Through Composition: 2015-16 – 12.67 crore 2016-17 - Rs 7.56 crore  Through RCM - Nil	No

Sl. No.	State	Composition Scheme		RCM Applicable or not
		dealers in second hand motor vehicles Threshold - 50 lakhs except for works contractor		
11	Karnataka	Yes Dealers - Rs 25 lakh  No threshold limit for dealers executing works contract, Hotelier restaurateurs, caterers, sweet meat, meat stalls and bakery	Through Composition 2015-16 – 1203.40 crore 2016-17 - Rs 1263.37 crore  Through RCM – 2015-16 – 25.48 crore 2016-17 - Rs 23.21 crore	Yes Applicable for all taxable goods. If the taxable goods are purchased from the un registered dealers, the RCM was applicable.
12	Maharashtra	Yes. bakers – 50 lakh, retailers - 100 lakh restaurant & caterers, second hand motor vehicle, works contractors (construction scheme), works contractors (other than construction contracts), developers, mandap decorators, - No turnover limit	Through Composition: 2015-16 – 1917.36 crore 2016-17 - Rs 769.97 crore	RCM was applicable only on Oil Seeds.
13	Manipur	No	NA	No
14	Mizoram	Yes Threshold limit - Rs 10 lakh	Through Composition: 2015-16 – Rs 0.44 crore 2016-17 – Rs 0.39 crore	No
15	Puducherry	Yes Turnover limit – Rs 50 lakh	Through Composition: 2015-16 – Rs 0.29 crore 2016-17 – Rs 0.38 crore	No
16	Rajasthan	Yes. For small taxpayers	Through Composition:	No

Sl. No.	State	Composition Scheme		RCM Applicable or not
		<p>Threshold – Rs 75 lakh.</p> <p>In addition, composition scheme was available to saraffa dealers, dhaba and bhojnalaya, brick kilns, registered tent dealers. There was also a scheme of paying exemption fee in lieu of tax for works contractors.</p> <p>Remarks - Under the composition scheme prevalent under VAT in the State, restriction were imposed on the composition dealer to purchase goods only from the registered taxpayer.</p>	<p>2015-16 – Rs 980 crore</p> <p>2016-17 – Rs 839 crore</p>	
17	Tamil Nadu	<p>Yes.</p> <p>Traders – Rs 50 lakh, works contractors, brick manufacturers, restaurant sector – No Threshold</p>	Not provided	<p>Yes.</p> <p>It was levied on all dealer under certain specific circumstances.</p> <p>RCM was not applicable on any specific goods.</p> <p><b>Views on other points:</b></p> <ul style="list-style-type: none"> <li>i. Dealers can buy only from registered dealers – It will have negative impact on micro enterprises</li> <li>ii. Putting RCM only on select goods – This won't solve the problem of tax arbitrage for composition dealer. Hence RCM should be applicable to all the goods</li> <li>iii. Putting presumptive tax based on turnover – Instead, RCM is better mechanism.</li> <li>iv. Standard rate of RCM instead of multiple rates – It will create avenues for tax arbitrage.</li> </ul>
18	Tripura	Yes	Through Composition:	No



Sl. No.	State	Composition Scheme		RCM Applicable or not
		All registered dealers – Rs 10 lakh	2015-16 – Rs 0.16 crore 2016-17 – Rs 2.05 crore	
19	Uttarakhand	Yes Manufacturers, Importers and Work Contractors – Rs 50 lakh	Through Composition: 2015-16 – Rs 4.76 crore 2016-17 – Rs 5.86 crore	No RCM was not specified on goods rather tax on purchase in certain circumstances was provided in the Act
20	Uttar Pradesh	Yes Threshold Limit – Rs 50 lakh	Through Composition: 2015-16 – Rs 0.149 crore 2016-17 – Rs 0.211 crore  Through RCM – Not applicable	Yes But such purchases from unregistered dealers were not allowed to the composition dealers, hence there was no reverse charge liability on composition dealers.
21	West Bengal	Yes Traders –Rs. 50 lakh restaurant- Rs. 25 lakh works contractor – No threshold	Through Composition 2015-16 – Rs 363 crore 2016-17 – Rs 370 crore  Through RCM – 2015-16 – Rs 8.8 crore 2016-17 – Rs 9.1 crore	Yes RCM was applicable for all goods directly purchased from an unregistered dealer.

**Agenda Item 9: Minutes of 9<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**

Highlights of the decisions taken in the 9<sup>th</sup> Meeting of GoM which was attended by the Hon'ble Ministers Shri Sushil Kumar Modi and Shri Krishna Byregowda is given below. The Hon'ble Ministers Shri Shashi Bhushan Behera, Shri Amar Agarwal, and Shri Etela Rajendar could not attend due to other pressing engagements. The Minutes of the Meeting is attached at **Annexure A**.

**Issues reviewed and recommendations of GoM**

2. **Overall statistics** of registration, payment of taxes and return filing was presented before the GoM. In last one year, more than 12.4 crore returns have been filed on GST Portal along with 4.26 crore payment transactions. During this period 48.6 lakh new taxpayers have registered on the Portal where 63.7 lakh taxpayers have been migrated from the pre-GST regime taking the total taxpayer to 1.13 crore. Out of this, 17.6 lakh taxpayers have opted for Composition scheme.

3. **Return Filing** Around 60% eligible taxpayers are filing GSTR-3B by the due date. However, the number of filers continues to grow as many taxpayers file this Return late and, on an average, the returns filed for July 2017 to March 2018 as on July 10<sup>th</sup>, 2018 range between 96.83% (for July 2017) to 79.99% (for March 2018). On the other hand, most of the tax payment is made by the due date. Hon'ble Convenor advised to analyse the data to find who the late filers are, to find whether they are Nil filers or taxpayers having very low tax liability. He also advised to find out if there are any habitual late filers. The percentile of filing of GSTR-1 is generally 10% behind that of GSTR-3B but lately this difference has started becoming wider. Hon'ble Convenor suggested that this should be placed before the Council in its next meeting.

4. **Tax Deduction at Source:** Rollout of GSTR-07 could be done in a phased manner starting first with government departments dealing with Works Contracts. Other departments could be included in a phased manner. GoM further suggested that the uploading and the payment modules under TDS should be frozen at the earliest.

5. **MIS Reports:** As on 13th July, 32 out of 43 MIS reports for Model 2 states have been rolled out for use by Tax Officers. However, the uptake of MIS reports has been low. Hon'ble Minister, Karnataka stated that steps should be taken to increase the use by organizing training programs at State Head Quarters. Hon'ble Convenor suggested to explore the possibility of a few officers from the Model-1 states, who are doing good utilisation of data at their end, to train the officers in the Model 2 states regarding effective utilisation of the MIS reports.

6. **Identification and implementation of more Mobile Applications:** Currently mobile based application has been deployed for e-way bill generation. Another application for field visit by tax inspectors is going to be rolled out soon. Hon'ble Convenor asked GSTN and Tax Departments to explore the idea of using Mobile Apps for more Services and functionalities under GST.

7. **Pending Functionalities:** Infosys was asked to provide timelines for completion of all pending functionalities including those of Back Office and Business Intelligence and Analytics.

8. **BI & Analytics:** 16 reports have been identified under this module which includes reports on matching of GSTR-3B and GSTR-1 data, circular trade, network analysis, 360-degree profiling etc. Earlier report on matching of liability declared under GSTR-3B and that under GSTR-1 was provided

to tax authorities. Similar exercise was done for matching claim of ITC in GSTR-3B and that coming from GSTR-2A and result shared with Tax Authorities. This exercise will be done again after quarterly GSTR-1 for June 2018 are filed, which is due by 20<sup>th</sup> of July.

9. **Software Malfunction:** Infosys was asked to provide permanent fix to software glitches like 'Submission in Progress' during filing of Returns, delay in generation on report for GSTR-1 etc. Timeline of end of July was fixed for completing this task.

10. **E-way Bill:** E-way bill system is working smoothly generating around 16 lakhs e-way bills every day. Incorporation of putting validation was discussed to ensure plugging some of the loopholes.

11. Hon'ble Convenor stated that Uttar Pradesh State Tax Department has started using RFID on the trucks with very little investment. Also, Uttar Pradesh has made available RFID tags near the checkpoints and other entry points into the State. On query about readiness of NIC to handle the queries from mobile squads, the DDG, NIC reported that they will have to record RFID number in the e-way bill database. DDG further suggested that uniform standard of RFID system should be adopted across the country. The experience of UP has been encouraging and its country-wide deployment needs to be explored. Hon'ble Convenor suggested that the issue be put up before the GST Council for discussion.

12. **Concerns of Infosys:** Infosys representative stated that the requirements for the new Return have not been finalised, and the same has to be done on a priority basis since Infosys will require time on its part to design and develop the same after requirements are finalised and frozen.

## Annexure A

### Minutes of the 9<sup>th</sup> Meeting of GoM held on 14 July 2018 at Bengaluru, Karnataka

In pursuance of decision taken in the 21<sup>st</sup> Meeting of GST Council held on 9<sup>th</sup> September 2017 at Hyderabad, a Group of Ministers (GoM), was constituted to monitor and resolve the IT challenges faced in implementation of GST.

2. The first meeting of GoM was held on September 16, 2017 where the GoM had identified 47 items for time bound resolution. In the 3<sup>rd</sup> Meeting 8 more items were added to this list, which is reviewed by the GoM. The 9<sup>th</sup> meeting of GoM was held on July 14, 2018(Saturday), at ITC Windsor, Bengaluru.

3. The ninth meeting, was attended by the following Hon'ble Members of GoM.

Sl. No.	Name	Designation	Group of Members
1	Shri Sushil Kumar Modi	Hon'ble Deputy Chief Minister, Bihar	Convenor of GoM
2	Shri Krishna Byregowda	Hon'ble Minister for Rural Development, Karnataka	Member, GoM

4. Shri Shashi Bhushan Behera, Hon'ble Minister for Finance, Odisha, Shri Amar Agarwal, Hon'ble Minister for Commercial Taxes, Government of Chhattisgarh and Shri Etela Rajendar, Hon'ble Minister of Finance, Telangana could not attend due to other pressing engagements.

5. The list of officers who attended from CBIC/ States, GSTN and Infosys is mentioned in **Annexure 1**.

6. A detailed presentation was made covering status of implementation of functionalities identified by the GoM as well as status of remaining functionalities of GST System including that of e-Way Bill System. Highlights of presentation as well as observations and advice of Hon'ble Members of GoM are given below.

#### 7. **GST System: Overall Statistics and Status of return filing:**

7.1. Overall statistics of registration, payment of taxes and return filing was presented before the GoM. In last one year, more than 12.4 crore returns have been filed on GST Portal along with 4.26 crore payment transactions. During this period 48.6 lakh new taxpayers have registered on the Portal where 63.7 lakh taxpayers have been migrated from the pre-GST regime taking the total taxpayer to 1.13 crore. Out of this, 17.6 lakh taxpayers have opted for Composition scheme.

#### 7.2. **Return Filing**

7.2.1. Around 60% eligible taxpayers are filing GSTR-3B by the due date, however the number of filers continues to grow as many taxpayers file this Return late and on an average the returns filed for July 2017 to March 2018 as on July 10<sup>th</sup>, 2018 range between 96.83% (for July 2017) to 79.99% (for March 2018). On the other hand, most of the tax payment is made by the due date. It has been observed that the reason for the **Late Filing** is not explicitly forthcoming. One reason could be reduction of 'Late

Fee', which is not very high, and the same does not cause much financial hardship to the Taxpayer. Hon'ble Convenor advised to analyse the data to find who the late filers are, to find whether they are Nil filers or taxpayers having very low tax liability. He also advised to find out if there are any habitual late filers.

[Action: GSTN/Infosys team]

7.2.2. Gradual decline in percentile of filing by due date was presented before the GoM. The percentile of filing of GSTR-1 is generally 10% behind that of GSTR-3B but lately this difference has started becoming wider. At present, there is no mechanism to impose late fee on GSTR-1 in the system, as late fee was to be computed at the time of filing of GSTR-3 as envisaged in the original design, where GSTR-1, 2 and 3 were to be filed. **Hon'ble Convenor suggested that this should be placed before the Council in its next meeting.**

[Action: GSTN]

## 8. Updates on GOM Prioritized Functionalities

8.1. Total of 48 out of 51 identified functionalities have been developed and deployed on GST System. Remaining three are under development with part deployment as per details given below:

8.1.1. **Field visit by tax officers:** The web-based module has been implemented, however mobile based application is under development and likely to be deployed by end of July 2018.

8.1.2. **Refund application:**

- i. Brief on automation of refund for export of goods on payment of IGST and the partly online process for other cases of refund in absence of GSTR-2/3 was explained to the GoM. The partly online process of Refund has been implemented with workarounds for seven cases and refund of IGST paid is done by Customs.
- ii. The members were briefed on reasons for workaround after GSTR-2 and 3 were suspended. The GoM was briefed about multiple changes in the requirement of this module which has led to delays.
- iii. The GoM was also briefed that the regular use case has been developed but the same has not been implemented as some of Model 1 States are not ready with required integration using APIs.
- iv. The GoM was also briefed that GSTN would deploy the main refund functionality with all backend processes once all Model 1 States integrate with the refund module through APIs. Till then the partly online solution will continue.

8.1.3. **Tax Deduction at Source:**

- i. The module has been developed and one round of demo has been given to stakeholders. Based on their feedback, improvements are being done. GoM was told that the module will be ready much before the Sept., 2018 deadline.
- ii. JS(R) suggested that the rollout of GSTR-07 could be done in a phased manner.
- iii. Hon'ble Convenor remarked that it is a good suggestion and should be placed before the GST Council to consider implementation with government departments dealing with Works Contracts. Other departments could be included in a phased manner. He further advised that GSTN should organise one more round of training programs for the DDOs on GSTR-07 Module. It was also urged that uploading and the payment modules under TDS should be frozen at the earliest.

[Action: GSTN; JS (Revenue, DoR)]

8.1.4. **MIS Reports:**

- i. Status of MIS report was presented before the GoM. As on 13th July, 2018, 32 out of 43 MIS reports for Model 2 States have been rolled out for use by Tax Officers.

- ii. The MIS reports are of Beta version and will be converted into regular reports after they are used and bugs, if any reported are fixed. GoM was also informed that the utilisation of the same is low as only 100 odd officers are looking at these reports and this needs to be increased.
- iii. On reasons of low utilization, few tax officers from the Model-2 stated that the system is slow. To this GSTN team stated that the problem of slow speed has been addressed. They further stated that the report on return defaulter is still not deployed and that is the most used report. Infosys team informed the GoM that this report is under test and will be made available by the end of July 2018.
- iv. Hon'ble Minister, Karnataka stated that it is disappointing that officers are not utilising the report, despite the fact that when the reports were not available, there was a huge demand for the same. Earlier, the data was not available for targeted action, but now data and information are available and should be used for necessary action. It is further added that the Commissioners should take lead in this regard and guide officers on how to make use of the data and information available; he also remarked that this way the data too could be cleaned up. He further suggested that this should be flagged in the meeting of GST Council.

[Action: GSTN]
- v. Some of the Model-1 States have been having good MIS reports from VAT days and the offtake of the same by field officers is high. Hon'ble Convenor suggested to explore the possibility of a few officers from the Model-1 states, who are doing good utilisation of data at their end, to train the officers in the Model 2 states regarding effective utilisation of the MIS reports. Hon'ble Convenor advised GSTN to organise training programs in partnership with Model-1 States, preferably at HQ of Model-2 States so that more officers can participate in the same. It was also suggested to hold a half-day VC for CCTs on usage of the data provided.

[Action: GSTN]

9. **Identification and implementation of more Mobile Applications:**

- i. During discussion on mobile application for field visit, Hon'ble Convenor asked GSTN and Tax Departments to explore the idea of using Mobile Apps for more Services and functionalities.
- ii. CEO, GSTN was advised to seek suggestions from officers of Central and State tax authorities in this regard and develop more applications. Infosys team was also asked to suggest more mobile-based applications based on their vast experience.

[Action: GSTN/Infosys]

10. **Data Reconciliation issues**

- i. The status of data reconciliation on GSTR-1 and GSTR-3B was presented before GoM. While the difference between numbers of GSTR-3B reported by GSTN and that received by CBIC/Model-1 States has been reduced substantially, the same for GSTR-1 is still large. The IT Teams are working to resolve the same.
- ii. The GoM was further informed that deployment of reconciliation API has made the process of reconciliation completely automated for Registration.
- iii. Similar API for Return reconciliation has been developed and is expected to be deployed by end of this month (July 2018) after testing. Representative of Bihar raised discrepancy in figures of payment reported by GST portal and that received from RBI. Bihar representative will provide full details so that it can be investigated and resolved by GSTN. Further, Bihar, Telangana, Chhatisgarh and Odisha pointed out that there were huge mismatches in the figures as reflected in the MIS reports and that reported through SFTP/e-mails. For instance, report #

1.11 –which gives number of taxpayers based on constitution of Business/nature of business, gives number of "Proprietorship" in Bihar as 12,99,445 although the total taxpayers registered in whole of Bihar is only 3.51 lakh. There were other such instances cited by the States' representatives. CEO stated these reports are BETA versions and the officers are requested to log tickets regarding such discrepancies so that the same can be resolved.

[Action: Additional Secretary Bihar and GSTN]

#### 11. Pending Functionalities

- i. Details of pending functionalities, after one year of rollout of GST were presented before the GoM. 184 Use cases were identified under Phase-1 of GST project covering Registration, Payment, Returns, MIS Reports, Functionalities facing Taxpayer/GSTP (Front-Office) and Functionalities facing tax officers of Model-2 (Back Office). Out of this, 8 were dropped and 7 were moved to Phase-2. **Out of balance of 169 cases, 51 Use cases are pending (31 Deployed Partially; 8 in UAT and 12 in various phases of development)**. Some of these pertain to Amendment of Registration by taxpayers like OIDAR, UIN and Suo-moto cancellation in case of UIN, OIDAR, GSTP, NRTP, TDS & TCS etc. Functionality of searching all the Registrations for given PAN on an All India Level, Online preparation of GSTR-4, mobile application for site-visit etc. are yet to be provided.
- ii. GoM asked the Infosys team to provide timelines for completion of all pending use cases. Infosys team stated that the deliveries of various pending Modules will be made in staggered manner from July to October 2018. Hon'ble Convenor did not agree with the same and asked the Infosys team to complete all pending use cases by end of September 2018 and provide timelines for each use case to GSTN by 19<sup>th</sup> July so that it is presented before the GST Council.  
[Action: Infosys team]

- iii. The status of development of modules of Phase-2 of GST Project relating to Model-2 States was presented before the GoM, as given under:

Module	Status	Module	Status
Assessment and Adjudication	WIP	LUT	WIP
Advance Ruling	WIP	Audit – General, Special	SRS stage
Appeal	WIP	Recovery	SRS stage
Demand & Collection Register (DCR)	WIP	Enforcement	SRS stage
Refund	WIP	Policy Admin	SRS stage
Returns – Liability Ledger - Part II	WIP	Prosecution & Compounding	SRS stage
Returns – Utilize ITC/ Cash	WIP		

iv. For few of the functionalities, only part of functionalities is operational like that for Advance Ruling, Appeal, DCR, Liability Ledger-Part-II, utilise ITC/Cash etc. The GoM did not find the progress satisfactory and asked Infosys to expedite development by deploying more resources. CEO, GSTN informed the GoM that Infosys have not communicated timelines for Phase-2 and Phase-3 so far. Hon'ble Convenor asked Infosys team to communicate by 19<sup>th</sup> July the timelines for eight modules for which SRS has been provided by GSTN so that the same can be presented before the GST Council in its next meeting.

[Action: Infosys]

v. GSTN team was asked to complete the SRS of five modules in next two weeks and share the same with Infosys who will provide timelines in next two weeks.

[Action: Infosys and GSTN]

vi. The Representatives of States highlighted the importance of having the Assessment Module soon, as they will undertake Assessment of Non-filers soon.

**12. Progress with respect to Business Intelligence and Analytics (Phase 3 of project)**

- i. CEO, GSTN informed the GoM that the Phase-3 of project was to be taken up after one year of rollout, as BI needs a minimum set of data. However, based on instruction of Revenue Secretary, the same was started three months back.
- ii. A workshop was conducted in June-2018 (June 12) to identify analytical Reports and prioritization of delivery. List of 15 Reports finalised during the workshop were presented before the GoM. It was also mentioned that few States have volunteered to provide required inputs and logic to GSTN for designing the algorithm for the Reports selected by them.
- iii. It was further explained that BI module will be accessible to tax officers posted in Enforcement/Economic Intelligence Units of all tax authorities. CEO, GSTN also stated that mismatch of taxable turnover between GSTR-1 & GSTR-3B, and the report regarding the ITC eligible as per GSTR-2A & ITC claimed in GSTR-3B have been given top priority.
- iv. GSTN also stated that Karnataka Model of comparing the GST data with the pre-GST VAT Revenue is good for comparative analysis. It was informed that GSTN has already provided the API to the States for making the data available for further analysis.
- v. Hon'ble Convenor stated that alerts should be built into the system for the taxpayer on a set of criteria such as when they purchase goods/services from non-filers. This is important in light of the fact that in the absence of GSTR-2 being operational, it is not possible as purchase details are not uploaded by the taxpayers.
- vi. GSTN informed the GoM that GSTN's own analytics team had done matching of liability declared under GSTR-3B and that under GSTR-1 and provided data with tax authorities where discrepancy was found. Similar exercise was done for matching claim of ITC in GSTR-3B and that coming from GSTR-2A and result shared with Tax Authorities. This was done as BI module is under development. This exercise will be done again after quarterly GSTR-1 for June 2018 are filed, which is due by 20<sup>th</sup> of July.

[Action: GSTN]

**13. Grievance Redressal:**

- 13.1. The present status of the Grievance Redressal was discussed. From the data, it was observed that the number of Grievances raised on the Portal have reduced significantly for the last few months. Hon'ble Convenor remarked that there is need to reduce the turnaround time further and he asked for a list of calls received and resolved State-wise. The Hon'ble Convenor wanted to know further



as to why with just 28% utilization at peak, filing issues at peak time still remain. The Infosys team assured that this would be fixed by next month.

[Action: GSTN/Infosys]

#### 14. **Software Malfunction**

- i. Major software malfunctions reported about functioning of Portal were presented before the GoM. Some of the issues reported are:
  - a. 'Submission in Progress' during filing of Returns,
  - b. Delay in generation on report for GSTR-1,
  - c. Taxpayer receiving a message of filing of GSTR-3B but the same was not actually filed and was only Submitted which led to imposition of Late Fees upon the Taxpayer,
  - d. GST TRAN-2 Credit not getting forwarded in ITC Ledger,
  - e. Duplicate Credit to ITC Ledger from GST TRAN-1,
  - f. Enabling of File button before Saving and thus debit of incorrect Liability from the system.
- ii. GSTR-3B filing issues: Infosys informed that the issue related with GSTR3B filing has been fixed, and it will not occur again. Similarly, GST TRAN-1 issues have been fixed.
- iii. GSTR-1 filing issues: Hon'ble Convenor enquired as to why this was happening when the server utilization was less than 30% at peak load. The Infosys representative stated that their team is working on it and they will fix it by end of this month. He assured the GoM of smooth filing in the next return filing cycle of GSTR-1.
- iv. GST TRAN-2 issues: The issues like non-posting of ITC claimed in GST TRAN-2 into the Electronic Credit Ledger, the problem in Submission of GST TRAN-2 were mentioned. Infosys stated that it will be fixed by end of July 2018.
- v. Infosys assured the GoM that remaining issues as mentioned above will be fixed by end of this month and that the issues discussed in the meeting will not occur again.

[Action: Infosys]

#### 15. **E-way Bill:**

- i. Status of e-way bill generation was presented before the GoM. At present around 16 lakh e-way bills are getting generated every day and in last 3 and half months, more than 12 Crore e-way bills have been generated by users from the e-way bill portal.
- ii. Hon'ble Convenor stated that Uttar Pradesh State Tax Department has started using RFID on the trucks with very little investment. Also, Uttar Pradesh has made available RFID tags near the checkpoints and other entry points into the State. The experience has been encouraging and its countrywide deployment needs to be explored. He suggested that the issue be put up before the GST Council for discussion. On query about readiness of NIC to handle the queries from mobile squads, the DDG, NIC reported that they will have to record RFID number in the e-way bill database. He further suggested that uniform standard of RFID system should be adopted across the country.

#### 16. **Law related issues**

16.1. Commissioner of State Tax, Kerala suggested that the Annual Return should be developed soon. On query about availability of facility to rectify the annual return, Deputy Commissioner, GST Policy Wing stated that there is no rectification through the Annual Return, and it is a consolidation of the Annual Figures shown in GSTR-1 & GSTR-3B in the Financial Year for which the Return pertains to.

#### 17. **Concerns of Infosys**

17.1. Infosys representative stated that the requirements for the new Return have not been finalised, and the same has to be done on a priority basis since Infosys will require time on its part to design and

develop the same after requirements are finalised and frozen. Infosys also raised the issue of proper definition of the Change Request process, so that future issues are avoided. CEO, GSTN clarified that a proper Change Request process is in place. He further stated that the main bone of contention is definition of Man-month in terms of Man-days. He further stated that as per RFP which forms part of contract, 25 Man-days form one man-month whereas interpretation of Infosys is 22 man-days make a man-month.

18. Concluding the meeting, Hon'ble Convenor stated that the pace of the progress on development of various modules and functionalities has slowed down considerably since the last meeting of the Group of Ministers held in January 2018. The pace needs to be improved and brought back to the earlier level to ensure that pending functionalities are delivered by September 2018 for Phase1. For remaining two Phases, Infosys team should provide the timelines as discussed. The next meeting of the Group of Ministers on IT Issues will be convened in the first week of September 2018. The meeting ended with Vote of Thanks to the chair.

## Annexure 1

### List of Participants for Ninth GoM held on July 14, 2018 at Bengaluru

1. DoR, GoI and GST Policy Wing, CBIC

Sl. No.	Name	Designation
	Shri Ritvik Pandey	Joint Secretary, DoR
1	Shri Siddharth Jain	Deputy Commissioner, GST Policy wing CBIC

2. GST Council: The following officers attended the meeting from GST Council

Sl. No.	Name	Designation
1	Shri Dheeraj Rastogi	Joint Secretary
2	Shri Rahul Raja	Under Secretary

3. CBIC: The following officers attended the meeting from CBIC:

Sl. No.	Name	Designation
1	Shri Basavaraj Nalegave	ADG (Systems), CBIC, Bengaluru
2	S. Thirunavukkarasu	ADG (systems), CBIC, Chennai
3	Vignan Pattamatta	A D Systems, CBIC

4. States: The following officers attended the meeting from States:

Sl. No.	Name	Designation
1	Shri MS Srikar	CCT, Karnataka
2	Shri Rajan Khobragade	CCT, Kerala
3	Shri Arun Mishra	Addl. Secretary, CT, Bihar.
5	Shri K. S. Basavaraj	Joint Commissioner, Karnataka
6	Shri Nitin Shaligram	Joint Commissioner, Maharashtra
7	Shri N Sai Kishore	Joint Commissioner, Telangana
8	Shri Dipankar Sahu	Joint Commissioner, Odisha
9	Shri Deepak Giri	Dy. Commissioner, Chhattisgarh
10	Shri Mukesh Kumar	CTO, Bihar

5. NIC

Sl. No.	Name	Designation
1	Shri P V Bhat	DDG , NIC

6. GSTN: The following officers attended the meeting from GSTN:

Sl. No.	Name	Designation
1	Shri Prakash Kumar	CEO
2	Ms. Kajal Singh	EVP (Services)
3	Shri Nitin Mishra	EVP(Technology)
4	Shri Pankaj Dixit	SVP (Infrastructure)
5	Shri Nirmal Kumar	SVP (Software)
6	Shri Bhagwan Patil	VP (Services)
7	Shri Abhishek Singh	AVP (PM)
8	Shri Sarthak Saxena	OSD to CEO

7. Infosys: The following officers attended the meeting from Infosys:

Sl. No.	Name	Designation
1.	Pravin Rao	COO
2	Shri Binod Hampapur	EVP
3	Shri C N Raghupati	SVP
4	Renganathan V. R	SVP
5	Mr. Indrasis Dasgupta	Program Manager
6	Shri Venkat Narayan	AVP
7	Shri. P.N. Moorthy	AVP (Delivery Manager)
8	Shri Debapriya Ghosh	Domain Team
9	Shri Akhil Gandhi	Domain Team
10	Shri Abhishek Kumar	Domain Team

**Agenda Item 10: Ad hoc exemptions Order(s) issued under Section 25(2) of Customs Act, for information of the GST Council**

In the 26<sup>th</sup> GST Council meeting held on 10<sup>th</sup> March, 2018, it was decided that all *ad hoc* exemption orders issued with the approval of Hon'ble Finance Minister as per the guidelines contained in Circular No. 09/2014-Customs dated 19<sup>th</sup> August, 2014, as was the case prior to the implementation of GST, shall be placed before the GST council for information. The IGST involved is approximately Rs 1 crore.

2. Accordingly, *ad hoc* Exemption order(s) issued after 10<sup>th</sup> March, 2018 (date of the 26<sup>th</sup> GST Council Meeting), till 13<sup>th</sup> July, 2018 under Section 25(2) of the Customs Act, 1962, with the approval of Hon'ble Finance Minister, is as follows:

S. No.	Date	Order No.	Remarks
1.	06 <sup>th</sup> July, 2018	AEO No. 01 of 2018	Request from the Government of Haryana for exemption of Customs duty on import of Pneumococcal Conjugate Vaccine (PCV) procured through UNICEF (Order copy attached as <b>Annexure 1</b> ).

3. This is placed for the information of GST Council.

## Annexure 1

F. No. 462/02/2018-Cus V  
Ad-hoc Exemption Order no. 01 of 2018  
Issued under section 25(2) of the Customs Act, 1962

Government of India  
Ministry of Finance  
Department of Revenue

Room no. 49, North Block, New Delhi - 110001  
Dated 6<sup>th</sup> July, 2018

To

The Chief Commissioner of Customs (Delhi Zone), New Custom House, Near I.G.I. Airport & Cargo Complex, New Delhi-110 037.

The Chief Commissioner of Central GST (Panchkula Zone), SCO 407-408, Sector 8, Panchkula.

The Principal Commissioner of Customs ACC (Import), New Customs House, Near IGI Airport, New Delhi - 110037.

The Commissioner of Customs, IGI Airport, Terminal-3, New Delhi - 110037.

**Subject: Request from the Government of Haryana for Exemption of Customs duty on import of Pneumococcal Conjugate Vaccine (PCV) procured through UNICEF-regarding.**

Sir/Madam,

The undersigned is directed to refer to a request of State Govt. of Haryana for waiver of Customs Duty on consignments of Pneumococcal Conjugate Vaccine (PCV) being imported through UNICEF for Universal Immunization Program (UIP). The request has been forwarded by the Ministry of Health & Family Welfare with the approval of Secretary (H&FW). It has been stated that the vaccine shall be provided free of cost to eligible children in Haryana under UIP.

2. It has been stated the National Technical Advisory Group on Immunization has recommended the introduction of PCV in the National Immunization program. Further, it is mentioned that UNICEF and GAVI have agreed to provide the vaccine to the State Govt. at highly subsidized rate of approximately US\$ 3 per dose. The State Govt. has signed an MoU with UNICEF for annual procurement of approximately 20 lacs dose and the first supply of 2,43,950 vials of 4 doses each (9,75,800 doses of 0.5 ml) of PCV against UNICEF Purchase Order number 45157626 will be arriving at Delhi Airport on 9<sup>th</sup> July, 2018. These vaccines shall be provided free of cost to eligible children in Haryana under the UIP.

3. Under the circumstances of public interest as mentioned above and in exercise of the powers conferred by sub-section (2) of Section 25 of the Customs Act, 1962 (52 of 1962), the Central Government being satisfied that it is necessary in the public interest so to do, hereby exempts the said goods, i.e. Pneumococcal Conjugate Vaccine (PCV), valued at US Dollar 28,78,610 (USD Twenty Eight lacs seventy eight thousand six hundred and ten only) as per Annexure from the whole of the duty of Customs leviable thereon which is specified in the First Schedule to the Customs Tariff Act, 1975, and, whole of the IGST leviable thereon under section 3 of the Customs Tariff Act, 1975, subject to the conditions that the imported goods will not be put to any commercial use and will not be sold, gifted, disposed of or used in any

**F. No. 462/02/2018-Cus V**  
**Ad-hoc Exemption Order no. 01 of 2018**  
**Issued under section 25(2) of the Customs Act, 1962**

manner other than that specified in this order, without prior permission of the Central Board of Indirect Taxes and Customs.

4. An undertaking to comply with the conditions mentioned in Para 3 above shall be given by the Importer before the jurisdictional Commissioner of Customs for claiming benefit of exemption under this order at the time of clearance. The said Commissioner of Customs shall send copies of documents pertaining to the import, such as the Bills of Entry, Invoices, etc. along with a copy of the said undertaking to the Commissioner of Central GST, under whose jurisdiction the said goods will be supplied under the program, within fifteen days of the clearance of the items exempted by this order.

5. The importer shall intimate the said jurisdictional Commissioner of Central GST, as soon as possible, and not later than seven days from the date of clearance of the goods, of the site of utilization of the exempted items, and also furnish any other information that the said Commissioner may require for verifying the compliance of the conditions of the order. The Commissioner of Central GST shall, within three months of the clearance of the items exempted by the order, verify the compliance with the conditions of the order and send a report to the Commissioner of Customs of the port of import. The verification report shall be sent so as to reach the Commissioner of Customs not later than six months from the date of clearance.

6. Any infringement of conditions of the AEO should be brought to the notice of the Commissioner of Customs of the port of import by the concerned Commissioner of Central GST for taking further necessary action such as realization of Customs duty on the subject goods, penal action for such violations, etc. The action taken as indicated above by the Commissioner of Customs of the port of import should be immediately brought to the notice of the Central Board of Indirect Taxes & Customs.

7. This order shall be valid for goods imported not later than six months from the date of issue of this order.

Yours faithfully,

Enclosures: Annex in Twelve pages.

O/C

(B. Konthoujam)  
Under Secretary to the Government of India  
Telephone-23093380

Copy to:

- Shri R R Jowel, Additional Chief Secretary to Govt. of Haryana, Health and Family Welfare Department.
- Ms Shefali S Andaleeb, Principal Director (Customs), Central Receipt Audit Wing, Office of the Comptroller & Auditor General, 10, Bahadur Shah Zafar Marg, New Delhi-110 002.
- Guard File.

(B. Konthoujam)  
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